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1254. PCB Radioactive Wastes and Exception Reporting	ENCORE	NOV 21, 2017
1255. Satellite Accumulation Requirements and Container Inspections	ENCORE	NOV 30, 2017
1256. Disposing of PCB Ballasts with PCB Potting Material	ENCORE	DEC 7, 2017
1257. Fluorescent Light Ballasts and PCB Annual Reporting		DEC 14, 2017
1258. 'Twas the Night Before Christmas – The Twenty-Fifth Annual Edition		DEC 21, 2017
1259. The Purpose of Keeping Containers Closed Except When Adding or Removing Wastes	ENCORE	DEC 28, 2017
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1275. Aqueous Solutions and the Characteristic of Ignitability	ENCORE	APR 19, 2018
1276. PCB Bulk Product Wastes and the One Year Disposal Requirement	ENCORE	APR 26, 2018
1277. PCB Radioactive Wastes and Exception Reporting	ENCORE	MAY 3, 2018
1278. TSCA/PCB Determinations for Fluorescent Light Ballasts via the Manufacture Date	ENCORE	MAY 10, 2018
1279. RCRA Liquids, Free Liquids, and Releasable Liquids	ENCORE	MAY 17, 2018
1280. Satellite Accumulation Areas and the Three-Day Time Limit for Excess Accumulation		MAY 24, 2018
1281. Satellite Accumulation of Aerosol Cans and Determining the 55-Gallon Limit	ENCORE	MAY 31, 2018
1282. Universal Waste and Basis for the One Year Accumulation Time Limit	ENCORE	JUN 7, 2018
1283. F001 Degreaser versus F002 Solvent	ENCORE	JUN 14, 2018
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1285. PCB Certificates of Disposal and Manifesting Between Related Facilities		JUN 28, 2018
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1287. PCB Concentrations and 1,000 PPM	ENCORE	JUL 12, 2018
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1290. Satellite Accumulation Areas and Under the Control of the Operator		AUG 2, 2018
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1300. Purpose of the ≤90-day Hazardous Waste Accumulation Conditional Exclusion	ENCORE	OCT 11, 2018
1301. Regulatory Status of Used Oil Mixed with Diesel Fuel		OCT 18, 2019
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1310. 'Twas the Night Before Christmas - The Twenty-Sixth Annual Edition	ENCORE	DEC 20, 2018
1311. Product Storage Tank Residues and Hazardous Waste Regulations	ENCORE	DEC 27, 2018
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1318. Generator On-Site Treatment Exemption	ENCORE	FEB 14, 2019

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TWO MINUTE TRAINING

TO: CH2M HILL PLATEAU REMEDIATION COMPANY

FROM: PAUL W. MARTIN, RCRA Subject Matter Expert
CHPRC Environmental Protection, Hanford, WA

SUBJECT: GENERATOR ON-SITE TREATMENT EXEMPTION

DATE: FEBRUARY 14, 2019

<u>CHPRC Projects</u>	<u>CH PRC - Env. Protection</u>	<u>MSA</u>	<u>Hanford Laboratories</u>	<u>Other Hanford Contractors</u>	<u>Other Hanford Contractors</u>
Richard Austin Tania Bates Rene Catlow Richard Clinton Larry Cole John Dent Lorna Dittmer Eric Erpenbeck Stuart Hildreth Mike Jennings Stephanie Johansen Sasa Kosjerina Melvin Lakes Richard Lipinski Jim McGrogan Stuart Mortensen Dave Richards Phil Sheely Connie Simiele Jennie Stults Jeff Westcott Jeff Widney	Bob Bullock Bill Cox Laura Cusack Jim Leary Anthony Nagel Linda Petersen Fred Ruck Ray Swenson Wayne Toebe Daniel Turlington Dave Watson	Brett Barnes Jerry Cammann Jeff Ehlis Garin Erickson Panfilo Gonzalez Jr. Dashia Huff Mark Kamberg Jon McKibben Saul Martinez Jon Perry Christina Robison Lana Strickling Lou Upton	(TBD) <u>DOE RL, ORP, WIPP</u> Mary Beth Burandt Duane Carter Cliff Clark Tony McKarns	Bill Bachmann Dean Baker Scott Baker Lucinda Borneman Paul Crane Tina Crane Ron Del Mar John Dorian Mark Ellefson Tom Gilmore Rob Gregory James Hamilton Andy Hobbs Ryan Johnson Megan Lerchen Charles (Mike) Lowery Michael Madison Terri Mars Cary Martin Grant McCalmant Steve Metzger Tony Miskho Matt Mills Tom Moon Chuck Mulkey Kirk Peterson	Jean Quigley Dan Saueressig Merrie Schilperoort Joelle Moss Glen Triner Greg Varljen Julie Waddoups Jay Warwick Ted Wooley

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TWO MINUTE TRAINING

SUBJECT: Generator On-Site Treatment Exemption

Q: Can a ≤ 90 -day generator treat hazardous waste on-site without a treatment permit?

A: Per [WAC 173-303-040 \[40 CFR 260.10\]](#), treatment means “the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume, with the exception of compacting, repackaging, and sorting as allowed under [WAC 173-303-400\(2\)](#) and [WAC 173-303-600\(3\)](#).” In summary, almost anything done to the hazardous/dangerous waste that meets the 2-part definition is treatment and a permit is required unless an exemption or exclusion is available.

[WAC 173-303-200 \[40 CFR 262.17\]](#) states that a generator may accumulate dangerous waste in tanks, containers and containment buildings without a permit provided that the accumulation does not exceed 90 days. This had been interpreted by the regulated community to mean that a ≤ 90 -day generator did not require a storage permit but that a treatment permit was required. However, in the [March 24, 1986, Federal Register](#), on page 10168, EPA clarified the interpretation by stating:

“...nothing in 262.34 (*now 262.17*) precludes the generator treating waste when it is in an accumulation tank or container...”

Therefore EPA interpreted the term "accumulation" to include storage and treatment. If on-site treatment occurs in tanks or containers and not in a land unit or thermal device, which EPA considers disposal, and the treatment activity occurs within the 90-day, (or 180-day or 270-day) accumulation limit, a treatment permit is not required.

Note that if a generator treats dangerous or hazardous waste on-site to meet a land disposal treatment standard, a waste analysis plan must be developed, followed, kept on site and available for inspection upon request by the State or EPA. See [40 CFR 268.7\(a\)\(5\)](#) attached.

SUMMARY:

- A ≤ 90 -day generator may treat dangerous waste if treatment occurs:
 - On-site,
 - In tanks, containers, and containment buildings and,
 - Within the 90-day accumulation limit.
- A generator cannot treat waste in land or thermal units.
- If storage has exceeded the ≤ 90 -day time limit, the on-site treatment exemption is lost.

Excerpts from WAC 173-303, the March 24, 1986 Federal Register and an EPA memo dated July 1, 1987 are attached to the e-mail. If you have any questions, contact me at [Paul W Martin@rl.gov](mailto:Paul_W_Martin@rl.gov) or at (509) 376-6620.

FROM: Paul W. Martin

DATE: 2/14/19

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TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: Generator On-Site Treatment Exemption

WAC 173-303-040 Definitions.

When used in this chapter, the following terms have the meanings given below.

"Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume, with the exception of compacting, repackaging, and sorting as allowed under WAC 173-303-400(2) and 173-303-600(3).

WAC 173-303-200 Accumulating dangerous waste on-site.

(1) A generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

40 CFR 268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities

(5) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under 40 CFR 262.34 to meet applicable LDR treatment standards found at §268.40, the generator must develop and follow a written waste analysis plan which describes the procedures they will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table 1, §268.45, however, are not subject to these waste analysis requirements.) The plan must be kept on site in the generator's records, and the following requirements must be met:

- (i) The waste analysis plan must be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste(s) being treated, and contain all information necessary to treat the waste(s) in accordance with the requirements of this part, including the selected testing frequency.
- (ii) Such plan must be kept in the facility's on-site files and made available to inspectors.
- (iii) Wastes shipped off-site pursuant to this paragraph must comply with the notification requirements of §268.7(a)(3).

TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: Generator On-Site Treatment Exemption

10168 Federal Register / Vol. 51, No. 54 / Monday, March 24, 1986 / Rules and Regulations

“Several commenters suggested exemptions from the RCRA permitting requirements or reduced permit requirements for on-site waste treatment. Some commenters stated that there is a need to encourage on-site treatment to reduce the amount of wastes sent off-site and that the permitting requirements may hamper the ability of generators to treat wastes at their facilities.

The Agency disagrees that on-site treatment should be encouraged by exempting those generators of 100-1000 kg/mo from the RCRA permitting requirements. To the extent that these generators are conducting the same treatment/storage or treatment/disposal as other permitted facilities, their on-site treatment activities pose a potential risk to human health and the environment. Therefore, reduced or eliminated permitting requirements would be inappropriate.

Of course, no permitting would be required if a generator chooses to treat their hazardous waste in the generator's accumulation tanks or containers in conformance with the requirements of §262.34 and Subparts J or I of Part 265. Nothing in §262.34 precludes a generator from treating waste when it is in an accumulation tank or container covered by that provision. Under the existing Subtitle C system, EPA has established standards for tanks and containers, which apply to both the storage and treatment of hazardous waste. These requirements are designed to ensure that the integrity of the tank or container is not breached. Thus, the same standards apply to a tank or a container, regardless of whether treatment or storage is occurring. Since the same standards apply to treatment in tanks as applies to storage in tanks, and since EPA allows for limited on-site storage without the need for a permit or interim status (90 days for over 1000 kg/mo generators and 180/270 days for 100-1000 kg/mo generators), the Agency believes that treatment in accumulation tanks or containers is permissible under the existing rules, provided the tanks or containers are operated strictly in compliance with all applicable standards. Therefore, generators or 100-1000 kg/mo are not required to obtain interim status and a RCRA permit if the only on-site management which they perform is treatment in an accumulation tank or container that is exempt from permitting during periods of accumulation (180 or 270 days).”

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TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: Generator On-Site Treatment Exemption

9453.1987(03)

July 1, 1987

Bernard E. Cox, Jr., Chief
Hazardous Waste Branch
Land Division
Alabama Department of Environmental Management
1751 Federal Drive
Montgomery, AL 36130

Dear Mr. Cox:

This is in response to your letter of June 11, 1987, requesting clarification of EPA's policies concerning the regulatory status of on-site treatment by generators under 40 CFR §262.34. The following addresses, first, EPA's general policy in this area, and then the specific container-related examples you provided.

1. General policy. Although you appear to believe that EPA has amended its interpretation of the hazardous waste rules in March 1986, EPA actually discussed the relationships between storage treatment, and disposal in the preamble of the January 12, 1981 Federal Register. (See 46 Federal Register 2806-2808). In particular, EPA noted that treatment can occur either at a disposal or a storage facility and that the conduct of treatment does not affect a facility's regulatory status. (Id. at 2808.)^{1/} Nothing in §262.34, or in preambles specifically related to the section (often called the "90 day generator" rule) preclude treatment. EPA believes that treatment activities should similarly not affect the regulatory status of 90-day generators.

Of course, EPA's most important consideration is protection of human health and the environment. In discussing treatment at storage facilities, EPA noted that the general requirement of §264.17, which applies to all storage facilities, addresses hazards posed by ignitable, incompatible, or reactive wastes. (See 46 Federal Register 2806; January 12, 1981.) EPA concluded, therefore, that the most serious hazards likely to be posed during treatment would be addressed under these provisions. (Id) 90-day generators similarly must comply with special requirements for ignitable, reactive,

^{1/} We view this preamble discussion as more definitive than the statements and guidance you quote from 1980.

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TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: Generator On-Site Treatment Exemption

-2-

or incompatible waste under Subparts I and J of Part 265 (referenced by §262.34).

Finally, EPA notes that treatment often renders waste less or nonhazardous, or more amenable for further treatment, recycling, etc. The hazard posed by waste shipped off-site can thereby be reduced, and recycling can be promoted. A requirement to obtain a permit for any on-site treatment would very likely discourage such practices.

2. Treatment in containers. Although nothing in §262.34 specifically precludes treatment in containers, 90-day generators are subject to the container management standards of Part 265, Subpart I. One provision of Subpart I (§265.173(a)) requires that containers be kept closed during storage, except when adding or removing waste. Other sections of Subpart I provide that containers must be handled to prevent leaks or ruptures (§265.173(b)), and address hazards pose by incompatible, reactive, or ignitable waste (§§265.172, 265.176, and 265.177). These requirements limit the extent that treatment could occur in containers. The examples you provided (burning in open drums or tanks) would be considered open burning under §260.10, and as such, would generally be recognized as a method of disposal. Disposal does change a facility's regulatory status, and is not allowed under §262.34. Further, open burning (except for certain explosive wastes) is prohibited under §265.382. Finally, if there are cases of treatment that do not appear to be adequately regulated under §262.34, EPA can take action to mitigate an imminent hazard under RCRA Section 7003.

Please feel free to contact Michael Petruska at 475-6676 if you have any further questions.

Sincerely,

Marcia Williams, Director
Office of Solid Waste

bcc: James Scarbrough, Chief
Region IV Residuals Management Branch Hazardous Waste
Division Directors, Regions I-X

FROM: Paul W. Martin

DATE: 2/14/19

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