

RCRA, SUPERFUND & EPCRA HOTLINE MONTHLY REPORT
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2. LDR Paperwork Requirements for Subtitle D Facilities

A generator of a characteristic waste treats the waste on site in containers. After removing the characteristic, the generator sends the decharacterized waste off site to a Subtitle D (nonhazardous) waste facility for further treatment to address the underlying hazardous constituents (UHCs) and ultimate disposal. The facility treats the decharacterized waste for UHCs prior to land disposal on site. What land disposal restriction (LDR) notification and certification requirements apply to the Subtitle D facility?

Subtitle D facilities that treat decharacterized waste for UHCs are not subject to LDR notification and certification requirements. The initial generator of the hazardous waste is required to place a one-time notification and certification in the facilities files and send copies to the EPA region and authorized state(40 CFR §268.9(d)). However, the generator is not required to notify the Subtitle D facility of the constituents subject to treatment. Accordingly, Subtitle D treaters (i.e., treaters of wastes which are no longer hazardous but which require treatment to satisfy LDR treatment standards) are not currently required to verify compliance with treatment standards or to provide further notification of constituents in the waste or certification of treatment (58 FR 48092, 48135; September 14, 1993).

EPA decided against imposing notification requirements on Subtitle D facilities that decharacterize waste because the parties involved have substantial incentives (such as CERCLA liability) to exchange and verify compliance with treatment standards for UHCs independent of federal notification requirements. EPA reserves the right to revisit this issue if it becomes aware that substantial amounts of decharacterized wastes are sent to nonhazardous facilities for treatment of UHCs, or that there is a paperwork loophole not addressed by existing arrangements between generators and treatment facilities (59 FR 47980, 48016; September 19, 1994).