

<u>SUBJECT</u>		<u>DATE</u>
1448.	Definitions of Inactive Portion, Active Portion and Closed Portion of a RCRA TSDF	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

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TWO MINUTE TRAINING

TO: CENTRAL PLATEAU CLEANUP COMPANY

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

SUBJECT: HAZARDOUS DEBRIS AND OPTIONS TO EXCLUDE AS A DANGEROUS WASTE

DATE: OCTOBER 14, 2021

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TWO MINUTE TRAINING

SUBJECT: Hazardous Debris and Options to Exclude as a Dangerous Waste

Q: A customer has a hazardous debris and wants to exclude the debris as a hazardous waste so that the debris can be disposed at a Subtitle D, municipal landfill. What are the customer's primary options to exclude hazardous debris from hazardous waste regulation?

A: The August 18, 1992, Federal Register ([FR 57 37194](#)) codified two options for excluding hazardous debris as a hazardous waste.

1. Treat the debris using an extraction or destruction technology from [40 CFR 268.45](#), Table 1.

EPA stated that using a prescribed extraction or destruction technology, the treated hazardous debris would no longer pose a hazard to human health or the environment. In order to be excluded, the treated debris must not exhibit any characteristics of hazardous waste. As codified at [40 CFR 261.3](#), "Definition of hazardous waste", paragraph (f):

Notwithstanding paragraphs (a) through (d) of this section and provided the debris as defined in [part 268](#) of this chapter does not exhibit a characteristic identified at subpart C of this part, the following materials are not subject to regulation under 40 CFR parts [260](#), [261](#) to [266](#), [268](#), or [270](#):

(1) Hazardous debris as defined in part 268 of this chapter that has been treated using one of the required extraction or destruction technologies specified in Table 1 of §268.45 of this chapter; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

Note that immobilized debris is not excluded from the definition of hazardous waste. Hazardous debris treated by macroencapsulation, microencapsulation, or sealing may not reduce the toxicity of the hazardous constituents since immobilization is an encapsulation process as opposed to an extraction or destruction process.

Also note that any residuals generated from treating hazardous debris contaminated with listed hazardous wastes would still be listed hazardous wastes by virtue of the derived-from rule and subject to the Land Disposal Restrictions (LDR) treatment standards at [40 CFR 268.40](#).

2. Request a determination from EPA and/or the State that the debris no longer contains a hazardous waste, i.e., the contained-in principle.

As an alternative the extraction and destruction options, hazardous debris may continue to be handled in accordance with the contained-in principle and therefore, may be land disposed if the debris no longer "contains" a hazardous waste. As codified at 40 CFR 261.3(f)(2):

(2) Debris as defined in part 268 of this chapter that the Regional Administrator, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

As stated in the August 18, 1992, Federal Register on page 37226:

"This involves a case-by-case determination by EPA, made upon request, that debris does not contain hazardous waste at significant levels, taking into consideration such factors as: (1) The site hydrogeology and potential exposure pathways, but excluding management practices. Debris found not to contain hazardous waste (and not exhibiting a hazardous waste characteristic) would not be subject to further subtitle C regulation, and so could be land disposed without further treatment. In addition, these levels could be achieved by any form of treatment other than impermissible dilution, and thus need not result from application of the debris treatment methods adopted today."

Note that the contained-in principle option allows debris treatment by methods other than those identified in 40 CFR 268.45, Table 1.

Therefore, the customer's primary options for excluding debris as hazardous waste are treatment via extraction or destruction in 40 CFR 268.45, Table 1; or requesting a "contained-in" determination from EPA and/or the State, that the debris no longer contains a hazardous waste.

SUMMARY:

- Hazardous debris has two primary options for being excluded as a hazardous waste.
 - Treatment via extraction or destruction technologies in 40 CFR 268.45, Table 1.
 - Obtain a contained-in determination that the debris no longer contains a hazardous waste.

Nothing is attached to the e-mail. 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: 10/14/2021

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