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MONTHLY HOTLINE REPORT

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2. Delay of Closure for Non-retrofitted Hazardous Waste Surface Impoundments Continuing to Receive Non-hazardous Waste

RCRA requires owners and/or operators of surface impoundments that become subject to regulation due to the promulgation of a new hazardous waste listing or characteristic to retrofit the impoundment to meet minimum technological requirement - a double liner, a leachate collection and removal system, and a leak detection system - or close within four years of the promulgation date of the listing or characteristic (3005(j)(6)). If the owner and/or operator of a newly-subject surface impoundment ceases receipt of hazardous waste before the four years have elapsed and wants to receive only non-hazardous waste, must she first perform closure under 40 CFR Part 265, Subpart G?

No, the owner and/or operator may continue to receive non-hazardous waste indefinitely in the impoundment provided she complies with 265.113(d) and removes all hazardous waste from the unit (265.113 (e)). She would not have to perform formal closure activities until 90 days after final receipt of non-hazardous waste (265.113(a)).

However, if the owner and/or operator does not remove all hazardous waste from the impoundment, she must begin closure within 90 days of expiration of the four-year retrofitting period. The Regional Administrator may extend this deadline if removal of the hazardous waste will of necessity take longer than 90 days and such an extension will not pose a threat to human health and the environment (265.113(e)).

For example, a surface impoundment stores a waste which becomes subject to regulation as a result of the promulgation of the toxicity characteristic waste codes on March 29, 1990 (55 FR 11798). The owner and/or operator must retrofit or close the unit by March 29, 1994. If in 1992, the owner and/or operator decides to cease receipt of the hazardous waste, but wants to continue receiving non-hazardous waste, she must remove all of the hazardous waste. Once she has removed all of the hazardous waste, she may receive non hazardous waste indefinitely. When the owner and/or operator later ceases receipt of non-hazardous waste, for example on January 1, 1996, she must then begin closure operations within 90 days, or by March 31, 1996. If the owner and/or operator

chooses not to remove the hazardous waste, and does not receive an extension from the Regional Administrator, she must then begin closure within 90 days of the expiration of the four-year retrofitting period, in this example 90 days from March 24, 1994, or June 24, 1994.