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New Mexico Environment Department Hazardous Waste Bureau Satellite Accumulation Area Policy March 2, 2017

I. Purpose

This policy was prepared by the New Mexico Environment Department (“NMED”) Hazardous Waste Bureau (“HWB”) for generators of hazardous waste that manage waste in a Satellite Accumulation Area (“SAA”). This policy replaces any existing policies, letters, memoranda of understanding, or agreements with any New Mexico facilities. This document is intended to provide guidance and assistance to hazardous waste generators in complying with the SAA requirements under 40 C.F.R. § 262.34(c), and to ensure all generators are operating similarly and regulated consistently. This policy is intended to clarify HWB’s position and expectations regarding compliance with 40 C.F.R. 262.34(c). HWB recognizes that due to the great variability of plant design and process layout, every scenario cannot be addressed in this policy. Questions concerning this subject should be directed to the HWB Compliance and Technical Assistance Program.

The information in this Policy is provided for guidance purposes only. The policy is not a regulation; therefore, it does not add, delete, or change any existing regulatory requirements.

II. Satellite Accumulation Rule

The federal regulations governing standards applicable to generators of hazardous waste at 40 C.F.R. 262.34(c) (the “Satellite Accumulation Rule”) provide as follows:

(1) A generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste listed in § 261.31 or § 261.33(e) in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with paragraph (a) or (d) of this section provided he:

- (i) Complies with §§ 265.171, 265.172, and 265.173(a) of this chapter; and
- (ii) Marks his containers either with the words “Hazardous Waste” or with other words that identify the contents of the containers.

(2) A generator who accumulates either hazardous waste or acutely hazardous waste listed in § 261.31 or § 261.33(e) in excess of the amounts listed in paragraph (c)(1) of this section at or near any point of generation must, with respect to that amount of excess waste, comply within three days with paragraph (a) of this section or other applicable provisions of this chapter. During the three day, period the generator must continue to comply with paragraphs (c)(1)(i) and (ii) of this section. The generator must mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

III. Discussion

What is the Intent of the Satellite Accumulation Rule?

Section 262.34(c) was promulgated in the December 20, 1984, Federal Register 49568. The U.S. EPA stated that satellite accumulation is intended for industries that generate small amounts of hazardous waste in numerous locations at a facility not to exceed 55-gallons of hazardous waste or 1 quart of acute hazardous waste in a SAA. The SAA regulation is designed to allow for reduced storage requirements (i.e. accumulation time) as well as other requirements for the generator (i.e., inspections, contingency plan, personnel training plan and preparedness and prevention arrangements), where the hazardous waste generation complies with threshold limits.

What is Point of Generation?

The point of generation is where and when hazardous waste first becomes subject to regulation, with respect to the location and the process that is generating the waste. The point of generation usually occurs at a distinct step in the manufacturing or laboratory process. Point of generation examples include a waste exiting a process unit into a pipe or container, paint overspray exiting a spray paint gun, a rag or wipe after it is used to clean a part with a solvent, or when waste exits an air pollution control system.

What is "at or near" the Point of Generation?

RCRA Section 262.34(c)(1) specifies that a generator may accumulate wastes "in containers at or near any point of generation where wastes initially accumulate, which is under control of the operator of the process generating the waste." Once the maximum capacity of 55 gallons of hazardous waste or one quart of acutely hazardous waste has been reached, the excess waste must be dated and transferred to a central storage accumulation area within 3 days.

EPA did not define "at or near" by a specific distance from the generating process. When evaluating whether or not the satellite accumulation container is at or near the point of generation, the generator should consider the location of generated waste and initial storage.

HWB generally expects that a SAA will be located in the same room as the point of generation. However, HWB recognizes that there are scenarios where location of the SAA in the same room as the point of generation may not always be possible, for various reasons. Such scenarios will need to be dealt with on a case-by-case basis. For instance, a waste accumulation container maintained immediately outside an enclosed paint booth, or outside a "clean room" production area for safety reasons, may meet the SAA criteria.

In determining whether a particular SAA is "at or near" the point of generation, HWB will consider the following criteria:

1. Whether other options for locating the SAA closer to the point of generation have been evaluated and the reasons such options have been found unsuitable;
2. Potential safety risks attendant to the location of the SAA and/or transport of the wastes from the point of generation to the SAA; and
3. Whether the operator of the process generating the waste retains control over the SAA (see discussion below regarding what is meant by "under the control" of the operator).

Where a generator is considering locating a specific SAA somewhere other than in the same room as the point of generation, or if other safety or contamination concerns are identified by the generator

when evaluating a potential location for the SAA, the generator should contact the HWB Compliance and Technical Assistance Program in advance to discuss specific options. In proposing a particular location for a SAA, the generator should be prepared to justify the selection of the proposed location with respect to the above criteria.

What is under the control of the operator?

It is acceptable for waste from multiple processes to be managed in one SAA as long as the processes contributing waste are in close proximity to one another and are under the control of the operator of those processes. Generators are relieved from the weekly inspection and log requirements for SAAs because of the presumption that the operator will be able to observe the container at the production process area on a daily basis and ensure that the proper conditions are maintained. The operator must ensure compatibility of all wastes managed in SAAs. Because the operator of a satellite accumulation container is knowledgeable of the process generating the waste, unknown wastes would not be expected in a SAA.

IV. Additional Information

While the preamble to the final rule that added 262.34(c) states that “only one waste will normally be accumulated at each satellite area,” the regulations do not limit the number of hazardous wastes or the number of containers that can be placed in an SAA. It is permissible to have more than one hazardous waste container in a SAA; however, the regulations limit the total volume of hazardous waste at a single SAA to 55 gallons (or 1 quart of acute hazardous waste). Likewise, the regulations do not limit the total number of SAAs at a generator’s facility.

With respect to what constitutes a single SAA versus separate SAAs, the determination will depend on the particular circumstances. Some guidance on that point is offered in EPA’s statement in the preamble to the final rule for SAAs, providing that “a row of full 55 gallon drums spaced 5 feet apart along the factory wall,” is not a row of distinct SAAs, but is one SAA.

EPA has compiled a memorandum titled “Frequently Asked Questions About Satellite Accumulation Areas”. This document provides detailed responses to various questions concerning SAAs. HWB can provide a copy if requested.

V. Contact

If you have any questions, please contact the NMED Hazardous Waste Bureau at 505-476-6000.