

<u>SUBJECT</u>		<u>DATE</u>
1501. RCRA Empty Containers and The Debris Rule	ENCORE	AUG 25, 2022
1502. Exceptions to Free Liquids in Landfills Prohibition	ENCORE	SEP 1, 2022
1503. Dust Suppression in Landfills using Nonhazardous Liquids	ENCORE	SEP 8, 2022
1504. Treated Hazardous Wastes Used as Dust Suppressant	ENCORE	SEP 15, 2022
1505. LDR One-Year Storage Prohibition and Generator Permitted Storage	ENCORE	SEP 22, 2022

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## TWO MINUTE TRAINING

**TO:** CENTRAL PLATEAU CLEANUP COMPANY

**FROM:** PAUL W. MARTIN, RCRA Subject Matter Expert  
CPCCo Environmental Protection, Hanford, WA

**SUBJECT:** LDR ONE-YEAR STORAGE PROHIBITION AND GENERATOR PERMITTED STORAGE

**DATE:** SEPTEMBER 22, 2022

<u>CPCCo Projects</u>	<u>CPCCo Functionals</u>	<u>HMIS</u>	<u>Hanford Laboratories</u>	<u>Other Hanford Contractors</u>	<u>Other Hanford Contractors</u>
Tania Bates Theresa Boles Justin Bolles James Brack Rene Catlow Richard Clinton Patty Drago Paul Fernandez Ryan Fisher Andrew Getz Cory Grabeel Lawanda Grow Char Hall Stuart Hildreth Aprill Jivelekas Sasa Kosjerina William Krueger Richard Lipinski Stuart Mortensen Edward Myers Trey Reppe Melissa Sahn-dame Seth Slater Phil Sheely Kat Thompson Jeff Westcott Richard Willson Nick Wood Jon Wright	Sara Austin Jeff Bramson Bob Bullock Frank Carleo Bob Cathel Stacy Cutter Jeanne Elkins Jonathan Fullmer Randal Fox Sarah Horn John Hultman Julie Johanson Mitch Marrott Morgan Matson Stewart McMahand Carlie Michaelis Brian Mitcheltree Anthony Nagel Chris Plager Linda Petersen Brent Porter Sean Sexton Dave Shea Deborah Singleton Dale Snyder Britt Wilkins Jennifer Williams	Brett Barnes Curt Clement Mike Demiter Jerry Cammann Kelly Elsethagen Garin Erickson Katie Hall Dashia Vander Sys Mark Kamberg Jon McKibben Saul Martinez Matt Mills Carly Nelson Eric Pennala Jon Perry Dave Richards Deanna Rohlfing Christian Seavoy David Shaw John Skoglie Greg Sullivan	Dean Baker Linda Conlin Bailey Hardy Garrett Knutson Eric Van Mason Melanie Myers  <u>DOE RL, ORP, WIPP</u>  Duane Carter Ingrid Colton Tony McKarns Adolfo Perez Bryan Trimberger Robin Varljen Allison Wright	Bill Bachmann Scott Baker Michael Carlson Peter Ceton Danielle Collins Paul Crane Tina Crane Ron Del Mar John Dorian Mark Ellefson Darrin Faulk Kip George James Hamilton Leah Hare Andy Hobbs Stephanie Johansen Ryan Johnson Mike Lowery Michael Madison Terri Mars Steve Metzger Tony Miskho Tom Moon Chuck Mulkey Michelle Oates Kirk Peterson Jeremy Rishel	Dan Saueressig Lana Strickling Joelle Moss Greg Varljen Julie Waddoups Jay Warwick Ted Wooley

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## TWO MINUTE TRAINING

**SUBJECT:** LDR One-Year Storage Prohibition and Generator Permitted Storage

**Q:** A generator has accumulated land disposal restricted (LDR) hazardous waste in a container. Per [WAC 173-303-200\(7\)\(a\)\(i\)](#) [ [40 CFR 262.17\(a\)\(5\)\(i\)\(C\)](#)], a date of accumulation (June 24, 2022) was marked on the container to ensure that the container did not exceed 90 days on the generator's central accumulation area (CAA). On the 90<sup>th</sup> day of accumulation (September 22, 2022), the generator transferred the LDR waste to an onsite RCRA permitted (final status or interim status) storage facility. Concerning the LDR storage prohibition and the 1-year burden of proof rule at [40 CFR 268.50\(b\)](#), does the generator have one year from the original generator date of accumulation, June 24, 2022, or one year from the date of receipt at the onsite permitted storage facility, September 22, 2022?

**A:** Per an EPA memo dated February 1987 ([RO 12851](#)), it states:

*"For a generator with interim status or a permit to store hazardous wastes, the one year begins on the date the waste is first placed in the tank or container."*

Therefore, the 1-year LDR "clock" began when the generator first placed the waste in the CAA container on June 24, 2022. Since the generator held the waste in the CAA for almost 3 months and then transferred the LDR waste to an onsite permitted storage facility, the storage facility would have only 9 months remaining on the 1-year LDR clock, i.e., June 23, 2022.

Note that if the generator transfers the waste to an offsite storage facility, the offsite storage facility would date the container upon receipt with a new accumulation date as required by 40 CFR 268.50, which states:

*"Each container is clearly marked to identify its contents and with...the date each period of accumulation begins."*

The EPA RCRA Hotline provided verbal clarification from USEPA that the subsequent offsite storage facility would have a full year from the receipt date. However, EPA stressed that if the transfer of LDR wastes was determined by EPA to be for purposes other than accumulating such quantities of LDR waste for proper recovery, treatment or disposal, EPA could construe a violation of 40 CFR 268.50, "*Prohibitions on storage of restricted waste*".

Also, note that if the generator accumulates LDR waste in a satellite accumulation area (SAA) container, the 1-year LDR clock would not begin until the generator meets the SAA volume limits and transfers the SAA to a CAA or a permitted or interim status facility. This was confirmed in the [January 14, 1986, Federal Register](#) on page 1709, middle column, 3<sup>rd</sup> paragraph, which basically stated that the Agency does not interpret the RCRA LDR storage prohibition as overriding the SAA rule at 40 CFR 262.15, which is equivalent to [WAC 173-303-174](#).

### SUMMARY:

- If a generator transfers LDR wastes from a CAA (≤90-day area) to an onsite permitted or interim status storage facility, the 1-year LDR clock begins when the waste is first accumulated in the generator's container.
- If the generator transfers LDR wastes to an offsite facility, a subsequent 1-year LDR clock begins when the offsite storage facility receives the LDR wastes.
- LDR waste in an SAA is not subject to the 1-year LDR clock until the LDR waste is transferred to a CAA or a permitted or interim status storage facility.

Excerpts from 40 CFR 268.50 and the February 1987, EPA memo are attached to the e-mail. If you have any questions, please contact me at [Paul W. Martin@rl.gov](mailto:Paul W. Martin@rl.gov) or at (509) 376-6620.

**FROM:** Paul W. Martin

**DATE:** 9/22/2022

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## TWO MINUTE TRAINING - ATTACHMENT

**SUBJECT:** LDR One-Year Storage Prohibition and Generator Permitted Storage

Faxback 12851

9551.1987(05)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

FEBRUARY 87

### 4. Land Disposal Restrictions

The November 7, 1986, Federal Register (51 FR 40572), land disposal restrictions final rule, states that the storage of hazardous waste which is restricted from land disposal is prohibited unless conditions are met under §268.50.

A generator has interim status to store waste on-site. The generator wants to store his waste for up to one year to accumulate the waste as necessary to facilitate proper recovery, treatment and disposal in accordance with §268.50(b) (51 FR 40572). When does the one year begin?

Storage of restricted wastes by permitted or interim status facilities is allowed solely for the purpose of accumulating sufficient quantities to facilitate proper treatment, recovery or disposal. The one-year period acts as a benchmark to determine which party (EPA or the storage facility) bears the burden of proof to demonstrate that storage is for the allowable reasons. For storage of one year or less, the burden is on EPA to demonstrate non-compliance. For storage more than one-year, the burden is on the facility owner or operator to demonstrate that such storage time is necessary. The owner/operator does not have to notify the agency of storage for more than one year. The burden of proof only applies in the event of an EPA inspection or for enforcement purposes.

For a generator with interim status or a permit to store hazardous wastes, the one year begins on the date the waste is first placed in the tank or container. If the generator accumulated the waste prior to the effective date of the land disposal restrictions final rule (51 FR 40572), the waste is not subject to the rule. Therefore, the generator can store his waste indefinitely since he has interim status to store a hazardous waste.

The November 7, 1986, land disposal restriction final rule (51 FR 40572) allows generators to gain interim status if compliance with the land disposal restrictions requires storage for more than 90 days.

Source: Mitch Kidwell (202) 382-4805

Research: Carla Rellergert (202) 382-3112

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Federal Register / Vol. 51, No. 9 / Tuesday, January 14, 1986 / Proposed Rules

1709

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“The Agency does not interpret the statutory restriction on the storage of prohibited wastes as overriding the satellite accumulation rule contained in 40 CFR 262.34(c). That rule allows generators to accumulate up to 55 gallons of hazardous waste or 1 quart of acutely hazardous waste in a container, at or near the point of generation, without a permit, interim status, or compliance with the 90-day accumulation rule. The purpose of satellite accumulation is to allow the accumulation of certain quantities necessary to facilitate transportation, further treatment, or disposal and, thus, such accumulation falls under the section 3004(j) exemption.”

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## TWO MINUTE TRAINING -ATTACHMENT

**SUBJECT:** LDR One-Year Storage Prohibition and Generator Permitted Storage

### 40 CFR §268.50 Prohibitions on storage of restricted wastes.

(a) Except as provided in this section, the storage of hazardous wastes restricted from land disposal under subpart C of this part of RCRA section 3004 is prohibited, unless the following conditions are met:

(1) A generator stores such wastes in tanks, containers, or containment buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in §§ 262.16 and 262.17 and parts 264 and 265 of this chapter.

(2) An owner/operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks, containers, or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and:

(i) Each container is clearly marked to identify its contents and with:

(A) The words "Hazardous Waste";

(B) The applicable EPA hazardous waste number(s) (EPA hazardous waste codes) in subparts C and D of part 261 of this chapter; or use a nationally recognized electronic system, such as bar coding, to identify the EPA hazardous waste number(s);

(C) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(D) The date each period of accumulation begins.

(ii) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating record at that facility. Regardless of whether the tank itself is marked, an owner/operator must comply with the operating record requirements specified in § 264.73 or § 265.73.

(3) A transporter stores manifested shipments of such wastes at a transfer facility for 10 days or less.

(4) ... (Concerned healthcare facilities)

(5) ... (Concerned reverse distributors)

(b) An owner/operator of a treatment, storage or disposal facility may store such wastes for up to one year unless the Agency can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

(c) An owner/operator of a treatment, storage or disposal facility may store such wastes beyond one year; however, the owner/operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

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