

1 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

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4 **Solid and Hazardous Waste Commission/Hazardous Materials and**
5 **Waste Management Division**

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8 **6 CCR 1007-3**

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10 **HAZARDOUS WASTE**

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14 **Amendment of Part 262, Subpart L – Episodic Generation**

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17 **1) The Table of Contents for Part 262, Subpart L is amended by adding listings for**
18 **Sections 262.231 and 262.232 to read as follows:**

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20
21 **Subpart L – Episodic Generation**

22 **262.230 Applicability.**

23 **262.231 Definitions for this subpart.**

24 **262.232 Conditions for a generator managing hazardous waste from an episodic event.**

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26
27
28 **2) Part 262 is amended by revising Subpart L – Episodic Generation to read as follows:**

29
30 **Subpart L — Episodic Generation**

31
32 **§ 262.230 Applicability.**

33
34 This subpart is applicable to very small quantity generators (VSQGs) and small quantity generators
35 (SQGs) as defined in § 260.10 of these regulations.

36
37
38 **§ 262.231 Definitions for this subpart.**

39 **Episodic event means an activity or activities, either planned or unplanned, that does not normally occur**
40 **during generator operations, resulting in an increase in the generation of hazardous wastes that exceeds**
41 **the calendar month quantity limits for the generator's usual category.**

42 **Planned episodic event means an episodic event that the generator planned and prepared for, including**
43 **regular maintenance, tank cleanouts, short-term projects, and removal of excess chemical inventory.**

47 Unplanned episodic event means an episodic event that the generator did not plan or reasonably did
 48 not expect to occur, including production process upsets, product recalls, accidental spills, or “acts of
 49 nature,” such as tornado, hurricane, or flood.

50
 51
 52 **§ 262.232 Conditions for a generator managing hazardous waste from an episodic event.**

53
 54 (a) if a A VSQG that generates hazardous waste episodically at the level of a SQG, the VSQG must
 55 operate in compliance with the appropriate SQG generator requirements of §§ 262.10(a)(1)(ii), 262.15,
 56 and 262.16 Part 262 of these regulations for any month during which the VSQG operates at that the SQG
 57 level, **and must comply with the additional conditions of paragraphs (c)(1)- (c)(4) of this section.**

58
 59 (b) if a A VSQG or a SQG that generates hazardous waste episodically at the level of a large quantity
 60 generator (LQG), the VSQG or SQG must operate in compliance with the appropriate generator LQG
 61 requirements of §§ 262.10(a)(1)(iii), 262.15, and 262.17 Part 262 of these regulations for any month
 62 during which the VSQG or SQG operates at the LQG level, **and must comply with the additional**
 63 **conditions of paragraphs (c)(1)- (c)(4) of this section.**

64
 65 (c) A VSQG or an SQG that generates hazardous waste episodically at the level of an LQG may exceed
 66 its generator category once per calendar year without affecting its generator category, and must comply
 67 with all LQG requirements of §§ 262.10(a)(1)(iii) Part 262 of these regulations, except for
 68 § 262.41 (Biennial reporting); 262.15; and 262.17. A VSQG or an SQG that generates hazardous waste
 69 episodically at the level of an LQG more than once per calendar year must comply with all LQG
 70 requirements of §§ 262.10(a)(1)(iii), including § 262.41 (Biennial reporting); 262.15 and 262.17. The
 71 following additional conditions apply to the hazardous waste generated from ~~the~~ an episodic event:

72
 73 (1) Notification. The VSQG or SQG must notify the Department no later than thirty (30) calendar
 74 days prior to initiating a planned episodic event using EPA Form 8700-12. In the event of an
 75 unplanned episodic event, the VSQG or SQG must notify the Department within 72 hours of the
 76 unplanned event via phone, email, or fax, and subsequently submit EPA Form 8700-12. The VSQG or
 77 SQG shall include the start date and end date of the episodic event and the reason(s) for the event,
 78 types and estimated quantities of hazardous wastes expected to be generated as a result of the
 79 episodic event, and identify a facility contact and emergency coordinator with 24-hour telephone
 80 access to discuss the notification submittal or respond to emergency;

81
 82 (2) Labeling. The VSQG or SQG must label the containers and tanks accumulating episodic
 83 hazardous waste with the words “Episodic Hazardous Waste.”

84
 85 (3) Duration. The VSQG or SQG has up to sixty (60) calendar days from the start of the episodic
 86 event to manifest and send its hazardous waste generated from the episodic event to a designated
 87 facility, as defined in § 260.10 of these regulations.

88
 89 (4) Recordkeeping. VSQGs and SQGs must maintain the following records for three (3) years from
 90 the end date of the episodic event:

91
 92 (i) Beginning and end dates of the episodic event;

93 (ii) A description of the episodic event;

94 (iii) A description of the types and quantities of hazardous wastes generated during the event;

95 (iv) A description of how the hazardous waste was managed as well as the name of the RCRA-
 96 designated facility that received the hazardous waste; and

97 (v) Name(s) of hazardous waste transporters.
 98

(d) A VSQG or an SQG that generates hazardous waste episodically at the level of an LQG may exceed its generator category once per calendar year without affecting its generator category, and must comply with all LQG requirements of Part 262 of these regulations, except for § 262.41(Biennial reporting). The VSQG or SQG must also comply with the additional conditions of paragraphs (c)(1)- (c)(4) of this section. A VSQG or an SQG that generates hazardous waste episodically at the level of an LQG more than once per calendar year must comply with all LQG requirements of Part 262 of these regulations, including § 262.41(Biennial reporting), and the additional conditions of paragraphs (c)(1)- (c)(4) of this section.

3) Section 8.94 (Statement of Basis for the Rulemaking Hearing of May 21, 2019) is added to Part 8 of the Regulations to read as follows:

**Statement of Basis and Purpose
Rulemaking Hearing of May 21, 2019**

8.94 Basis and Purpose.

These amendments to 6 CCR 1007-3, Part 262 are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in § 25-15-302(2), C.R.S.

Amendment of Part 262, Subpart L – Episodic Generation

These amendments revise the Part 262, Subpart L Episodic Generation requirements adopted by the Commission on May 15, 2018 in response to the federal Hazardous Waste Generator Improvements Rule issued by the Environmental Protection Agency (EPA) and published in the Federal Register on November 28, 2016 {81 FR 85732-85829}.

As discussed in the § 8.91 Statement of Basis and Purpose from the May 15, 2018 Hearing, Colorado chose not to adopt the new federal episodic generation event regulations, as the regulations were deemed to be unnecessarily complex, difficult to enforce, and would not afford any great relief to very small quantity generators (VSQGs) or small quantity generators (SQGs) experiencing an episodic hazardous waste generation event that causes them to exceed the generation quantity limit for their category in a particular month.

Instead, Colorado adopted more stringent Part 262, Subpart L regulations that required generators experiencing an episodic event to comply with the requirements of the generator category that applies during any given month. Colorado's regulations also allow VSQGs or SQGs who experience one episodic event during a calendar year that subjects them to LQG status to maintain their generator category and be exempt from the requirement to file a biennial report, as long as they comply with all of the other LQG requirements. As part of today's rulemaking, Colorado is also including additional requirements in § 262.232 of the regulations that a VSQG or SQG experiencing an episodic event must comply with in order to maintain their generator category and still be exempt from the biennial reporting requirements of § 262.41.

Episodic generation events have not been a problematic issue in Colorado. The Division requires generators to comply with the requirements for whatever generator category they are in any particular month. The Division has always advised that as a best management practice, generators who generate near the limit for a particular category comply with the more stringent requirements in order to ensure that if they generate in excess of the allowable limit, they will

150 already be in compliance.

151
152 If a facility experiences an unusual episodic event, the Division has worked with these facilities to
153 ensure that they quickly and easily comply with the required regulatory standards for that one-
154 time event. This is accomplished through guidance documents which include contingency plan
155 templates, training templates and additional material designed to help generators comply with
156 more stringent requirements.

157
158 With these amendments, Colorado is making the following additions and clarifications to its Part
159 262, Subpart L provisions regarding Episodic Generation:

160
161 1) Addition of Section 262.231 (Definitions for this subpart). Definitions of “Episodic event”,
162 “Planned episodic event” and “Unplanned episodic event” are being added to the new section
163 262.231.

164
165 2) Addition of Section 262.232 (Conditions for a generator managing hazardous waste from
166 an episodic event). The existing Subpart L provisions regarding episodic generation are being
167 incorporated under § 262.232, and are being revised to include the following:

168
169 a) Notification. The VSQG or SQG must notify the Department no later than thirty (30)
170 calendar days prior to initiating a planned episodic event using EPA Form 8700-12. In the
171 event of an unplanned episodic event, the VSQG or SQG must notify the Department
172 within 72 hours of the unplanned event via phone, email, or fax, and subsequently submit
173 EPA Form 8700-12.

174
175 b) Labeling. The VSQG or SQG must label the containers and tanks accumulating
176 episodic hazardous waste with the words “Episodic Hazardous Waste.”

177
178 c) Duration. The VSQG or SQG has up to sixty (60) calendar days from the start of the
179 episodic event to manifest and send its hazardous waste generated from the episodic
180 event to a designated facility.

181
182 d) Recordkeeping. VSQGs and SQGs must maintain the following records for three (3)
183 years from the end date of the episodic event:

- 184
185 (i) Beginning and end dates of the episodic event;
186 (ii) A description of the episodic event;
187 (iii) A description of the types and quantities of hazardous wastes generated during
188 the event;
189 (iv) A description of how the hazardous waste was managed as well as the name of
190 the RCRA-designated facility that received the hazardous waste; and
191 (v) Name(s) of hazardous waste transporters.

192
193 e) A VSQG or an SQG that generates hazardous waste episodically at the level of an
194 LQG more than once per calendar year must comply with all LQG requirements of Part
195 262 of these regulations, including § 262.41(Biennial reporting).

196
197 With these amendments, Colorado is clarifying the additional requirements that a VSQG
198 or SQG experiencing an episodic event must comply with in order to retain their
199 generator category, while still retaining Colorado’s more stringent Subpart L provisions.