Webinar Series on the Hazardous Waste Generator Improvements Rule

US EPA
Office of Resource Conservation and Recovery
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Hazardous Waste Generator Improvements Rule Webinar

Part 2 – Module 3

Module 3: Revisions that Apply to Very Small Quantity Generators

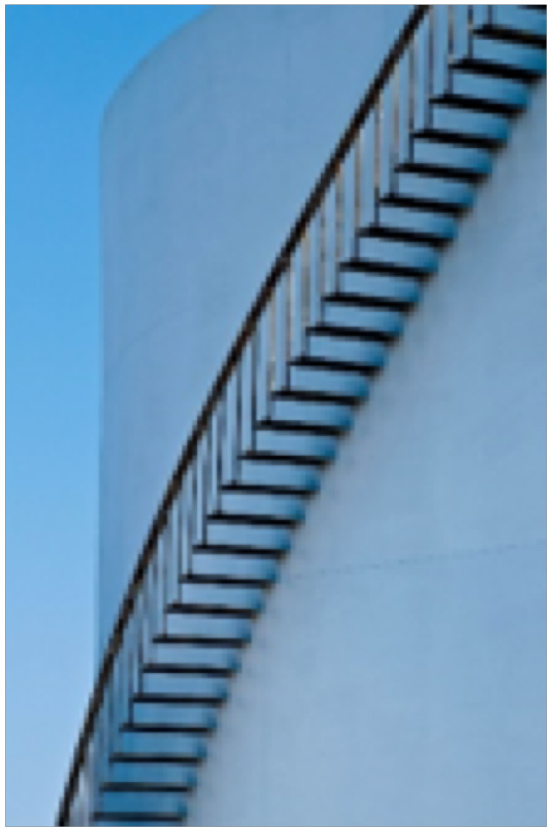
Contents of Module 3

- VSQGs
- Episodic Generation
- VSQG Consolidation

Very Small Quantity Generators (VSQG)

- Limited Requirements under both the previous regulations and the new final rule
  - Same basic standards but they are now located in § 262.14
- The new final rule provides new options for flexibility for VSQGs
  - Episodic Generation
  - Consolidation at an LQG under the same company

Episodic Generation



Episodic Generation

- Previous RCRA rules lacked flexibility to address an "episodic" change in a generator's regulatory category:
  - Planned event (i.e., periodic maintenance such as tank cleanouts)
  - Unplanned event (i.e., production upset conditions, spill, acts of nature)

- Generators had to comply with a more comprehensive set of regulations for short period of time when they were not regular generators of higher levels of hazardous waste.

Episodic Generation

- Applicable to VSQGs and SQGs.
- New part 262 subpart L allows generators that temporarily change their generator category as a result of an episodic event to operate under streamlined regulations.
- All hazardous waste from episodic events must be shipped by hazardous waste transporter with a hazardous waste manifest to a RCRA-designated facility (TSDF or recycler).

Episodic Generation

Where do I find the Episodic Generation Regulations?

- § 262.13(c)(8) states that hazardous waste managed as part of an episodic event does not have to be counted toward a generator's category

- Part 262 subpart L (§§ 262.230-262.233) contains the conditions for the episodic generation provision.

Episodic Generation

What is an Episodic Event?

- *Episodic event* means an activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of hazardous wastes that exceeds the calendar month quantity limits for the generator's usual category.
- *Planned episodic event* means an episodic event that the generator planned and prepared for, including regular maintenance, tank cleanouts, short-term projects, and removal of excess chemical inventory
- *Unplanned episodic event* means an episodic event that the generator did not plan or reasonably did not expect to occur, including production process upsets, product recalls, accidental spills, or “acts of nature,” such as tornado, hurricane, or flood.

(§ 262.231)

Episodic Generation

Events Per Year

- One episodic event per year + one opportunity to petition EPA/ authorized state for a second event
- A generator can complete multiple projects during the time limit for the episodic event
- Petition process allows a total of 1 unplanned and 1 planned event per year
  - For example:
    - A generator conducts a clean out in the spring and then has an unexpected recall in October
    - A generator plans a small episodic project for the fall but a hurricane causes facility damage in July

Episodic Generation

Duration of an Episodic Event

- The first day of an episodic event is the first day of generation of waste for the event—for an unplanned event, this is the first day of the storm, spill, other unexpected event
- An episodic event can last 60 days
- All hazardous waste must be shipped off site by the end of 60 days or that waste counts toward the generator's category and must be managed under the regulations for that category of generator
- Time frame should allow waste from unplanned events to be characterized and allow arrangements for disposal to be made
- If a generator doesn’t know if the event is going to be episodic, we recommend notification

Episodic Generation

Notification

- Both VSQGs and SQGs must notify about episodic events using Site ID form (EPA form 8700-12)
- Planned event: notify 30 or more days prior to the episodic event on Site ID form
- Unplanned event: notify within 72 hours of the event by phone or email and follow up with Site Id form

Notification elements

- A VSQG must get an EPA ID number (automatic upon submitting the Site ID form)
- Start and end dates of the episodic event (no more than 60 calendar days)
- Reason for the event
- Types of hazardous waste
- Estimated quantities of hazardous waste
- Emergency coordinator contact information

Episodic Generation

Hazardous Waste Accumulation Standards

- Necessary to ensure protective management of larger quantities of hazardous waste

VSQGs

- Marking and labeling:
  - "Episodic hazardous waste;"
  - An indication of the hazards of the contents; and the date the episodic event began
    - For tanks, inventory logs or other records are appropriate, but must be accessible
- Manage the hazardous waste in a manner that minimizes the possibility of an accident or release
  - Containers should be in good condition, chemically compatible with contents, and kept closed
    - Part 265 subpart I would satisfy this condition
  - Tanks must have procedures in place to prevent overflow (*e.g.*, a means to stop inflow such as a waste feed cutoff system or bypass system to a standby tank when hazardous waste is continuously fed into the tank). Tanks must be inspected at least once each operating day.
- Treatment is not allowed by VSQGs (except in an on-site elementary neutralization unit).
- Hazardous wastes on drip pads and in containment buildings cannot be managed under subpart L

Episodic Generation

Hazardous Waste Accumulation Standards

SQGs

- Marking and labeling:
  - "Episodic Hazardous Waste;"
  - An indication of the hazards of the contents and the date the episodic event began
    - For tanks, inventory logs or other records are appropriate, but must be accessible
- All conditions of 262.16 (e.g., container and tank standards, employee training, emergency preparedness and prevention)
- Hazardous wastes on drip pads and in containment buildings cannot be managed under subpart L

Episodic Generation

Recordkeeping

- Cradle to grave management of hazardous waste is required
- Records must be maintained for 3 years from the completion of each event

Elements

- Beginning and end date of the episodic event
- A description of the episodic event
- Types of hazardous wastes generated
- Quantities of hazardous wastes generated
- How the hazardous waste was ultimately managed and the name of the RCRA-designated facility or facilities that received the hazardous waste
- Name of the hazardous waste transporter(s)
- Approval letter from EPA if a petition was submitted and approved for a second event

- Copies of the notification form and the hazardous waste manifest cover most of the elements.

Episodic Generation

Petition for a Second Event

- If petition is approved, total of one planned and one unplanned event per calendar year

Petition requirements

- Made in writing
- Include reason for the event; nature of the event; estimated amount of hazardous waste to be managed; how the waste will be managed; estimated length of the episodic event; and information about the previous event in the calendar year

Planned event

- Petition submitted to EPA/authorized state 30 or more days prior to the event
- Generator may not manage hazardous waste from a planned second episodic event under subpart L until approval is received on its petition

Unplanned event

- EPA/authorized state must be notified within 72 hours by phone or email, followed by submittal of 8700-12 and an indication that this is a petition for a second event
- Generators can manage hazardous waste from an unplanned second episodic event under subpart L while waiting for approval of its petition
- If a petition is denied, generator must start managing hazardous waste under the conditions for the applicable generator category.

Episodic Generation – Example 1

- **Planned event**: In early 2019, an SQG plans a maintenance project in the fall and anticipates they are likely to exceed the SQG limit of 1000 kg in October 2019.

- The event starts September 17, 2019, and is scheduled to be completed by November 5, 2019. Sixty days are over on November 16, 2019.
  - This CAN be an EPISODIC EVENT!
- Preparation:
  - SQG identifies waste codes for waste to be generated and estimates waste amounts
  - SQG notifies state before August 18, 2019, using the Site ID form (30 days before the event begins)
  - SQG sets up contracts and plans for waste transport and management. All waste must be off site by November 16th.

Episodic Generation – Example 1 (continued)

- **Planned event**: In early 2019, an SQG plans a maintenance project in the fall and anticipates they are likely to exceed the SQG limit of 1000 kg in October 2019.

- Event:
  - SQG completes maintenance project, manages the hazardous waste under 262.16 standards and sends all waste for hazardous waste management.
  - (If the event or waste management runs past November 16th, the SQG must begin operating as an LQG)
- After Event:
  - SQG maintains records for the event for 3 years (a description of the event and notifications & manifests).
  - If SQG has ANOTHER episodic event in 2019 after the maintenance project is over and it is unplanned, it can petition the state for a second event.

Episodic Generation – Example 2

- **Unplanned event**: In March 2019, a VSQG experiences a storm that causes a spill of product, and they expect the clean up will cause them to exceed the 100 kg limit for March and April, 2019.

- The storm occurs on March 8. This is the first day of the event. The VSQG isn't sure if spilled chemicals are hazardous waste but they suspect they may be. Sixty days are over on May 7, 2019.
  - This CAN be an EPISODIC EVENT!

Episodic Generation – Example 2 (continued)

- **Unplanned event**: In March 2019, a VSQG experiences a storm that causes a spill of product, and they expect the clean up will cause them to exceed the 100 kg limit for March and April, 2019.

- Event:
  - VSQG notifies state within 72 hours by call or email & follows up with a Site ID form; if the VSQG already had a planned event in 2019, it must submit a petition and can operate under the episodic standards while waiting for approval from the state
  - VSQG samples hazardous waste and sets up hazardous waste transportation and disposal
    - If the clean up material is not hazardous waste or does not exceed the VSQG threshold, the generator can work with the state to cancel the event
  - VSQG completes cleanup, manages the hazardous waste under VSQG episodic generator standards and sends all waste for HW management by May 7th.
  - (If the event or waste management runs past May 7th, the VSQG must begin operating as an SQG or LQG, as appropriate)
- After Event:
  - VSQG maintains records for the event for 3 years (notifications and manifests)
  - If VSQG has ANOTHER episodic event (planned) in 2019 after the clean up is over, it has to petition the state for a second event.

VSQG Waste Consolidation at LQGs

VSQG Waste Consolidation at LQGs

Issue that the New Consolidation Provision Addresses

- Some companies would like to be able to consolidate wastes from their own VSQG sites for more efficient shipping and hazardous waste management
  - Reduces liability for company as a whole by ensuring proper management of hazardous waste
  - Sending to a RCRA-designated facility is the most environmentally sound option
  - Previously, an LQG needed a RCRA permit to receive VSQG wastes

VSQG Waste Consolidation at LQGs

New Consolidation Provision

- Consolidate waste at an LQG under the control of the same person:
  - Person – as defined under RCRA in § 260.10 - means an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body
  - Control – means the power to direct policies at the facility
- VSQG standards
  - Marks and labels waste containers with "Hazardous Waste" and the hazards (as discussed in Module 2)
- No hazardous waste manifest is required and hazardous waste transporters do not have to be used

VSQG Waste Consolidation at LQGs

LQG standards

- Notifies state on Site ID Form that it is participating in this activity and identifies which VSQGs are participating
- Recordkeeping for each shipment – normal business records
- Adds accumulation start date to VSQG HW labels when arrives at LQG
- Manages consolidated waste as LQG hazardous waste including ensuring final treatment or disposal is at a RCRA-designated facility (TSDF or recycler)
- Reports in Biennial Report – there will be a different source code (G51) for the VSQG consolidated waste to distinguish from the LQG's own generated waste

- We did not extend this provision to allow SQGs to consolidate VSQG HW due to more complicated implementation issues but an SQG can participate if they notify and act as an LQG (meeting all LQG standards including getting the VSQG HW off-site in 90 days)

VSQG Waste Consolidation at LQGs

FAQs about New Consolidation Provision

- When does the 90-day clock start for VSQG consolidated waste?
  - When the VSQG waste gets to the LQG, the 90-day clock to accumulate the waste starts
- Is there any accumulation limit for how much waste can be consolidated at an LQG?
  - No, there is no overall accumulation limit but the waste must be sent off-site to a RCRA TSDF or recycler within 90 days
- Does the LQG add the VSQG waste to its annual generation amount?
  - The LQG would report both its own generated waste and the waste consolidated from its VSQGs on the Biennial Report. However, there is a different source code (G51) for the VSQG waste so they can distinguish between their own HW and the consolidated waste

VSQG Waste Consolidation at LQGs

FAQs about New Consolidation Provision

- When transporting the waste from the VSQG to the LQG, what requirements must be met?
  - There are no specific RCRA requirements for the transport but any applicable DOT requirements would continue to apply
- Is there a quantity limit for shipments from the VSQG?
  - No, but the VSQG has to stay within its own accumulation limit
- Can the VSQG and the LQG be in different states?
  - Yes, if both states have adopted the consolidation provision. If the HW is transported through other states, the generator should check with the transit state to see if they can pass through

VSQG Waste Consolidation at LQGs

FAQs about New Consolidation Provision

- What marking and labeling should be on the containers?
  - At the VSQG, the words “Hazardous Waste” and the hazards
  - At the LQG, the words “Hazardous Waste,” the hazards, and the accumulation start date

- Can the LQG consolidate VSQG HW with in the same container with their own LQG HW?
  - Yes, if the waste is compatible. The LQG would need to use the earlier accumulation state date on the combined HW to determine how long the combined HW can remain on-site.

VSQG Waste Consolidation at LQGs - Example

- Army reserve facilities that are VSQGs could consolidate their HW at an Army base that is an LQG (assuming they are in states that have adopted the consolidation provision)
  - They could transport the waste themselves and would not need to manifest it as long as the LQG has notified, including listing the participating VSQGs on the Site ID form
  - The Army reserve sites (the VSQGs) would need to mark the containers with the words "Hazardous Waste" and the hazards of the waste in the containers. For example, if they generate spent solvents that are ignitable, the containers could be marked:

VSQG Waste Consolidation at LQGs - Example

- Once the VSQG waste arrives at the Army base, the LQG would add the accumulation start date and manage the waste as LQG waste, including getting it off-site to a TSDF in 90 days
- The LQG would also keep the shipping records of the waste received from the VSQG for 3 years
  - These records would include:
    - the name, address, and contact info for the VSQG, and
    - a description of the waste received, including the quantity and date the VSQG waste was received
- The LQG would report the VSQG waste consolidated at their site on their BR using the new source code (G51) on the GM form

Closure: What Changed?

- Consolidates closure standards in one place
- Requires LQGs to notify EPA or the implementing state when closing a facility and/or accumulation unit
- Requires LQGs accumulating hazardous wastes in containers to close as a landfill if unable to meet closure performance standards (i.e., they can't clean close)
- Clarifies that closure does not apply to SAAs

Why did we make changes?

- Previous regulations confusing and contradictory
- Consolidates and streamlines regulations to improve user-friendliness
- Closes important gaps:
  - Prior to this rule, EPA and most states had no idea when an LQG closed its facility or waste accumulation unit
  - LQGs accumulating hazardous wastes in tanks, containment buildings and drip pads must close as landfill (or equivalent) if unable to meet closure performance standards
  - LQGs accumulating hazardous wastes in containers had no such requirements
  - Yet, numerous damage cases found where LQGs accumulating hazardous wastes in containers abandoned their facility leaving EPA and/or states to clean up as Superfund removal action – often costing millions

Closure Notification

- Requires LQGs to notify EPA or state when closing a facility via Site ID form
  - 30 days ***prior*** to closing facility and
  - 90 days ***after*** closing facility to certify that they met closure performance standards
  - Extension requests must be submitted within 75 days after closing

- Provides option of LQG closing waste accumulation unit to:
  - Place a notice in operating record within 30 days ***after*** closing waste accumulation unit and address closure when facility closes (notice can be removed from the operating record if unit going back into service), OR
  - Notify EPA or state they have met closure performance standards for their waste accumulation units
    - 90 days ***after*** closure via Site ID form 8700-12

(§ 262.17(a)(8))

Closure Standards

- Consolidates performance standards found in § 265.111 and §265.114 into LQG section (§262.17(a)(8)) and clarifies that these units are subject to clean closure standards
- LQGs for containers, tanks, and containment buildings must:
  1. Minimize and control post-closure care releases of hazardous waste and constituents to the environment
  2. Remove or decontaminate all contaminated structures, equipment, and soils
  3. Manage any hazardous waste generated in the process of performing closure according to Subtitle C
  4. If the LQG cannot clean close, then they must close as a landfill and meet the requirements of Subparts G and H of 40 CFR 265
- Note: LQG drip pad operators are subject to 1 and 3 above and 265 Subpart W in lieu of 40 CFR 265 Subparts G and H

Closure: Comparison of New vs. Old Requirements

NEW	OLD
§ 262.17 (a) (8) (i) *Notification for closure of a waste accumulation unit.* (ii) *Notification for closure of the facility.*	
(iii) *Closure performance standards for containers, tank systems, and containment building waste accumulation units.*	
(A) At closure, the generator must close the waste accumulation unit or facility in a manner that:	**§ 265.111** The owner or operator must close the facility in a manner that:
(1) Minimizes the need for further maintenance by controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere,	(a) Minimizes the need for further maintenance, and (b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere, and (c) Complies with the closure requirements of this subpart, including, but not limited to, the requirements of §§265.197, 265.228, 265.258, 265.280, 265.310, 265.351, 265.381, 265.404, and 265.1102.

Closure: Comparison of New vs. Old Requirements

NEW	OLD
(2) Removes or decontaminates all contaminated equipment, structures and soil and any remaining hazardous waste residues from waste accumulation units including containment system components (pads, liners, etc.), contaminated soils and subsoils, bases, and structures and equipment contaminated with waste, unless § 261.3(d) of this chapter applies. *(3)* Any hazardous waste generated in the process of closing either the generator's facility or unit(s) accumulating hazardous waste must be managed in accordance with all applicable standards of parts 262, 263, 265 and 268 of this chapter, including removing any hazardous waste contained in these units within 90 days of generating it and managing these wastes in a RCRA Subtitle C hazardous waste permitted treatment, storage and disposal facility or interim status facility.	**§265.114 Disposal or decontamination of equipment, structures and soils.** During the partial and final closure periods, all contaminated equipment, structures and soil must be properly disposed of, or decontaminated unless specified otherwise in §§265.197, 265.228, 265.258, 265.280, or 265.310. **By removing all hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that hazardous waste in accordance with all applicable requirements of part 262 of this chapter.**

Closure: Comparison of New vs. Old Requirements

NEW	OLD
(4) If the generator demonstrates that any contaminated soils and wastes cannot be practicably removed or decontaminated as required in paragraph (a)(8)(ii)(A)(*2*) of this section, then the waste accumulation unit is considered to be a landfill and the generator must close the waste accumulation unit and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (§ 265.310 of this chapter). In addition, for the purposes of closure, post-closure, and financial responsibility, such a waste accumulation unit is then considered to be a landfill, and the generator must meet all of the requirements for landfills specified in subparts G and H of part 265 of this chapter. (iv) *Closure performance standards for drip pad waste accumulation units.* At closure, the generator must comply with the closure requirements of paragraphs (a)(8)(ii) and (a)(8)(iii)(A)(*1*) and (*3*) of this section, and § 265.445(a) and (b) of this chapter. (v) The closure requirements of paragraph (a)(8) of this section do not apply to satellite accumulation areas.	**§ 265.197 (b)** If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in paragraph (a) of this section, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (§265.310). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in subparts G and H of this part. **Comparable text found for containment buildings.**