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HSWA MINIMUM TECH REQUIREMENTS FOR LINERS AND LEACHATE  
COLLECTION SYSTEMS

SUBJECT: Applicability of the HSWA Minimum Technological  
Requirements Respecting Liners and Leachate Collection  
Systems

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TO: Waste Management Division Director  
Regions I - X

We have received numerous inquiries regarding the applicability of the HSWA-imposed minimum technological requirements for liners and leachate collection systems at hazardous waste landfills, surface impoundments, and waste piles. This memorandum outlines the most critical factors for determining the applicability of the minimum technological requirements. The guidance contained herein will be incorporated into an upcoming version of the Reauthorization Statutory Interpretation (RSI) for the minimum technological requirements. Other important applicability issues, such as definition of the term "replacement unit," will be addressed in the RSI.

As you know, the new minimum technological requirements are contained in sections 3004(o) and 3015 of RCRA. Among other things, these sections require that (a) new landfill and surface impoundment units and lateral expansions and replacements of existing landfill and surface impoundment units must have two or more liners and a leachate collection system above (in the case of a landfill) and between the liners; and (b) new interim status waste pile units and lateral expansions and replacements of existing interim status waste pile units must meet the current regulations for new, permitted waste piles. RCRA Subtitle C permits issued after November 8, 1984, must include these provisions, and interim status facilities must meet the requirements with respect to waste received after May 8, 1985.

The key term in understanding the applicability of the minimum technological requirements is "existing unit," because all other types of units (i.e., new units, lateral expansions, and replacements) are required to meet the minimum technological requirements. (However, interim status units that do not receive hazardous waste after May 8, 1985, are excepted. In addition, units permitted prior to November 8, 1984, are not addressed under section 3004(o).)

In order for a unit or portion of a unit to qualify as an "existing unit" and, therefore, be exempt from the minimum technological requirements, all of the following criteria must be met.

1. The unit must have received solid or hazardous waste in some portion of the unit as of November 8, 1984.
2. The area was identified in operating records, closure plans, state permits, etc., as being part of the unit as of November 8, 1984.
3. The area was "operational" as of November 8, 1984 (i.e., the area was constructed by the date in accordance with Federal, State, and local requirements, including licenses and permits).

The attached memorandum, regarding a facility in Region 7 that has recently proposed to place waste above a landfill trench that is reaching its physical capacity, may provide you with additional useful guidance.

Attachment