

## 2. Land Disposal Restrictions Storage Prohibition and Decharacterized Wastes

*A facility generates a prohibited characteristic hazardous waste with a 40 CFR 268.40 treatment standard requiring decharacterization and treatment to meet the 268.48 universal treatment standards (UTS) levels before it is eligible for land disposal. The generator ships the waste to a hazardous waste treatment, storage, and disposal facility (TSDF). The TSDF decharacterizes the waste, rendering it non-hazardous, but the waste must still meet UTS levels prior to land disposal. Is this decharacterized waste subject to the RCRA land disposal restrictions (LDR) storage prohibition now that it is no longer hazardous?*

The waste remains subject to the storage prohibition even though it is no longer hazardous. Under the LDR storage prohibition, restricted hazardous wastes are prohibited from being stored for purposes other than the accumulation of quantities of waste necessary to facilitate proper recovery, treatment, or disposal (268.50). Wastes may be stored for this purpose for up to one year, unless the implementing agency can demonstrate that such storage was not solely for the purpose of accumulation (268.50(b)). The wastes may continue to be stored beyond the first year, but the owner/operator of the storing facility bears the burden of affirmatively proving that the waste is being stored solely for the purposes of accumulation (268.50(c)).

Because the LDR program prohibitions apply at the point of generation, the storage prohibition applies until the waste is treated to fully meet its assigned treatment standard (58 FR 29872; May 24, 1993). As a result, even though the characteristic waste has been decharacterized, it remains subject to the storage prohibition until fully treated to meet UTS levels. Thus, a year after the waste was originally generated, the facility storing the waste will have the burden of proving that the waste is still being stored solely to facilitate accumulation of amounts necessary to facilitate proper treatment, recovery, or disposal.