

EPA'S PROPOSED HAZ WASTE GENERATOR RULE

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ENVIRONMENTAL AND ENERGY COMMITTEE MEETINGS

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EPA'S HAZARDOUS WASTE GENERATOR "IMPROVEMENTS"

- Published in the FR September 25, 2015
- Comments due December 24, 2015
- According to EPA: "...This rule proposes a much-needed **update** to the hazardous waste generator regulations to make the rules **easier to understand**, facilitate better compliance, provide greater flexibility in how hazardous waste is managed, and **close important gaps** in the regulations...."

OVERVIEW OF PROPOSED RULE

Major Rule Provisions

- Reorganization
- Consolidation of CESQG Waste at LQGs
- Episodic Generation
- Emergency Planning and Preparedness
- **Hazardous Waste Determinations**
- **Labeling**
- Reporting
- Satellite Accumulation Areas
- Waiver to 50-foot Requirement
- Closure
- Additional Clarifications

ISSUE #1: WASTE DETERMINATIONS

According to EPA, the problem is:

- Generators consistently fail to make a correct hazardous waste determinations, leading to the mismanagement of hazardous waste
- Non-compliance rates range from 10 to 30 percent
- Reasons vary from not understanding RCRA to not even being aware of RCRA
- Current regulations clearly require maintaining documentation of determinations that a waste is hazardous, but not the alternative

CURRENT RULE WASTE DETERMINATION:

§262.11 Hazardous waste determination.

A person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method:

(a) He should first determine if the waste is **excluded from regulation** under 40 CFR 261.4.

(b) He must then determine if the waste is **listed** as a hazardous waste in subpart D of 40 CFR part 261. (NOTE: Even if the waste is listed, the generator still has an opportunity under 40 CFR 260.22 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste.)

(c) For purposes of compliance with 40 CFR part 268, or if the waste is not listed in subpart D of 40 CFR part 261, the generator must then determine whether the waste is identified in subpart C of 40 CFR part 261 by either:

(1) **Testing** the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21; or

(2) Applying **knowledge** of the hazard characteristic of the waste in light of the materials or the processes used.

WASTE DETERMINATIONS

(d) If the waste is determined to be hazardous, the generator must refer to parts 261, 264, 265, 266, 267, 268, and 273 of this chapter for possible exclusions or restrictions pertaining to management of the specific waste. ***(off to the rabbit hole to complete determination process...)***

Example rabbit hole: §261.20 General. (b) A hazardous waste which is identified by a characteristic in this subpart is **assigned** every EPA Hazardous Waste Number that is applicable as set forth in this subpart. This number must be used in complying with the notification requirements of section 3010 of the Act and all applicable recordkeeping and reporting requirements under parts 262 through 265, 268, and 270 of this chapter.

WASTE DETERMINATIONS

EPA's Proposal: Hazardous Waste Determination Provisions

- Require SQGs and LQGs to keep documentation when a solid waste is determined to not be a hazardous waste.
- Scope of provision would focus only on those solid wastes found in 40 CFR 261.2 (i.e., spent materials, sludges and byproducts, discarded commercial chemical products) that have potential to be a listed or characteristically hazardous waste in 40 CFR 261.3
- Many states already require such documentation; the estimated number of determinations is low and often non-recurring

WASTE DETERMINATIONS

EPA's Proposal: Other Hazardous Waste Determination Provisions

- Confirm that a generator's waste must be classified **at its point of generation** and at any time during the course of management for wastes potentially exhibiting a hazardous characteristic,
- Explain more fully how generators can use generator knowledge
- Explain more completely in the regulations in § 262.11 how a generator should evaluate its waste for hazardous characteristics

ISSUE #2: LABELLING

The Problem According to EPA:

- Existing RCRA labeling regulations do not require generators to state the hazards of hazardous wastes accumulated in containers, tanks, drip pads and containment buildings
- Failure in risk communication
- Can impact workers, waste handlers, emergency responders and visitors
- Relevant areas on site: satellite accumulation areas, central accumulation areas, and at transfer facilities consolidating hazardous wastes from different generators

LABELLING

EPA's Proposed Solution

- Container labels must indicate the hazards of the contents of the containers
- Container labels must have “plain English” words that identify container contents
- Flexibility in how to comply with this new provision; can indicate the hazards of the contents of the container using any of several established methods
- Tanks, drip pads, containment buildings can keep this information in logs or records kept near the accumulation site

LABELLING

EPA's Proposed Solution

(5) *Labeling and marking of containers, tanks, drip pads, and containment buildings*—(i) *Containers*. A large quantity generator must mark its containers with the following:

(A) **The words “Hazardous Waste”;**

(B) **Other words that identify the contents of the containers** (examples may include, but are not limited to the name of the chemical(s), such as “acetone” or “methylene dichloride”; or the type or class of chemical, such as “organic solvents” or “halogenated organic solvents or, as applicable, the proper shipping name and technical name markings used to comply with Department of Transportation requirements at 49 CFR part 172 subpart D)”;

LABELLING

(C) An indication of the **hazards of the contents** (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.*, ignitable, corrosive, reactive, toxic); a hazard class label consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling); a label consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1920.1200; a chemical hazard label consistent with the National Fire Protection Association code 704; a hazard pictogram consistent with the United Nations' Globally Harmonized System; or any other marking or labeling commonly used nationwide in commerce that identifies the nature of the hazards associated with the contents of the waste accumulation unit); and

(D) **The date** upon which each period of accumulation begins clearly visible for inspection on each container.

PURDUE'S OPERATION

- Large research university, RCRA TSD permit
- Overall, our campus program handles 200,000 lbs (30,000 items)) of waste annually
 - Waste generated in campus labs
 - Generators (5,500 +/-) submit a pickup request form
 - Secretary enters data into database
 - Pickup request form is processed by a Chemist; codes applied
 - Technicians go to each location to pick up the waste
 - Waste is processed at our facility (permitted TSD) and shipped monthly
 - Non-emergency chemical spill responses (approximately 70 per year)
 - Technician staff also pick up treated infectious waste from campus labs on a daily basis