

## US EPA Hazardous Waste Generator Improvements Rule *Impact of the Rule in Nevada*

### *Introduction*

The Resource Conservation and Recovery Act (RCRA) was passed by Congress in 1976 and the corresponding regulations covering generators of hazardous waste were originally promulgated by the US Environmental Protection Agency (EPA) in 1980. In September 2015, the Agency proposed its first comprehensive set of changes to improve the hazardous waste generator regulations and accepted over 200 comments on those proposed changes. After taking those comments into consideration and making revisions, US EPA issued a final Hazardous Waste Generator Improvements Rule which was published in the *Federal Register* on November 28, 2016. See [81 FR 85732](#). This final rule, which includes over 60 changes to the existing hazardous generator program regulations and which will potentially impact over 350,000 hazardous waste generators nationally, became effective on May 30, 2017.

Is the Hazardous Waste Generator Improvements Rule effective in Nevada? No, the Hazardous Waste Generator Improvements Rule regulatory program changes have not yet become effective in Nevada. The State of Nevada, which is authorized by US EPA to implement the RCRA program, is only required to adopt the provisions of the new rule that are *more stringent* than the current regulatory program. Authorized states are not required to adopt those provisions of the final rule that are less stringent, or no more nor less stringent (for example, reorganizing the hazardous waste generator regulations), than the current hazardous waste generator program regulations. The Bureau of Waste Management in the Nevada Division of Environmental Protection is extensively reviewing all provisions of the final rule and will make proposals regarding the full extent to which the new rule will be adopted.

### *More Stringent Requirements Of The New Rule*

As noted above, as a RCRA authorized state, Nevada is required to update its program regulations when the federal government promulgates regulations that are more stringent than the currently authorized state regulations. Several of the revisions to the hazardous waste generator regulations are more stringent than the current rules in Nevada, including:

- Requiring SQGs and LQGs to mark/label satellite accumulation containers and 90/180/270 day accumulation containers and tanks with an indication of the hazard or hazards of the contents; 90/180/270 day accumulation containers will be required to be marked with hazardous waste codes prior to shipment
- Subjecting satellite accumulation containers to incompatibility requirements as well as preparedness, prevention and emergency/contingency plan requirements

- Requiring LQGs to update their contingency plans to prepare a quick reference guide to assist responders in an emergency
- Requiring LQGs to submit a biennial report that identifies all of the hazardous wastes generated in the calendar year, not just for the months the facility was an LQG
- Requiring facilities that recycle hazardous waste without storing the waste to prepare and submit a biennial report
- Requiring SQGs to re-notify every four years using EPA Form 8700-12
- Requiring LQGs to notify EPA or their authorized state when they plan to close their facilities

### Renamed Generator Categories In The New Rule

Currently, there are three levels of generators specified in RCRA: conditionally exempt small quantity generator (CESQG), small quantity generator (SQG) and large quantity generator (LQG). In this new rulemaking, the term CESQG has been replaced with the term Very Small Quantity Generator (VSQG). The generator categories are outlined in the table below:

**Generator Categories Based on Quantity of Hazardous Waste Generated**

| <b>Generator Category</b> | <b>Quantity of acute hazardous waste generated in a calendar month</b> | <b>Quantity of non-acute hazardous waste generated in a calendar month</b> | <b>Quantity of residues from the cleanup of spilled acute hazardous waste generated in a calendar month</b> |
|---------------------------|--|--|---|
| LQG                       | > 1 kg   | Any amount   | Any amount  |
| LQG                       | Any amount   | ≥ 1,000 kg   | Any amount  |
| LQG                       | Any amount   | Any amount   | > 100 kg  |
| SQG                       | ≤ 1 kg   | > 100 kg and < 1,000 kg  | ≤ 100 kg  |
| VSQG                      | ≤ 1 kg   | ≤ 100 kg   | ≤ 100 kg  |

*Note: When calculating generator categories, the quantities of acute hazardous waste and non-acute hazardous waste are considered separately*

As indicated in the table, a generator is an LQG if it generates any of the following in a calendar month: more than 1 kilogram (2.2 pounds) of acute hazardous waste; 1,000 kilograms (2,200 pounds) or more of non-acute hazardous waste; or more than 100 kilograms (220 pounds) of residues from the cleanup of a spill of acute hazardous waste. A generator is an SQG if, in a calendar month, it generates greater than 100 kilograms but less than 1,000 kilograms while also generating 1 kilogram or less of acute hazardous waste and 100 kilograms or less of residues from the cleanup of a spill of acute hazardous waste. A VSQG will generate any combination of 1 kilogram or less of acute hazardous waste, 100 kilograms or less of non-acute hazardous waste, and 100 kilograms or less of residue from the cleanup of a spill of acute hazardous waste.

## Regulatory Reorganization

A significant change in the final rule is a reorganization of the *US Code of Federal Regulations* (CFR). By making this change, US EPA has attempted “to provide generators with a more consolidated and clear set of regulations to foster improved understanding of and compliance with the regulations”. In general, the hazardous waste generator regulations now appear in one place in the CFR (40 CFR part 262). Under its current adoption by reference of the federal regulations, the State of Nevada follows the RCRA regulations as published in the CFR on July 1, 2008. A word of caution: if you are reading the CFR, particularly online, be aware of the version you are reading since many online resources now use the 2017 version, as updated by the Hazardous Waste Generator Improvements Rule. To view the 2008 hazardous waste regulations currently followed in Nevada, please see <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR&searchPath=Title+40%2FChapter+%2FSubchapter+I&oldPath=Title+40%2FChapter+I&isCollapsed=true&selectedYearFrom=2008&ycord=1482>

## References

*US EPA Fact Sheet About the Hazardous Waste Generator Improvements Final Rule*

<https://www.epa.gov/hwgenerators/fact-sheet-about-hazardous-waste-generator-improvements-final-rule>

*US EPA Final Rule: Hazardous Waste Generator*

<https://www.epa.gov/hwgenerators/final-rule-hazardous-waste-generator-improvements#rule-summary>

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