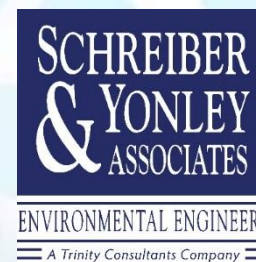




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# New Generation of Generator Rules is On the Horizon

2016 MECC Chicago Conference ♦ November 1, 2016

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# RCRA generator rules currently in play

## > Multiple regulations

- ❖ Electronic Manifest - final rule 2/7/2014, rollout 2018
- ❖ Hazardous Waste Export-Import Revisions - final November, 2016
- ❖ Hazardous Waste Generator Improvements Rule - final November, 2016
- ❖ (Hazardous Waste Pharmaceuticals Rule - proposed 9/25/2015)

## > Implementation of new rules = extra compliance risk

# Electronic Manifest



Please print or type. (Form designed for use on elite (12 pitch) typewriter)

Form Approved OMB No. 2050-0039

**UNIFORM HAZARDOUS WASTE MANIFEST**

1. Generator ID Number 2. Page 1 of 3. Emergency Response Phone 4. Manifest Tracking Number

5. Generator's Name and Mailing Address Generator's Site Address (if different than mailing address)

Generator's Phone

6. Transporter 1 Company Name U.S. EPA ID Number

7. Transporter 2 Company Name U.S. EPA ID Number

8. Designated Facility Address U.S. EPA ID Number

9. Proper Shipping Name, Hazard Class, ID Number

10. Containers No. Type 11. Total Quantity 12. Unit Wt./Vol.

13. Signature

14. Signature

15. Signature

16. Signature

17. Signature

18. Discrepancy

18a. Discrepancy Indication Space Quantity Type Residue Partial Rejection

18b. Manifest Reference Number

19. Alternate Facility (or Generator) U.S. EPA ID Number

Facility's Phone

19b. Signature of Alternate Facility (or Generator) Month Day Year

19. Hazardous Waste Report Management Method Codes (i.e., codes for hazardous waste treatment, disposal, and recycling systems)

1. 2. 3. 4.

20. Designated Facility Owner or Operator Certification of receipt of hazardous materials covered by the manifest except as noted in Item 18a

Printed Name Signature Month Day Year

EPA Form 8700-22 (Rev. 3-05) Previous editions are obsolete.

DESIGNATED FACILITY TO DESTINATION STATE (IF REQUIRED)



# Electronic Manifest

*A centralized system for electronic submittal, inspection, and records retention for hazardous waste manifests*

- > Final rule published 2/7/2014
- > Effective date 8/6/2014
  - ❖ BUT: deferred until e-manifest system is in place
- > Affected regulations: 40 CFR 260, 262, 263, 264, 265, 271
- > Separate User Fee Rule proposed 7/27/2016
  - ❖ Final rule expected 4Q2017 or 1Q2018
- > EPA Goal: E-Manifest System fully online no later than Spring, 2018



# Who is Affected?

- > Affected entities: anyone using a hazardous waste manifest
  - ❖ Hazardous waste generators
  - ❖ Hazardous waste transporters
  - ❖ Hazardous waste TSDFs
  - ❖ Handlers of any other waste (or exempted material) required to be shipped using a hazardous waste manifest
    - ◆ (e.g., Indiana scrap tires)
  - ❖ Anyone choosing to use a hazardous waste manifest even if not required to do so

# What Will Change from Current System?

- > Four data entry options
  - ❖ Web
  - ❖ Mobile App
  - ❖ Data Services
  - ❖ Paper
- > Centralized system
- > Recordkeeping and Documentation procedures
- > Manifest fees
- > Intent is to replace paper manifests - but -
  - ❖ Paper “replacement” is required if e-manifest use is interrupted
  - ❖ One paper copy still required on vehicle to meet DOT HazMat laws



# Recordkeeping and Documentation

- > Manifests submitted to Federal e-manifest system, NOT mailed to the state
- > Signature : valid and enforceable electronic signature (CROMERR)
- > Provide a copy: submission to the e-manifest system.
- > Keep a copy: signed electronic manifest in the users account on the national e-manifest system (readily available for to view/copy if requested by EPA or the state).
  - ❖ NOTE: Includes protections against enforcement liability if there were legitimate “technical difficulties” in accessing the EPA system.

# User Fees



- > User fee rule
  - ❖ Proposed rule 7/26/2016
  - ❖ Final rule 4Q2017
- > “Reasonable charge” on each class of waste handler for each manifest submission
  - ❖ Users of the manifest pay; users of the system don’t
  - ❖ TSDFs will get the bill (monthly)
    - ◆ Differentiated fees - higher for paper
    - ◆ Fee based on terminating a manifest
    - ◆ “Premium” for data corrections
    - ◆ “Premium” for sorting/returning stray & erroneous documents
    - ◆ Sanctions for non-payment



# State Implementation

- > Effective date IN ALL STATES same as national e-manifest system - expected to be 2018
- > States cannot impose inconsistent requirements
  - ❖ Supersedes less stringent or inconsistent requirements
  - ❖ Applies to all requirements affecting content or use
  - ❖ States cannot establish their own system or require different formats
- > EPA will implement & enforce until state programs are revised
  - ❖ State program modification deadline was 7/1/2015 (or 7/1/2016 if statutory change required)

# Schedule

- > Minimum viable product development stage ended 2Q 2016
- > Early full scale development through September, 2016
- > Rolling iterative releases October, 2016 through January, 2018
  - ❖ Alpha and beta phase testing
  - ❖ Stakeholder involvement is critical
- > Mature product development from January, 2018 through April, 2018
- > Fully on-line no later than Spring, 2018

# Hazardous Waste Export-Import Revisions



# Hazardous Waste Export-Import Revisions

- > Proposed 10/19/2015
- > Two Final Rules signed 10/28/2016
  - ❖ Hazardous Waste Export-Import Revisions
  - ❖ Internet Posting of and Confidentiality Determinations for Hazardous Waste Export and Import Documents
- > Expected publication: November, 2016



# Applicability

- > Affected regulations: 40 CFR 260 - 267, 271, 273
- > Affected entities: Importers and Exporters of Hazardous Wastes, in any industry sector
- > Proposed rule addresses issues raised in
  - ❖ 2013 Commission for Environmental Cooperation report; and
  - ❖ 2015 EPA Office of Inspector General report

# What changes?

- > Requires use of international movement documents for each international shipment of hazardous wastes
  - ❖ Includes universal wastes
  - ❖ Includes Part 266 spent lead acid batteries
- > Mandatory electronic annual reporting of hazardous waste exports
- > Links hazardous waste export consent with the U.S. Customs exporter declaration.



# Additional Changes

- > Increases tracking of individual shipments
  - ❖ Matches consent numbers with manifest information
- > Requires EPA ID Numbers for all SQG and LQG hazardous waste exporters and importers
  - ❖ Includes traders arranging for export or import
- > Reorganizes the exporter, importer, transporter, and receiving facility requirements into 40 CFR 262 Subpart H

# Implementation

- > Expected to be published November, 2016
- > Effective date 12/31/2016
- > State Implementation
  - ❖ Becomes effective immediately in all states
  - ❖ Authorized states required to adopt the final provisions into their regulations



# HazWaste Generator Improvements Rule



# HazWaste Generator Improvements Rule

- > Proposed 9/25/2015
- > Final Rule signed 10/28/2016
- > Publication expected: early to mid November, 2016
- > Affected regulations: 40 CFR 260 - 265, 268, 270, 273, 279
  - ❖ >60 changes to the regulations, plus about 30 technical corrections
- > Affected entities:
  - ❖ All CESQGs, All SQGs, All LQGs
  - ❖ Cuts across all industry sectors, facility types, locations

# Goals of the Proposed Rule

*“Improve compliance by the regulated community and support the efficient implementation of the hazardous waste generator regulations by EPA and the states.”*

1. Reorganize to be more user-friendly and improve compliance
2. Add flexibility for generators to cost-effectively manage hazardous waste
3. Address identified gaps in the regulations
4. Clarify certain ambiguities and inconsistencies



# Major Provisions of the Proposed Rule

- > Reorganization
- > Consolidation of CESQG (VSQG) Waste at LQGs
- > Episodic Generation
- > Emergency Planning and Preparedness
- > Waste Determination Expectations
- > Labeling
- > Notifications and Reporting
- > Satellite Accumulation Provisions
- > Ignitable and Reactive Waste Provisions
- > Closure Requirements
- > Additional Clarifications





# Reorganization

- > All Generator Provisions will move to 40 CFR 262
- > “VSQG” (Very Small Quantity Generator) replaces “CESQG” (40 CFR 262.14)
- > Miscellaneous “improvements”
  - ❖ Corrections
  - ❖ Clarifications
  - ❖ New definitions
  - ❖ Deleting outdated and obsolete provisions
- > Cumulative effect of many relatively minor changes = Potentially significant effort for generators to come into initial compliance



# Reorganized Rule Structure

Provision	Existing Citation in 40 CFR	Proposed Citation in 40 CFR
Definition of Generator Categories	§260.10, 261.5, & 262.34	§260.10
Hazardous Waste Determination and Recordkeeping	§262.11 and 262.40(c)	§262.11
Generator Category Determination	§261.5(c)-(e)	§262.13
VSQG (CESQG) Provisions	§261.5(a), (b), (f)-(j), and 258.28	§262.14
Satellite Accumulation Area Provisions	§262.34(c), 265.171, 265.172, and 265.173(a)	§262.15
SQG Provisions	§262.34(d)-(f) and 268	§262.16
LQG Provisions	§262.34(a), (b), (g)-(i), (m), and 268	§262.17
EPA Identification Numbers	§262.12	§262.18
Landfill Ban for Liquids	§258.28	§262.35

# VSQG (CESQG) Consolidation Option

- > VSQG can consolidate waste at an LQG under control of the same person (40 CFR 262.14(a)(5)(viii))
  - ❖ “Person” as defined under RCRA
  - ❖ “Control” is the power to direct policies at the facility
- > VSQG Responsibilities:
  - ❖ Mark and label containers as “Hazardous Waste”
  - ❖ Indicate hazards of the contents
- > LQG Responsibilities (found at 262.17(f))
  - ❖ Notification (via Site ID Form) of participation in the program (including info for all CESQGs participating)
  - ❖ Recordkeeping for each shipment
  - ❖ Manage consolidated waste as LQG hazardous waste
    - ◆ Start date of accumulation = date received from VSQG
  - ❖ Include in Biennial Report

# Implementation, cont.

## U.S. Interstate Highway System

*“Additionally, if a VSQG wants to transit its waste through states that have not adopted the consolidation provision, EPA recommends that generators contact any transit states through which the hazardous waste will be shipped to ascertain their policy about such shipments.”*



# Episodic Generators

- > 40 CFR 262 Subpart L (262.230-233)
- > Benefits facilities with occasional temporary surge in Hazardous Waste generation
- > Allows generator to retain existing (VSQG, SQG) category during episodic generation, provided they comply with a streamlined set of requirements
  - ❖ Allowed one planned episodic event per year
    - ◆ But can petition for second (unplanned) event
  - ❖ Must notify EPA at least 30 days in advance
    - ◆ (within 72 hours for unplanned episode)
  - ❖ Must complete the episodic event within 60 days
    - ◆ NOTE: final rule removes option for 30-day extension

# Episodic Generators, cont.

- > VSQG streamlined requirements: comply with SQG waste management provisions and maintain records
  - ❖ Obtain EPA ID Number
  - ❖ Use hazardous waste manifest and transporter to ship to RCRA TSDF or recycler
  - ❖ Manage in a way that minimizes potential for accident or release
  - ❖ Label episodic waste containers
    - ◆ “Episodic Hazardous Waste”
    - ◆ Identify hazards of contents
  - ❖ Identify an emergency coordinator
  - ❖ Maintain records

# Episodic Generators, cont.

## > SQG requirements:

- ❖ Comply with existing SQG regulations
- ❖ Label episodic waste containers
  - ♦ “Episodic Hazardous Waste”
  - ♦ Identify hazards of contents
- ❖ Use hazardous waste manifest and transporter to ship to RCRA TSDF or recycler
- ❖ Maintain records of episodic event



- ## > CONDITIONAL! All conditions must be met to retain the episodic generation conditional management benefit
- ❖ If one or more conditions is not met, automatically revert to higher category

# Ignitable and Reactive Wastes

## > 50-Foot Waiver

- ❖ Currently ignitable and reactive wastes are prohibited from storage within 50 feet of the property line
- ❖ New allowance: can request site-specific waiver from the local fire authority if unable to meet the 50 foot restriction
  - ♦ Written waiver required
  - ♦ EPA delegates responsibility for waiver to local fire “authority having jurisdiction” (AHJ)
  - ♦ Work with AHJ to determine appropriate site-specific conditions.





# Emergency Preparedness & Prevention

- > Clarifies where and what emergency equipment is required
- > New LQG Contingency Plans must have a “quick reference guide” with most critical information (262.261(d))
  - ❖ Types and amounts of hazardous waste
  - ❖ Maps of site and surrounding area
  - ❖ Location of water supply
  - ❖ Identification of notification system (phones, PA, etc.)
  - ❖ Emergency contact(s)
- > Removes unnecessary personal info from Contingency Plan
- > Document that emergency arrangements have been made with local authorities
  - ❖ Not enough to just send them the contingency plan; must have documentation

# Waste Determinations



- > Must accurately document hazardous waste determinations (§262.11(f))
  - ❖ NOT finalizing requirement to document non-hazardous waste determinations
  - ❖ Applies to SQGs and LQGs
  - ❖ Applies at point of generation - before diluted, treated, altered...
  - ❖ Applies to §261.2 solid wastes with potential to be a listed or characteristically hazardous waste
  - ❖ Does not apply to exempted wastes (although separate recordkeeping may be required)
- > Using knowledge to determine waste characteristics
  - ❖ Moves from 262.11(c)(2) to 262.11(d)(2)
  - ❖ Lists types of knowledge previously accepted by EPA
  - ❖ Specifically allows alternative tests as part of knowledge

# Labeling Requirements

- > Label must indicate
  - ❖ The words “Hazardous Waste”
  - ❖ ~~Identification of contents~~ **NEW**
  - ❖ Identification of hazards **NEW**
  - ❖ All waste codes (prior to shipment) **NEW**
    - ♦ Exception for lab packs
  - ❖ Accumulation start date
- > Must use “plain English” words to identify contents
- > Can use any of several established methods to indicate hazards
  - ❖ DOT, OSHA, NFPA, ...
- > For vessels that can’t be labeled (some tanks, drip pads, containment buildings, ...)
  - ❖ Info can be in records or logs kept near to location of the vessel



# Notification / Recordkeeping

- > SQGs required to re-notify every 4-2 years
  - ❖ Electronic option available
  - ❖ First reporting year: 2021 (filed 2022)
- > Biennial Report rules updated to be consistent with current guidance
  - ❖ LQGs must report all hazardous waste generated in a calendar year, even when it is managed the next year
  - ❖ LQGs must report for all months in the year, even if SQG for some of those months
  - ❖ LQGs must report hazardous waste recycled on-site
  - ❖ Recycling facilities must report wastes that are not stored prior to recycling



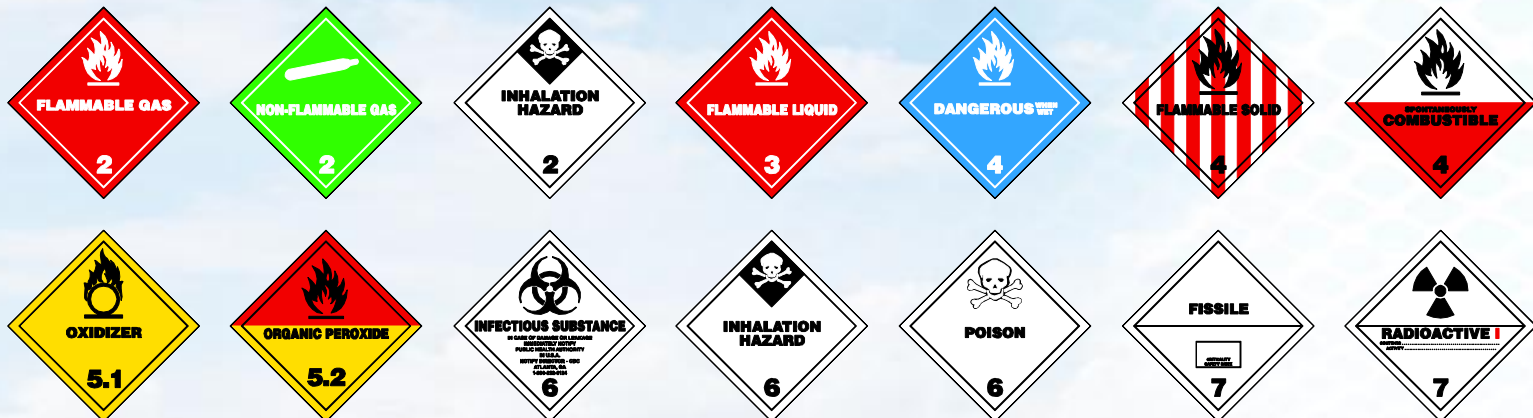


# Satellite Accumulation Provisions

- > New section: 40 CFR 262.15 “Satellite accumulation area regulations for small and large quantity generators.”
- > Specific clarification that hazardous wastes in satellite accumulation cannot be mixed or placed in a container with other incompatible hazardous wastes
- > Containers in SAA are allowed to remain open under limited circumstances
  - ❖ When necessary for safe operations (limited exception)
- > Clarification that the three-day requirement to move containers from satellite accumulation to container accumulation means three calendar days

# Satellite Accumulation Provisions, cont.

- > For acute hazardous wastes, can consider maximum weight OR maximum volume
- > When max weight OR volume is exceeded, must move waste to central accumulation area or TSDF
- > Reactive waste satellite accumulation away from the point of generation - no longer allowed



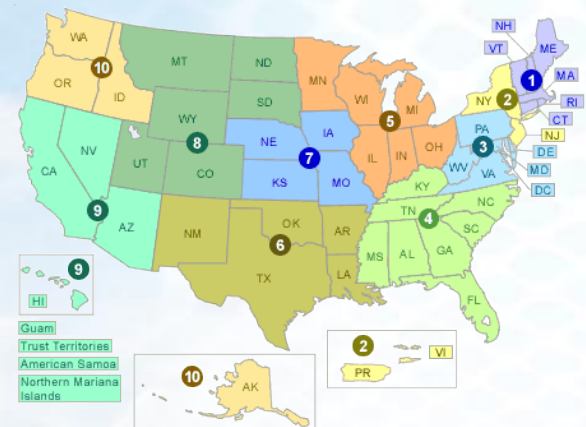
# More changes and clarifications

- > Closure of generator accumulation units must meet closure performance standards
  - ❖ Can defer (with appropriate notice) until full facility closure
- > Closure requirements imposed on LQGs that cannot clean close (i.e., meet closure performance standards)
  - ❖ Must close as landfill
  - ❖ Must notify EPA or authorized state no later than 30 days prior to closing an accumulation area, and within 90 days after closure of a unit or facility
- > Clarification of generator categories for mixtures of acute/non-acute and of hazardous/non-hazardous wastes

# Implementation

## > State Implementation

- ❖ Authorized states required to adopt provisions more stringent than current state regulations
  - ◆ 1-year implementation schedule
  - ◆ 2-year implementation if statutory change required
- ❖ States are not required to adopt the less stringent provisions
  - ◆ VSQG (CESQG) consolidation
  - ◆ Episodic generation
  - ◆ Waiver from 50-foot rule





# Status of the Rule

- > Final Rule signed October 28, 2016
- > Publication target date: November, 2016
  - ❖ Proposed in conjunction with Hazardous Waste Pharmaceuticals rule, but will not be finalized together (another 1000 pages of comments)
- > Effective date 6 months after final rule: mid-2017

# RECAP

- > Multiple Rules
- > Multiple Timeframes and Effective Dates
- > Overlap!
  - ❖ Overlapping waste categories
  - ❖ Overlapping generators
- > Each state will adopt each rule
- > More RCRA rules in the pipeline

***END RESULT: Complicated rulemaking processes and complicated implementation for generators!***

# Questions?

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