

<u>SUBJECT</u>		<u>DATE</u>
1448.	Definitions of Inactive Portion, Active Portion and Closed Portion of a RCRA TSD	AUG 12, 2021
1449.	Dangerous Waste Designations and Dangerous Waste Code Determinations	AUG 19, 2021
1450.	Method Detection Limits and Hazardous Waste Determinations	ENCORE AUG 26, 2021
1451.	Method Detection Limits and Hazardous Waste Determinations II	ENCORE SEP 2, 2021
1452.	Totals Analysis vs. TCLP and Dividing by 20	ENCORE SEP 9, 2021
1453.	Decharacterized RCRA Waste - Manifesting and LDR Reporting	ENCORE SEP 16, 2021
1454.	Decharacterized Hazardous Waste Listed Solely for Non-Toxic Characteristics	ENCORE SEP 23, 2021
1455.	Decharacterized Wastes and the LDR Dilution Prohibition	ENCORE SEP 30, 2021
1456.	The "Derived from Rule", the "Mixtures Rule", and the "Contained-In Policy"	ENCORE OCT 7, 2021
1457.	Hazardous Debris and Options to Exclude as a Dangerous Waste	OCT 14, 2021
1458.	Regulatory Status of Characteristic Baghouse Dust Destined for Reclamation	OCT 21, 2021
1459.	RCRA Point of Generation and Baghouse Dust Collection Systems	OCT 28, 2021
1460.	Pumps Containing Liquid Hazardous Wastes and Liquids in Landfill Prohibition	ENCORE NOV 4, 2021
1461.	Pumps Containing Liquid Hazardous Waste and Land Disposal Restrictions	ENCORE NOV 11, 2021
1462.	Pumps Containing Liquid Hazardous Wastes and RCRA Empty Containers	NOV 18, 2021
1463.	Multiple Characteristic Hazardous Waste Codes and Underlying Hazardous Constituents	ENCORE NOV 23, 2021
1464.	LDR Notifications/Certifications and Generator Permitted Treatment, Storage, or Disposal Facility	ENCORE DEC 2, 2021
1465.	Multiple Characteristic and Listed Hazardous Waste Codes and the "in lieu of" LDR Principle	ENCORE DEC 9, 2021
1466.	Universal Wastes - Recycling versus Disposal	ENCORE DEC 16, 2021
1467.	'Twas the Night Before Christmas – The Twenty-Eighth Edition	DEC 24, 2021
1468.	Spent Lead Acid Batteries vs., Universal Wastes	ENCORE DEC 30, 2021
1469.	Hazardous Debris and Radioactively Contaminated Cadmium Batteries	ENCORE JAN 6, 2022
1470.	Hazardous Debris and Radioactively Contaminated Lead-Acid Batteries	ENCORE JAN 13, 2022
1471.	Mercury Wet Cell Batteries - Debris or Not Debris	ENCORE JAN 20, 2022
1472.	Hazardous Debris and Non-Radioactive Lead Acid Batteries	ENCORE JAN 27, 2022
1473.	Hazardous Debris and LDR High/Low Mercury Subcategories	ENCORE FEB 3, 2022
1474.	Central Accumulation Areas and the ≤90-day Time Frame	ENCORE FEB 10, 2022
1475.	Central Accumulation Areas with Satellite Accumulation	FEB 17, 2022
1476.	Definition of RCRA Empty Tank	ENCORE FEB 24, 2022
1477.	RCRA Empty Acutely Hazardous Waste Containers	ENCORE MAR 3, 2022
1478.	The RCRA Definition of Acute Hazardous Waste	MAR 10, 2022
1479.	Regulatory Status of Liquids and Solids Separated from D001 High TOC Wastes	ENCORE MAR 17, 2022
1480.	Generator Accumulation at a Permitted Storage Facility	MAR 24, 2022
1481.	Generator Accumulation and Maximum Inventory of Dangerous Waste Onsite at a RCRA TSD	MAR 31, 2022
1482.	LDR Storage Prohibitions and the One-Year Rule	ENCORE APR 7, 2022
1483.	LDR Storage Prohibitions and Treated Hazardous Wastes	ENCORE APR 14, 2022
1484.	LDR Storage Prohibitions and Treated Hazardous Debris or Contaminated Soil	ENCORE APR 21, 2022

Approved for Public Release;
Further Dissemination Unlimited

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: CENTRAL PLATEAU CLEANUP COMPANY

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

SUBJECT: LDR STORAGE PROHIBITIONS AND TREATED HAZARDOUS DEBRIS OR CONTAMINATED SOIL

DATE: APRIL 21, 2022

<u>CPCCo Projects</u>	<u>CPCCo Functionals</u>	<u>HMIS</u>	<u>Hanford Laboratories</u>	<u>Other Hanford Contractors</u>	<u>Other Hanford Contractors</u>
Tania Bates	Jeff Bramson	Morgan Baker	Dean Baker	Bill Bachmann	Dan Saueressig
Theresa Boles	Bob Bullock	Brett Barnes	Linda Conlin	Scott Baker	Lana Strickling
Justin Bolles	Frank Carleo	Mike Demiter	Garrett Knutson	Michael Carlson	Joelle Moss
James Brack	Bob Cathel	Kip George	Eric Van Mason	Paul Crane	Greg Varljen
Rene Catlow	Danielle Collins	Jerry Cammann		Tina Crane	Robin Varljen
Peter Ceton	Stacy Cutter	Kelly Elsethagen	<u>DOE RL, ORP, WIPP</u>	Ron Del Mar	Julie Waddoups
Richard Clinton	Jeanne Elkins	Garin Erickson		John Dorian	Jay Warwick
Patty Drago	Jonathan Fullmer	Katie Hall	Duane Carter	Mark Ellefson	Ted Wooley
Paul Fernandez	Randal Fox	Dashia Huff	Ingrid Colton	Darrin Faulk	
Ryan Fisher	Bailey Hardy	Mark Kamberg	Tony McKarns	James Hamilton	
Andrew Getz	Steve Heninger	Jon McKibben	Allison Wright	Leah Hare	
Cory Grabeel	John Hultman	Saul Martinez		Andy Hobbs	
Lawanda Grow	Julie Johanson	Matt Mills		Stephanie Johansen	
Char Hall	Mitch Marrott	Carly Nelson		Ryan Johnson	
Stuart Hildreth	Morgan Matson	Eric Pennala		Megan Lerchen	
Sarah Horn	Stewart McMahand	Jon Perry		Mike Lowery	
Aprill Jivelekas	Carlie Michaelis	Dave Richards		Michael Madison	
Sasa Kosjerina	Brian Mitcheltree	Christina Robison		Terri Mars	
William Krueger	Anthony Nagel	Christian Seavoy		Cary Martin	
Richard Lipinski	Chris Plager	David Shaw		Steve Metzger	
Stuart Mortensen	Linda Petersen	John Skoglie		Tony Miskho	
Edward Myers	Brent Porter	Greg Sullivan		Tom Moon	
Trey Reppe	Sean Sexton			Chuck Mulkey	
Melissa Sahn-dame	Dave Shea			Michelle Oates	
Seth Slater	Deborah Singleton			Kirk Peterson	
Phil Sheely	Dale Snyder				
Jeff Westcott	Dave St. John				
Richard Willson	Kat Thompson				
Nick Wood	Daniel Turlington				
Jon Wright	Britt Wilkins				
	Jennifer Williams				

Approved for Public Release;
Further Dissemination Unlimited

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: 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 such 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 such 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 compliant LDR storage continues to occur, i.e., such 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 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 are 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 to the e-mail. If you have any questions, contact me at Paul_W_Martin@rl.gov or at (509) 376-6620.

TWO MINUTE TRAINING - ATTACHMENT

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

40 CFR 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 §§262.16 and 262.17 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 with:

(A) The words "Hazardous Waste";

(B) The applicable EPA hazardous waste number(s) (EPA hazardous waste codes) in subparts C and D of part 261 of this chapter; or use a nationally recognized electronic system, such as bar coding, to identify the EPA hazardous waste number(s);

(C) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); and

(D) 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.

(4) A healthcare facility accumulates such wastes in containers on site solely for the purpose of the accumulation of such quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal and the healthcare facility complies with the applicable requirements in §§266.502 and 266.503 of this chapter.

(5) A reverse distributor accumulates such wastes in containers on site solely for the purpose of the accumulation of such quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal and the reverse distributor complies with §266.510 of this chapter.

TWO MINUTE TRAINING -ATTACHMENT

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

40 CFR 268.50 Prohibitions on storage of restricted wastes (continued)

(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.