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RCRA/UST, Superfund, & EPCRA Hotline Training Module

Introduction to:

Generators
(40 *CFR* Part 262)

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GENERATORS

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1. INTRODUCTION

RCRA sets forth requirements for handling the volumes of waste generated in the United States each year. Based on the authority granted by RCRA Subtitle C, EPA has developed regulations for the cradle-to-grave management of hazardous waste. Persons who produce hazardous waste, called hazardous waste generators, are the first link in this cradle-to-grave system. The RCRA regulations establish basic hazardous waste management standards for generators. The generator regulations ensure that hazardous waste is handled safely to protect human health and the environment while minimizing interference with daily business operations. A solid foundation in the generator regulations is critical to a thorough understanding of the regulations governing the management of hazardous waste from the moment it is produced, or the point of generation, through final disposition.

When you have completed this module, you will be able to explain the definitions and regulations that apply to generators of hazardous waste. Specifically, you will be able to:

- Define the terms "generator" and "co-generator"
- List the three classes of generators, outline the different generation and accumulation limits, and provide specific regulatory and CFR citations
- Define episodic generation
- Explain the use of EPA identification (ID) numbers and manifests
- Outline the accumulation standards, define "empty tank" and "start time" for waste accumulation purposes, and identify regulations pertaining to accumulation in tanks, containers, containment buildings, and on drip pads
- Define "satellite accumulation" and provide the applicable FR citations
- Cite the CFR section covering recordkeeping and reporting requirements for generators
- Recognize copies of notification forms and manifests, and explain how they are obtained.

Use this list of objectives to check your knowledge of this topic after you complete the training session.

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2. REGULATORY SUMMARY

The RCRA regulations establish a comprehensive hazardous waste management system under RCRA Subtitle C. RCRA regulates hazardous waste from its point of generation through its point of final disposal. Hazardous waste generators are the first link in the cradle-to-grave hazardous waste management system. Pursuant to the authority granted by RCRA §3002(a), EPA has developed generator standards that address on-site accumulation of hazardous waste, cradle-to-grave tracking (manifest system), labeling, and recordkeeping and reporting requirements. These standards are found in 40 CFR Part 262.

Recognizing that generators produce waste in different quantities, Congress established three categories of generators within the RCRA statute: large quantity generators (LQGs), small quantity generators (SQGs), and conditionally exempt small quantity generators (CESQGs). The extent of regulation to which hazardous waste generators are subject depends on the volume of hazardous waste each generator produces. This module defines the three classifications of generators and explains the varying degree of regulation to which each is subject.

In order to fully understand the responsibilities of hazardous waste generators, we will first review the hazardous waste determination process.

2.1 HAZARDOUS WASTE DETERMINATION

As discussed in earlier modules, §262.11 requires generators to determine if their waste is hazardous. The hazardous waste determination requirement applies to <u>all</u> generators of solid waste. Section 262.11 sets forth the following three-step hazardous waste determination process that any person who generates a solid waste, as defined in §261.2, must follow. First, the generator must determine if the solid waste is excluded from RCRA regulation under §261.4. Second, if the waste is not excluded, the generator must determine if it is listed in Subpart D of Part 261. Third, for purposes of compliance with the land disposal restrictions or if the waste is not listed in Subpart D of Part 261, the generator must identify all relevant hazardous waste characteristics in Subpart C of Part 261. The modules "Hazardous Waste Identification," "Definition of Solid Waste and Hazardous Waste Recycling," and "Solid and Hazardous Waste Exclusions" together present the process of hazardous waste determination in detail. It is the generator's responsibility to determine if his or her wastes are defined as hazardous and therefore subject to regulation under Subtitle C. As discussed in Sections 2.3 and 2.4 of this module, once a generator determines a material meets the definition of a hazardous waste, the generator must determine the extent of regulation to which he or she is subject.

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Generators are not required to perform analytical testing to identify their waste. They are, however, required to accurately characterize their waste. This means they may make a hazardous waste determination by testing or applying their knowledge of the waste's chemical and physical properties as specified in §262.11 (e.g., knowledge of the process, inputs, reactions, operating status for the day).

2.2 DEFINITION OF GENERATOR

Section 260.10 defines a generator as "any person, by site, whose act or process produces hazardous waste identified or listed in Part 261 or whose act first causes a hazardous waste to become subject to regulation." This definition contains three important terms that must be addressed to fully understand the generator regulations.

The first term "by site" refers to where a hazardous waste is generated. The regulations do not explicitly define the term "site". EPA tracks hazardous waste generation on a site-specific basis or by "individual generation site." To do this, EPA issues unique identification numbers to identify generators by site. Activities occurring under the control of an owner or operator on a single piece of property should be evaluated collectively for hazardous waste generation. For example, if Company A operates three laboratories on a single piece of property, all three laboratories may share one EPA identification number, and the waste from all three laboratories may be evaluated together. If, however, Company A operates three laboratories at three different locations that are not considered to be on contiguous property, each laboratory is viewed as a separate potential generator and is required to obtain an individual EPA identification number for each site.

The second term is "person." Person is defined in §260.10 as "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." The definition of person encompasses any entity involved with a process that generates hazardous waste.

The third key component of the generator definition is the phrase "act or process." Because a generator is defined as the person whose act or process first causes a hazardous waste to become subject to regulation, sometimes the generator of a waste may not necessarily be the person who actually produced the waste. For example, if a cleaning service removes residues from a product storage tank excluded under §261.4(c), the person removing the residues is the first person to cause the waste to become subject to regulation, not the owner of the tank (i.e., the person who produced the waste).

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CO-GENERATORS

In the above residue removal example, the person removing the waste from the unit is not the owner or operator of the unit, but he or she may be considered a generator. The owner or operator of the unit may also be considered a generator since the act of operating the unit led to the generation of the hazardous waste. In other words, both the remover of the waste and the owner or operator of the tank are considered to be co-generators. In cases where one or more persons meet the definition of generator, all persons are jointly and severally liable for compliance with the generator regulations. The parties may through a mutual decision have one party assume the duties of generator, but in the event that a violation occurs, all persons meeting the definition of generator could be held liable for the proper management of the waste (October 30, 1980; 45 FR 72026).

2.3 THREE GENERATOR CLASSIFICATIONS

The original generator regulations, published on May 19, 1980, set forth comprehensive requirements for those persons who generated 1,000 kg or more of hazardous waste in a calendar month (45 FR 33142). These regulations also included generators who produced more than 1 kg of acute hazardous waste in a calendar month. Persons generating less than 1,000 kg of hazardous waste (or less than or equal to 1 kg of acute hazardous waste) in a calendar month were granted a conditional exemption and subject to reduced regulatory requirements.

Congress amended the definition of generator in the Hazardous and Solid Waste Amendments of 1984 (HSWA), requiring EPA to regulate more stringently persons who generate between 100 and 1,000 kg of hazardous waste in a calendar month. On March 24, 1986 (51 FR 10146), EPA issued final regulations establishing a third class of generators (persons generating 100-1,000 kg per month), and narrowed the scope of the conditional exemption to include only persons generating 100 kg or less of hazardous waste in a calendar month. Generators who produce 1 kg or less of an acute hazardous waste were also granted the conditional exemption.

Generators now fall into one of three general groups according to the amount of waste generated in a calendar month. The three classes of generators are described below in Table 1. Since the regulations become increasingly stringent as the volume of waste generated grows, accurate counting of the waste is critical. This complex counting issue will be addressed in the next section of the module.

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Table 1
QUANTITY DETERMINES WHICH REGULATIONS APPLY

Generator	Quantity	Regulation
Large Quantity (LQG)	≥1000 kg/month (approx.≥2200 lbs) >1 kg/month acute	All Part 262 Requirements
Small Quantity (SQG)	Between 100-1000 kg/ month (approx. 220-2200 lbs)	Part 262, Subparts A, B, C (§262.34(d) is specific to SQGs), and E and portions of Subpart D as specified in §262.44
Conditionally Exempt Small Quantity (CESQG)	≤100 kg/month ≤1 kg acute ≤100 kg acute residue	§261.5

LARGE QUANTITY GENERATOR

Large quantity generators (LQGs) produce 1,000 kg or more of hazardous waste per calendar month, or more than 1 kg of acutely hazardous waste (i.e., waste codes denoted with the hazard code "H" and all P-listed wastes). Wastes from these generators are subject to full regulation under Part 262.

SMALL QUANTITY GENERATOR

Small quantity generators (SQGs) produce between 100-1,000 kg of hazardous waste per calendar month and are subject to modified regulations found in Part 262. Generally, SQGs must comply with some but not all of the regulations that apply to LQGs. Simplified requirements are specified for SQGs in place of some LQG requirements.

CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR

Conditionally exempt small quantity generators (CESQGs) produce 100 kg or less of hazardous waste per calendar month. In addition, generators who produce 1 kg or less of acutely hazardous waste, or 100 kg or less of contaminated soil, waste, or debris resulting from the cleanup of an acute hazardous waste spill, are CESQGs. CESQGs are exempt from Parts 262-270 if they comply with the requirements of §261.5.

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EPISODIC GENERATORS

Generators may periodically exceed or fall below their normal generation limits in any given calendar month. If the amount of waste generated in a given calendar month places the generator in a different category, he or she is responsible for complying with all applicable requirements of that category for all waste generated during that calendar month. For example, if a generator produces 300 kg of hazardous waste in March, that waste is subject to the small quantity generator regulations; if the same generator produces 1500 kg of hazardous waste in April, that waste is subject to the large quantity generator regulations (March 24, 1986; 51 FR 10153).

2.4 COUNTING WASTE

Generators must count the quantity of hazardous waste generated each month in order to determine their generator classification. The regulations stating which hazardous wastes are counted in a generator's monthly quantity determination are found in §§261.5(c) and (d). All generators must comply with the counting requirements found in §261.5(c) and (d), even though the counting requirement is found in the section of the regulations that primarily applies to CESQGs.

Section 261.5(c) states that wastes which are not subject to regulation or are subject only to §262.11, §262.12, §262.40(c), and §262.41 do not need to be counted. Generally, wastes subject to "substantive regulation" or regulations related directly to the treatment, storage, transportation, or disposal of hazardous wastes are counted in a generator's monthly quantity determination. Wastes that are not subject to substantive regulation need not be counted (March 24, 1986; 51 FR 10152). Examples of wastes that are not subject to substantive regulation include:

- Wastes excluded from regulation by §261.4, including wastes commingled with domestic sewage which pass through a sewer system to a POTW for treatment (unless the waste is managed in nonexempt units prior to discharge to the sewer system: e.g., an accumulation tank or container regulated under §262.34)

- Corrosive wastes neutralized in an elementary neutralization unit that is exempt from regulation under §§264.1 and 265.1 (unless managed in a nonexempt unit before entering the neutralization unit).

Section 261.5(c) further states that recyclable hazardous wastes subject to the requirements of §§261.6(b) and (c) and Subparts C, D, and F of Part 266 are counted in the generator's monthly quantity determination. By omission, this provision indicates that other recycled hazardous wastes (identified in §261.6(a)) are exempt from counting requirements. Examples of wastes that would not need to be counted are:

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- Scrap metal sent for recycling
- Used oil burned for energy recovery or recycled in some other manner (e.g., re-refined)
- Spent lead-acid batteries being reclaimed.

In addition, to avoid double counting, §261.5(d) states that the following types of waste need not be counted when determining generator classification. All of these wastes have already been counted when they were initially generated:

- Hazardous waste when removed from on-site storage
- Hazardous waste produced by on-site treatment (including reclamation) as long as the hazardous waste was counted once
- Spent materials generated, reclaimed, and subsequently reused on-site, as long as the spent material is counted once.

2.5 ACCUMULATION STANDARDS

Storage of hazardous waste generally requires a permit under the RCRA regulations. There are, however, provisions under RCRA that allow generators to "accumulate" hazardous waste on-site without a permit as long as they comply with certain management standards for their accumulation unit(s) and for their facility (such as contingency plan and personnel training requirements). The length of time a generator is allowed to accumulate his or her waste will vary depending on the generator's classification, as illustrated in Table 2. The regulations pertaining to accumulation of hazardous waste on-site are found in §262.34 and in §261.5 for CESQGs.

Table 2
TYPE OF GENERATOR DETERMINES LENGTH OF ACCUMULATION TIME

Generator	On-site Accumulation Time	On-site Quantity Limit
Large Quantity	≤ 90 days on-site	No Limit
Small Quantity	≤ 180 days on-site or ≤ 270 days if shipped 200 miles or more	6,000 kg
Conditionally Exempt Small Quantity	N/A	1,000 kg 1 kg acute 100 kg acute spill residue

ACCUMULATION UNITS

Large quantity generators accumulating hazardous wastes under §262.34 may only do so in containers, tanks, containment buildings, or on drip pads. Small quantity generators may only accumulate waste in tanks or containers. While these units do not need RCRA storage permits when used for generator accumulation, they must comply with certain standards found in the Part 265 requirements for interim status units, such as release detection and prevention requirements, and closure requirements. Generators who accumulate hazardous waste in containers must comply with Part 265, Subpart I. Generators who accumulate hazardous waste in tanks must comply with Part 265, Subpart J, including secondary containment and release detection. Generators who accumulate hazardous waste in containment buildings must comply with Part 265, Subpart DD. Generators who accumulate hazardous waste on drip pads must comply with Part 265, Subpart W (only generators managing wood preserving wastes may use drip pads for hazardous waste accumulation). All accumulation containers and tanks must be labeled or marked "Hazardous Waste." Finally, large quantity generators must comply with the air emission control requirements in Part 265, Subparts AA, BB, and CC for accumulation tanks and containers (§§262.34(a)(1)(i) and (ii)).

SATELLITE ACCUMULATION

Prior to consolidation in the generator's accumulation area, §262.34(c) allows generators to accumulate hazardous waste at or near the point where it is initially generated and collected during daily operations (49 FR 49568; December 20, 1984). A person may accumulate up to 55 gallons of hazardous waste or 1-quart of acute hazardous waste at each satellite accumulation area, if it is under the control of the person operating the process that generates the waste. Limited standards, such as labeling and maintaining the container in good condition, apply to satellite areas (§§262.34(c)(1)(i) and (ii)). Once the 55-gallon or 1-quart limit is exceeded at the satellite area, the excess waste must be dated and moved within 72 hours to the central accumulation area where §262.34 standards apply (or the waste can be shipped directly off-site).

"START TIME"/"EMPTY TANK"

The time period for generator accumulation starts when waste is first placed in or on the empty accumulation unit (tank, container, drip pad, or containment building). A container must be marked with the date accumulation began. In order to avoid exceeding the time limits when accumulating in a tank, the generator should fully empty the tank every 90, 180, or 270 days as appropriate (47 FR 1248; January 11, 1982). All wastes must be removed from drip pads and their associated collection systems at least once every 90 days (§262.34(a)(1)(iii)(A)).

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ACCUMULATION TIME LIMITS

Under §262.34(a), a LQG is allowed to accumulate hazardous waste on-site for 90 days or less in specified units without obtaining a storage permit or interim status, if he or she complies with Part 265 management standards as specified in §262.34. (Generators that accept waste from other generators are owners or operators of storage facilities subject to Parts 264/265.)

A SQG may accumulate up to 6,000 kg of hazardous waste for 180 days or less without a storage permit or interim status if he or she complies with the modified standards in §262.34(d). If the TSDF is 200 miles or more away, the generator may accumulate hazardous waste for 270 days or less (§262.34(e)). If the generator exceeds the 6,000 kg or the applicable accumulation time limit, he or she becomes subject to all applicable requirements of Parts 264/265. Note that these extended time limits only apply to SQGs accumulating waste in tanks or containers. Small quantity generators who accumulate waste in containment buildings or on drip pads are subject to the accumulation standards for large quantity generators.

Generators may receive a 30-day extension to their 90-day, 180-day, or 270-day accumulation period if uncontrollable and unforeseen circumstances cause them to accumulate waste on-site for longer than the allowed time period. Such an extension may be granted by a Regional Administrator or authorized state on a case-by-case basis (§262.34(b)). An example of an uncontrolled or unforeseen circumstance is a truckers' strike preventing the shipment of waste off-site.

Large and small quantity generators accumulating beyond the authorized time limits for their category become subject to the requirements of Parts 264/265. A SQG who accumulates more than 6,000 kg during the authorized period is also subject to the storage facility regulations in Part 264 or 265.

TREATMENT WITHOUT A PERMIT

EPA interprets the accumulation provisions of §262.34 as allowing generators to store their waste for the allotted time period <u>and</u> to treat their waste in the accumulation unit, provided the generator complies with the requirements of §262.34 as well as the unit-specific requirements in Part 265 for tanks, containers, or containment buildings. This interpretation allows generators to treat hazardous waste on-site without obtaining a permit or interim status (51 <u>FR</u> 10168; March 24, 1986, and 57 <u>FR</u> 37194; August 18, 1992). Some states interpret "accumulation" to include only storage and not treatment, however, and these states may require the generator to obtain a permit in order to conduct treatment. Generators who treat wastes in accumulation tanks, containers, or containment buildings for purposes of meeting treatment standards under the land disposal restrictions (Part 268) must comply with §268.7(a)(4) and have a waste analysis plan on-site (discussed further in the module entitled "Land Disposal Restrictions"). EPA has not extended the interpretation of accumulation to allow generators of wood preserving wastes to

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treat waste on drip pads because drip pads are intended to serve solely as a means of conveying treated wood drippage and other related wastes to an associated collection system.

GENERAL STANDARDS

LQGs accumulating hazardous waste on-site under §262.34(a) must comply with the preparedness and prevention procedures of Part 265, Subpart C. These requirements include having an emergency coordinator and testing and maintaining emergency equipment. SQGs are subject to less stringent requirements for emergency preparedness (§§262.34(d)(5)(i) and (ii)).

LQGs must develop and maintain a contingency plan on-site, as found in Part 265, Subpart D, which outlines the response procedures necessary to minimize the hazards posed by fires, explosions, or unplanned releases of hazardous waste from the facility (§262.34(a)(4)). Such a plan is not required for SQGs, although §262.34(d)(5)(iv) outlines appropriate response procedures.

LQGs must comply with the personnel training requirements referenced in §265.16. These regulations require facility personnel to complete classroom or on-the-job training to become familiar with proper hazardous waste management and emergency procedures for the wastes handled at the facility. SQGs must follow modified personnel training requirements under §262.34(d)(5)(iii).

CESQGs

Hazardous waste generated by CESQGs is not subject to specific management standards (Parts 262-270) for accumulation under the federal hazardous waste regulations provided they do not accumulate more than 1,000 kg of hazardous waste (or more than 1 kg of acute hazardous waste, or more than 100 kg of spill residue from an acute hazardous waste) on-site at any time. A CESQG who exceeds the 1,000 kg limit for hazardous waste becomes subject to the SQG requirements in §262.34(d). On the other hand, a CESQG becomes subject to full regulation (i.e., large quantity generator regulations) when the quantity of waste accumulated exceeds any of the limits specified for acute hazardous wastes (§261.5(f)).

Section 261.5(g)(3) states that CESQGs may either treat or dispose of their waste in an on-site facility, or ensure delivery to an off-site treatment, storage, or disposal facility. The on-site or off-site facility, if located in the United States, must be:

- A federally permitted or interim status hazardous waste treatment, storage, or disposal facility
- A facility that is located in an authorized state and that is authorized to manage hazardous waste

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- A facility permitted, licensed, or registered by a state to manage municipal or industrial solid waste
- A facility which beneficially uses, reuses, or reclaims the waste.

2.6 PRE-TRANSPORT REQUIREMENTS

Before shipping hazardous waste off-site to a RCRA facility for treatment, storage, or disposal, a generator must comply with numerous pre-transport requirements. These requirements include obtaining an EPA ID number, preparing a Uniform Hazardous Waste Manifest (EPA Form 8700-22), and complying with several Department of Transportation (DOT) requirements.

EPA IDENTIFICATION NUMBERS

A generator must obtain an EPA ID number before treating, storing, disposing, transporting, or offering for transport hazardous waste. EPA ID numbers are site-specific numbers assigned to generators, transporters, and treatment, storage, or disposal facilities, and need only be obtained once. Conditionally exempt small quantity generators do not need EPA ID numbers. Each EPA ID number consists of three letters and nine digits. The first two letters are simply the two-letter abbreviation for the state in which the facility is located. The third letter is either a "D" for facilities with permanent ID numbers or a "T" for a facility with a temporary number. The three letters are followed by a nine-digit number uniquely associated with the site. Emergency EPA ID numbers are available in certain situations (December 24, 1980; 45 FR 85022).

EPA ID numbers are obtained by filing Form 8700-12, "Notification of Regulated Waste Activity," with the appropriate EPA regional or authorized state RCRA office. The notification forms themselves are obtained from state or regional offices.

MANIFEST (EPA FORM 8700-22)

A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal must prepare a Uniform Hazardous Waste Manifest. The manifest is a multiple-copy tracking document for hazardous waste shipments that is required by DOT and EPA. The manifest tracks the chain of custody for the waste from the point it leaves the generator to final disposition. Each party that manages the waste signs the manifest and retains a copy, providing critical continuity between the generator and receiving facility (Part 262, Subpart B). Once the chain is complete, the receiving facility returns a signed copy of the manifest to the generator. If a generator does not receive a copy of the manifest signed by the designated facility owner or operator within 45 days of the date the waste was accepted by the initial transporter (60 days for a small quantity generator), he or she

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must file an exception report (§262.42). Conditionally exempt small quantity generators are not required to use a manifest when shipping their waste off-site.

A copy of the manifest form and instructions for completing it are found in the Appendix to Part 262. All numbered sections on the manifest must be completed to meet federal requirements. The lettered sections are options which may be required by the generator's or receiving facility's state. Since states may customize the manifest, §262.21 explains which state's manifest must be used when waste transportation is interstate. Including the EPA waste code on the manifest is not an EPA requirement, but might be required by state law.

DESIGNATED FACILITY

According to §262.20, a generator must designate one facility on the manifest which is permitted to handle the waste described on the manifest. A designated facility, as defined in §260.10, is a federally or state-permitted treatment, storage, or disposal facility or a recycling facility that does not store waste on-site prior to recycling as regulated under §261.6(c)(2). The generator may also designate an alternate facility in case the transporter cannot deliver the waste to the primary designated facility. If the transporter is unable to deliver the shipment to either facility on the manifest, the generator must either designate a third facility or have the transporter return the waste.

"ON-SITE" TRANSPORTATION

The Part 262 manifesting requirements do not apply to "on-site" transportation of hazardous waste. "On-site" is defined in §260.10 as:

- Contiguous property -- property that is one continuous plot of land or several plots of adjoining land
- Noncontiguous properties with a private right-of-way under the control of the owner of the properties
- Contiguous property divided by a road (public or private) with the property entrance and exit directly across from each other and perpendicular to the road (crossroads intersection).

DEPARTMENT OF TRANSPORTATION REQUIREMENTS

DOT requires that generators meet several requirements before transporting or offering hazardous waste for transport off-site, including packaging (§262.30), labeling (§262.31), marking (§262.32), and placarding (§262.33). The DOT regulations are found in 49 CFR Parts 172-179.

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2.7 REPORTING AND RECORDKEEPING

Generators have several recordkeeping and reporting responsibilities under Subpart D of Part 262. These requirements specify the records a generator must keep, and the length of time a generator must retain these records. Small quantity generators have special requirements under this subpart, identified in §262.44.

REPORTING REQUIREMENTS

LQGs who ship hazardous waste off-site to a TSDF, or who treat, store, or dispose of hazardous waste on-site, must submit a biennial report (EPA form 8700-13A) to EPA by March 1 of each even-numbered year (§262.41). The biennial report compiles data collected from off-site shipments of waste during the previous calendar year. The report includes information such as the EPA ID number, name, and address of the generator; the EPA ID number, name, and address of each TSDF in the United States to which waste was sent during the period (as well as quantity of hazardous waste sent); the EPA ID number, name, and address of each transporter; and a description of the efforts taken to reduce the volume and toxicity of the waste generated (waste minimization report).

As stated earlier, LQGs and SQGs may also need to submit exception reports under §262.42. EPA may require the generator to submit additional reports or information pursuant to §262.43.

RECORDKEEPING REQUIREMENTS

Under §262.40, the generator must keep a signed copy of the manifest for at least three years from the date the waste was accepted by the initial transporter. The generator must also retain a copy of each biennial report for a period of three years from the due date of the report. In addition to these requirements, a generator must keep records of any test results, waste analyses, or other determinations made in accordance with §262.11 for at least three years. These time periods are extended automatically during the course of any enforcement action.

2.8 EXPORT AND IMPORT REQUIREMENTS

Part 262 contains several provisions that apply to exporters and importers of hazardous waste. Part 262, Subpart E, applies to exporters of hazardous waste and is designed to ensure that hazardous waste is not exported to a foreign country without that country's prior consent. Part 262, Subpart F, contains the regulations that apply to importers of hazardous waste. Regulations will be developed in the future to implement the Basel Convention, an international agreement on the movement of hazardous waste sponsored by the United Nations, of which the United States is a signatory.

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EXPORTS

A person who exports hazardous waste must follow the requirements outlined in §§262.50-262.57. The requirements placed on exporters of hazardous waste include specific notification of intent to export (§262.53) and proper notification as required by the land disposal restriction program. Exporters must also ensure they are in compliance with any applicable international trade agreements.

IMPORTS

Any person who imports hazardous waste is considered the generator of the waste and must comply with all the requirements of Part 262, as well as the special importer regulations of Subpart F. These special regulations require the importer to use the name and address of the foreign generator and the importer's name, address, and EPA ID number on the manifest. The transporter and the U.S. facility arranging for the importation of the waste are both considered importers, however, the parties must agree on which one of the two will assume the generator duties.

2.9 FARMERS

Part 262, Subpart E, contains a special provision for farmers managing waste pesticides. A farmer disposing of waste pesticides from his or her own use which are hazardous wastes is not required to comply with the standards in Part 262 or with the standards in Parts 264, 265, 268, or 270 for those wastes, provided he or she triple rinses the containers in accordance with §261.7(b)(3), and disposes of the pesticide residue and rinsate on his or her own farm in a manner consistent with the disposal instructions on the pesticide label. If the label does not contain disposal instructions, the farmer may not dispose of the pesticide or rinsate on his or her property and must comply with Subtitle C regulations for disposal (45 FR 12732; February 26, 1980).

2.10 SPECIAL ISSUES

Complex generator topics that are frequent subjects of Hotline calls are clarified below.

ACTIVE/INACTIVE MANAGEMENT

One question that is frequently received on the Hotline addresses the applicability of the RCRA Subtitle C regulations to wastes that were disposed before they became subject to regulation as hazardous. For example, callers may ask if a waste disposed prior to the effective date of the original Subtitle C regulations (i.e., disposed prior to

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November 19, 1980) is subject to hazardous waste regulation. Information Specialists should respond by explaining that regardless of when a waste was generated or when it was disposed, any waste that exhibits a characteristic of hazardous waste or meets a hazardous waste listing description is a RCRA Subtitle C hazardous waste; the determining factor is whether the waste is "actively managed" on or after the date that the waste becomes subject to hazardous waste regulation (57 FR 37298; August 18, 1992). The term active management means physically disturbing wastes within a waste management unit or disposing additional hazardous waste in existing units containing previously disposed wastes (57 FR 37298; August 18, 1992). For example, an F001 waste that was disposed of in 1950 became a hazardous waste as of November 19, 1980, the effective date of the F001 listing. The waste is not subject to hazardous waste regulation, however, unless the waste is physically disturbed (e.g., exhumed). Once a person excavates the waste, he or she is considered the generator since his or her act first caused the waste to become subject to hazardous waste regulation (refer back to the definition of generator in §260.10) and is subject to all applicable Part 262 requirements. Note that excavation of contaminated soil during routine construction operations, such as pipeline installation, is not considered active management if the soil is redeposited into the same excavated area.

CLOSURE STANDARDS

For each accumulation unit, generators must comply with certain disposal and decontamination requirements once they cease operating these units. These are known as closure requirements. Generators must comply with the generic closure requirements in §265.111 and §265.114, and the unit-specific closure requirements found in Part 265, Subpart I (containers), Subpart J (tanks), Subpart W (drip pads), and Subpart DD (containment buildings). The closure requirements include removing and decontaminating all contaminated equipment, structures, and soil to minimize the need for further maintenance and prevent post-closure escape of hazardous waste.

SATELLITE ACCUMULATION

Generators may accumulate up to 55 gallons of hazardous waste or one quart of acute hazardous waste at or near the point of generation provided the operator of the process generating the waste controls the accumulation area. There is some guidance on satellite accumulation and the phrase "at or near the point of generation" (49 FR 49568; December 20, 1984). Once the 55-gallon limit is reached in the satellite accumulation area, the container(s) must be dated so that inspectors can be sure they are removed within 72 hours. The 90- or 180-day clock starts ticking for satellite waste as soon as it enters the 90- or 180-day accumulation area (§262.34).

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WASTE MINIMIZATION

One of the mandates of RCRA is to reduce or eliminate the generation of hazardous waste as expeditiously as possible (RCRA §1003(b)). Hazardous waste generators, when preparing a manifest, are required to certify that they have taken steps to minimize the amount of hazardous waste that they generate. Large quantity generators must certify that they have "a program in place" to reduce the volume and toxicity of the hazardous waste they generate; small quantity generators must certify that they have made a good faith effort to minimize their waste generation. Large quantity generators must also include a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated and a description of the changes in volume and toxicity of waste actually achieved during the year on their biennial reports. EPA outlined six basic elements that should be included in a waste minimization program in the May 28, 1993, Federal Register (58 FR 31114). You should be familiar with these elements as well as the statutory authority for the waste minimization requirements.

AIR EMISSION STANDARDS

RCRA requirements for controlling hazardous air emissions for generators accumulating in tanks and containers are frequently discussed on the Hotline. With the promulgation of the Subpart CC air emission standards (December 6, 1994; 59 FR 62896), large quantity generators must comply with all applicable air emission standards in Part 265, Subparts AA, BB, and CC (§§262.34(a)(1)(i) and (ii)). These regulations are discussed in detail in the module entitled "Air Emissions."

UNIVERSAL WASTE

Universal wastes are certain hazardous batteries, pesticides, and thermostats handled under the special regulations in Part 273. The universal waste rule modified the CESQG regulations. CESQGs must send their hazardous waste only to facilities specified under §§261.5(f) and (g). The universal waste rule (May 11, 1995; 60 FR 25492) added provisions for CESQGs generating universal waste to send their universal waste to a facility subject to Part 273.

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2.11 SUMMARY CHART

	CESQG	SQG	LQG
Quantity Limits	≤100 kg/month ≤1 kg acute/month §§261.5(a) and (e)	between 100-1000 kg/month §262.34(d)	≥1000 kg/month or >1 kg of acute hazardous waste/month Part 262 and §261.5(e)
EPA ID Number	Not required §261.5	Required §262.12	Required §262.12
On-Site Accumulation Quantity	≤1000 kg ≤ 1 kg acute ≤ 100 kg spill residue from acute §§261.5(f)(2) and (g)(2)	≤6000 kg §262.34(d)(1)	No Limit
Accumulation Time Limits	None §261.5	≤ 180 days or ≤ 270 days §§262.34(d) and (e)	≤ 90 days §262.34(a)
Storage Requirements	None §261.5	Basic requirements with technical standards for tanks or containers §§262.34(d)(2) and (3)	Full compliance for management of tanks, containers, drip pads, or containment buildings §262.34(a)
Off-site Management of Waste	State approved or RCRA permitted/interim status facility §§261.5(f)(3) and (g)(3)	RCRA permitted/interim status facility §262.20(b)	RCRA permitted/interim status facility §262.20(b)
Manifest	Not required §261.5	Required §262.20	Required §262.20
Biennial Report	Not required §261.5	Not required §262.44	Required §262.41
Personnel Training	Not required §261.5	Basic training required §262.34(d)(5)(iii)	Required §262.34(a)(4)
Contingency Plan	Not required 261.5	Basic plan §262.34(d)(5)(i)	Full plan required §262.34(a)(4)
Emergency Procedures	Not required §261.5	Required §262.34(d)(5)(iv)	Required §262.34(a)(4)
DOT Transport Requirements	Yes (as required by DOT)	Yes §§262.30-262.33	Yes §§262.30-262.33

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