

October 15, 1998

**MEMORANDUM**

**SUBJECT:** Summary Chart of October 14, 1998 Memorandum, "Management of Remediation Waste Under RCRA."

**FROM:** Stephen F. Heare, Acting Director     */signed/*  
Permits and State Programs Division

**TO:** RCRA Senior Policy Advisors, Regions I - X  
Regional Counsels

On October 14, 1998 we issued a guidance memorandum, "Management of Remediation Waste Under RCRA" which provides information on the RCRA regulations and policies that most often affect remediation waste. The attached chart summarizes the memo and can be used to quickly identify possible remediation waste management strategies and to compare one remediation waste management approach to another.

I emphasize that the information in the chart significantly simplifies many of the RCRA remediation waste regulations and policies for purposes of summary. For complete information you should continue to refer to the guidance memorandum and the materials referenced therein.

I hope this information in this chart will be helpful as you continue to make protective, inclusive and efficient cleanup decisions.

cc: Barbara Simcoe, Association of State and Territorial Solid Waste Management Officials

Attachment.

**Summary of Regulations and Policies That Often Affect Management of Remediation Waste Under RCRA – October 1998**

<b>Regulation / Policy</b>	<b>On-site / Off-site</b>	<b>Wastes Covered</b>	<b>More Information</b>
<b>Area of Contamination</b> – Allows wastes to be consolidated and treated <i>in situ</i> within an AOC without triggering land disposal restrictions or minimum technology requirements. For AOC, contamination must be contiguous but does not have to be homogeneous.	On-site, <i>in situ</i> only	All RW	53 FR 51444 for detailed discussion in proposed NCP preamble; 55 FR 8758-8760, March 8, 1990 for final NCP preamble discussion. See also, most recent EPA guidance, March 13, 1996 EPA memo, “Use of the Area of Contamination Concept During RCRA Cleanups.”
<b>CAMU</b> – Corrective Action Management Units are a type of RCRA unit specifically for RW. RW may be placed into CAMUs and treated in CAMUs without triggering LDRs or MTRs. Prior state or EPA approval and specification of unit standards required.	On-site only	All RW	40 CFR 264.552, promulgated February 16, 1993 (58 FR 8658). The differences between CAMUs and AOCs are discussed in more detail in the March 13, 1996 EPA guidance memo, “Use of the Area of Contamination Concept During RCRA Cleanups.”
<b>TU</b> – Corrective Action Temporary Units are a type of RCRA unit specifically for RW. TUs may meet modified design, operating and closure standards instead of the RCRA standards that usually apply to tanks and containers. Prior state or EPA approval and specification of unit standards required. Operation limited to one year with opportunity for one one-year extension.	On-site only	All RW	40 CFR 264.553, promulgated February 16, 1993 (58 FR 8658).
<b>Determination of whether contamination caused by listed hazardous waste</b> – If, after a good faith effort to find information, information about the source of a waste or contamination is unavailable or inconclusive, one may assume waste is not, or the contamination was not caused by, listed RCRA hazardous waste.	Both	All RW	53 FR 51444, December 21, 1988 for proposed NCP preamble discussion; 55 FR 8758, March 13, 1990 for final NCP preamble discussion.
<b>Site-specific LDR treatment variances</b> – EPA and authorized states may establish a site-specific LDR treatment standard on a case-by-case basis when a nationally applicable treatment standard is unachievable or inappropriate. Public notice and a reasonable opportunity for public comment must be provided before granting or denying a site-specific LDR treatment variance.	Both	All RW	40 CFR 268.44(h), promulgated August 17, 1988 (53 FR 31199) and clarified December 5, 1997 (62 FR 64504). Most recent EPA guidance, January 8, 1997 memo “Use of Site-Specific Land Disposal Restriction Treatability Variances Under 40 CFR 268.44(h) During Cleanups.”

The descriptions of regulations and policies in this chart have been significantly simplified for purpose of summary. All of the regulations and policies summarized have additional complexities and may be subject to additional limitations. For complete information, please refer to the referenced materials and to the U.S. EPA guidance memorandum, “Management of Remediation Waste Under RCRA,” October 14, 1998, Publication No. EPA 530-F-98-026.

This chart is an attachment to the October 15, 1998 memorandum “Summary Chart of October 14, 1998 Memorandum ‘Management of Remediation Waste Under RCRA,’” from Stephen F. Heare, Acting Director Permits and State Programs Division, U.S. EPA Office of Solid Waste and Emergency Response.

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Regulation / Policy	On-site / Off-site	Wastes Covered	More Information
<b>Treatability study exemption</b> – Certain quantities of hazardous waste are exempted from many RCRA requirements during treatability studies.	On-site only	All RW	40 CFR 261.4(e) and (f), associated preamble discussions at 52 FR 27290 (July 19, 1988) and 59 FR 8362 (February 18, 1994).
<b>Exemption for 90 day accumulation</b> – Generators may accumulate (i.e., treat or store) hazardous waste in tanks, containers, drip pads or containment buildings for up to ninety days without RCRA interim status or a RCRA permit. Placement of waste in accumulation units does not constitute land disposal. Accumulation units must meet applicable design, operating, closure and post-closure standards.	On-site only	All RW	40 CFR 262.34; associated preamble discussion is at 51 FR at 10168 (March 24, 1986).
<b>Permit waivers</b> – No Federal, state or local permit is required for on-site CERCLA response actions. Under RCRA Section 7003, EPA has the ability to waive both the requirement to obtain a permit and the substantive requirements that would be imposed through permits. States with state waiver authorities comparable to CERCLA 121(e) or RCRA Section 7003 may waive RCRA requirements in a manner no less stringent than that allowed under the corresponding Federal waivers.	Both	All RW	CERCLA Section 121(e); “Guidance on the Use of Section 7003 of RCRA,” U.S. EPA, Office of Enforcement and Compliance Assurance, October 1997 and EPA guidance memo from J. Winston Porter to EPA Regional Administrators, “RCRA Permit Requirements for State Superfund Actions,” November 16, 1987, OSWER Directive 9522.00-2.
<b>Exemption from part 264 requirements for people engaged in the immediate phase of a spill response</b> – People engaged in treatment or containment activities are not subject to 40 CFR part 264 during immediate response to discharges or imminent and substantial threats of discharges of hazardous waste and known or suspected military munitions, other explosive materials, or explosive devices.	Both	All RW	40 CFR 260.1(g) and associated preamble discussion at 45 FR 76626 (November 19, 1980) and Sept. 29, 1986 memo from J. Winston Porter (EPA Assistant Administrator) to Fred Hansen interpreting the 40 CFR 264.1(g) regulations.

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Regulation / Policy	On-site / Off-site	Wastes Covered	More Information
<p><b>Changes during interim status to comply with corrective action requirements</b>                      – An owner or operator of an interim status facility may make changes to provide for treatment, storage and disposal of RW in accordance with an interim status corrective action order issued by EPA under RCRA Section 3008(h) or other Federal authority, by an authorized state under comparable state authority, or by a court in a judicial action brought by EPA or an authorized state.</p>	On-site	All RW	40 CFR 270.72(a)(5) promulgated March 7, 1989 and associated preamble discussion at 54 FR 9599.
<p><b>Emergency permits</b> – If there is an imminent and substantial endangerment to human health or the environment, EPA, or an authorized state, may issue a temporary emergency permit for treatment, storage or disposal of hazardous waste. Emergency permits may allow treatment, storage or disposal of hazardous waste at a non-permitted facility or at a permitted facility for waste not covered by the permit.</p>	Both	All RW	40 CFR 270.61, originally promulgated as 40 CFR 122.27 on May 19, 1987 (45 FR 33326) and November 3, 1992 letter to Mark Hansen, Environmental Products and Services Inc., from Sylvia Lowrance, Director Office of Solid Waste (available in the RCRA Permit Policy Compendium).
<p><b>Temporary authorizations at permitted facilities</b> – EPA, or an authorized state, may temporarily authorize a permittee for an activity that would be the subject of a class two or three permit modification in order to, among other things, facilitate timely implementation of closure or corrective action.</p>	Both	All RW	40 CFR 270.42, promulgated on September 28, 1988, and associated preamble at 53 FR 37919.
<p><b>Contained-in policy</b> – Contaminated environmental media that does not exhibit a characteristic of hazardous waste and, if contaminated by listed waste, has concentrations of hazardous constituents that are below health-based levels does not need to be managed as hazardous waste.</p>	Both	Media only	Nov. 13, 1986 memo, “RCRA Regulatory Status of Contaminated Groundwater” and 53 FR 31138, 31142, 31148 (Aug. 17, 1988); 57 FR 21450, 21453 (May 20, 1992); 61 FR 18795 (April 29, 1996); September 15, 1996 letter to Monsanto Company; and 63 FR 28617 (May 26, 1998).
<p><b>RCRA Section 3020(b) exemption for reinjection of contaminated ground water</b> – Injection of contaminated ground water back into the aquifer from which it was withdrawn is allowed if certain requirements are met.</p>	Both	Ground water only	RCRA Section 3020(b). See also, OSWER Directive 9234.1-06, “Applicable of Land Disposal Restrictions to RCRA and CERCLA Ground Water Treatment Reinjection Superfund Management Review: Recommendation No. 26,” November 27, 1989.

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<b>LDR treatment standards for contaminated soil</b> – Soil specific treatment standards of 90% reduction in concentrations of hazardous constituents or ten times the universal treatment standard, whichever is less stringent. Treatment required for all underlying hazardous constituents reasonably expected to be present when such constituents are found at initial concentrations greater than 10 X UTS.	Both	Soil only	40 CFR 268.49, promulgated May 26, 1998 and associated preamble discussion at 63 FR 28602-28622.
<b>Site-specific risk-based LDR treatment variance for contaminated soil</b> – EPA, or an authorized state, may approve a variance from an otherwise applicable treatment standard if compliance with that standard would result in treatment beyond the point at which threats are minimized.	Both	Soil only	40 CFR 268.44(h)(4), promulgated May 26, 1998 and associated preamble discussion at 63 FR 28606-28608.
<b>LDR treatment standards for contaminated debris</b> – Debris specific treatment standards expressed as specified treatment methods / technologies.	Both	Debris only	40 CFR 268.45, promulgated August 18, 1992, and associated preamble discussion at 57 FR 37194 and 27221.
<b>Interpretation that debris treated using extraction or destruction technologies no longer contain hazardous waste</b> – Debris treated to comply with the debris treatment standards using one of the identified extraction or destruction technologies would be considered no longer to contain hazardous waste and would, therefore, no longer be subject to regulation under RCRA, provided the debris do not exhibit any of the hazardous waste characteristics.	Both	Debris only	40 CFR 261.3(f) and treatment standards at Table 1 of 40 CFR 268.45, promulgated August 18, 1992, and associated preamble discussion at 51 FR 37225.

Most of the references cited in this chart re available over the Internet. The Federal Register notices published after 1994 are available at [www.access.gpo.gov/nara](http://www.access.gpo.gov/nara); the guidance memos and other EPA documents are available at [www.epa.gov/correctiveaction](http://www.epa.gov/correctiveaction). Federal Register notices and other documents are also available through the RCRA/CERCLA hotline: in Washington D.C., call (703) 412-9810; outside Washington D.C., call (800) 424-9346; and hearing impaired call (800) 553-7672. The hotline’s hours are Monday - Friday, excluding Federal holidays, 8:00 - 5:00, eastern standard time. Many EPA guidance memos and other documents may also be obtained through the RCRA/CERCLA hotline fax-back system. To obtain a list of documents available over the fax-back system, and fax-back system code numbers, call the RCRA/CERCLA hotline at the numbers listed above.

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