

PPC 9451.1996(04)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 1, 1996

Brenda J. Boykin
Shaw, Pittman, Potts, & Trowbridge
2300 N Street, N.W.
Washington, D.C. 20037

Dear Ms. Boykin:

Thank you for your letter of August 15, 1995 requesting an interpretation of the regulations that apply to generators who accumulate waste in containers at or near the point of generation where wastes initially accumulate. Specifically, you ask whether the regulation at 40 CFR 262.34 would allow the generator to accumulate more than 55 gallons of non-acutely hazardous waste at one time at a satellite location.

As you may know, the regulations at 40 CFR 262.34(c)(1) state that "a generator may accumulate as much as 55 gallons of non-acute hazardous waste or one quart of acutely hazardous waste...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..." Such accumulation may take place provided that the waste is placed in containers that are in good condition, the waste is compatible with their containers, the containers are marked with the words "Hazardous Wastes" or other words that identify the contents, and the containers are covered when the generator is not adding or removing waste. See 49 FR 49568 - 49572, Dec. 20, 1984. Should the 55 gallon limit be exceeded, Section 262.34(c) requires the generator to mark the container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating, and after three days, manage that excess waste in accordance with Section 262.34(a).

Your question relates to the interpretation of 40 CFR 262.34(c)(2) which states that:

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A generator who accumulates either hazardous waste or acutely hazardous waste listed in 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) through (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.

According to these provisions, the generator has 3 days after the 55 gallon limit has been exceeded to transfer the excess waste from the satellite area. In order to answer your question of whether waste above the 55 gallon limit may be accumulated in the 3 day interim period and remain subject to the accumulation area provisions, it is necessary to refer to the preamble language of December 20, 1984, which considers the potential hazards of accumulating hazardous waste in these sites. In the December 20, 1984 Federal Register notice, the Agency states that "...the accumulation at satellite areas of up to 55 gallons of non-acutely hazardous waste is reasonable and safe and does not pose a threat to human health and the environment" (49 FR 49569, Dec. 20, 1984). However, in the discussion which followed, the Agency questioned the safety of the accumulation of non-acutely hazardous waste in amounts above the 55 gallon limit. "Because the weight of evidence suggests limited use by the regulated community of containers larger than 55 gallons and because spills of 110 gallons of non-acutely hazardous waste would pose a higher environmental threat, EPA does not believe that the satellite accumulation level should be higher than 55 gallons." Id.

The preamble language above illustrates the Agency's view that waste accumulation in satellite accumulation areas should not be excessive. Although it is clear that the Agency did not intend for amounts as large as 110 gallons to be accumulated on a routine basis, it is not specific about whether small amounts of non-acutely hazardous waste exceeding the 55 gallon limit may be accumulated routinely. The Agency understands that due to the nature of the production process, there may be special cases in which small quantities of wastes above the 55 gallon limit may need to be accumulated for brief periods in one accumulation area. Thus, we interpret that the satellite accumulation provisions of

40 CFR 262.34(c)(1) permit the generator to continue to accumulate nominal quantities of a non acutely hazardous waste in excess of the 55 gallon limit as long as the additional wastes accumulated during the 3-days are managed in accordance with section 262.34(c)(1). Any excess waste must be managed (including transferring that excess waste to the generator's 90-day accumulation area) in accordance with section 262.34(a) within three days.

The Agency does not expect that any accumulation over the 55 gallon limit will be excessive and believes that most facilities should be aware of the process waste generation rate and should be able to arrange for the removal of any excess accumulation within the 3-day time frame, thereby avoiding excessive accumulation of waste over the 55 gallon limit. The Agency also understands that there may be one-time circumstances during which quantities in excess of 110 gallons are generated. In such cases, the Agency recommends that you contact your state waste management office for further guidance on how such occurrences should be handled.

Also, because states may have regulations and interpretations that are more stringent than the federal regulations, the Agency strongly recommends that you check with your state waste management office (or Regional office in unauthorized states) for questions specific to the amount of waste allowed above the 55 gallon limit in the particular states where your clients operate. This interpretation is not binding on authorized states.

I hope this response is of assistance. If you have additional questions, please contact Ann Codrington of my office at (202)260-8551.

Sincerely yours,

Michael Shapiro, Director
Office of Solid Waste

cc: Bill Hamele

Attachment

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August 15, 1995

Ms. Sylvia K. Lowrance
Director, Office of Solid Waste
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Re: Satellite Accumulation Rule; Request for Interpretation

Dear Ms. Lowrance:

I am writing to request an interpretation of the rule that applies to generators who accumulate hazardous waste in satellite accumulation containers. 40 C.F.R. 262.34(c) states that "[a] generator may accumulate as much as 55 gallons of hazardous waste . . . in containers at or near any point of generation" provided that the generator complies with certain requirements. The rule states that if the generator accumulates more than 55 gallons of waste, he must "with respect to that amount of excess waste" move the waste to the facility's long-term (e.g., 90-day) storage area within three days.

My question is whether the generator can temporarily have more than 55 gallons of hazardous waste at a single satellite location. This could occur, for example, if the generator has filled one 55-gallon container with hazardous waste and intends to move that container to the long-term storage area within three days. If the generator then starts filling a new 55-gallon container in the three-day period before he or she removes the old one, this would mean that the total quantity of hazardous waste at the satellite accumulation location could exceed 55 gallons temporarily (because it would include the filled 55-gallon container as well as the amount that accumulates during the three-day period). I am uncertain whether the rule would allow the generator to have more than 55 gallons at one time at a

satellite location, even under these circumstances, and I would appreciate your clarification.

Please contact me if you require any additional information in order to respond to this inquiry. Thank you for your assistance.

Sincerely,

Brenda J. Boykin