TWO MINUTE TRAINING

TO: *CENTRAL PLATEAU CLEANUP COMPANY*

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

SUBJECT: *RCRA HAZARD LABELING – A RANDOM SCENARIO*

DATE: *JUNE 3, 2021*

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TWO MINUTE TRAINING

SUBJECT: RCRA Hazard Labeling – A Random Scenario

Q: A permitted Treatment, Storage and Disposal facility (TSDF) in Washington State has three, 55-gallon containers of dangerous/hazardous waste. The TSDF generated one container that is awaiting hazard-labeling instructions. The TSDF received the second container from a large quantity generator (LQG) with a "Corrosive" hazard label already on the container. The TSDF received the third container from a WA Small Quantity Generator (confusingly equivalent to the Federal definition of a Very Small Quantity Generator - VSQG) with no hazard labeling. What, if any hazard labels are required on these three dangerous waste containers once received at, or generated by, the TSDF?

A: EPA promulgated the Generator Improvements Rule (GIR), on November 28, 2016, and Washington State adopted most of the rule on January 28, 2019. The GIR finalized requirements for hazard labeling by generators and TSDFs and other requirements such as "Quick Reference Guides" to summarize contingency plans. For hazard labeling, EPA promulgated several marking options, which included the applicable:

- Hazardous waste characteristics (ignitable, corrosive, reactive or toxic - ICRT),
- Department of Transportation (DOT) labels or placards, hazard classes 1 through 9,
- Occupational Safety and Health Administration (OSHA) hazard statements or pictograms, i.e., the Globally Harmonized System (GHS) of Classification and Labelling of Chemicals, or;
- National Fire Protection Association (NFPA) chemical hazard labels.

However, Washington State did not adopt the Federal hazard-labeling rule in its entirety and essentially only adopted the first ICRT bullet of the Federal marking options.

Concerning whether the WA TSDF must mark the three containers with hazard labels, WAC 173-303-200(7)(a)(iii) [*40 CFR 262.17(a)(5)(B)*], requires large quantity generators to mark dangerous waste containers with an indication of the hazards. Therefore, the LQG container received and already marked as "Corrosive" is acceptable as is. Concerning the TSDF generated container, since the TSDF is an LQG, the container must be marked with an indication of the hazard, which in WA State, will be one or more of the ICRT characteristics.

Concerning the WA SQG container (a VSQG in Federal terms), per WAC 173-303-171 [*40 CFR 262.14*] these generators are not required to mark their hazardous waste containers with an indication of the hazards unless delivering the dangerous waste to an LQG under control of the same person as the SQG/VSQG. The November 28, 2016, Federal Register clarified on page 85761, that even though a VSQG is not required to mark or label their containers as "Hazardous Waste" or identify the hazards when delivering to a TSDF, the receiving TSDF must apply the applicable "Hazardous Waste" and hazard label markings.

Therefore, all three dangerous waste containers – in this random scenario - must be marked with the applicable hazard labels, once received by, or generated at, the TSDF.

SUMMARY:

- The GIR promulgated hazard labeling requirements for generators and TSDFs.
- WA SQGs and VSQGs are not generally not required to mark hazards on dangerous/hazardous waste containers.
- A TSDF must mark all dangerous waste containers with hazard labels received by, or generated at, the TSDF.

Excerpts from the November 28, 2016, Federal Register, WAC 173-303-171 and WAC 173-303-200 are attached to the e-mail. If you have any questions, contact me at Paul_W_Martin@rl.gov or at (509) 376-6620.

SUBJECT: RCRA Hazard Labeling – A Random Scenario

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b. What is EPA finalizing? The Agency is finalizing the requirement for TSDFs to mark or label containers of hazardous waste with the words "Hazardous Waste," an indication of the hazards of the contents, and the applicable EPA hazardous waste numbers (waste codes) consistent with § 262.32(b)-(d). As with transfer facilities, EPA expects almost all incoming containers received by a TSDF will already have the appropriate marking and labeling information and, therefore, that a TSDF will usually only need to mark or label a container themselves when receiving shipments from facilities that are neither SQGs nor LQGs. As an example, TSDFs may receive hazardous wastes directly from VSQGs. Under the federal program, VSQGs are not required to mark and label their containers "Hazardous Wastes" and identify the hazards associated with the wastes in the container. In this situation, the TSDF must mark or label the container with the words "Hazardous Waste," the ‡applicable hazardous waste codes, and identify the hazards of the container. Additionally, consistent with the pre-existing regulations at § 268.50(a)(2)(i), a TSDF must also continue to mark or label each container of hazardous waste to identify the contents of the container and the date each period of accumulation begins, regardless of whether the TSDF receives the containers from a VSQG, SQG, LQG, or transfer facility. The Agency is also reiterating that if a TSDF generates its own hazardous waste, it must follow the applicable RCRA generator regulations in part 262, including the marking and labeling provisions for containers and tanks.

WAC 173-303-171 Conditions for exemption for a small quantity generator.

(1) Provided that the small quantity generator meets all the conditions for exemption listed in this section, dangerous waste generated by the small quantity generator is not subject to regulation under this chapter except for WAC 173-303-050, 173-303-070, 173-303-145, 173-303-169, 173-303-170, 173-303-171 and 173-303-960. The conditions for exemption are as follows:

(e) A small quantity generator that accumulates dangerous waste in amounts less than or equal to the limits in (c) of this subsection must either treat or dispose of their dangerous waste in an on-site facility, or ensure delivery to an off-site facility, either of which, if located in the United States, is:

(ix) A large quantity generator under the control of the same person as the small quantity generator, provided the following conditions are met:

(A) The small quantity generator and the large quantity generator are under the control of the same person as defined in WAC 173-303-040 of this chapter. Contractors, consultants, transporters, etc., who operate generator facilities on behalf of a different person as defined in WAC 173-303-040 of this chapter shall not be deemed to "control" such generators.

(B) The small quantity generator clearly labels or marks each container(s) and tank(s) of dangerous waste with the words "dangerous waste" or "hazardous waste." Except for containers one gallon (or four liters) and under, the lettering must be legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(C) The small quantity generator clearly labels or marks each container(s) and tank(s) of dangerous waste with an indication of the hazards of the contents (examples include, but not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(I) Legible and recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(II) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel and employees; for containers one gallon (or four liters) and under the label, marking or lettering can be appropriate for the size of the container.

Note: SQG (VSGS) are only required to mark containers with hazard labels if shipping to an LQG who controls the SQG (VSQG). PWMartin comment.

TWO MINUTE TRAINING – ATTACHMENT

SUBJECT: RCRA Hazard Labeling – A Random Scenario

WAC 173-303-200 Conditions for exemption for a large quantity generator that accumulates dangerous waste.

Large quantity generators, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on site without a permit or interim status, and without complying with the requirements of WAC 173-303-600 provided that all of the following conditions for exemption listed in this section are met.

(7) Labeling and marking of containers and tanks.

(a) A generator must clearly mark or label its containers as follows:

(i) With the date upon which each period of accumulation begins is marked and clearly visible for inspection on each container.

(ii) With the words "Dangerous Waste" or "Hazardous Waste." Except for containers one gallon (or four liters) and under, the lettering must be legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(iii) With an indication of the hazards of the contents (examples include, but are not limited to, applicable dangerous waste characteristic(s) or criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees; for containers one gallon (or four liters) and under the label, marking or lettering can be appropriate for the size of the container.