

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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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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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.

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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:**

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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.