



Regulatory Briefing

Hazardous Waste Generator Improvement Rule

December 2016

INSIDE THIS BRIEFING

- 1 Overview
- 2 New Requirements Under the Rule
- 3 Episodic Waste Generation
- 4 When Do These Changes Take Effect?

The Hazardous Waste Generator Rule provides useful clarifications on existing requirements hazardous waste generators need to be aware of, including how and where waste samples should be collected to determine if wastes are hazardous waste

Overview

The Hazardous Waste Generator Improvements Rule was published in the Federal Register on November 28, 2016 (Volume 81, Issue 228). This leaves hazardous waste generators to sort out how this will affect them when the rule becomes effective on May 30, 2017. The rule actually includes elements that:

- 1) provide additional clarifications and interpretations for existing rules, and
- 2) adds new elements to the existing rules.

This Regulatory Update provides some basic information on some of the key new requirements in the rule. For a discussion of the additional clarifications on the existing rule go to:

[5 Things All Hazardous Waste Managers Need To Know About New RCRA Rules](#)

New Requirements Under The Rule

The Generator Improvements Rule includes some new elements to the RCRA - some of which are more stringent compared to the existing rules and some less stringent. Some key rule changes are:

New Generator Category – Very Small Quantity Generator. The Hazardous Waste Generator Improvements Rule includes a new generator category, Very Small Quantity Generator (VSQG) which replaces the previous Conditionally Exempt Small Quantity Generator - CESQG. This change was intended to eliminate some confusion where some small generators believed the CESQG designation exempted them from all RCRA rules, which it did not. It also acknowledges the fact that rules applicable to SQGs and LQG technically exempt them from some parts of RCRA also.

Re-Notification For SQGs. Under the existing RCRA rules, hazardous waste generators required to obtain an EPA ID number must submit a one-time notification to US EPA or the authorized State. The Hazardous Waste Generator Improvements Rule requires that SQGs re-notify the agency once every four years. The first re-notification will be required in 2021.



<http://www.calthacompany.com>

New Hazardous Waste Requirements (cont)

Changes To Hazardous Waste Labeling. The Rule makes one additional requirement for labeling on hazardous waste containers. All tanks and containers must have a label identifying the specific hazard, such as corrosive or flammable.

For companies that operate both VSQG and LQG facilities, the new Rules allow the VSQG sites to ship hazardous waste to LQG sites under the control of the same company.

Shipments would need to meet normal DOT Hazardous Material shipping requirements.

Requirements For RCRA Contingency Plan. The new EPA rules modify some of the requirements for Contingency Plans maintained by LQGs, including eliminating requirement to include personal information (home phone, address) for emergency coordinators in Plan, and more flexibility on location of emergency equipment and posting emergency contact information. A new LQG facility must also prepare an Executive Summary document with eight required elements to provide emergency responders rapid access to key information in the Contingency Plan.

Satellite Accumulation Area versus Central Accumulation Area. The revised Rule provides additional clarity related to Satellite Accumulation Areas (SAA) and Central Accumulation Areas (CAA), but does not actually change any existing requirements for managing hazardous waste in these areas. The name "Central Accumulation Area" is added for convenience to distinguish these areas from Satellite Accumulation Areas.

Independent Requirements versus Conditions of Exemption. The Generator Improvements Rule preamble provides a detailed discussion of "Independent Requirements" and "Conditions of Exemption". Although this provides useful clarifications on the RCRA rules, it does not change existing requirements. It also provides clarifications on how the different types of requirements are applied by EPA to RCRA enforcement action.

In summary, independent requirements are rules that apply to all hazardous waste generators, regardless of generator status - for example, the requirement to identify hazardous wastes. Conditions of Exemption are requirements generators can choose to meet in order to avoid more stringent requirements. For example, LQGs store wastes on-site for less than 90 days to avoid being regulated as a TSD. They could elect to store wastes longer than 90 days, but would then be held to the requirements that apply to TSDs.

Episodic Hazardous Waste Generation

One of the persistent issues for hazardous waste generators has been when short term spikes in hazardous waste generation elevate facilities to a higher generator class, resulting in the need to meet additional generator requirements. The Hazardous Waste Generator Improvements Rule addresses this issue by creating another type of waste generation - episodic hazardous waste generation.

Two types of episodic hazardous waste generation are created - **planned** and **unplanned**. Planned episodes, as the name suggests, can be planned ahead of time and include activities such as facility cleanups, obsolete inventory disposal, demolition projects, etc. Unplanned episodes include spills, fires, and other emergency incidents. Under the new rule, hazardous waste generated during these events will not count against monthly waste total and will not change generator status, if conditions are met. This will potentially benefit VSQG and SQG facilities.

Episodic Generation (cont)

Generators taking advantage of this option will be limited to one event per calendar; with opportunity to petition for one additional unplanned event in the same year.

For planned events the generator must:

- notify agency at least 30 days prior,
- identify start/end dates (60 day max),
- have EPA ID #, and
- ship within 60 days using a hazardous waste manifest.

For an unplanned event the generator must notify agency **within 72 hr** after incident. For either type of episode, the generator must label wastes "Episodic Hazardous Waste" and identify hazard characteristic (example, corrosive, flammable). Episodic waste totals are not added to monthly facility total; separate records must be kept of episodic wastes

When Do These Changes Take Effect?

The Hazardous Waste Generator Improvements Rule was published in the Federal Register on November 28, 2016 and the effective date is May 30, 2017.

The Generator Improvements Rule modified the Federal rules under RCRA and therefore has direct effect on hazardous waste generators located in States that have not been delegated RCRA authority (**Iowa and Alaska**) and some other areas, including Tribal lands. However, many States have incorporated portions of the RCRA rules by reference into their authorized programs - therefore, in these States revisions to Federal RCRA rules can have an immediate effect on State rules. This can significantly increase the population of hazardous waste generators that will be affected by the Hazardous Waste Generator Improvements Rule on May 30, 2017

For generators located in States that have not incorporated generator requirements by reference, the impact of the rule revision will be uncertain. Rule changes will only become effective when States modify their own hazardous waste generator requires. To add to the uncertainty, States will only be required to modify their rules to incorporate portions of the Hazardous Waste Generator Improvements Rule that are **MORE** stringent than current rules. Other portions of the new EPA rules that add flexibility, are less stringent, or incorporate clarifications to the rule would not need to be addressed by States to maintain their authorized programs under RCRA.

Regulatory Briefings are published periodically by Caltha to highlight new or proposed environmental, health & safety regulations

Caltha LLP

Phone:
(763) 208-6430

Website:
<http://www.calthacompany.com>

E-mail:
info@calthacompany.com



RCRA Technical Support Services

Caltha provides expert consulting and staffing services to assist hazardous waste generators, including:

- [Annual RCRA Training and DOT HazMat Certification training](#)
- [Hazardous waste program compliance evaluation and audits](#)
- [Program and procedure development](#)
- [Contingency plans, Spills plans](#)