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## RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

MAY 88

### 5. Retrofitting Interim Status Surface Impoundments

Section 3005(j) requires surface impoundments that were in existence on November 8, 1984 and eligible for the authorization to operate under interim status to meet the minimum technological requirements of Section 3004(o)(1)(A) by November 8, 1988. The minimum technological requirements consist of the installation of double liners and leachate collection systems. These requirements must be met unless an exemption was requested and approved under Section 3005(j) or Section 3004(o)(2).

The owners or operators of interim status surface impoundments without approved exemptions who do not retrofit per Section 3005(j) by November 8, 1988 must cease the receipt of hazardous wastes into those impoundments by November 8, 1988. The closure of these impoundments must then proceed in accordance with 40 CFR Part 264.265 Subpart G.

An owner of three interim status surface impoundments does not wish to retrofit the units. He therefore plans to cease receiving wastes on November 8, 1988 and process with the closure. As part of closure activity, the owner proposes to remove the liquid waste from two of the impoundments, stabilize the waste, and dispose of it in the third impoundment. This third impoundment would then be closed as a landfill and provided with post-closure care while the other two impoundments will be "clean-closed" per Section 265.228.

Can the owner change the facility process and convert the impoundment to a landfill?

If the process can be changed, would the landfill be considered an existing unit, replacement unit, or a new unit?

The owner of the facility may change the facility process and convert the third impoundment to a landfill under limited circumstances. However in order to do so, the requirements in Section 270.72(c) must be met. Under Section 270.72(c), an owner of an interim status facility may change the treatment, storage or disposal processes of the facility if he submits a revised Part A application, along with the justification explaining the need for the change. The change may be approved under only two limited circumstances: (1) It is necessary to prevent a threat to human health or the environment because of an emergency situation; or (2) It is necessary to comply with Federal regulations or State or local laws.

Furthermore, if this "conversion" amounts to reconstruction, Section 270.72(e) would prohibit the change. Reconstruction is defined in Section 270.72(e) as occurring when the capital investment in the changes exceeds fifty percent (50%) of the capital cost of a comparable entirely new hazardous waste management facility.

## Retrofitting Interim Status Surface Impoundments (Cont'd)

For circumstances that allow a process change under this very restrictive requirement, Reauthorization Statutory Interpretation #5D states that the impoundment/landfill would be considered an existing unit.

However, if the owner of the unit removes the waste that is already in the impoundment stabilizes the waste, and places it back into the impoundment/landfill along with the waste from the other two impoundments, the unit would be considered a replacement unit. As such, the landfill would need to be in compliance with the minimum technology standards of Section 3004(o) (RCRA/Superfund Hotline Monthly Report, December 1985). Also if the addition of waste into the unit exceeds the level designated in the facility's Part A application, that portion of the impoundment/landfill would be considered an expansion of an existing unit and would be subject to the requirements of Section 3004(o) (Section 265.301(a)).

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