

<u>SUBJECT</u>		<u>DATE</u>
1188.	RCRA Empty Containers vs. TSCA PCB Decontaminated Containers - Scenario II	ENCORE AUG 11, 2016
1189.	RCRA Empty Containers vs. TSCA PCB Decontaminated Containers - Scenario III	ENCORE AUG 18, 2016
1190.	Product Spills and Waste Determinations	ENCORE AUG 25, 2016
1191.	Product Spills, Waste Determinations, and LDR	ENCORE SEP 1, 2016
1192.	Regulatory Status of Caustic Rinse Waters Contaminated with Trace Solvents	ENCORE SEP 8, 2016
1193.	Regulatory Status of Sand Blast Grit Contaminated with Trace Listed Solvents	ENCORE SEP 15, 2016
1194.	Hazardous Waste "F" Listings and Trace Contamination	ENCORE SEP 22, 2016
1195.	Hazardous Waste "F" Listings and Trace Contamination – Again!	ENCORE SEP 29, 2016
1196.	Hazardous Waste Determinations and Phase Separation	ENCORE OCT 6, 2016
1197.	Asbestos and DOT Relief	ENCORE OCT 13, 2016
1198.	PCB Containers and Concentration of PCBs	ENCORE OCT 20, 2016
1199.	PCB Analytical Waste Disposal Requirements	ENCORE OCT 27, 2016
1200.	PCB Analytical Waste Disposal Requirements – Water vs. Organic Liquids and Non-aqueous Inorganic Liquids	ENCORE NOV 3, 2016
1201.	Listed Waste Codes and Pre-RCRA Wastes	ENCORE NOV 10, 2016
1202.	Purpose of the ≤90-day Hazardous Waste Accumulation Exemption	ENCORE NOV 17, 2016
1203.	Used Oil Eligibility for Turkey and Ham Oils	ENCORE NOV 23, 2016
1204.	PCB Reporting and Recordkeeping Relief	ENCORE DEC 1, 2016
1205.	Defining Criteria for Household Waste Exclusion	ENCORE DEC 8, 2016
1206.	The Household Waste Exclusion and Renovation Debris	ENCORE DEC 15, 2016
1207.	'Twas the Night before Christmas – The Twenty-Fourth Annual Edition	ENCORE DEC 24, 2016
1208.	The Household Waste Exclusion and Renovation Debris – Part II	ENCORE DEC 29, 2016
1209.	Absorbent Additions and Treatment	ENCORE JAN 5, 2017
1210.	Frozen RCRA Wastewater - DOT Liquid or Solid When Manifested?	ENCORE JAN 12, 2017
1211.	DOT Marking Specifications for the "UN", "NA" and "ID" Markings	ENCORE JAN 19, 2017
1212.	Satellite Accumulation within a ≤90-day Accumulation Area	ENCORE JAN 26, 2017
1213.	Washington State-Only Dangerous Waste Markings – Accumulation vs. Pre-Transport	ENCORE FEB 2, 2017
1214.	RCRA Empty Tanker Trailers and Listed Waste Codes	ENCORE FEB 9, 2017
1215.	RCRA Empty vs. DOT Empty	ENCORE FEB 16, 2017
1216.	RCRA Empty vs. DOT Empty II	ENCORE FEB 23, 2017
1217.	Multiple Characteristic Hazardous Waste Codes and Underlying Hazardous Constituents	ENCORE MAR 2, 2017
1218.	Multiple Characteristic and Listed Hazardous Waste Codes and the "in lieu of" LDR Principle	ENCORE MAR 9, 2017
1219.	LDR Storage Prohibitions and the One-Year Rule	ENCORE MAR 16, 2017
1220.	LDR Storage Prohibitions and Treated Wastes	ENCORE MAR 23, 2017
1221.	LDR Storage Prohibitions and Treated Hazardous Debris or Contaminated Soil	ENCORE MAR 30, 2017

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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: LDR STORAGE PROHIBITIONS AND TREATED HAZARDOUS DEBRIS OR CONTAMINATED SOIL

DATE: MARCH 30, 2017

<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 Roni Ashley Tania Bates Rene Catlow Richard Clinton Larry Cole John Dent Brian Dixon Eric Erpenbeck Stuart Hildreth Mike Jennings Stephanie Johansen Jeanne Kisielnicki Melvin Lakes Jim McGrogan Stuart Mortensen Dean Nester Dave Richards Phil Sheely Connie Simiele Jennie Stults Jeff Westcott Jeff Widney	Ron Brunke Bob Bullock Bill Cox Laura Cusack Lorna Dittmer Ted Hopkins Sasa Kosjerina Jim Leary Rick Oldham Anthony Nagel Robert Nielson Linda Petersen Fred Ruck Ray Swenson Wayne Toebe Daniel Turlington Dave Watson Joel Williams	Brett Barnes Jerry Cammann Jeff Ehlis Garin Erickson Panfilo Gonzales Jr. Dashia Huff Mark Kamberg Edwin Lamm Candice Marple 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 Greg Sinton Scott Stubblebine	Bill Bachmann Dean Baker Scott Baker Lucinda Borneman Paul Crane Tina Crane Jeff DeLine Ron Del Mar John Dorian Mark Ellefson Darrin Faulk Joe Fritts Lori Fritz Tom Gilmore Rob Gregory Gene Grohs James Hamilton Andy Hobbs Ryan Johnson Dan Kimball Megan Lerchen Richard Lipinski Charles (Mike) Lowery Michael Madison Terri Mars Cary Martin Marty Martin Grant McCalmant Steve Metzger Tony Miskho Matt Mills Tom Moon Chuck Mulkey Mandy Pascual Kirk Peterson	Jean Quigley Dan Saueressig Merrie Schilperoort Joelle Moss Glen Triner Greg Varljen Julie Waddoups Jay Warwick Kyle Webster Ted Wooley

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TWO MINUTE TRAINING

SUBJECT: LDR Storage Prohibitions and Treated Hazardous Debris or Contaminated Soil

Q: Last week's Two Minute Training (2MT), stated that the land disposal restrictions (LDR) prohibition on storage does not apply to hazardous wastes that meet the treatment standards under [40 CFR 268.41](#), [40 CFR 268.42](#) and [40 CFR 268.43](#), which is essentially the LDR treatment standards at [40 CFR 268.40](#). The alternative treatment standards for debris at [40 CFR 268.45](#) and for contaminated soils at [40 CFR 268.49](#) were not included in [40 CFR 268.50\(e\)](#) that referenced .41, .42 and .43. If hazardous debris or contaminated soil is treated to meet the LDR treatment standards in 40 CFR 268.45 or 40 CFR 268.49, does the LDR one year storage prohibition continue to apply?

A: 40 CFR 268.50(e) does state:

"The [storage] prohibition in paragraph (a) of this section does not apply to hazardous wastes that meet the treatment standards specified under §§268.41, 268.42, and 268.43 or the treatment standards specified under the variance in §268.44, or, where treatment standards have not been specified, is in compliance with the applicable prohibitions specified in §268.32 or RCRA section 3004."

References to 40 CFR 268.45 and 40 CFR 268.49 are glaringly absent. At first glance, it would appear that hazardous debris and contaminated soils treated to meet LDR alternative treatment standards would not have the same relief as all other hazardous wastes referenced in 40 CFR 268.40.

However, it must be noted that the one year storage prohibition is a burden of proof issue and not necessarily a compliance issue. Per 40 CFR 268.50(a), basically any storage of LDR hazardous wastes is prohibited unless certain conditions are being met. Those conditions being that storage is solely for accumulating sufficient quantities of hazardous waste to allow for proper recovery, treatment, or disposal. If these conditions are being met, the customer can store LDR wastes for up to one year unless EPA or the authorized State can demonstrate that the storage is not for purposes of accumulating sufficient quantities of waste for proper recovery, treatment or disposal. In other words, from day one of storage and up to one year, EPA or the State has the burden of proving that noncompliant LDR storage is occurring. After one year of storage, the customer has the burden of proving that complaint LDR storage continues to occur, i.e., sufficient quantities of hazardous waste are continuing to be accumulated to allow for proper recovery, treatment or disposal.

The end result of the Land Disposal Restrictions is not that the waste must be disposed within one year, but that the waste must be sufficiently accumulated to allow for proper recovery, treatment or disposal. If a generator or TSD has hazardous debris or contaminated soil that has been properly treated to meet LDR treatment standards, the one year storage prohibition is moot.

And LASTLY, as stated in the [June 1, 1990, Federal Register](#) on page 22673, 1st column, 3rd paragraph:

"The legislative history makes it clear that the intent of RCRA 3004(j) and 268.50 is to prohibit use of long-term storage to circumvent treatment requirements imposed by the Land Disposal Restrictions."

If the hazardous debris or contaminated soil has been treated to meet all LDR treatment standards, there is no circumvention of LDR treatment requirements and the one year storage prohibition no longer applies.

SUMMARY:

- 40 CFR 268.50(e) basically states that wastes treated to meet LDR treatment standards of 40 CFR 268.40 are not subject to the one year storage prohibition for LDR waste.
- 40 CFR 268.45 for hazardous debris and 40 CFR 268.49 for contaminated soil is absent from 40 CFR 268.50(e).
- Since the purpose of the one year storage prohibition is to prohibit long-term storage to circumvent LDR treatment standards, treated hazardous debris and treated contaminated soils are not subject to the one year storage prohibition.

Excerpts from 40 CFR 268.50 are attached. If you have any questions, please contact me at Paul_W_Martin@rl.gov or at (509) 376-6620.

FROM: Paul W. Martin

DATE: 3/30/17

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TWO MINUTE TRAINING - ATTACHMENT

SUBJECT: LDR Storage Prohibitions and Treated Hazardous Debris or Contaminated Soil

§268.50 Prohibitions on storage of restricted wastes

(a) Except as provided in this section, the storage of hazardous wastes restricted from land disposal under subpart C of this part of RCRA section 3004 is prohibited, unless the following conditions are met:

(1) A generator stores such wastes in tanks, containers, or containment buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in §262.34 and parts 264 and 265 of this chapter.

(2) An owner/operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks, containers, or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and:

(i) Each container is clearly marked to identify its contents and the date each period of accumulation begins;

(ii) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating record at that facility. Regardless of whether the tank itself is marked, an owner/operator must comply with the operating record requirements specified in §264.73 or §265.73.

(3) A transporter stores manifested shipments of such wastes at a transfer facility for 10 days or less.

(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.

(d) If a generator's waste is exempt from a prohibition on the type of land disposal utilized for the waste (for example, because of an approved case-by-case extension under §268.5, an approved §268.6 petition, or a national capacity variance under subpart C), the prohibition in paragraph (a) of this section does not apply during the period of such exemption.

(e) The prohibition in paragraph (a) of this section does not apply to hazardous wastes that meet the treatment standards specified under §§268.41, 268.42, and 268.43 or the treatment standards specified under the variance in §268.44, or, where treatment standards have not been specified, is in compliance with the applicable prohibitions specified in §268.32 or RCRA section 3004.

(f) Liquid hazardous wastes containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 50 ppm must be stored at a facility that meets the requirements of 40 CFR 761.65(b) and must be removed from storage and treated or disposed as required by this part within one year of the date when such wastes are first placed into storage. The provisions of paragraph (c) of this section do not apply to such PCB wastes prohibited under §268.32 of this part.

(g) The prohibition and requirements in this section do not apply to hazardous remediation wastes stored in a staging pile approved pursuant to §264.554 of this chapter.

FROM: Paul W. Martin

DATE: 3/30/17

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