

<u>SUBJECT</u>		<u>DATE</u>
1056. Hazardous Waste Tanks and the Less than 90-Day Accumulation Time Limit	ENCORE	APR 23, 2015
1057. Decharacterized RCRA Waste - Manifesting and LDR Reporting	ENCORE	APR 30, 2015
1058. Decharacterized Hazardous Waste Listed Solely for Non-Toxic Characteristics	ENCORE	MAY 7, 2015
1059. Decharacterized Wastes, <90-Day Accumulation Time Limits and LDR Storage Prohibition	ENCORE	MAY 14, 2015
1060. Decharacterized Wastes and the LDR Dilution Prohibition	ENCORE	MAY 21, 2015
1061. Hazardous Debris Macroencapsulation and Size Reduction	ENCORE	MAY 28, 2015
1062. Universal Waste Lamps and Prohibition on Crushing		JUN 4, 2015
1063. F003 Listed Hazardous Waste and the 10% Rule	ENCORE	JUN 11, 2015
1064. F001 - F005 Listed Hazardous Waste and the 10% Rule	ENCORE	JUN 18, 2015
1065. Macroencapsulation of Hazardous Debris and Presence of Free Liquids	ENCORE	JUN 25, 2015
1066. DOT Shipping of Damaged, Defective or Recalled Lithium Batteries		JUL 1, 2015
1067. Used Oil Eligibility for Animal and Vegetable Oils	ENCORE	JUL 9, 2015
1068. Used Oil Eligibility for Petroleum Oils Mixed with Animal or Vegetable Oils		JUL 16, 2015
1069. Conditioned Exclusion for Listed Hazardous Waste Debris Treated via Extraction/Destruction	ENCORE	JUL 23, 2015
1070. Conditioned Exclusion for Characteristic Debris Treated via Immobilization		JUL 30, 2015
1071. RCRA Personnel Training and Classroom Training vs. Online Training		AUG 6, 2015
1072. PCB Decontamination Standards with No Decontamination Performed		AUG 13, 2015
1073. PCB Manifest Exceptions a.k.a. When is a PCB Manifest Not Required	ENCORE	AUG 19, 2015
1074. PCB Manifest Relief a.k.a. When is a PCB Manifest Not Required – The Sequel		AUG 27, 2015
1075. Hazardous Debris and Radioactively Contaminated Cadmium Batteries	ENCORE	SEP 3, 2015
1076. Hazardous Debris and Radioactively Contaminated Lead Acid Batteries	ENCORE	SEP 10, 2015
1077. Mercury Wet Cell Batteries - Debris or Not Debris	ENCORE	SEP 17, 2015
1078. Hazardous Debris and Non-Radioactive Lead Acid Batteries		SEP 24, 2015
1079. Unused Paraformaldehyde - U Listed Hazardous Waste or Not?	ENCORE	OCT 1, 2015
1080. CAS Numbers and the Hazardous Waste "U" and "P" Listings	ENCORE	OCT 8, 2015
1081. Universal Waste One Year Accumulation and Multiple Handlers	ENCORE	OCT 15, 2015
1082. LDR Notifications and F001-F005 Constituents of Concern	ENCORE	OCT 29, 2015
1083. LDR Notifications and F001-F005 Constituents of Concern – Again	ENCORE	NOV 5, 2015
1084. LDR Notifications and F001-F005 Constituents of Concern - One Last Time	ENCORE	NOV 12, 2015
1085. DOT and Terminal Protection of Alkaline Batteries	ENCORE	NOV 19, 2015
1086. Used Oil and Keeping Containers Closed – WAC 173-303 vs. 40 CFR 279		NOV 24, 2015
1087. PCB Weight Determinations	ENCORE	DEC 3, 2015
1088. Satellite Accumulation Requirements and Container Inspections	ENCORE	DEC 10, 2015
1089. 'Twas The Night Before Christmas - The Twenty-Third Annual Edition	ENCORE	DEC 24, 2015
1090. Satellite Accumulation and 85-Gallon Containers	ENCORE	DEC 31, 2015
1091. PCB Date Removed From Service Notations – On the Item or In a Log	ENCORE	JAN 7, 2016
1092. The Date Removed From Service Marking on the PCB Mark	ENCORE	JAN 14, 2016
1093. Generator Weekly Inspection Log Documentation – Federal vs. WA State	ENCORE	JAN 21, 2016
1094. Used Oil and Weekly Inspections	ENCORE	JAN 28, 2016
1095. TSCA/PCB Determinations for Fluorescent Light Ballasts via the Manufacture Date	ENCORE	FEB 4, 2016
1096. PCB Containers and Multiple Removed From Service Dates	ENCORE	FEB 11, 2016
1097. Generator Inspection Logs and Corrective Action Documentation	ENCORE	FEB 18, 2016
1098. PCB Concentrations and Micrograms per Centimeters Squared ($\mu\text{g}/\text{cm}^2$)		FEB 25, 2016
1099. RCRA Empty Containers and Removing as Much Waste as Possible	ENCORE	MAR 3, 2016
1100. PCB Incineration and "Six Nines" Destruction Removal Efficiency Criteria	ENCORE	MAR 10, 2016
1101. RCRA Treatment and The Two-Part Definition		MAR 17, 2016
1102. D002 Waste and Dilution as Adequate LDR Treatment	ENCORE	MAR 24, 2016
1103. Satellite Accumulation of Aerosol Cans and Determining the 55-Gallon Limit		MAR 31, 2016
1104. Satellite Accumulation and Process Location Changes	ENCORE	APR 7, 2016
1105. Satellite Accumulation Prior to and After Recycling		APR 14, 2016
1106. Method Detection Limits and Hazardous Waste Determinations	ENCORE	APR 21, 2016
1107. Method Detection Limits and Hazardous Waste Determinations II	ENCORE	APR 28, 2016
1108. Radioactive Lead Solids vs. Non-radioactive Lead Contaminated Debris	ENCORE	MAY 5, 2016
1109. PCB Bulk Product Wastes and the One Year Disposal Requirement		MAY 12, 2016
1110. PCB Waste Storage Limitations and the One-Year Extension		MAY 19, 2016
1111. PCB Waste Storage Limitations and the PCB Radioactive Waste Exemption		MAY 26, 2016
1112. Separating Hazardous Debris and Hazardous Nondebris	ENCORE	JUN 2, 2016
1113. Product Expiration Dates and Solid Waste Determinations (Reverse Distribution)	ENCORE	JUN 9, 2016

DISCLAIMER - "Two Minute Training" ("2MT") is a peer-to-peer communication, presented to share the benefit of the author's work experience with other professionals, who can independently evaluate his analysis. 2MT does not necessarily reflect the opinions, conclusions or policies of the author's past or current employers or the US Department of Energy. The author's employers do not take any responsibility for the accuracy of its conclusions. 2MT is not intended to be used as authoritative guidance or direction by any person or entity. Anyone transmitting or reproducing it is prohibited from modifying its content, this disclaimer, or other text, or republishing it independent of its original source.

TWO MINUTE TRAINING

TO: CH2M HILL PLATEAU REMEDIATION COMPANY

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

SUBJECT: PRODUCT EXPIRATION DATES AND SOLID WASTE DETERMINATIONS (REVERSE DISTRIBUTION)

DATE: JUNE 9, 2016

<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 Bob Cathel Rene Catlow Richard Clinton Larry Cole John Dent Brian Dixon Eric Erpenbeck Stuart Hildreth Mike Jennings Stephanie Johansen Jeanne Kisielnicki Melvin Lakes Marty Martin Jim McGrogan Stuart Mortensen Anthony Nagel Dean Nester Dave Richards Phil Sheely Connie Simiele Jennie Stults Michael Waters Jeff Widney	Brett Barnes Mitch Boyd Ron Brunke Bill Cox Laura Cusack Lorna Dittmer Rick Engelmann Ted Hopkins Sasa Kosjerina Jim Leary Dale McKenney Jon McKibben Rick Oldham Linda Petersen Fred Ruck Ray Swenson Wayne Toebe Lee Tuott Daniel Turlington Dave Watson Joel Williams	Jerry Cammann Jeff Ehlis Garin Erickson Lori Fritz Panfilo Gonzales Jr. Dashia Huff Mark Kamberg Edwin Lamm Candice Marple Saul Martinez Jon Perry Thomas Pysto Christina Robison Don Rokkan Lana Strickling Lou Upton	(TBD) <u>DOE RL, ORP, WIPP</u> Mary Beth Burandt Duane Carter Cliff Clark Mike Collins 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 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 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 Jeff Westcott Ted Wooley

DISCLAIMER - "Two Minute Training" ("2MT") is a peer-to-peer communication, presented to share the benefit of the author's work experience with other professionals, who can independently evaluate his analysis. 2MT does not necessarily reflect the opinions, conclusions or policies of the author's past or current employers or the US Department of Energy. The author's employers do not take any responsibility for the accuracy of its conclusions. 2MT is not intended to be used as authoritative guidance or direction by any person or entity. Anyone transmitting or reproducing it is prohibited from modifying its content, this disclaimer, or other text, or republishing it independent of its original source.

TWO MINUTE TRAINING

SUBJECT: Product Expiration Dates and Solid Waste Determinations (Reverse Distribution)

Q: A customer has several small containers of product solvent that have exceeded the manufacturer's expiration dates. The solvents are not useful to the customer but are useful to a sister company. Can the customer send the expired solvents to the sister company as product, or are the solvents now considered solid wastes and in this case "U" listed hazardous wastes, only because the solvents have exceeded their expiration dates?

A: Per WAC 173-303-016, "Identifying solid wastes" [40 CFR 261.2], a material is basically a solid waste if it is intended for discard. Discard can be defined as any material that is being abandoned by being accumulated prior to disposal. Since the solvents in question have only exceeded their expiration dates, a determination to discard is still required by the generator to classify the solvents as solid wastes.

Per the November 25, 1980, Federal Register, a commercial chemical product is a solid waste only if discarded or intended to be discarded. If it continues to be used, it is not being discarded and therefore not a solid waste. On page 78540, of the Federal Register it states:

"Where a commercial product becomes excess inventory or outlives its expiration date in a wholesale or retail outlet or in the hands of the user, and the supplier takes the product back for resale or reprocessing, the product is not being discarded by the wholesaler, retailer or user and is not a hazardous waste."

Also, an EPA memo dated May 16, 1991, concerning returned product chemicals that have exceeded their expiration dates, states:

"Under our current regulations, such returned products are not considered solid wastes until a determination is made to discard these materials. The returned products themselves (being "commercial chemical products" under our classification system) are considered more product-like than waste-like (until a determination is made to dispose of them) because recycling by use/reuse is generally a viable option."

Since the customer's expired product solvents are not intended for discard and are intended for use, the solvents are not solid wastes. Therefore a determination of whether or not the solvents are hazardous waste is not applicable at this time. If at a later date, the customer intends to discard the expired solvents, then a hazardous waste determination would be applicable.

SUMMARY:

- A solid waste is a material intended for discard.
- Discard can occur when a material is abandoned by being accumulated prior to disposal.
- If a material exceeds its expiration date but is not being discarded, the material is not a solid waste.

The May 16, 1991 EPA memo and the August 1985 EPA Monthly Hotline Report concerning expiration dates are 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: 6/9/16

FILE: c:\...\2MT\2016\060916.rtf

PG: 1

DISCLAIMER - "Two Minute Training" ("2MT") is a peer-to-peer communication, presented to share the benefit of the author's work experience with other professionals, who can independently evaluate his analysis. 2MT does not necessarily reflect the opinions, conclusions or policies of the author's past or current employers or the US Department of Energy. The author's employers do not take any responsibility for the accuracy of its conclusions. 2MT is not intended to be used as authoritative guidance or direction by any person or entity. Anyone transmitting or reproducing it is prohibited from modifying its content, this disclaimer, or other text, or republishing it independent of its original source.

TWO MINUTE TRAINING - ATTACHMENT

SUBJECT: Product Expiration Dates and Solid Waste Determinations (Reverse Distribution)

Faxback 11606
9455.1991(02)

OFFICE OF SOLID WASTE AND EMERGENCY RESPONSE

MAY 16 1991

Mark J. Schulz
President
Pharmaceutical Services, Inc.
Browning-Ferris Industries
757 N. Eldridge
Houston, Texas 77079

Dear Mr. Schulz:

This responds to your February 22, 1991 letter to David Bussard requesting a determination regarding the regulatory status of pharmaceutical products that are returned by the dispensers of these products to the manufacturers, wholesalers, or to a third-party service company that will facilitate the processing, crediting, and, if needed, appropriate disposal of the returned products. Currently, such products are returned directly to the manufacturer or wholesaler, who credits the dispenser for the products and determines whether the products are to be reused, reclaimed, or appropriately disposed. BFI Pharmaceutical Services, Inc. (BFI-Pharm) intends to provide this reverse distribution service to the pharmaceutical industry.

As I understand your letter, pharmaceutical products may be returned for many reasons, including, among others: 1) an oversupply at the dispenser, 2) expiration of the recommended shelf life, 3) a recall has been initiated by the manufacturer, 4) the product was received as a result of a shipping error, and 5) the product has been damaged. You state that, in general the dispensers of the pharmaceutical products do not know whether the returned products will be reused, reclaimed, sold overseas, or disposed (i.e., they are not able to determine whether these materials are solid wastes). Because the dispensers receive credit for the returned products (either because the products actually have real value to manufacturer or because such credits are part of a competitive marketing approach), the products have a monetary value to the dispensers and they would not normally assume such materials to be wastes.

Under our current regulations, such returned products are not considered solid wastes until a determination is made to discard these materials. The returned products themselves (being "commercial chemical products" under our classification system) are considered more product-like than waste-like (until a determination is made to dispose of them) because recycling by use/reuse is generally a viable option. If the underlying assumption is that the returned products will be recycled, until the manufacturer or wholesaler determines otherwise (assuming that this determination is beyond the ability of the dispenser), then those products managed within the reverse distribution system are not solid wastes until the manufacturer or wholesaler makes the determination to dispose of them. This view is based on our understanding that the system is established as a means to facilitate the recycling of reusable pharmaceutical products, rather than a waste management system. We will be interested to learn if your data, which will be computerized, will support this assumption.

FROM: Paul W. Martin

DATE: 6/9/16

FILE: c:\...\2MT\2016\060916.rtf

PG: 2

DISCLAIMER - "Two Minute Training" ("2MT") is a peer-to-peer communication, presented to share the benefit of the author's work experience with other professionals, who can independently evaluate his analysis. 2MT does not necessarily reflect the opinions, conclusions or policies of the author's past or current employers or the US Department of Energy. The author's employers do not take any responsibility for the accuracy of its conclusions. 2MT is not intended to be used as authoritative guidance or direction by any person or entity. Anyone transmitting or reproducing it is prohibited from modifying its content, this disclaimer, or other text, or republishing it independent of its original source.

TWO MINUTE TRAINING - ATTACHMENT

SUBJECT: Product Expiration Dates and Solid Waste Determinations (Reverse Distribution)

Page 2

At the current time there does not appear to be any reason for EPA to change its policy regarding this type of reverse distribution system simply because a third-party service company is involved rather than the manufacturers themselves.

I would like briefly to bring to your attention two issues that bear generally upon reverse distribution systems, although neither appears to be of concern in the BFI-Pharm situation. First, EPA does not intend for hazardous waste brokers to use a reverse distribution system to relieve generators of the responsibility for making determinations about the discarding of materials as wastes. It remains the generator's responsibility to properly identify secondary materials. Second, a reverse distribution system cannot be used as a waste management service to customers/generators without the applicable regulatory controls on waste management being in place. Of course, as I discussed above with respect to the BFI-Pharm situation, to the extent that the materials involved are unused commercial products with a reasonable expectation of being recycled in some way when returned, the materials are not considered as wastes until a determination has been made to discard them.

This interpretation is based on the current set of Federal RCRA regulations. However, as you know, authorized States may regulate or interpret the regulations differently, and State requirements are the applicable standards in authorized States. You should contact the appropriate State regulatory agencies for a more definitive regulatory determination for their respective jurisdictions.

I hope this has sufficiently answered your questions. Should you have any further questions regarding EPA's policies, you may contact David Bussard at (202) 382-4637.

Sincerely,

Original Document signed

Sylvia K. Lowrance
Director
Office of Solid Waste

FROM: Paul W. Martin

DATE: 6/9/16

FILE: c:\...\2MT\2016\060916.rtf

PG: 3

DISCLAIMER - "Two Minute Training" ("2MT") is a peer-to-peer communication, presented to share the benefit of the author's work experience with other professionals, who can independently evaluate his analysis. 2MT does not necessarily reflect the opinions, conclusions or policies of the author's past or current employers or the US Department of Energy. The author's employers do not take any responsibility for the accuracy of its conclusions. 2MT is not intended to be used as authoritative guidance or direction by any person or entity. Anyone transmitting or reproducing it is prohibited from modifying its content, this disclaimer, or other text, or republishing it independent of its original source.