

RCRA, SUPERFUND & EPCRA CALL CENTER MONTHLY REPORT

January 2004

1. Application of LDR to Delisted Wastes

An electroplating facility generates a wastewater treatment sludge that meets the F006 listing description in 40 CFR §261.31 and accumulates it on site in accordance with the Part 262 generator requirements. However, the generator demonstrates that the F006 sludge does not contain any of the Part 261, Appendix VII constituents for which it is listed (i.e., cadmium, hexavalent chromium, nickel, and cyanide). Additionally, the waste does not exhibit a hazardous waste characteristic and is not hazardous for any other reason. Thus, the generator applies for and is granted a site-specific delisting for the F006 sludge per §260.22. Must the generator comply with the land disposal restrictions (LDR) requirements before disposing of the delisted waste?

The generator must comply with the LDR requirements before disposing of the delisted waste because LDR attaches at the point of generation. A delisting only absolves the generator from his obligation of handling the waste as hazardous. If a particular hazardous waste is eligible for a delisting and is granted the delisting prior to generation, then LDR requirements would not apply. Conversely, if a waste is generated and subsequently delisted, the generator would need to comply with the applicable Part 268 requirements before disposal.

Although the generator of the wastewater treatment sludge remains subject to LDR, he or she may file a petition to receive a variance from the LDR requirements per §§268.42(b) or 268.44. For example, the generator may receive a variance from a treatment standard if he or she demonstrates that the waste cannot be treated to the specified LDR treatment standard levels because its physical or chemical properties differ significantly from the waste used to establish the LDR treatment standard (§268.44).

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