

PPC: X

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3. Surface Impoundment Retrofitting Requirements

The 1984 Hazardous and Solid Waste Amendments (HSWA) to RCRA specify minimum technological requirements for the design and construction of new hazardous waste surface impoundments, including installation of a double liner and a leachate collection and removal system (LCRS) and groundwater monitoring (RCRA Section 3004(o)). Units for which EPA received permit applications after November 8, 1984, the enactment date of HSWA, must comply with these standards. The HSWA amendments also require owners and operators of hazardous waste surface impoundments in existence on November 8, 1984, or which become subject to RCRA as the result of the promulgation of a new hazardous waste listing or characteristic, to retrofit their surface impoundments to meet the minimum technology requirements for new units (Section 3005(j)). Under what circumstances does HSWA require retrofitting of these existing or newly-subject surface impoundments, and by what date must retrofitting be completed?

HSWA required owners and operators of all hazardous waste surface impoundments operating under interim status on November 8, 1984, to retrofit to meet the double liner, LCRS, and groundwater monitoring requirements or close within four years, or November 8, 1988. Similarly, owners and operators of existing surface impoundments which become subject to RCRA as the result of a new hazardous waste listing or characteristic must retrofit or close within four years of the promulgation of the listing or characteristic. For example, owners and operators of surface impoundments which became subject to RCRA as the result of the promulgation of the Toxicity Characteristic waste codes on March 29, 1990, were required to retrofit those units to meet the minimum technology requirements or close by March 29, 1994 (55 FR 11798; March 29, 1990).

HSWA also provided variances under which certain existing surface impoundments would not have to retrofit. These variances apply to surface impoundments: (1) with a single liner for which there is no evidence of leakage, located more than a quarter mile from an underground source of drinking water, and in compliance with groundwater monitoring requirements; (2) conducting aggressive biological treatment in compliance with the Clean Water Act and RCRA groundwater monitoring requirements; or (3) demonstrating no potential for migration of hazardous wastes or constituents into groundwater or surface water at any future time (Section 3005(j)(2)-(4)). Additionally, HSWA granted the Administrator the authority to modify the retrofitting requirements for owners and operators of existing surface impoundments who had begun corrective action before October 1, 1984 (Section 3005(j)(13)).

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Owners and operators of surface impoundments previously exempt from the retrofitting requirements under one of the variances, but which no longer meet the conditions of the variance (e.g., as a result of a torn liner), are required to retrofit their impoundments within two years of the discovery of the change. If the surface impoundment was exempt because it was conducting aggressive biological treatment, the owner or operator must retrofit the surface impoundment within three years.