

<u>SUBJECT</u>		<u>DATE</u>
1188.	RCRA Empty Containers vs. TSCA PCB Decontaminated Containers - Scenario II	ENCORE AUG 11, 2016
1189.	RCRA Empty Containers vs. TSCA PCB Decontaminated Containers - Scenario III	ENCORE AUG 18, 2016
1190.	Product Spills and Waste Determinations	ENCORE AUG 25, 2016
1191.	Product Spills, Waste Determinations, and LDR	ENCORE SEP 1, 2016
1192.	Regulatory Status of Caustic Rinse Waters Contaminated with Trace Solvents	ENCORE SEP 8, 2016
1193.	Regulatory Status of Sand Blast Grit Contaminated with Trace Listed Solvents	ENCORE SEP 15, 2016
1194.	Hazardous Waste "F" Listings and Trace Contamination	ENCORE SEP 22, 2016
1195.	Hazardous Waste "F" Listings and Trace Contamination – Again!	ENCORE SEP 29, 2016
1196.	Hazardous Waste Determinations and Phase Separation	ENCORE OCT 6, 2016
1197.	Asbestos and DOT Relief	ENCORE OCT 13, 2016
1198.	PCB Containers and Concentration of PCBs	ENCORE OCT 20, 2016
1199.	PCB Analytical Waste Disposal Requirements	ENCORE OCT 27, 2016
1200.	PCB Analytical Waste Disposal Requirements – Water vs. Organic Liquids and Non-aqueous Inorganic Liquids	ENCORE NOV 3, 2016
1201.	Listed Waste Codes and Pre-RCRA Wastes	ENCORE NOV 10, 2016
1202.	Purpose of the ≤90-day Hazardous Waste Accumulation Exemption	ENCORE NOV 17, 2016
1203.	Used Oil Eligibility for Turkey and Ham Oils	ENCORE NOV 23, 2016
1204.	PCB Reporting and Recordkeeping Relief	ENCORE DEC 1, 2016
1205.	Defining Criteria for Household Waste Exclusion	ENCORE DEC 8, 2016
1206.	The Household Waste Exclusion and Renovation Debris	ENCORE DEC 15, 2016
1207.	'Twas the Night before Christmas – The Twenty-Fourth Annual Edition	ENCORE DEC 24, 2016
1208.	The Household Waste Exclusion and Renovation Debris – Part II	ENCORE DEC 29, 2016
1209.	Absorbent Additions and Treatment	ENCORE JAN 5, 2017
1210.	Frozen RCRA Wastewater - DOT Liquid or Solid When Manifested?	ENCORE JAN 12, 2017
1211.	DOT Marking Specifications for the "UN", "NA" and "ID" Markings	ENCORE JAN 19, 2017
1212.	Satellite Accumulation within a ≤90-day Accumulation Area	ENCORE JAN 26, 2017
1213.	Washington State-Only Dangerous Waste Markings – Accumulation vs. Pre-Transport	ENCORE FEB 2, 2017
1214.	RCRA Empty Tanker Trailers and Listed Waste Codes	ENCORE FEB 9, 2017
1215.	RCRA Empty vs. DOT Empty	ENCORE FEB 16, 2017
1216.	RCRA Empty vs. DOT Empty II	ENCORE FEB 23, 2017
1217.	Multiple Characteristic Hazardous Waste Codes and Underlying Hazardous Constituents	ENCORE MAR 2, 2017
1218.	Multiple Characteristic and Listed Hazardous Waste Codes and the "in lieu of" LDR Principle	ENCORE MAR 9, 2017
1219.	LDR Storage Prohibitions and the One-Year Rule	ENCORE MAR 16, 2017

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TWO MINUTE TRAINING

TO: CH2M HILL PLATEAU REMEDIATION COMPANY

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

SUBJECT: LDR STORAGE PROHIBITIONS AND THE ONE-YEAR RULE

DATE: MARCH 16, 2017

<u>CHPRC Projects</u>	<u>CH PRC - Env. Protection</u>	<u>MSA</u>	<u>Hanford Laboratories</u>	<u>Other Hanford Contractors</u>	<u>Other Hanford Contractors</u>
Richard Austin Roni Ashley Tania Bates Rene Catlow Richard Clinton Larry Cole John Dent Brian Dixon Eric Erpenbeck Stuart Hildreth Mike Jennings Stephanie Johansen Jeanne Kisielnicki Melvin Lakes Jim McGrogan Stuart Mortensen Dean Nester Dave Richards Phil Sheely Connie Simiele Jennie Stults Jeff Westcott Jeff Widney	Ron Brunke Bob Bullock Bill Cox Laura Cusack Lorna Dittmer Ted Hopkins Sasa Kosjerina Jim Leary Rick Oldham Anthony Nagel Robert Nielson Linda Petersen Fred Ruck Ray Swenson Wayne Toebe Daniel Turlington Dave Watson Joel Williams	Brett Barnes Jerry Cammann Jeff Ehlis Garin Erickson Panfilo Gonzales Jr. Dashia Huff Mark Kamberg Edwin Lamm Candice Marple Jon McKibben Saul Martinez Jon Perry Christina Robison Lana Strickling Lou Upton	(TBD) <u>DOE RL, ORP, WIPP</u> Mary Beth Burandt Duane Carter Cliff Clark Tony McKarns Ellen Mattlin Greg Sinton Scott Stubblebine	Bill Bachmann Dean Baker Scott Baker Lucinda Borneman Paul Crane Tina Crane Jeff DeLine Ron Del Mar John Dorian Mark Ellefson Darrin Faulk Joe Fritts Lori Fritz Tom Gilmore Rob Gregory Gene Grohs James Hamilton Andy Hobbs Ryan Johnson Dan Kimball Megan Lerchen Richard Lipinski Charles (Mike) Lowery Michael Madison Terri Mars Cary Martin Marty Martin Grant McCalmant Steve Metzger Tony Miskho Matt Mills Tom Moon Chuck Mulkey Mandy Pascual Kirk Peterson	Jean Quigley Dan Saueressig Merrie Schilperoort Joelle Moss Glen Triner Greg Varljen Julie Waddoups Jay Warwick Kyle Webster Ted Wooley

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TWO MINUTE TRAINING

SUBJECT: LDR Storage Prohibitions and the One-Year Rule

Q: A customer has a container of land disposal restricted (LDR) waste that has been in permitted storage for one year and a day. Has noncompliance with the prohibition on storage of LDR waste occurred?

A: It depends.

Per [40 CFR 268.50\(a\)](#), basically any storage of LDR hazardous wastes is prohibited unless certain conditions are being met. Those conditions being that storage is solely for accumulating sufficient quantities of hazardous waste to allow for proper recovery, treatment, or disposal; and each tank or container is marked with its contents and the date each period of accumulation began. If these conditions are being met, the customer can store LDR wastes for up to one year unless EPA or the authorized State can demonstrate that the storage is not for purposes of accumulating sufficient quantities of waste for proper recovery, treatment or disposal. In other words, from day one of storage and up to one year, EPA or the State has the burden of proving that noncompliant LDR storage is occurring. After one year of storage, the customer has the burden of proving that compliant LDR storage continues to occur, i.e., sufficient quantities of hazardous waste are being accumulated to allow for proper recovery, treatment or disposal.

The fact that our customer has stored LDR wastes for over one year does not in itself indicate noncompliance with the LDR storage prohibition. If the customer's accumulation did not meet the conditions described above, noncompliance would have occurred on day one of storage. However, EPA or the State - from day one and up to one year - would bear the burden of proving noncompliance with the LDR prohibition on storage. If the customer's accumulation does meet the conditions described above, the customer can then store beyond the one-year time frame, however, the customer now has the burden of proving compliance with the LDR prohibition on storage.

Also note that when the customer exceeds the one-year time frame, there is no requirement to notify EPA or the State. This was clarified in a February 1987 EPA memo ([RO 12851](#)), which stated, "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." A December 1986 EPA memo ([RO 12794](#)) is also consistent with the February 1987 memo.

SUMMARY:

- Storage of LDR wastes is prohibited unless certain conditions are being met.
- For storage up to one year, the burden of proving noncompliance lies with EPA or the State.
- For storage greater than one year, the burden of proving compliance lies with the TSD owner/operator.
- If LDR storage exceeds one year, notification to EPA or the State is not required.

40 CFR 268.50, the February 1987 and the December 1986 EPA memos, 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: 3/16/17

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TWO MINUTE TRAINING - ATTACHMENT

SUBJECT: LDR Storage Prohibitions and the One-Year Rule

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 §262.34 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 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.

(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.

(d) If a generator's waste is exempt from a prohibition on the type of land disposal utilized for the waste (for example, because of an approved case-by-case extension under §268.5, an approved §268.6 petition, or a national capacity variance under subpart C), the prohibition in paragraph (a) of this section does not apply during the period of such exemption.

(e) The prohibition in paragraph (a) of this section does not apply to hazardous wastes that meet the treatment standards specified under §§268.41, 268.42, and 268.43 or the treatment standards specified under the variance in §268.44, or, where treatment standards have not been specified, is in compliance with the applicable prohibitions specified in §268.32 or RCRA section 3004.

(f) Liquid hazardous wastes containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 50 ppm must be stored at a facility that meets the requirements of 40 CFR 761.65(b) and must be removed from storage and treated or disposed as required by this part within one year of the date when such wastes are first placed into storage. The provisions of paragraph (c) of this section do not apply to such PCB wastes prohibited under §268.32 of this part.

(g) The prohibition and requirements in this section do not apply to hazardous remediation wastes stored in a staging pile approved pursuant to §264.554 of this chapter.

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TWO MINUTE TRAINING - ATTACHMENT

SUBJECT: LDR Storage Prohibitions and the One-Year Rule

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 bench-mark 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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TWO MINUTE TRAINING - ATTACHMENT

SUBJECT: LDR Storage Prohibitions and the One-Year Rule

Faxback 12794

9551.1986(24)

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

DECEMBER 86

8. Storage of Restricted Wastes

When is the storage of restricted wastes not prohibited?

In section 3004(j) of RCRA, Congress expressly prohibited the storage of any hazardous waste restricted from land disposal "unless such storage is solely for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal."

In the final rule (51 FR 40572, §268.5), EPA has incorporated this language directly into provisions for generator accumulation and storage by owners or operators of treatment, storage, or disposal facilities. "The Agency believes that a storage limit of up to one year should generally provide sufficient time for an owner/operator to accumulate sufficient quantities to facilitate proper recovery, treatment, or disposal of restricted hazardous wastes while meeting the intent of Congress to prohibit long-term storage as a means of avoiding the land disposal restrictions. The burden is on the Agency to demonstrate that storage of restricted waste for periods less than or equal to one year is not in compliance with the storage provisions. The Agency also recognizes that there may be instances where one year does not provide sufficient time to accumulate such quantities. **Therefore, the Agency will allow an owner/operator to store restricted wastes beyond one year. Although, the owner/operator is not required to submit any data or application to EPA, in the event of an enforcement action, the burden of proving compliance with §268.50(b) is on the owner/operator.** The Agency believes that this is reasonable because the record for this rulemaking indicates that less than one year should be sufficient. This provision does not apply to situations where back-ups at treatment or recovery facilities, operational difficulties, and repairs and maintenance result in additional delays" (51 FR 40583).

FROM: Paul W. Martin

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