

The Generator Improvements Rule Update

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THE GENERATOR IMPROVEMENTS RULE UPDATE



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Objectives

1. Review the history and intent of the Generator Improvements Rule
2. Review the more stringent provisions DTSC is required to adopt
3. Review the less stringent provisions DTSC may or may not adopt



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Key Acronyms

- CESQG – Conditionally Exempt Small Quantity Generator
- CUPA – Certified Unified Program Agency
- HSWA – Hazardous and Solid Waste Amendments of 1984
- LQG – Large Quantity Generator
- SQG – Small Quantity Generator
- VSQG – Very Small Quantity Generator

[22 CCR 66260.10]

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Key Dates for the Rulemaking

- Proposed rule published September 25, 2015
- Final rule:
 - Signed October 28, 2016
 - Published on November 28, 2016
 - Effective on May 30, 2017



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Objectives of the Rulemaking

1. Reorganize the hazardous waste generator regulations to make them more user-friendly and improve their usability
2. Provide a better understanding of how the RCRA hazardous waste generator regulatory program works
3. Address gaps in the regulations

[81 FR 85732, November 28, 2016]

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Objectives of the Rulemaking

Effect of New Rulemaking on States

Reorganization of Generator Rules

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Generator Categories

There are three categories of generators:

1. Very small quantity generators (VSQGs) (*formerly CESQGs*)
2. Small quantity generators (SQGs)
3. Large quantity generators (LQGs)



California may or may not adopt the VSQG name change

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Generator Category Determination

Count "acute" separately from "non-acute," then compare to the entries in the table and apply the *more stringent* category to the entire site's waste

Quantity of acute hazardous waste generated in a calendar month	Quantity of non-acute hazardous waste generated in a calendar month	Quantity of residues from a clean-up of acute hazardous waste generated in a calendar month	Generator category
> 1 kg	Any amount	Any amount	Large quantity generator.
Any amount	≥ 1,000 kg	Any amount	Large quantity generator.
Any amount	< 1,000 kg	> 100 kg and < 1,000 kg	Large quantity generator.
≤ 1 kg	≤ 100 kg	≤ 100 kg	Small quantity generator.
		≤ 100 kg	Very small quantity generator.

Old rules implied a site could be an LQG for acute and an SQG for "regular." This is a more stringent requirement, so CA will have to adopt. Also, California regulates "extremely hazardous waste" the same as "acute."

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Very Small Quantity Generators

- CA's CESQG rules were already significantly more stringent than the Federal
- Under GIR, VSQGs are now allowed to send their wastes to an LQG site "under the control of the same person"
 - Less stringent requirement; CA is not required to adopt



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Satellite Accumulation

Satellite Accumulation Emergency Preparedness/Planning

Satellite Accumulation

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Satellite Accumulation Container Closure

Small Quantity Generator Paperwork Retention

Small Quantity Generator Re-Notification

Small Quantity Generator Additional Tank Requirements

Small Quantity Generator Drip Pads

Small Quantity Generator Drip Pads

Small Quantity Generator Containment Buildings

Small Quantity Generator Containment Buildings

Large Quantity Generator Paperwork Retention

Large Quantity Generator Re-Notification

LQGs of RCRA hazardous waste must re-notify by March 1 of even-numbered years

- May be done as part of biennial report

More stringent; CA will have to adopt

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New Requirements for Biennial Report Applicability

Generators that were large quantity generators of RCRA hazardous waste for at least one month during the reporting year must now report their hazardous waste generation activities *for the entire year*



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Large Quantity Generator Additional Tank Requirements

In the case of "continuous flow" process tank systems, generators must use inventory logs, monitoring equipment, or other records to show that estimated volumes of hazardous waste entering the tank daily exit the tank within 90 days



Less stringent; CA does not have to adopt

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Large Quantity Generator Containers Holding Ignitable and Reactive Wastes

Large Quantity Generator Closure Requirements Closing a Storage Unit

Large Quantity Generator Closure Requirements Closing a Facility

**Large Quantity Generator Closure Requirements
Closure Performance Standards**

The requirements from 40 CFR 265.111 and 265.114 were rolled into the LQG rules

- Include additional details on cleaning and decontaminating the unit and site



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**Large Quantity Generator Closure Requirements
Closure Performance Standards**

If the contamination cannot be cleaned up, the site is:

- Considered to be a landfill
- Subject to notification and post-closure care at 40 CFR 265.310



More stringent; CA must adopt

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LQG Emergency Preparedness and Prevention

Removed requirement for emergency coordinator's home address and telephone number to be included in contingency plan

- Must include an "emergency telephone number"



Less stringent; CA does not have to adopt

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LQG Emergency Preparedness and Prevention Quick Reference Guide

LQGs must prepare and submit a quick reference guide for emergency responders or LEPC that contains:

1. Name(s) and type(s) of hazardous waste
2. Maximum quantities
3. Wastes requiring special medical treatment
4. Map of facility

More stringent; CA must adopt

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LQG Emergency Preparedness and Prevention Quick Reference Guide

LQGs must prepare and submit a quick reference guide for emergency responders or LEPC that contains:

5. Street map of facility in relation to businesses, schools, and residences
6. Location of water supply
7. On-site notification system
8. Emergency coordinator(s)

More stringent; CA must adopt

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New Pre-transport Requirements Waste Codes

In addition to other required markings, non-bulk containers (≤ 119 gallons) must also be marked with all applicable waste codes

- A nationally recognized electronic system (e.g., bar coding) may be used instead
- Lab packs shipped under 40 CFR 268.42(c) are excepted (except for waste codes D004, D005, D006, D007, D008, D010, and D011)

[40 CFR 262.32]

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Episodic Generation

VSQGs and SQGs are allowed one episodic event per calendar year (unless the generator receives approval from the EPA to manage a second event as an additional episodic event)

Less stringent; CA does not have to adopt

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VSQG and SQG Episodic Event Management

- Notify EPA 30 days *prior* to initiating a planned event or 72 hours *after* an unplanned event
- Have or obtain an EPA ID number
- Store wastes in containers or tanks
- Send waste off site within 60 days of initiating the event
- Use a manifest for waste shipments
- Prepare/keep records of the event for at least three years

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Large Quantity Generators Receiving Very Small Quantity Generator Waste

- Must be wastes from VSQGs under the same "control"
- Must notify (EPA 8700-12) at least 30 days prior to receiving wastes
 - Name, address, contact info of VSQG site(s)

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Large Quantity Generators Receiving Very Small Quantity Generator Waste

Must maintain records of shipments for three years

- Name, address, contact info of VSQG site
- Description and quantity of waste and date received



Less stringent; CA does not have to adopt

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Large Quantity Generators Receiving Very Small Quantity Generator Waste

Containers of VSQG waste received at an LQG facility must be marked with:

- "Hazardous Waste"
- Indication of the hazard(s)
- Date received (*have ≤ 90 days to accumulate*)



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"Indicating the Hazards"

- California has always required generators to mark containers with a statement that calls attention to the particular hazards of the waste
- The EPA adopted a similar requirement (i.e., a clear indication of the hazards)
- The EPA did not specify a method/means for marking the hazards of the contents

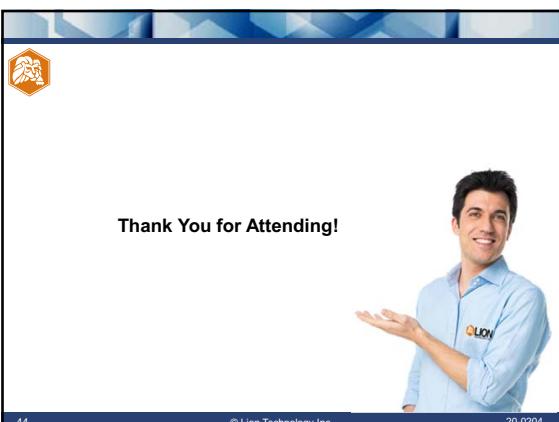


[40 CFR 262.14–262.17]

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“Indicating the Hazards” Markings



THE HAZARDOUS WASTE GENERATOR IMPROVEMENTS RULE

November 28, 2016

Introduction

On November 28, 2016, the Environmental Protection Agency promulgated the Hazardous Waste Generator Improvements Rule, the first major change to the Federal hazardous waste regulations since the Agency added the small quantity generator provisions in 1986. The effective date of the new rule was May 30, 2017.

In this rulemaking, the EPA identified five primary objectives:

1. Reorganize the hazardous waste generator regulations to make them more user-friendly and improve their usability.
2. Provide a better understanding of how the RCRA hazardous waste generator regulatory program works.
3. Address gaps in the existing regulations to strengthen environmental protection.
4. Provide greater flexibility for hazardous waste generators to manage their hazardous waste in a cost-effective and protective manner.
5. Make technical corrections and conforming changes to address inadvertent errors, remove obsolete references to programs that no longer exist, and improve the readability of the regulations.

Reorganization of the Hazardous Waste Generator Regulations, 40 CFR 262

The reorganization of the hazardous waste generator regulations to make the regulations more user-friendly and to improve generator compliance was a major impetus for the new rule. Key features of this reorganization included:

1. Integrating the rules for very small quantity generators (VSQGs), which were formally known as conditionally exempt small quantity generators (CESQGs), into the rest of the generator regulations.
2. Separating the existing regulations for small quantity generators (SQGs), large quantity generators (LQGs), and satellite accumulation areas (SAAs) into three new sections.
3. Adding subtitles to the new sections.
4. Where feasible, incorporating the text of relevant portions of 40 CFR 265 regulations into the new sections, rather than cross-referencing them as has been done previously.

Finding Aid for 40 CFR 262

Requirement	New Regulatory Citation [40 CFR]	Old Regulatory Citation [40 CFR]
Purpose, Scope, and Applicability	262.10	262.10
Waste Determination and Recordkeeping	262.11	262.11 and 262.40(c)
Generator Category Determination	262.13	261.5
VSQG (CESQG)	262.14	261.5
Sending Hazardous Wastes to LQGs	262.14(a)(5)(vii)	N/A
Landfill Ban for Liquids	262.14(b)	265.28
Satellite Accumulation	262.15	262.34(c)
Container Management	262.15(a)(1)–(5)	265.171–265.173(a)
Emergency Preparedness/Planning	262.16(b)(8) (SQGs) 262, Subpart M (LQGs)	N/A
Small Quantity Generator Accumulation	262.16	262.34(d)–(f)
Container Management	262.16(b)(2)	265, Subpart I (excepted 265.176 and 265.178)
Tank Management	262.16(b)(3)	265.201
Drip Pad Management	262.16(b)(4) and 265, Subpart W	N/A
Containment Building Management	262.16(b)(5) and 265, Subpart DD	N/A
Emergency Preparedness/Planning	262.16(b)(8)	265, Subpart C
Rejected Loads	262.16(e)	262.34(m)
Large Quantity Generator Accumulation	262.17	262.34(a)
Container Management	262.17(a)(1)	265, Subpart I
Tank Management	265, Subpart J	265, Subpart J
Drip Pad Management	265, Subpart W	265, Subpart W
Containment Building Management	265, Subpart DD	265, Subpart DD
Emergency Preparedness/Planning	262, Subpart M	265, Subparts C and D

Finding Aid for 40 CFR 262

Requirement	New Regulatory Citation [40 CFR]	Old Regulatory Citation [40 CFR]
Rejected Loads	262.17(g)	262.34(m)
Personnel Training	262.17(a)(7)	265.16
Closure Requirements	262.17(a)(8)	265.111 and 265.114
Accepting Hazardous Wastes from a VSQG	262.17(f)	N/A
RCRA Notification (EPA ID Numbers)	262.18	262.12
Landfill Ban for Liquids	262.35 (SQGs and LQGs)	265.28
Episodic Generations	262, Subpart L	N/A

Independent Requirements vs. Conditions for Exemption

Under the new rule, the EPA distinguishes between two types of generator requirements: independent requirements and conditions for exemption.

Independent Requirements

Independent requirements are those requirements that "any" generator producing hazardous waste must meet. An example of an independent requirement for a small quantity generator would be to obtain an EPA identification number.

Essentially, an independent requirement is an "unconditional requirement" that generators must comply with, but is not specifically tied to the accumulation of hazardous waste. Independent requirements do not provide relief from other requirements.

Independent requirements for each of the different types of generators are identified at 40 CFR 262.10.

Conditions for Exemption

Conditions for exemption are conditional requirements that generators must meet if they want the benefit of an exemption from RCRA storage facility permitting requirements.

Unlike an independent requirement, generators are only required to meet a condition for exemption if they wish to receive relief from other requirements. Examples of conditions for exemption would be marking containers with the words "Hazardous Waste," inspecting hazardous waste storage tanks daily, and training employees who handle waste in central accumulation areas at large quantity generator sites on an annual basis.

Conditions for exemption for very small quantity generators, satellite accumulation areas, small quantity generators, and large quantity generators are identified at 40 CFR 262.14 through 262.17.

Changes to the Hazardous Waste Regulations and State Adoption

In addition to reorganizing the hazardous waste generator regulations, the new rule also changes many of the requirements for generating, accumulating, and shipping hazardous waste off site. These changes are identified in the remainder of this exhibit, organized by topic.

Under RCRA, states are allowed to operate their own hazardous waste programs, and every state EXCEPT Alaska and Iowa has an authorized state hazardous waste program. In addition, both New Jersey and Pennsylvania have chosen to adopt all new Federal rules by reference, prospectively. Because of this, these two states automatically adopt all new Federal rules unless they specifically choose to do otherwise. Therefore, the only states where these new rules became effective on May 30, 2017, were Alaska, Iowa, New Jersey, and Pennsylvania.

Authorized states are not required to adopt the changes to the Federal hazardous waste regulations UNLESS the new regulation is more stringent than the current Federal requirement. Keep in mind, though, that states have up to two years to adopt these new rules, so even the most stringent of these new requirements may not be effective in your particular state until 2019.

Changes to Generator Status

- Conditionally exempt small quantity generators (CESQGs) are called very small quantity generators (VSQGs).
- The terms “very small quantity generator,” “small quantity generator,” (SQG) and “large quantity generator” (LQG) are now all defined at 40 CFR 260.10.
- If a generator exceeds the threshold limits for acute hazardous waste, then the generator is a large quantity generator for ALL waste generated on site, not just the acute hazardous waste.

Changes to Satellite Accumulation

- There are new, limited exceptions for keeping satellite containers open when necessary for the operation of equipment or to prevent dangerous situations, such as buildup of extreme pressure.
- Threshold limits for acute hazardous waste are 1 quart for liquids and 1 kilogram for solids.
- Containers must be marked with the words “Hazardous Waste.”

NOTE: Previously, containers had to be marked with the words “Hazardous Waste” OR other identifying words.

- Containers must be marked/labeled to identify the hazards of the hazardous waste.
- Containers are subject to new rules for incompatible wastes.

- Satellite accumulation areas are subject to preparedness, prevention, and emergency procedure requirements (specific requirements are determined by whether the generator is an SQG or an LQG).
- Logs or other records demonstrating that wastes have been emptied every 90 or 180 days from tanks, drip pads, and containment buildings must be kept on site and be readily available for inspection.
- Prior to shipment off site, containers with volumes less than 119 gallons must be marked with all applicable waste codes:
 - Requirement does not apply to lab packs, except for those containing waste codes D004, D005, D006, D007, D008, D010, and D011.
 - Alternatively, a nationally recognized electronic system, such as a bar-coding system, may be used.

Changes to the Accumulation Rules for Small and Large Quantity Generators

- In addition to containers and tanks, SQGs may now accumulate wastes in drip pads and containment buildings (for up to 90 days).
- In the case of a tank with a continuous flow process, generators may demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 90 days (for LQGs) or 180 days (for SQGs), rather than completely emptying the tank every 90 or 180 days.
- LQGs may apply for a site-specific waiver from the “authority having jurisdiction” (AHJ) over the fire code if unable to meet the 15 m ignitable and reactive hazardous waste property line condition.
- In addition to the words “Hazardous Waste” and an accumulation start date, containers accumulated in central accumulation areas (CAAs) must be marked/labeled to identify the hazards of the hazardous waste.
- In addition to the words “Hazardous Waste,” tanks and containment buildings must be marked/labeled to identify the hazards of the hazardous waste.

Changes to the Closure Rules for Large Quantity Generators

- Closure requirements are now more stringent for the closure of container accumulation areas (generators must “clean close” these areas).
- When closing an accumulation unit, LQGs may either place a notice in the operating record identifying the unit and not perform formal closure until the facility itself closes, or they may perform the required closure provisions and notify EPA that the unit has been closed.
- LQGs must notify EPA:
 - No later than 30 days prior to closing their facility, and
 - Within 90 days after closing their facility to either confirm that closure performance standards were met, or, if this was not possible, that they are closing the facility as a landfill.

Notifications and Reports for Small and Large Quantity Generators

- Small quantity generators will be required to re-notify EPA regarding their status using EPA Form 8700-12 beginning in 2021, and then every 4 years afterwards, by September 1.
- Large quantity generators must report all of the hazardous waste they generate for the entire reporting year, not just the month(s) they were an LQG.

NOTE: Large quantity generators are required to re-notify EPA regarding their status every two years, however, this can be done as part of the required biennial reports.

Emergency Preparedness and Contingency Planning

- New large quantity generators must develop and submit a “quick reference guide” to emergency authorities in addition to their full contingency plan.
- Existing large quantity generators must update their existing quick reference guides, if necessary, whenever their contingency plan is amended (or create a quick reference guide at this time if one does not already exist).

NOTE: As noted earlier, satellite accumulation areas at small and large quantity generator sites are now subject to the same preparedness, prevention, and emergency procedure requirements as central accumulation areas at those sites.

New Rules for Episodic Generation

The new rules for episodic generation allow a site to maintain its status as a VSQG or SQG if, as a result of an “episodic event,” the site generates additional quantities of hazardous waste that cause it to exceed its normal generator category limits. These rules represent a less stringent management option. Therefore, states are not required to adopt these new rules.

Key features of the rules for episodic generation include:

- The episodic event can be either planned or unplanned.
- The rules can only be used once per year to maintain VSQG or SQG status, unless the generator receives approval from the EPA to manage a second event as an additional episodic event.
- Generators must notify EPA at least 30 days prior to initiating a planned episodic event or within 72 hours after an unplanned event.
- Generators have 60 calendar days to initiate and complete an episodic event, including generation, accumulation, and management.
- VSQGs must obtain an EPA identification number, use a hazardous waste manifest and use a hazardous waste transporter to ship the waste to a RCRA designated facility.
- VSQGs must:
 - Accumulate episodic wastes in containers or tanks only.

- Manage waste in a manner that minimizes the possibility of an accident or release (additional, specific requirements must be met when managing wastes in tanks).
 - Not treat wastes on site.
- SQGs must follow the usual requirements for managing hazardous waste under the exemption for small quantity generators at 40 CFR 262.16.

New Rules for VSQGs Sending Hazardous Wastes to LQGs

Under the new rules, VSQGs are permitted to send their hazardous wastes to an LQG that is under the control of the same person. These rules represent a less stringent management option, and therefore, states are not required to adopt these new rules.

Key features of the rules include the following:

- LQGs receiving wastes must notify the EPA at least 30 days prior to receiving the first shipment (and submit updated notifications in information changes).
- LQGs must maintain records for three years from the date the hazardous waste was received from the VSQG.
- LQGs must place an accumulation start date on containers indicating the date the waste was received from the VSQG.
- LQGs must report waste received from VSQGs on their biennial reports.

Change to the Accumulation Time Limits for Hazardous Wastes Accumulated in “Eligible Academic Laboratories”

Under the new rules, the accumulation time limit for wastes accumulated in academic labs operating under 40 CFR 262, Subpart K was extended from six months to 12 months. This change represents a less stringent management option, and therefore, states are not required to adopt this rule.

New Requirements for Biennial Reporting for Recycling Facilities [40 CFR 261.6(c)(2)(iv)]

Under the new rules, owners and operators of facilities that receive and partially reclaim hazardous wastes into a commodity like-material or recycle hazardous wastes (i.e., hazardous secondary materials not excluded from the definition of solid waste or hazardous waste not exempt from other recycling regulations) WITHOUT storing it prior to recycling must comply with the biennial reporting requirements at 40 CFR 265.75

NOTE: This requirement is ONLY applicable to owners and operators of facilities that receive regulated hazardous waste from off site and/or do not store incoming hazardous waste prior to recycling.