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RCRA/Superfund/OUST Hotline Monthly Report Question

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Reconstruction during Interim Status

An owner/operator of a hazardous waste management facility operating under interim status is considering expanding the facility to incorporate new technologies. Section 270.72(e) states that changes to such a facility cannot occur if the changes amount to reconstruction of the facility. Section 270.72(e) further states that "Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new hazardous waste management facility." Does this fifty percent apply to each expansion at the facility or to total expansion costs over the interim status period?

The fifty percent of capital cost pertains to the total expansion costs over the interim status period, not to each individual expansion. Expansion costs would include the cost of the land and construction, but not design and engineering costs. Further information on this topic is contained in RIL #98 (Regulatory Interpretive Letter) available through the Hotline.