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## RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

NOVEMBER 86

### 3. Prohibition on Storage of Restricted Wastes

The land disposal restrictions rule for listed solvents and dioxin wastes was promulgated in the November 7, 1986 Federal Register (51 FR 40572). 40 CFR 268 Subpart E establishes prohibitions on storage of restricted hazardous wastes. The wastes restricted as of November 8, 1986 are those meeting the F001 through F005 listing under §261.31 except for wastes generated by a small quantity generator of 100 - 1000 kg/mo, or a CERCLA response action or corrective action required under RCRA, or a solvent-water mixture or sludge, solid, or soil containing less than one percent total F001 through F005 constituents listed in Table CCWE of §268.41 (51 FR 40642). According to §268.50(a)(1), generators who store hazardous waste solely for the purpose of accumulation of quantities as necessary to facilitate proper recovery, treatment, or disposal beyond the 90-day limit set in §262.34(a) may qualify for interim status under §270.70 and must apply for a permit. Section 268.50(a) does not mention the possibility of obtaining a 30-day extension due to extenuating circumstances, as provided in §262.34(b). Does this mean that the option of obtaining a 30-day extension no longer exists for generators storing restricted wastes?

No, the generator may still qualify for an extension under §262.34(b) if the waste must remain on-site for more than 90 days because of unforeseen, temporary, and uncontrollable circumstances. The new land disposal restrictions regulations do not delete or amend §262.34(b), but rather impose new restrictions on storage that apply in addition to the requirements in §262.34. Section 262.34 specifies the circumstances under which a generator can store hazardous wastes without interim status or a permit, while §268.50 requires that storage of prohibited wastes during that time must be for the specific purpose stated above. In addition, according to §270.10(e)(1)(ii), the generator has thirty days from the date he first becomes subject to Part 265 standards to submit a Part A permit application, so it is conceivable that a generator may obtain an extension and still apply for a permit. The final decision to grant an extension under §262.34(b) on a case-by-case basis still rests with the Regional Administrator.

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