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Definition of Existing Portion

3. The definition of "existing portion" in Title 40 CFR §260.10 refers to the land surface area of an existing waste management unit included in the original Part A permit application on which wastes have been placed prior to the issuance of a permit. If a landfill unit has waste placed over fifty percent of the surface area of such unit, is the whole unit considered "existing portion?"

The whole unit is not considered the "existing portion." Only the fifty percent covered surface area would meet the definition of "existing portion." Hence, at permit issuance, the non-covered fifty percent portion would have to have a single liner as required by §264.301. If the uncovered area was also covered with waste prior to permit issuance, the whole unit would then meet the definition of "existing portion."

The Hazardous and Solid Waste Amendments (HSWA), in effect, limit the applicability of the "existing portion" concept to those units that are "existing units" under HSWA. This is because units that are not "existing units" under HSWA must meet the minimum technological requirements of HSWA (i.e., landfills and surface impoundments that are not existing units must have double liner and leachate collection systems, and waste piles that are not existing units must have single liner and leachate collection systems). See the guidance entitled "Draft Guidance on Implementation of the Minimum Technological Requirements of the Hazardous and Solid Waste Amendments of 1984", dated May 24, 1985.

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