

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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11 **HAZARDOUS WASTE**

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

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16  
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:**

19  
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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27  
28 **2) Part 262 is amended by revising Subpart L – Episodic Generation to read as follows:**

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30  
31 **Subpart L — Episodic Generation**

32  
33 **§ 262.230 Applicability.**

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

37  
38  
39 **§ 262.231 Definitions for this subpart.**

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

44  
45 **Planned episodic event means an episodic event that the generator planned and prepared for, including**  
46 **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 VSQG generates hazardous waste episodically at the level of a SQG, the VSQG must operate in  
55 compliance with the appropriate SQG generator requirements of §§ 262.10(a)(1)(ii), 262.15, and  
56 262.16 Part 262 of these regulations for any month during which the VSQG operates at ~~that~~ the SQG  
57 level.

58  
59 (b) If a VSQG or a SQG generates hazardous waste episodically at the level of a large quantity generator  
60 (LQG), the VSQG or SQG must operate in compliance with the appropriate generator LQG requirements  
61 of §§ 262.10(a)(1)(iii), 262.15, and 262.17 Part 262 of these regulations for any month during which the  
62 VSQG or SQG operates at the LQG level.

63  
64 (c) A VSQG or an SQG that generates hazardous waste episodically at the level of an LQG may exceed  
65 its generator category once per calendar year without affecting its generator category, and must comply  
66 with all LQG requirements of §§ 262.10(a)(1)(iii) Part 262 of these regulations, except for  
67 § 262.41 (Biennial reporting); 262.15; and 262.17. A VSQG or an SQG that generates hazardous waste  
68 episodically at the level of an LQG more than once per calendar year must comply with all LQG  
69 requirements of §§ 262.10(a)(1)(iii), including § 262.41 (Biennial reporting); 262.15 and 262.17. The  
70 following additional conditions apply to the hazardous waste generated from the episodic event:

71  
72 (1) Notification. The VSQG or SQG must notify the Department no later than thirty (30) calendar  
73 days prior to initiating a planned episodic event using EPA Form 8700-12. In the event of an  
74 unplanned episodic event, the VSQG or SQG must notify the Department within 72 hours of the  
75 unplanned event via phone, email, or fax, and subsequently submit EPA Form 8700-12. The VSQG or  
76 SQG shall include the start date and end date of the episodic event and the reason(s) for the event,  
77 types and estimated quantities of hazardous wastes expected to be generated as a result of the  
78 episodic event, and identify a facility contact and emergency coordinator with 24-hour telephone  
79 access to discuss the notification submittal or respond to emergency;

80  
81 (2) Labeling. The VSQG or SQG must label the containers and tanks accumulating episodic  
82 hazardous waste with the words “Episodic Hazardous Waste.”

83  
84 (3) Duration. The VSQG or SQG has up to sixty (60) calendar days from the start of the episodic  
85 event to manifest and send its hazardous waste generated from the episodic event to a designated  
86 facility, as defined in § 260.10 of these regulations.

87  
88 (4) Recordkeeping. VSQGs and SQGs must maintain the following records for three (3) years from  
89 the end date of the episodic event:

90  
91 (i) Beginning and end dates of the episodic event;

92 (ii) A description of the episodic event;

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

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

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

98 (d) A VSQG or an SQG that generates hazardous waste episodically at the level of an LQG more than  
99 once per calendar year must comply with all LQG requirements of Part 262 of these regulations,–  
100 including § 262.41(Biennial reporting).

101  
102  
103 **3) Section 8.94 (Statement of Basis for the Rulemaking Hearing of May 21, 2019) is added**  
104 **to Part 8 of the Regulations to read as follows:**

105  
106  
107 **Statement of Basis and Purpose**  
108 **Rulemaking Hearing of May 21, 2019**

109  
110 **8.94 Basis and Purpose.**

111  
112 These amendments to 6 CCR 1007-3, Part 262 are made pursuant to the authority granted to the  
113 Solid and Hazardous Waste Commission in § 25-15-302(2), C.R.S.

114  
115 **Amendment of Part 262, Subpart L – Episodic Generation**

116  
117 These amendments revise the Part 262, Subpart L Episodic Generation requirements adopted by  
118 the Commission on May 15, 2018 in response to the federal Hazardous Waste Generator  
119 Improvements Rule issued by the Environmental Protection Agency (EPA) and published in the  
120 Federal Register on November 28, 2016 {81 FR 85732-85829}.

121  
122 As discussed in the § 8.91 Statement of Basis and Purpose from the May 15, 2018 Hearing,  
123 Colorado chose not to adopt the new federal episodic generation event regulations, as the  
124 regulations were deemed to be unnecessarily complex, difficult to enforce, and would not afford  
125 any great relief to very small quantity generators (VSQGs) or small quantity generators (SQGs)  
126 experiencing an episodic hazardous waste generation event that causes them to exceed the  
127 generation quantity limit for their category in a particular month.

128  
129 Instead, Colorado adopted more stringent Part 262, Subpart L regulations that required  
130 generators experiencing an episodic event to comply with the requirements of the generator  
131 category that applies during any given month. Colorado's regulations also allow VSQGs or SQGs  
132 who experience one episodic event during a calendar year that subjects them to LQG status to  
133 maintain their generator category and be exempt from the requirement to file a biennial report, as  
134 long as they comply with all of the other LQG requirements. As part of today's rulemaking,  
135 Colorado is also including additional requirements in § 262.232 of the regulations that a VSQG or  
136 SQG experiencing an episodic event must comply with in order to maintain their generator  
137 category and still be exempt from the biennial reporting requirements of § 262.41.

138  
139 Episodic generation events have not been a problematic issue in Colorado. The Division requires  
140 generators to comply with the requirements for whatever generator category they are in any  
141 particular month. The Division has always advised that as a best management practice,  
142 generators who generate near the limit for a particular category comply with the more stringent  
143 requirements in order to ensure that if they generate in excess of the allowable limit, they will  
144 already be in compliance.

145  
146 If a facility experiences an unusual episodic event, the Division has worked with these facilities to  
147 ensure that they quickly and easily comply with the required regulatory standards for that one-  
148 time event. This is accomplished through guidance documents which include contingency plan

149 templates, training templates and additional material designed to help generators comply with  
150 more stringent requirements.

151  
152 With these amendments, Colorado is making the following additions and clarifications to its Part  
153 262, Subpart L provisions regarding Episodic Generation:

154  
155 1) Addition of Section 262.231 (Definitions for this subpart). Definitions of “Episodic event”,  
156 “Planned episodic event” and “Unplanned episodic event” are being added to the new section  
157 262.231.

158  
159 2) Addition of Section 262.232 (Conditions for a generator managing hazardous waste from  
160 an episodic event). The existing Subpart L provisions regarding episodic generation are being  
161 incorporated under § 262.232, and are being revised to include the following:

162  
163 a) Notification. The VSQG or SQG must notify the Department no later than thirty (30)  
164 calendar days prior to initiating a planned episodic event using EPA Form 8700-12. In the  
165 event of an unplanned episodic event, the VSQG or SQG must notify the Department  
166 within 72 hours of the unplanned event via phone, email, or fax, and subsequently submit  
167 EPA Form 8700-12.

168  
169 b) Labeling. The VSQG or SQG must label the containers and tanks accumulating  
170 episodic hazardous waste with the words “Episodic Hazardous Waste.”

171  
172 c) Duration. The VSQG or SQG has up to sixty (60) calendar days from the start of the  
173 episodic event to manifest and send its hazardous waste generated from the episodic  
174 event to a designated facility.

175  
176 d) Recordkeeping. VSQGs and SQGs must maintain the following records for three (3)  
177 years from the end date of the episodic event:

- 178  
179 (i) Beginning and end dates of the episodic event;  
180 (ii) A description of the episodic event;  
181 (iii) A description of the types and quantities of hazardous wastes generated during  
182 the event;  
183 (iv) A description of how the hazardous waste was managed as well as the name of  
184 the RCRA-designated facility that received the hazardous waste; and  
185 (v) Name(s) of hazardous waste transporters.

186  
187 e) A VSQG or an SQG that generates hazardous waste episodically at the level of an  
188 LQG more than once per calendar year must comply with all LQG requirements of Part  
189 262 of these regulations, including § 262.41(Biennial reporting).

190  
191 With these amendments, Colorado is clarifying the additional requirements that a VSQG  
192 or SQG experiencing an episodic event must comply with in order to retain their  
193 generator category, while still retaining Colorado’s more stringent Subpart L provisions.