



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

15-ESQ-0065

APR 30 2015

Ms. J. A. Hedges, Program Manager
Nuclear Waste Program
Washington State Department of Ecology
3100 Port of Benton Boulevard
Richland, Washington 99354

Dear Ms. Hedges:

“RESPONSE TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY – CHPRC SATELLITE ACCUMULATION AREA REPORT, RESOURCE CONSERVATION AND RECOVERY ACT OF 1976, SITE ID WA 7890008967”

- References:
- (1) CHPRC ltr. to J. J. Short, RL, from J. A. Ciucci, “Contract Number DE-AC06-08RL14788 – CHPRC Response to State of Washington, Department of Ecology – CHPRC Satellite Accumulation Area Report, Resource Conservation and Recovery Act of 1976, Site ID WA 7890008967,” CHPRC-1500879, dtd. April 6, 2015.
 - (2) Ecology ltr. to S. Charboneau, RL, and J. A. Ciucci, CHPRC, E. Holbrook, “In Response to the United States Department of Energy (USDOE) and CH2M Hill Plateau Remediation Company’s (CHPRC) Email Received on November 5, 2014, “CHPRC Satellite Accumulation Area Report” RCRA Site ID WA789000867,” 14-NWP-256, dtd. December 24, 2014.

This letter is regarding the Satellite Accumulation Areas in the 400 and 200 East Areas operated by CHPRC Reference (1). The Richland Operations Office (RL) and CHPRC have reviewed the interpretations described in Reference (2) and are providing responses in the enclosure.

The stated purpose of Reference (2) is to provide interpretations that will be used in future Ecology inspections related to requirements for Satellite Accumulation Areas (SAA). RL and CHPRC believe that the interpretations in Reference (2) are inconsistent with the Washington Administrative Code (WAC), as described (Enclosure), and established compliant practices utilized by CHPRC and other Hanford contractors. Based on review of WAC 173-303, the

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15-ESQ-0065

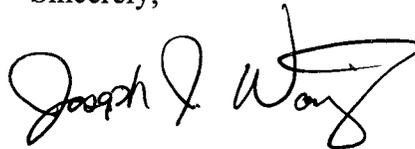
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APR 30 2015

U.S. Environmental Protection Agency guidance and applicable Federal Registers, CHPRC is appropriately implementing SAA requirements and does not intend to implement the interpretations as described in Reference (2).

If you have any questions, please contact me, or your staff may contact Anthony C. McKarns, Environmental, Safety, and Quality Division, on (509) 376-8981.

Sincerely,



Joseph J. Waring, Acting
Division Director

ESQ:ACM

Enclosure

cc w/encl:

Administrative Record, TSD: S-2-10
Ecology NWP Library
Environmental Portal, LMSI, A3-95
HF Operating Record (J. K. Perry, MSA, A3-01)

cc w/o encl:

D. B. Bartus, EPA
J. L. Boller, EPA
J. W. Cammann, MSA
A. E. Cawrse, CHPRC
J. A. Ciucci, CHPRC
D. A. Faulk, EPA
E. Holbrook, Ecology
M. N. Jaraysi, CHPRC
J. B. Price, Ecology
K. Schanilec, EPA
R. R. Skinnarland, Ecology

ENCLOSURE

**RESPONSE
TO STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY
- CHPRC SATELLITE ACCUMULATION AREA REPORT**

Consisting of 4 pages,
including this cover page

RESPONSE TO STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY
- CHPRC SATELLITE ACCUMULATION AREA REPORT

Reference 2, raises the following specific technical concerns as to how Ecology inspectors will interpret WAC 173-303-200(2) applicable to Surveillance and Maintenance (S&M) Satellite Accumulation Area (SAA) containers in the 400 and 200 East Areas.

1. Routine Operations

The State of Washington, Department of Ecology, (Ecology) asserts that some SAA waste has not been accumulated “during routine operations,” which is a prerequisite for managing a waste in an SAA per the WAC 173-303-040 definition of SAA. This assertion relies on the TIM 94-120 description of “during routine operations” which states in part that “Wastes generated on an infrequent or one time basis (for example, spills) cannot be held for extended periods in satellite accumulation areas.” With respect to the accumulated 400 Area Surveillance and Maintenance (S&M) waste, Ecology states it is “an example of infrequent” generation and therefore, not routine.

“Routine” or “routine operations” are not terms defined in WAC 173-303-040, nor even referenced in the EPA hazardous waste rules. Unless terms have been given a particular regulatory meaning, the ordinary meaning of those terms in the English language is also consulted. In this case, the ordinary meaning of “routine” is “a regular way of doing things in a particular order”, or “of relating to, or being in accordance with established procedures” (in other words, a recurring circumstance in which the process being followed is already known and does not have to be newly created). No definition of “routine” prescribes how “frequent” or “infrequent” a routine activity may be. CHPRC considers Hanford Site S&M activities and associated waste generation to be routine. Those activities are conducted in accordance with written procedures at facilities being maintained in a “cold and dark” status pending future disposition on a regularly scheduled basis.

2. Spills

Ecology’s guidance (TIM 94-120) identifies waste from spills as a specific waste stream that cannot be held in a SAA.

As documented in the December 20, 1984, Federal Register on page 49569, the U.S. Environmental Protection Agency (EPA) referenced spills as a basis for the 55-gallon limit for SAAs. The EPA stated that spills of less than 55 gallons are “easy to control and cleanup because of the small amount of waste involved”. And even if a spill occurs that generates more than 55 gallons of combined waste and absorbent, the EPA specifically stated in the January 3, 1983, Federal Register on page 120 that if a number of drums of waste are generated at one time, the manager of the SAA can still rely on the standard grace period of three days from the time when the 55-gallon limit was exceeded to prepare and ship the waste to a less than 90-day accumulation area. Thus, spill cleanup waste is not prohibited from being stored in a SAA.

There is no language in the regulations that specifically prohibits managing waste from spills in a SAA. DOE and CHPRC understands that State regulations can be more stringent than Federal regulations, however, Ecology has not promulgated stricter requirements through the rulemaking process. Instead, Ecology has chosen to attempt to exert stricter controls through guidance.

3. Extended Periods

Ecology's guidance (TIM 94-120) identifies waste cannot be held for extended periods in SAAs. The 400 Area Dangerous Waste Management Units SAA records show accumulation of S&M waste began January 31, 2013. Ecology views this as an "extended period" that is not allowed by the regulations.

The regulations provide no time limit for accumulating waste in a SAA. During rulemaking, Ecology discussed the desirability of allowing accumulation of hazardous waste in SAAs for extended periods of time, as documented in Ecology's "Concise Explanatory Statement":

"In reviewing the history of satellite accumulation standards, EPA added this unique opportunity to store waste without a permit on site to allow businesses the opportunity to accumulate 'slowly generated wastes' for a long period of time. The extra time allowance enables the generator to fill the drum, making it more economical to dispose of since TSDs would charge for a full drum even if it was only ¼ full at the end of 90 days."

As described during the SAA rulemaking process, this is also supported by the January 3, 1983, Federal Register which discusses on page 119 EPA's rationale for not imposing a time limit on storage of SAA waste. EPA stated that "the Agency believes there is little to be gained by applying a time limit to the accumulation of small quantities of wastes in satellite areas if they are containerized and marked properly."

The SAA wastes in the 400 Area and the 200 East Area were containerized and marked properly and are not subject to time limit for accumulation.

4. Per Waste Stream

Ecology's letter asserts that WAC 173-303-200(2) creates a more stringent SAA management practice than the Federal regulations by using the term "per waste stream." However, the phrase was removed from WAC 173-303-200(1) in January 2009 and from WAC 173-303-200(2) and (3) as of December 2014. WAC 173-303 no longer contains the phrase, "per waste stream."

As cited in Ecology's 2009 rule revision, EPA has addressed the number of waste streams allowed at an SAA and Ecology purposefully revised its rules to adopt a similar approach. According to EPA guidance Frequently Asked Questions about Satellite Accumulation Areas, dated March 17, 2004, question number 9 stated:

“Question: The preamble to the final rule that added 262.34(c), states, “...only one waste will normally be accumulated at each satellite area.” Can there be more than one hazardous waste at an SAA? Can there be more than one container at an SAA?”

Answer: Yes. It’s permissible to have more than one hazardous waste in an SAA. Likewise, it’s permissible to have more than one container of hazardous waste in an SAA. The regulations do not limit the number of hazardous wastes or the number of containers that can be placed in an SAA. The regulations limit only the total volume of hazardous waste at a single SAA to 55 gallons (or 1 quart of acute hazardous waste). If there are multiple containers of hazardous waste in an SAA, each container must be labeled in accordance with 262.34(c)(1)(ii).”

5. Application of generator requirements to SAAs per 173-303-200(2)(c)

The application of \leq 90-day accumulation requirements by Ecology at an SAA would apply only if human health or the environment were potentially threatened by the management of the SAA waste. The SAA waste in the 400 Area and the 200 East Area were properly containerized and marked and presented no evidence of impacts to human health or the environment. While Ecology has this authority should human health or the environment be threatened, there was - and continues to be - no threat to human health or the environment, and reference to this requirement is not applicable to the containers in the 400 area and is contrary to the facts.