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RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

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8. Retrofitting Surface Impoundments

RCRA Section 3005(j) states that except for specific cases for which variances are granted a surface impoundment shall not receive, store, or treat hazardous waste after November 8, 1988 unless it is in compliance with Section 3004(o) (1)(A), the minimum technology standards for new surface impoundments. Section 3004(o)(1)(A) requires a new surface impoundments to have two or more liners with a leachate collection system between the liners and groundwater monitoring. Hence, the owner/operator (o/o) must either close or retrofit his surface impoundments to meet the minimum technology standards if he wants to operate the units after November 8, 1988.

Since storage in a surface impoundment not meeting minimum technology standards is prohibited after November 8, 1988, must the o/o who wishes to close his impoundments, complete closure by November 1988?

No; EPA interprets the statute to require the facility to stop accepting waste by November 8, 1988. The statute does not require closures by that date. Therefore, the owner or operator must comply with applicable closure regulations.

The "Interim Status of Surface Impoundments- Retrofitting Variance" (OSWER Policy Directive #9484.00-1) states that closure activities can occur after November 8, 1988, provided that the receipt of hazardous waste stops on or before November 8, 1988. Therefore the owner/operator is required under 40 CFR 265.112(d)(2) to begin closure within 30 days after the last date on which wastes are received. According to 40 CFR 265.112(d)(1) the owner/operator must also submit a written closure plan to the Regional Administrator at least 180 days prior to the date on which closure is expected to begin. Therefore, notification of closure of an interim status surface impoundment is required by June 8, 1988 unless the impoundment is retrofitted or a variance is obtained (51 FR 1644).

Source: Barbara Pace (202) 382-7703
Research: Betty Wilson