

<u>SUBJECT</u>		<u>DATE</u>
1253. Used Oil Filter Regulation – The Feds vs. Washington State	ENCORE	NOV 16, 2017
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
1260. Satellite Accumulation and Product Vessel Cleanouts	ENCORE	JAN 4, 2018
1261. Conservative Declaration that Material is a Hazardous Waste	ENCORE	JAN 11, 2018
1262. Defining Criteria for Household Waste Exclusion	ENCORE	JAN 18, 2018
1263. The Household Waste Exclusion and Renovation Debris	ENCORE	JAN 25, 2018
1264. The Household Waste Exclusion and Renovation Debris – Part II	ENCORE	FEB 1, 2018
1265. The Mixtures Rule – Washington State vs. The Feds	ENCORE	FEB 8, 2018
1266. Spent Lead-Acid Batteries and Secondary Containment	ENCORE	FEB 15, 2018
1267. Spent Lead-Acid Batteries and Accumulation Time Limits	ENCORE	FEB 23, 2018
1268. CERCLA Hazardous Substances – A Brief Definition	ENCORE	MAR 1, 2018
1269. Radioactively Contaminated Lead-Acid Batteries and Hazardous Debris	ENCORE	MAR 8, 2018
1270. RCRA Treatment and the Two-Part Definition	ENCORE	MAR 15, 2018
1271. Who Wants to be a Generator!!!	ENCORE	MAR 22, 2018
1272. Who Wants to be a Generator Part 2!!!	ENCORE	MAR 29, 2018

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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:** WHO WANTS TO BE A GENERATOR PART 2!!!

**DATE:** MARCH 29, 2018

<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 Brian Dixon Eric Erpenbeck Stuart Hildreth Mike Jennings Stephanie Johansen 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 Sasa Kosjerina Jim Leary Anthony Nagel Robert Nielson 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 Ellen Mattlin Scott Stubblebine	Bill Bachmann Dean Baker Scott Baker Lucinda Borneman Paul Crane Tina Crane Ron Del Mar John Dorian Mark Ellefson Tom Gilmore Rob Gregory Gene Grohs 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:** Who Wants to be a Generator Part 2!!!

**Q:** In last week's "Two Minute Training" (2MT) we learned that if three parties are involved with a product tank (an owner of the tank and property, an owner of the product in the tank, and a contractor hired to clean out the accumulated sludges), then all three can meet the definition of a RCRA generator. What if the tank already held a hazardous waste instead of a product? In this scenario, one person is the owner of the property, the tank and the dangerous/hazardous waste contained (the owner); and another person is the contractor hired to clean out the tank (the contractor). Who is the generator in this case - the owner, the contractor, or both?

**A:** Per [WAC 173-303-040](#), [[40 CFR 260.10](#)], a generator is defined as:

*"any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation."*

In this scenario, the owner is the person, by site, whose act or process produces a dangerous/hazardous waste and also is the person whose act first causes a dangerous/hazardous waste to become subject to regulation (the material in the tank was already a hazardous waste prior to the contractor becoming involved). Therefore, the owner meets the definition of a generator.

The contractor's act of cleaning out the dangerous/hazardous waste will not be the first act that causes the dangerous/hazardous waste to be subject to regulation since the material is already a hazardous waste. Therefore, in this scenario, the contractor cannot meet the definition of a generator.

As further clarification, an EPA memo ([RO 12706](#)) concerning a contractor's recycling of spent solvents with a mobile recycling unit and whether the contractor becomes a generator, dated August 6, 1986, it states:

*"Since the spent solvent is presumably already a hazardous waste prior to Mr. DeCosimo [if that is his real name] coming onto the generator's site, and since the solvent is likely to have been accumulated prior to being recycled, the hazardous spent solvent would already have been subject to regulation under the accumulation provisions of Part 262 of the hazardous waste regulations. Thus, none of the actions taken by Mr. DeCosimo would appear, in the limited circumstances described in his letter, to cause him to become subject to RCRA liability as a RCRA hazardous waste generator."*

As with the recycling contractor in EPA's guidance memo, since the tank material was already subject to regulation, the clean-out contractor does not meet the definition of a generator.

### SUMMARY:

- A generator is any person, by site, whose act or process produces dangerous/hazardous waste or whose act first causes a dangerous/hazardous waste to become regulated.
- An owner of a hazardous waste tank and its contents is a generator.
- A contractor who subsequently cleans out a hazardous waste tank is not a generator.

The memo is attached. If you have any questions, please contact me at [Paul W Martin@rl.gov](mailto:Paul_W_Martin@rl.gov) or at (509) 376-6620.

**FROM:** Paul W. Martin

**DATE:** 3/29/18

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**TWO MINUTE TRAINING – ATTACHMENT**

**SUBJECT:** Who Wants to be a Generator Part 2!!!

9432.1986(13)

FAXBACK 12706

AUG 6 1986

MOBILE SOLVENT RECYCLER, GENERATOR DETERMINATION FOR

Honorable Matthew J. Rinaldo  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Rinaldo:

Thank you for your July 1, 1986, letter on behalf of your constituent Mr. Paul DeCosimo. Mr. DeCosimo requests an interpretation as to whether he would be considered a co-generator of hazardous waste as a result of recycling solvent at a generator's site using a mobile treatment technology. Based on the information provided by Mr. DeCosimo, we do not believe that he would be considered a co-generator for regulatory purposes under most circumstances.

A generator is defined in Section 260.10 of the hazardous waste regulations as, "...any person, by site, whose act or process produces hazardous waste identified or listed in Part 261 of this chapter or whose act first causes a hazardous waste to become subject to regulation." Since the spent solvent is presumably already a hazardous waste prior to Mr. DeCosimo coming onto the generator's site, and since the solvent is likely to have been accumulated prior to being recycled, the hazardous spent solvent would already have been subject to regulation under the accumulation provisions of Part 262 of the hazardous waste regulations. Thus, none of the actions taken by Mr. DeCosimo would appear, in the limited circumstances described in his letter, to cause him to become subject to RCRA liability as a RCRA hazardous waste generator.

Mr. DeCosimo should, of course, be aware of that if he transports a hazardous waste off of the generation site, he would be considered a hazardous waste transporter subject to regulation.

If you have any further questions, please call Bob Axelrad at (202) 382-5218.

Sincerely,

Original Document signed

J. Winston Porter  
Assistant Administrator

**FROM:** Paul W. Martin

**DATE:** 3/29/18

**FILE:** 2MT\2018\032918.rtf

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