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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