

	<u>SUBJECT</u>		<u>DATE</u>
1320.	Treated Hazardous Waste Used as Dust Suppressant		FEB 28, 2019
1321.	Decharacterized RCRA Waste - Manifesting and LDR Reporting	ENCORE	MAR 7, 2019
1322.	Decharacterized Hazardous Waste Listed Solely for Non-Toxic Characteristics	ENCORE	MAR 14, 2019
1323.	Decharacterized Wastes, ≤90-Day Accumulation Time Limits and LDR Storage Prohibition	ENCORE	MAR 21, 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: DECHARACTERIZED WASTES, ≤90-DAY ACCUMULATION TIME LIMITS AND LDR STORAGE PROHIBITION

DATE: MARCH 21, 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 Laura Cusack John Dent Lorna Dittmer Eric Erpenbeck Stuart Hildreth Mike Jennings Stephanie Johansen Sasa Kosjerina Melvin Lakes Richard Lipinski Stuart Mortensen Dave Richards Phil Sheely Connie Simiele Jeff Westcott	Jeff Bramson Bob Bullock Frank Carleo Bill Cox Noah Cruz Jeanne Elkins Jonathan Fullmer Ted Hopkins Tad Karschnia Barry Lawrence Jim Leary Diane Leist Mitch Marrott Stewart McMahan Brian Mitcheltree Anthony Nagel Linda Petersen Fred Ruck Sean Sexton Dave Shea Ray Swenson Kat Thompson Wayne Toebe Daniel Turlington Dave Watson	Brett Barnes Michael Carlson Mike Demiter Kip George Jerry Cammann Jeff Ehli Garin Erickson Panfilo Gonzalez Jr. Dashia Huff Mark Kamberg Jon McKibben Saul Martinez Matt Mills Carly Nelson Michelle Oates Eric Pennala Jon Perry Christina Robison Christian Seavoy David Shaw John Skoglie Lana Strickling Greg Sullivan	(TBD) <u>DOE RL, ORP, WIPP</u> Mary Beth Burandt Duane Carter Tony McKarns	Bill Bachmann Dean Baker Scott Baker Lucinda Borneman Paul Crane Tina Crane Ron Del Mar John Dorian Mark Ellefson Darrin Faulk 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 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: Decharacterized Wastes, ≤90-Day Accumulation Time Limits and LDR Storage Prohibition

Q: A "less than 90-day" customer has a drum of D002 hazardous waste acid with underlying hazardous constituents (UHCs). The customer treats the waste acid component by adding sodium hydroxide to the drum, raising the pH to >2 and <12.5 (treated in compliance with the generator onsite treatment exemption ([RO 11261](#)) recognized in most states). Since the land disposal restriction (LDR) treatment standard for D002 is deactivation (DEACT - removal of the characteristic) and treat for UHCs, what generator accumulation and LDR storage time limits apply to this decharacterized waste?

A: Per [40 CFR 261.3\(d\)\(1\)](#) and [40 CFR 268.9\(d\)](#), it basically states that once a characteristic waste is decharacterized the material is no longer a hazardous waste; however, LDR requirements continue to apply. In our customer's case, the D002 corrosive characteristic has been removed and the waste is now nonhazardous, but the UHCs must still be treated to the applicable LDR treatment standards prior to land disposal.

Since the material is now a nonhazardous waste, the material can be accumulated without regard to the less than 90-day hazardous/dangerous waste accumulation requirements for generators. However, since LDR continues to apply, the material remains subject to LDR and specifically [40 CFR 268.50](#), "Prohibitions on storage of restricted wastes". Per an EPA RCRA Hotline Monthly Summary dated January 1, 1997 ([RO 14048](#)), "*...even though the characteristic waste has been decharacterized, it remains subject to the storage prohibition until fully treated to meet UTS [Universal Treatment Standard] levels*".

Therefore, our customer could store the material for more than 90 days. However, if the storage exceeds one year, the customer bears the burden of proving to EPA or the State that the storage was for the purposes of accumulating sufficient quantities for recovery, treatment or disposal.

SUMMARY:

- A characteristic waste is no longer a hazardous waste once it has been decharacterized.
- LDR continues to apply in terms of applicable treatment standards, which can include UHCs.
- Since the material is nonhazardous, the ≤90-day accumulation time limit does not apply, however, the LDR one year storage prohibition does apply.

Excerpts from 40 CFR 261.3, 268.9, 268.50 and a RCRA Hotline Summary attached to the e-mail. If you have any questions, contact me at Paul_W_Martin@rl.gov or at (509) 376-6620.

FROM: Paul W. Martin

DATE: 3/21/19

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TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: Decharacterized Wastes, ≤90-Day Accumulation Time Limits and LDR Storage Prohibition

40 CFR Part 261.3(d)

Any solid waste described in paragraph (c) of this section is not a hazardous waste if it meets the following criteria:

- (1) In the case of any solid waste, it does not exhibit any of the characteristics of hazardous waste identified in subpart C of this part. **(However, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of part 268, even if they no longer exhibit a characteristic at the point of land disposal.)**

40 CFR 268.9(d) **Special rules regarding wastes that exhibit a characteristic.**

Wastes that exhibit a characteristic are also subject to §268.7 requirements, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generator's or treater's on-site files. The notification and certification must be updated if the process or operation generating the waste changes and/or if the subtitle D [*nonhazardous*] facility receiving the waste changes.

(1) The notification must include the following information:

- (i) Name and address of the RCRA Subtitle D facility receiving the waste shipment; and
- (ii) A description of the waste as initially generated, including the applicable EPA hazardous waste code(s), treatability group(s), and underlying hazardous constituents (as defined in §268.2(i)), unless the waste will be treated and monitored for all underlying hazardous constituents. If all underlying hazardous constituents will be treated and monitored, there is no requirement to list any of the underlying hazardous constituents on the notice.

(2) The certification must be signed by an authorized representative and must state the language found in §268.7(b)(4).

- (i) If treatment removes the characteristic but does not meet standards applicable to underlying hazardous constituents, then the certification found in §268.7(b)(4)(iv) applies.

40 CFR 268.50 **Prohibitions on storage of restricted wastes.**

- (b) An owner/operator of a treatment, storage or disposal facility may store such wastes for up to one year unless the Agency can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.
- (c) An owner/operator of a treatment, storage or disposal facility may store such wastes beyond one year; however, the owner/operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

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TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: Decharacterized Wastes, ≤90-Day Accumulation Time Limits and LDR Storage Prohibition

9551.1997(02)

FAXBACK 14048

RCRA/SUPERFUND HOTLINE MONTHLY SUMMARY

JANUARY 97

EPA: 530-R-97-002a

NTIS: SUB-9224-97-001

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.

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