mixed waste) is between 100 and 1000 kilograms/month (in addition, the on-site waste accumulation can not exceed 6000 kilograms); or

• Longer than 270 days, if the facility's waste generation rate (both hazardous and mixed waste) is between 100 and 1000 kilograms/month, and if the hazardous waste management facility to which the waste must be shipped is over 200 miles from the licensee's facility.

Licensees have asked questions about the applicability of RCRA regulated quantities. If a facility generates a quantity of low-level mixed waste that, combined with on-site RCRA non-mixed hazardous waste generation, does not exceed 100 kg/mo (or one kilogram of acutely hazardous waste as defined in 40 CFR 261.11(a)(2) and listed in 40 CFR 261.31–33), it qualifies as a conditionally exempt small quantity generator (SQG). As a result, it can dispose of the low-level mixed waste as low-level radioactive waste, if these materials meet the disposal site's waste acceptance criteria (40 CFR 261.5).

RCRA permit requirements are unit-specific and are described in 40 CFR part 264 for permitted facilities and 40 CFR part 265 for interim status facilities. Interim status requirements are self-implementing waste management requirements which are limited to facilities that were already in existence on the date that a new regulation or statutory requirement took effect and which subjected the facility to RCRA. For mixed waste facilities in authorized States, this date generally corresponds to the date that the State received authorization for a mixed waste program, although State requirements may differ.

Under RCRA, persons who store the prescribed quantities of hazardous wastes for less than the times outlined above are considered generators only and need not obtain a storage permit. However, such generators are still subject to the storage requirements of 40 CFR 262.34 (a) or (d),8 unless they qualify for the conditionally exempt small quantity generator (SQG) exemption in 40 CFR 261.5. A generator qualifies for this exemption if he generates no more than 100 kilograms of hazardous waste (including mixed waste) per month or 1 kilogram of acutely hazardous waste/month. Conditionally exempt SQGs are generally not subject to RCRA regulation as long as they meet the generation and accumulation limits, properly characterize their waste and ensure its proper management. If a SQG accumulates more than 1000 kilograms on-site or if its generation rate exceeds 100 kilograms in any given month, that SQG is no longer conditionally exempt and is subject to RCRA.9

Generators may also store up to 55 gallons of hazardous waste (or 1 quart of acutely hazardous waste) in containers at or near the site of generation without a RCRA permit and without regard to the storage time limits. This is known as "satellite accumulation" and is governed by 40 CFR 262.34(c)(1). However, any waste in excess of the 55 gallons (or 1 quart of acutely hazardous waste) must be removed from this area within three days of the date that these volumes were exceeded to a central storage area at which time the accumulation times mentioned above take effect. For example, a facility that generates over 1000 kg of hazardous waste per month has up to three days to remove any waste that exceeds the satellite accumulation limit of 55 gallons from the satellite accumulation container and, following that three day period (or after waste is moved to the generator storage area), may store the waste for up to 90 days in accordance with the generator storage provisions of 40 CFR Part 262.34(a). If the waste is stored longer than 90 days, RCRA interim status or a RCRA storage permit is required.

Secondary materials that are stored or accumulated prior to being recycled (used, reused, or reclaimed) may be considered "accumulated speculatively" (see 40 CFR sections 261.1(c)(7), 261.1(c)(8), and 261.2(c) and (e)) and thus may be identified as hazardous waste unless the generator or facility accumulating the material can demonstrate that:

- · The material is potentially recyclable;
- The material has a feasible means of being recycled; and
- At least 75 percent by weight or volume is recycled or transferred to a different site for recycling during the calendar year.

The EPA Regional Administrator or State Director has authority to approve accumulation that does not meet these limits, upon request for a variance (see 40 CFR 260.31(a)).

These restrictions on speculative accumulation may bring materials into the hazardous waste universe that have in the past been considered recyclable (see 40 CFR 261.2(d) and 261.2(e)). The intent of having such a requirement is to prevent the long term storage and mismanagement of hazardous materials under the guise that they may have some potential for being reused or recycled. Readers are encouraged to review 40 CFR 261.2 and 261.6 for further information on accumulation.

c. Storage Time Limitations Under the Land Disposal Restrictions and Variances

EPA's Land Disposal Restriction (LDR) regulations (i.e., the requirements in 40 CFR 268.50 that prohibit the land disposal of hazardous wastes without prior treatment) prohibit the storage of LDR restricted hazardous wastes (including mixed wastes) except when storage is "solely for the purpose of accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal". Wastes that satisfy this accumulation requirement, may be stored in tanks, containers, or containment buildings on-

site. ¹⁰ Waste may be stored without regard to the storage prohibition if it has been treated to meet EPA treatment standards or if the waste is not subject to, or is exempt from, the LDRs because of an extension or a specific exemption from the LDRs (e.g., conditionally exempt small quantity generator wastes). In addition, wastes that have been placed into storage prior to an applicable LDR effective date are not subject to the prohibitions on storage. However, once such wastes are removed from storage, these wastes are subject to treatment standards and other applicable LDR requirements (51 FR 40577, November 7, 1986).

The storage prohibition also is not in effect for waste subject to a variance from the Land Disposal Restrictions. EPA grants three general types of variances from the LDRs: (1) variances that delay the effective date of a prohibition (e.g., a variance based on the lack of capacity to treat, recover or dispose hazardous waste); (2) variances from the prohibition based on a "no-migration" determination; and (3) a treatability variance from a specific treatment standard. For more information on these variances, please consult the EPA guidance document entitled "Guidance on the Land Disposal Restrictions" Effects on Storage and Disposal of Commercial Mixed Waste' (OSWER Directive 9555.00-01, September 28, 1990) available from NRC or EPA.

d. RCRA Permits and NRC License Amendments

Storage of all radioactive waste, including mixed waste, should be carried out in such a manner that ensures that the stored waste does not create a radiological hazard to surrounding areas, increase the potential for a release of radioactive materials to unrestricted areas, or pose an increased hazard to facility personnel. The physical, chemical, and radiological characteristics of the waste, as well as any other characteristics that could pose a potential health and safety problem in the storage area should be identified and evaluated by the licensee prior to developing the NRC license application or amendment request. Provisions for material security and inventory, fire protection, effluent controls, effluent monitoring, shielding and area radiological controls should be included in the NRC license application or amendment request. This application or request should include written procedures for radiological surveys, periodic audits, and inspections, as well as an effective contingency plan to address the repackaging of damaged or deteriorating containers. The elements of the plan should take into account the isotopes, waste forms, and quantities to be stored.

In order to remain in compliance with all regulatory requirements for mixed waste storage, some licensees may need to obtain an EPA (or authorized State) storage permit and/or amend their NRC (or Agreement State)

⁸ 40 CFR 262.34(a) addresses the accumulation time and the containment of wastes in containers, tanks, or on drip pads as well as the labelling of these units. 40 CFR 262.34(d) discusses storage requirements for persons generating between 100 and 1000 kilograms of hazardous waste per month.

⁹State regulations pertaining to small quantity generators may vary. Generators should contact the appropriate State hazardous waste regulatory authority to determine the status of SQGs in their

Ontainment buildings (defined as hazardous waste management units where waste is stored or treated) are not considered land disposal units and wastes may be stored in containment buildings without first meeting a treatment standard. Please see 57 FR 37194, August 18, 1992 for more detailed information.