

Hazardous Waste Generator Improvements Proposed Rule

Docket ID# EPA-HQ-RCRA-2012-0121

Redline Demonstration of Proposed Regulatory Text

Introduction

This version of the regulatory text proposed in the Hazardous Waste Generator Improvements Proposed Rule (September 25, 2015, 80 FR 57918) demonstrates through use of redline and deletions in the margins, what changes to the hazardous waste generator regulations EPA is proposing. There are also notes in the margins in some cases identifying where certain aspects of the proposed rule appear in the regulatory text or discussing how the proposed reorganization impacts the structure of the regulations.

EPA is providing this document to the public to assist commenters in identifying changes to the regulatory text and to provide some context to the changes in a way that the version published in the style of the Federal Register is unable to do.

In the interest of space and only including relevant information, this document does use the Federal Register convention of asterixes (* * * * *) to indicate sections of the regulations where no changes have been proposed.

While the Agency has taken steps to ensure the accuracy of the proposed regulations presented here in this *Redline Demonstration of Proposed Regulatory Text*, please note that is not an official version of the proposed regulations. The Federal Register notice contains the official version.

Sections of the Regulatory Text With Proposed Changes

§260.3 Use of number and gender.

As used in parts 260 through 273 of this chapter:

- (a) Words in the masculine gender also include the feminine and neuter genders; and
- (b) Words in the singular include the plural; and
- (c) Words in the plural include the singular.

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§260.10 Definitions.

Acute hazardous waste means hazardous wastes that meet the listing criteria in § 261.11(a)(2) and therefore are either listed in § 261.31 of this chapter with the assigned hazard code of (H) or are listed in § 261.33(e) of this chapter.

Central accumulation area means any on-site hazardous waste accumulation area with hazardous waste accumulating in units subject to either § 262.16 (for small quantity generators) or § 262.17 (for large quantity generators). A central accumulation area at an eligible academic entity that chooses to be subject to part 262 subpart K must also comply with § 262.211 when accumulating unwanted material and/or hazardous waste.

Large quantity generator is a generator who generates any of the following amounts in a calendar month:

(1) Greater than or equal to 1000 kilograms (2200 lbs) of non-acute hazardous waste;

(2) Greater than 1 kilogram (2.2 lbs) of acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter; or

(3) Greater than 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter.

Non-acute hazardous waste means all hazardous wastes that are not acute hazardous waste, as defined in this section.

Small Quantity Generator is a generator who generates the following amounts in a calendar month:

(1) Greater than 100 kilograms (220 lbs) but less than 1000 kilograms (2200 lbs) of non-acute hazardous waste;

Deleted: *Performance Track member facility* means a facility that has been accepted by EPA for membership in the National Environmental Performance Track Program and is still a member of the Program. The National Environmental Performance Track Program is a voluntary, facility based, program for top environmental performers. Facility members must demonstrate a good record of compliance, past success in achieving environmental goals, and commit to future specific quantified environmental goals, environmental management systems, local community outreach, and annual reporting of measurable results.¶

Deleted: means a generator who generates less than 1000 kg of hazardous waste in a calendar month.¶

(2) Less than or equal to 1 kilogram (2.2 lbs) of acute hazardous waste listed in §§ 261.31 or § 261.33(e) of this chapter; and

(3) Less than or equal to 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter.

* * * * *

Treatability study means a study in which a hazardous waste is subjected to a treatment process to determine: (1) Whether the waste is amenable to the treatment process, (2) what pretreatment (if any) is required, (3) the optimal process conditions needed to achieve the desired treatment, (4) the efficiency of a treatment process for a specific waste or wastes, or (5) the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the §261.4 (e) and (f) exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A “treatability study” is not a means to commercially treat or dispose of hazardous waste.

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Universal waste handler:

(1) Means:

(i) A generator (as defined in this section) of universal waste; or

(ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(2) Does not mean:

(i) A person who treats (except under the provisions of 40 CFR 273.13 (a) or (c), or 273.33 (a) or (c)), disposes of, or recycles universal waste; or

(ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

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Universal waste transporter means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

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Very small quantity generator is a generator who generates less than or equal to the following amounts in a calendar month:

(1) 100 kilograms (220 lbs) of nonacute hazardous waste; and

(2) 1 kilogram (2.2 lbs) of acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter; and

(3) 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter.

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§260.11 Incorporation by reference,

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(d) The following materials are available for purchase from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101.

(1) "Flammable and Combustible Liquids Code" (1977 or 1981), IBR approved for §§ 262.16, 264.198, 265.198, 267.202(b).

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§261.1 Purpose and scope.

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(c) For the purposes of §§261.2 and 261.6:

* * * * *

(6) "Scrap metal" is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

* * * * *

§261.4 Exclusions.

(a) *Materials which are not solid wastes.* The following materials are not solid wastes for the purpose of this part:

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(7) Spent sulfuric acid used to produce virgin sulfuric acid, provided it is not accumulated speculatively as defined in §261.1(c) of this chapter.

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§261.5 **[Reserved]**

§261.6 Requirements for recyclable materials.

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(c) (1) Owners and operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of subparts A through L, AA, BB, and CC of parts 264 and 265, and under parts 124, 266, 267, 268, and 270 of this chapter and the notification requirements under section 3010 of RCRA, except as provided in paragraph (a) of this section. (The recycling process itself is exempt from regulation except as provided in §261.6(d).)

(2) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in paragraph (a) of this section:

(i) Notification requirements under section 3010 of RCRA;

(ii) Sections 265.71 and 265.72 (dealing with the use of the manifest and manifest discrepancies) of this chapter.

(iii) Section 261.6(d) of this chapter.

(iv) Section 265.75 of this chapter (biennial reporting requirements).

§261.33 Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.

(e) The commercial chemical products, manufacturing chemical intermediates or off-specification commercial chemical products or manufacturing chemical intermediates referred to in paragraphs (a) through (d) of this section, are identified as acute hazardous wastes (H).

(f) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in paragraphs (a) through (d) of this section, are identified as toxic wastes (T).

§261.420 Contingency planning and emergency procedures for facilities generating or accumulating more than 6000 kg of hazardous secondary material.

Commented [LK1]: The regulations in 261.5 would be moved to 260.10 (definitions), 262.13 (counting), and 262.14 (very small quantity generator standards).

Deleted: Special requirements for hazardous waste generated by conditionally exempt small quantity generators.

(a) A generator is a conditionally exempt small quantity generator in a calendar month if he generates no more than 100 kilograms of hazardous waste in that month.

(b) Except for those wastes identified in paragraphs (e), (f), (g), and (j) of this section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under parts 262 through 268, and parts 270 and 124 of this chapter, and the notification requirements of section 3010 of RCRA, provided the generator complies with the requirements of paragraphs (f), (g), and (j) of this section.

(c) When making the quantity determinations of this part and 40 CFR part 262, the generator must include all hazardous waste that it generates, except hazardous waste that:

(1) Is exempt from regulation under 40 CFR 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8; or

(2) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in 40 CFR 260.10; or

(3) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 CFR 261.6(c)(2); or

(4) Is used oil managed under the requirements of 40 CFR 261.6(a)(4) and 40 CFR part 279; or

(5) Is spent lead-acid batteries managed under the requirements of 40 CFR part 266, subpart G; or

(6) Is universal waste managed under 40 CFR 261.9 and 40 CFR part 273; or

(7) Is a hazardous waste that is an unused commercial chemical product (listed in 40 CFR part 261, subpart D or exhibiting one or more characteristics in 40 CFR part 261, subpart C) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to §262.213. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in §262.200 of Part 262.

(d) In determining the quantity of hazardous waste generated, a generator need not include:

(1) Hazardous waste when it is removed from on-site storage; or

(2) Hazardous waste produced by on-site treatment (including reclamation) of his hazardous waste, so long as the hazardous waste that is treated was counted once; or

Deleted: and are subject to the small quantity exclusion defined in §261.5(e)

Deleted: , unless otherwise designated and are subject to the small quantity generator exclusion defined in §261.5 (a) and (g).

A generator or an intermediate or reclamation facility operating under a verified recycler variance under §260.31(d) that generates or accumulates more than 6000 kg of hazardous secondary material must comply with the following requirements:

* * * * *

(g) Personnel training. All employees must be thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

Commented [LK2]: Technical correction to the 2015 DSW rule.

§ 262.1 Terms used in this part.

As used in this part:

Independent requirement means a requirement of part 262 that states an event, action, or standard that must occur or be met; and that applies without relation to, or irrespective of, the purpose of obtaining a conditional exemption from a permit or having interim status under §§ 262.14, 262.15, 262.16, or 262.17.

Condition for exemption means any requirement in §§ 262.14, 262.15, 262.16, or 262.17, that states an event, action, or standard that must occur or be met in order to obtain a conditional exemption from any requirement in parts 124, 262 through 268, or 270, or from any requirement for notification under section 3010 of RCRA.

§262.10 Purpose, scope, and applicability.

(a) The regulations in this part establish standards for generators of hazardous waste as defined by 40 CFR 260.10.

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(1) A person who generates a hazardous waste as defined by 40 CFR part 261 is subject to all the applicable independent requirements in the subparts and sections listed below, unless the person is a very small quantity generator that meets the conditions for exemption in § 262.14.

(i) Independent requirements of a small quantity generator.

(A) Section 262.11 Hazardous waste determination and recordkeeping;

(B) Section 262.13 Generator category determination;

(C) Section 262.18 EPA identification numbers and re-notification for large quantity generators and small quantity generators;

(D) Part 262 subpart B—The manifest;

(E) Part 262 subpart C—Pre-transport requirements;

(F) Section 262.40 Recordkeeping;

(G) Section 262.44 Special independent requirements for small quantity generators;

(H) Part 262 subpart E—subpart F—Imports and exports of hazardous waste;

(I) Part 262 subpart G—Farmers; and

(J) Part 262 subpart H—Transfrontier shipments of hazardous waste for recovery within the OECD.

(ii) *Independent requirements of a large quantity generator.*

(A) Section 262.11 Hazardous waste determination and recordkeeping;

(B) Section 262.13 Generator category determination;

(C) Section 262.18 EPA identification numbers and re-notification for large quantity generators and small quantity generators;

(D) Part 262 subpart B—The manifest;

(E) Part 262 subpart C—Pre-transport requirements;

(F) Part 262 subpart D—Recordkeeping and reporting, except § 262.44;

(G) Part 262 subpart E-subpart F—Imports and exports of hazardous waste;

(H) Part 262 subpart G—Farmers; and

(I) Part 262 subpart H—Transfrontier shipments of hazardous waste for recovery within the OECD.

(2) A generator that accumulates hazardous waste on site is a facility that stores hazardous waste and is subject to the applicable requirements of parts 124, 263 through 270, and section 3010 of RCRA, unless it is one of the following:

(i) A very small quantity generator that meets the conditions for exemption in § 262.14;

(ii) A small quantity generator that meets the conditions for exemption in §§ 262.15 and 262.16; or

(iii) A large quantity generator that meets the conditions for exemption in §§ 262.15 and 262.17.

(3) A generator shall not transport, offer its waste for transport, or otherwise cause its waste to be sent to a facility that is not a designated facility, as defined in § 260.10, or not otherwise authorized to receive the generator's waste.

(b) Determining generator category. A generator must use 40 CFR 262.13 to determine which provisions of this part are applicable to the generator based on the quantity of hazardous waste generated per month.

(c) [Reserved]

(d) Any person who exports or imports wastes that are considered hazardous under U.S. national procedures to or from the countries listed in §262.58(a)(1) for recovery must comply with subpart H of this part. A waste is considered hazardous under U.S. national procedures if the waste meets the Federal definition of hazardous waste in 40 CFR 261.3 and is subject to either the Federal RCRA manifesting requirements at 40 CFR part 262, subpart B, the universal waste management standards of 40 CFR part 273, State requirements analogous to 40 CFR part 273, the export requirements in the spent lead-acid battery management standards of 40 CFR part 266, subpart G, or State requirements analogous to the export requirements in 40 CFR part 266, subpart G.

(e) Any person who imports hazardous waste into the United States must comply with the standards applicable to generators established in this part.

(f) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of §262.70 is not required to comply with other standards in this part or 40 CFR parts 270, 264, 265, 267, or 268 with respect to such pesticides.

(g) A generator's violation of an applicable requirement in 40 CFR part 124, 262 through 268, or 270, or of applicable notification requirements of section 3010 of RCRA, is subject to penalty and injunctive relief under section 3008 of RCRA.

(h) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this part.

(i) Persons responding to an explosives or munitions emergency in accordance with 40 CFR 264.1(g)(8)(i)(D) or (iv) or 265.1(c)(11)(i)(D) or (iv), and 270.1(c)(3)(i)(D) or (iii) are not required to comply with the standards of this part.

(j)

Deleted: 40 CFR 261.5(c) and (d) must be used to determine the applicability of provisions of this part that are dependent on calculations of

Deleted: A generator who treats, stores, or disposes of hazardous waste on-site must only comply with the following sections of this part with respect to that waste: Section 262.11 for determining whether or not he has a hazardous waste, §262.12 for obtaining an EPA identification number, §262.34 for accumulation of hazardous waste, §262.40 (c) and (d) for recordkeeping, §262.43 for additional reporting, and if applicable, §262.70 for farmers.

Deleted: A person who generates a hazardous waste as defined by 40 CFR part 261 is subject to the compliance requirements and penalties prescribed in

Deleted: the Act if he does not comply with the requirements of this part.

Deleted: (1) Universities that are participating in the Laboratory XL project are the University of Massachusetts Boston in Boston, Massachusetts, Boston College in Chestnut Hill, Massachusetts, and the University of Vermont in Burlington, Vermont ("Universities"). The Universities generate laboratory wastes (as defined in §262.102), some of which will be hazardous wastes. As long as the Universities comply with all the requirements of subpart J of this part the Universities' laboratories that are participating in the University Laboratories XL Project as identified in Table 1 of this section, are not subject to the provisions of §§262.11, 262.34(c), 40 CFR parts 264 and 265, 267, and the permit requirements of 40 CFR part 270 with respect to said laboratory wastes.¶

TABLE 1—LABORATORY XL PROJECT PARTICIPANT INFORMATION¶
[Institution

[Reserved]

(k) Generators in the Commonwealth of Massachusetts may comply with the State regulations regarding Class A recyclable materials in 310 C.M.R. 30.200, when authorized by the EPA under 40 CFR part 271, with respect to those recyclable materials and matters covered by the authorization, instead of complying with the hazardous waste accumulation requirements of §262.34, the reporting requirements of §262.41, the storage facility operator requirements of 40 CFR parts 264, 265 and 267, and the permitting requirements of 40 CFR part 270. Such generators must also comply with any other applicable requirements, including any applicable authorized State regulations governing hazardous wastes not being recycled and any applicable Federal requirements which are being directly implemented by the EPA within Massachusetts pursuant to the Hazardous and Solid Waste Amendments of 1984.

Deleted: (2) Each University shall have the right to change its respective departments or the on-site location of its hazardous waste accumulation areas listed in Table 1 of this section upon written notice to the Regional Administrator for EPA-Region I and the appropriate state agency. Such written notice will be provided at least ten days prior to the effective date of any such changes.

(l) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of Subpart K of this part are not subject to (for purposes of this paragraph, the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in §262.200 of subpart K of this part);

(1) The independent requirements of §262.11 or the regulations in §262.15 for large quantity generators and small quantity generators, except as provided in Subpart K, and

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(2) The conditions of §262.14, for very small quantity generators, except as provided in Subpart K.

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§262.11 Hazardous waste determination.

A person who generates a solid waste, as defined in 40 CFR 261.2, must make an accurate determination of whether that waste is a hazardous waste using the following steps:

Deleted: NOTE 1: The provisions of §262.34 are applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of §262.34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.¶
NOTE 2: A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in 40 CFR parts 264, 265, 266, 268, and 270.¶

(a) A hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste.

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(b) A person must determine if the solid waste is excluded from regulation under 40 CFR 261.4.

(c) If the waste is not excluded under 40 CFR 261.4, the person must then use knowledge of the waste to determine if the waste meets any of the listing descriptions under subpart D of 40 CFR part 261. Acceptable knowledge that may be used in making an accurate determination as to whether the waste is listed includes, but is not limited to, waste origin, composition, the process producing the waste, feedstock, and other relevant information. If the waste is listed,

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the person may file a delisting petition under 40 CFR 260.20 and 260.22 to demonstrate to the Administrator that the waste from this particular site or operation is not a hazardous waste.

(d) If the waste is not listed in subpart D of 40 CFR part 261, or if it is a listed waste, which must meet the land disposal restrictions under 40 CFR part 268, the generator must then determine whether the waste exhibits one or more hazardous characteristics as identified in subpart C of 40 CFR part 261 by following the procedures in either paragraph (d)(1) or (2) of this section.

(1) The person must test the waste according to the methods set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21 and in accordance with the following:

(i) Persons testing their waste must obtain a representative sample of the waste for the testing, as defined at 40 CFR 260.10.

(ii) Where a test method is specified in the regulation, the results of the regulatory test, when properly performed, are definitive for determining the regulatory status of the waste.

(2) The person must apply knowledge of the hazard characteristic of the waste in light of the materials or the processes used. Acceptable knowledge may include process knowledge (e.g., information about chemical feedstocks and other inputs to the production process); knowledge of products, byproducts, and intermediates produced by the manufacturing process; chemical or physical characterization of wastes; information on the chemical and physical properties of the chemicals used or produced by the processor or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method set forth in subpart C of 40 CFR part 261, or according to an equivalent method approved by the Administrator under 40 CFR 260.21, may be used as part of a person's knowledge to determine whether a solid waste exhibits a characteristic of hazardous waste. However, such tests do not, by themselves, provide definitive results.

(e) Recordkeeping for small and large quantity generators. A small or large quantity generator must maintain records supporting its solid and hazardous waste determinations, including records that identify a material as a solid waste, as defined by 40 CFR 261.2, and records identifying whether that solid waste is or is not also a hazardous waste, as defined by 40 CFR 261.3. Generators may wish to segregate any of their municipal solid waste from other solid and hazardous wastes to avoid potential co-mingling. Records must be maintained for at least three years from the date that the waste was last generated. These records must comprise the generator's knowledge of the waste and support the generator's determination, as described at 40 CFR 262.11(c) and (d). The records must include, but are not be limited to, the following types of information: The results of any tests, sampling, or waste analyses;

Deleted: NOTE: Even if the waste is listed, the generator still has an opportunity under 40 CFR 260.22 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste.¶

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records documenting the tests, sampling, and analytical methods used and demonstrating the validity and relevance of such tests; records consulted in order to determine the process by which the waste was generated, the composition of the waste, and the properties of the waste; and records which explain the knowledge basis for the generator's determination, as described at 40 CFR 262.11(d)(2). The periods of record retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

(f) If the waste is determined to be hazardous, all applicable EPA hazardous waste numbers (EPA hazardous waste codes) in subparts C and D of part 261 must be identified

(g) If the waste is determined to be hazardous, the generator must refer to parts 261, 264, 265, 266, 267, 268, and 273 of this chapter for other possible exclusions or restrictions pertaining to management of the specific waste.

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§262.12 [Reserved]

§ 262.13 Generator category determination.

(a) Monthly determination. A generator's category is determined each month by the amount of hazardous waste it generates and may change from month to month. This section sets forth procedures to determine whether a generator is a very small quantity generator, a small quantity generator, or a large quantity generator for a particular month, as defined in § 260.10 of this chapter.

(b) Generators of both acute and nonacute hazardous wastes. A generator who generates both acute hazardous waste and non-acute hazardous waste in the same calendar month shall determine its generator category for that month by doing the following:

(1) Counting separately the total amount of acute hazardous waste and the total amount of non-acute hazardous waste generated in the calendar month;

(2) Subtracting from each total any amounts of waste exempt from counting as described in paragraphs (c) and (d) of this section;

(3) Determining separately the resulting generator categories for the quantities of acute and non-acute hazardous waste generated; and

(4) Comparing the resulting generator categories from paragraph (b)(3) of this section and applying the more stringent generator category to the accumulation and management of both non-acute hazardous waste and acute hazardous waste generated for that month.

(c) When making the monthly quantity-based determinations required by this part, the generator must include all hazardous waste that it generates, except hazardous waste that:

Commented [LK4]: Moved to 262.18 and revised to add SQG renotification.

Deleted: EPA identification numbers.¶

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.¶

(b) A generator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700-12. Upon receiving the request the Administrator will assign an EPA identification number to the generator.¶

(c) A generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

Commented [LK5]: This language includes some text moved from 261.5 and some revisions to provide more procedures for counting hazardous waste.

Commented [LK6]: Moved from 261.5(c)

(1) Is exempt from regulation under 40 CFR 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8;

(2) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in 40 CFR 260.10;

(3) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 CFR 261.6(c)(2);

(4) Is used oil managed under the requirements of 40 CFR 261.6(a)(4) and 40 CFR part 279;

(5) Is spent lead-acid batteries managed under the requirements of 40 CFR part 266 subpart G;

(6) Is universal waste managed under 40 CFR 261.9 and 40 CFR part 273;

(7) Is a hazardous waste that is an unused commercial chemical product (listed in 40 CFR part 261 subpart D or exhibiting one or more characteristics in 40 CFR part 261 subpart C) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to § 262.213. For purposes of this provision, the term eligible academic entity shall have the meaning as defined in § 262.200; or

(8) Is managed under an episodic event in compliance with the conditions of subpart L of this part.

(d) In determining the quantity of hazardous waste generated in a calendar month, a generator need not include:

(1) Hazardous waste when it is removed from on-site accumulation; or

(2) Hazardous waste generated by onsite treatment (including reclamation) of the generator's hazardous waste, so long as the hazardous waste that is treated was previously counted once; or

(3) Spent materials that are generated, reclaimed, and subsequently reused on site, so long as such spent materials have been previously counted once.

Commented [LK7]: Regulation that would state that waste from an episodic event would not be counted toward the generator's category.

Commented [LK8]: Moved from 261.5(d)

TABLE 1 TO § 262.13—GENERATOR CATEGORIES BASED ON QUANTITY OF WASTE

GENERATED IN A CALENDAR MONTH

<u>#</u>	<u>Quantity of acute hazardous waste generated in a calendar month</u>	<u>Quantity of non-acute hazardous waste generated in a calendar month</u>	<u>Quantity of residues from a cleanup of acute hazardous waste generated in a calendar month</u>	<u>Generator Category</u>
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<u>1</u>	<u>> 1 kg</u>	<u>Any amount</u>	<u>Any amount</u>	<u>Large quantity generator</u>
<u>2</u>	<u>Any amount</u>	<u>> 1,000 kg</u>	<u>Any amount</u>	<u>Large quantity generator</u>
<u>3</u>	<u>Any amount</u>	<u>Any amount</u>	<u>> 100 kg</u>	<u>Large quantity generator</u>
<u>4</u>	<u>≤ 1 kg</u>	<u>> 100 kg and < 1,000 kg</u>	<u>≤ 100 kg</u>	<u>Small quantity generator</u>
<u>5</u>	<u>≤ 1 kg</u>	<u>≤ 100 kg</u>	<u>≤ 100 kg</u>	<u>Very small quantity generator</u>

§ 262.14 Conditions for exemption for a very small quantity generator.

Commented [LK9]: Moved from 261.5

(a) Hazardous waste generated by a very small quantity generator is not subject to the independent requirements of this part, except the paragraphs of § 262.11 specified below or the requirements of parts 124, 264 through 268, and 270 of this chapter, and the notification requirements of section 3010 of RCRA. A very small quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with all the independent requirements of the above-mentioned parts and the notification requirements of section 3010, provided that it meets all the conditions for exemption listed in this section:

(1) In a calendar month the very small quantity generator generates less than or equal to the amounts specified in the definition of “very small quantity generator” in § 260.10 of this chapter;

(2) The very small quantity generator complies with § 262.11(a) through (d) of this chapter;

(3) Accumulation conditions for exemption—(i) Acute hazardous waste. If the very small quantity generator accumulates at any time greater than 1 kilogram (2.2 lbs) of acute hazardous waste or 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in §§ 261.31 or 261.33(e) of this chapter, all quantities of that acute hazardous waste are subject to full hazardous waste regulation under parts 124, 262 through 268, and 270 of this chapter, and the notification requirements of section 3010 of RCRA. The 90-day accumulation time limit of § 262.17 begins on the date when the accumulated wastes exceed the above waste quantity limits;

(ii) Non-acute hazardous waste. If the very small quantity generator accumulates at any time 1,000 kilograms (2,200 lbs) or greater of non-acute hazardous waste, all quantities of that hazardous waste are subject to full hazardous waste regulation under parts 124, 262 through 268, and 270 of this chapter, and the notification requirements of section 3010 of RCRA. The 180-day and 270-day accumulation time limits of § 262.16 begin on the date when the accumulated wastes equal or exceed 1000 kilograms (2,200 lbs).

(4) A very small quantity generator that accumulates hazardous waste within the limits in paragraphs (a)(3)(i) and (ii) of this section must either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:

(i) Permitted under part 270 of this chapter;

(ii) In interim status under parts 270 and 265 of this chapter;

(iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this chapter;

(iv) Permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to part 258 of this chapter;

(v) Permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, is subject to the requirements in §§ 257.5 through 257.30 of this chapter;

(vi) A facility which:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation;

(vii) For universal waste managed under part 273 of this chapter, a universal waste handler or destination facility subject to the requirements of part 273 of this chapter;

(viii) A large quantity generator under the control of the same person as the very small quantity generator, provided the following conditions are met:

(A) The very small quantity generator and the large quantity generator are under the control of the same person as defined in § 260.10 of this chapter. "Control," for the purposes of this section, means the power to direct the policies of the generator site, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator

Commented [LK10]: Paragraph (4) is moved from 261.5(f)(3) and (g)(3)

Commented [LK11]: (viii) contains the very small quantity consolidation provision and the requirements for consolidation.

sites on behalf of a different person as defined in § 260.10 of this chapter shall not be deemed to “control” such generator sites.

(B) The very small quantity generator marks its container(s) of hazardous waste with:

(1) The words “Very Small Quantity Generator Hazardous Waste”;

(2) Other words that identify the contents of the containers (examples may include, but are not limited to, the name of the chemical(s), such as “acetone” or “methylene dichloride” or the type or class of chemical, such as “organic solvents” or “halogenated organic solvents” or, as applicable, the proper shipping name and technical name markings used to comply with Department of Transportation requirements at 49 CFR part 172 subpart D);

(3) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); a hazard class label consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling); a label consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1920.1200; a chemical hazard label consistent with the National Fire Protection Association code 704; a hazard pictogram consistent with the United Nations’ Globally Harmonized System; or any other marking or labeling commonly used nationwide in commerce that identifies the nature of the hazards associated with the contents of the waste accumulation unit); and

(4) The applicable EPA hazardous waste number(s) (hazardous waste codes) in part 261 subparts C and D.

(b) *Mixing hazardous waste with nonhazardous waste.* A very small quantity generator may mix listed or characteristic hazardous waste with non-hazardous waste and remain eligible for the conditional exemption applicable to a very small quantity generator provided that either paragraph (b)(1) or (2) of this section is met:

(1) The mixture does not exhibit any of the characteristics of hazardous waste identified in subpart C of part 261 of this chapter; or

(2) If the mixture does exhibit one or more characteristics of a hazardous waste identified in subpart C of part 261 of this chapter, the mixture does not cause the generator to exceed the very small quantity generator calendar month quantity limits identified in the definition of very small quantity generator at § 260.10 of this chapter. If the mixture does exceed the quantity limit for a very small quantity generator, the very small quantity generator, to remain exempt from the permitting and interim status standards, must meet the conditions for exemption applicable to either a small quantity generator or large quantity generator according to the quantity of the hazardous waste it generated in a calendar month, including the resultant mixture and the total quantity the very small quantity generator accumulated on site.

Commented [LK12]: Mixing regulations for CESQGs currently are in 261.5(h)-(j)

(c) If a very small quantity generator's wastes are mixed with used oil, the mixture is subject to 40 CFR part 279. Any material produced from such a mixture by processing, blending, or other treatment is also regulated under 40 CFR part 279.

(d) The placement of bulk or noncontainerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

(e) A very small quantity generator experiencing an episodic event may accumulate hazardous waste in accordance with subpart L of this part in lieu of §§ 262.15, 262.16, and 262.17.

§ 262.15 Satellite accumulation area regulations for small and large quantity generators.

(a) A generator may accumulate as much as 55 gallons of non-acute hazardous waste and/or one quart or 1 kg (2.2 lbs) of acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with § 262.16(b) or § 262.17(a) provided the generator complies with the following conditions for exemption:

(1) If a container holding hazardous waste is not in good condition, or if it begins to leak, the generator must transfer the hazardous waste from this container to a container that is in good condition and does not leak, or transfer and manage the waste in a central accumulation area.

(2) The generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(3) Special standards for incompatible wastes.

(i) Incompatible wastes, or incompatible wastes and materials, (see appendix V of part 265 for examples) must not be placed in the same container, unless § 265.17(b) of this chapter is complied with.

(ii) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of part 265 for examples), unless § 265.17(b) of this chapter is complied with.

(iii) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

Commented [LK13]: Copied from 258.28

Commented [LK14]: Moved from 262.34(c) and part 265 with some revisions. 262.34(c) references 3 sections of part 265 that EPA proposes to copy into this section rather than reference.

Commented [LK15]: Moved from 262.34(c)(1)

Commented [LK16]: Copied from 265.171

Commented [LK17]: Copied from 265.172

(4) A container holding hazardous waste must be closed at all times during accumulation, except:

Commented [LK18]: Copied from 265.173(a)

(i) When adding, removing, or consolidating waste, or

(ii) When venting of a container is necessary

Commented [LK19]: Proposed provision to allow open containers in some situations

(A) For the proper operation of equipment, or

(B) To prevent dangerous situations, such as build-up of extreme pressure.

(5) A generator must mark its container with the following:

(i) The words "Hazardous Waste," and

(ii) Other words that identify the contents of the containers (examples may include, but are not limited to the name of the chemical(s), such as "acetone" or "methylene dichloride"; or the type or class of chemical, such as "organic solvents" or "halogenated organic solvents" or, as applicable, the proper shipping name and technical name markings used to comply with Department of Transportation requirements at 49 CFR part 172 subpart D); and

(iii) An indication of the hazards of the contents. (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); a hazard class label consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling); a label consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1920.1200; a chemical hazard label consistent with the National Fire Protection Association code 704; or a hazard pictogram consistent with the United Nations' Globally Harmonized System; or any other marking or labeling commonly used nationwide in commerce that identifies the nature of the hazards associated with the contents of the waste accumulation unit).

(6) A generator who accumulates either non-acute hazardous waste or acute hazardous waste listed in § 261.31 or § 261.33(e) of this chapter in excess of the amounts listed in paragraph (a) of this section at or near any point of generation must do the following:

Commented [LK20]: Moved from 262.34(c)(2)

(i) Remove the excess from the satellite accumulation area within three calendar days to either

(A) A central accumulation area;

(B) An on-site interim status or permitted treatment, storage, or disposal facility, or

(C) An off-site designated facility.

(ii) During the three-calendar-day period the generator must continue to comply with paragraphs (a)(1) through (5) of this section. The generator must mark the container(s) holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

§ 262.16 Conditions for exemption for a small quantity generator that accumulates hazardous waste.

A small quantity generator may accumulate hazardous waste on-site without a permit or interim status, and without complying with the independent requirements of parts 124, 264 through 268, and 270 of this chapter, provided that all the conditions for exemption listed in this section are met:

(a) Generation. The generator generates in a calendar month no more than the amounts specified in the definition of “small quantity generator” in § 260.10 of this chapter.

(b) Accumulation. The generator accumulates hazardous waste on site for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in paragraphs (c) and (d) of this section. The following accumulation conditions also apply:

(1) Accumulation limit. The quantity of hazardous waste accumulated on site never exceeds 6,000 kilograms (13,200 pounds);

(2) Accumulation in containers—(i) Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the small quantity generator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the conditions for exemption of this section.

(ii) Compatibility of waste with container. The small quantity generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(iii) Management of containers. (A) A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

(B) A container holding hazardous waste must not be opened, handled, or accumulated in a manner that may rupture the container or cause it to leak.

(iv) Inspections. At least weekly, the small quantity generator must inspect central accumulation areas. The small quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See paragraph (a)(2)(i) of this section for remedial action required if deterioration or leaks are detected.

Commented [LK21]: Moved from 262.34(d)-(f) with some revisions

Commented [LK22]: Moved from 262.34(d) introductory language

Commented [LK23]: Moved from 262.34(d)(1)

Commented [LK24]: 262.34(d)(2) currently refers to part 265 subpart I, except 265.176 and 265.178. EPA proposes that instead of referencing part 265 subpart I, we copy it into part 262.

(v) Special conditions for accumulation of incompatible wastes. (A) Incompatible wastes, or incompatible wastes and materials, (see appendix V of part 265 for examples) must not be placed in the same container, unless § 265.17(b) of this chapter is complied with.

(B) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of part 265 for examples), unless § 265.17(b) of this chapter is complied with.

(C) A container accumulating hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(3) Accumulation in tanks.

(i) [Reserved]

(ii) A small quantity generator of hazardous waste must comply with the following general operating conditions:

(A) Treatment or accumulation of hazardous waste in tanks must comply with § 265.17(b) of this chapter.

(B) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(C) Uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.

(D) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a stand-by tank).

(iii) Except as noted in paragraph (a)(3)(iv) of this section, a small quantity generator that accumulates hazardous waste in tanks must inspect, where present:

(A) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

Commented [LK25]: Section 262.34(d)(3) currently refers to 265.201 in part 265 subpart J, which is a section particularly for tanks at SQGs. EPA proposes to move those provisions into 262.16 and reserve 265.201.

(B) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

(C) The level of waste in the tank at least once each operating day to ensure compliance with paragraph (a)(3)(ii)(C) of this section;

(D) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

(E) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation). As required by § 265.15(c) of this chapter, the small quantity generator must remedy any deterioration or malfunction it finds.

(iv) A small quantity generator accumulating hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly, where applicable, the areas identified in paragraphs (a)(3)(iii)(A) through (E) of this section. Use of the alternate inspection schedule must be documented in the site's operating record. This documentation must include a description of the established workplace practices at the site.

(v) [Reserved.]

(vi) A small quantity generator accumulating hazardous waste in tanks must, upon closure of the site, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the small quantity generator can demonstrate, in accordance with § 261.3(c) or (d) of this chapter, that any solid waste removed from its tank is not a hazardous waste, then it must manage such waste in accordance with all applicable provisions of parts 262, 263, and 265 of this chapter.

(vii) A small quantity generator must comply with the following special conditions for accumulation of ignitable or reactive waste:

(A) Ignitable or reactive waste must not be placed in a tank, unless:

(1) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under § 261.21 or 261.23 of this chapter and § 265.17(b) of this chapter is complied with; or

(2) The waste is accumulated or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(3) The tank is used solely for emergencies.

(B) A small quantity generator which treats or accumulates ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2–1 through 2–6 of the National Fire Protection Association’s “Flammable and Combustible Liquids Code,” (1977 or 1981) (incorporated by reference, see § 260.11).

(C) A small quantity generator must comply with the following special conditions for incompatible wastes:

(1) Incompatible wastes, or incompatible wastes and materials, (see part 265 appendix V for examples) must not be placed in the same tank, unless § 265.17(b) of this chapter is complied with.

(2) Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless § 265.17(b) of this chapter is complied with.

(4) Accumulation of hazardous waste on drip pads. A small quantity generator may accumulate hazardous waste on drip pads for 90 days or less without a permit or without having interim status provided that it complies with 40 CFR part 265 subpart W. The generator must maintain at the facility the following records by use of inventory logs, monitoring equipment, or any other effective means:

Commented [LK26]: Drip pad provisions for SQGs

(i) A written description of procedures that will identify the date hazardous waste first entered the drip pad and ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(ii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(5) Accumulation of hazardous waste in containment buildings. A small quantity generator may accumulate hazardous waste in containment buildings for 90 days or less without a permit or without having interim status provided that it complies with 40 CFR part 265 subpart DD. The generator must also maintain the following records by use of inventory logs, monitoring equipment records, or any other effective means:

Commented [LK27]: Containment building provisions for SQGs.

(i) The professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101. This certification must be in the facility’s operating record prior to operation of the unit; and

(ii) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the site showing that they are consistent with maintaining the 90 day limit, and documentation that the procedures are complied with; or

(iii) Documentation that the unit is emptied at least once every 90 days.

(6) Labeling and marking of containers, tanks, drip pads, and containment buildings.

(i) A small quantity generator must mark its containers with the following:

(A) The words "Hazardous Waste":

(B) Other words that identify the contents of the containers (examples may include, but are not limited to, the name of the chemical(s), such as "acetone" or "methylene dichloride"; or the type or class of chemical, such as "organic solvents" or "halogenated organic solvents or, as applicable, the proper shipping name and technical name markings used to comply with Department of Transportation requirements at 49 CFR part 172 subpart D);"

(C) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); a hazard class label consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling); a label consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1920.1200; a chemical hazard label consistent with the National Fire Protection Association code 704; a hazard pictogram consistent with the United Nations' Globally Harmonized System; or any other marking or labeling commonly used nationwide in commerce that identifies the nature of the hazards associated with the contents of the waste accumulation unit); and

(D) The date upon which each period of accumulation begins clearly visible for inspection on each container.

(ii) A small quantity generator accumulating hazardous waste in tanks, drip pads and containment buildings must do the following:

(A) Mark or label its waste accumulation units with the words "Hazardous Wastes." In the case of hazardous wastes accumulated in drip pads and containment buildings, generators must label their drip pads and containment buildings with the words "Hazardous Wastes" in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on site;

(B) Use inventory logs, monitoring equipment, or records to identify the contents of the tank, drip pad or containment building and its associated hazards;

(C) Use inventory logs, monitoring equipment or records to identify the date upon which each period of accumulation begins; and

(D) Keep inventory logs or records with the above information in close proximity to the tank, drip pad, or containment building.

(7) Land disposal restrictions. The generator complies with all the applicable requirements under 40 CFR part 268.

Commented [LK28]: Current regulations reference LDRs at 262.34(d)(4)

(8) Preparedness and prevention—(i) Maintenance and operation of site. A small quantity generator must maintain and operate its site to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

Commented [LK29]: Current regulations refer to part 265 subpart C and also list additional preparedness requirements. EPA proposes to consolidate those requirements into this paragraph, with some revisions.

(ii) Required equipment. All areas where hazardous waste is either generated or accumulated must be equipped with the items in paragraphs (b)(8)(ii)(A) through (D) of this section (unless none of the hazards posed by waste handled at the site could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A small quantity generator may determine the most appropriate locations within its generator site to locate equipment necessary to prepare for and respond to emergencies.

(A) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to site personnel;

(B) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams;

(C) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(D) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(iii) Testing and maintenance of equipment. All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(iv) Access to communications or alarm system. (A) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under paragraph (a)(8)(ii) of this section.

(B) In the event there is just one employee on the premises while the site is operating, the employee must have immediate access (e.g., direct or unimpeded access) to a device, such

as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under paragraph (a)(8)(ii) of this section.

(v) Required aisle space. The small quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of site operation in an emergency, unless aisle space is not needed for any of these purposes.

(vi) Arrangements with local authorities. (A) The small quantity generator must make arrangements with the Local Emergency Planning Committee for the types and quantities of hazardous waste handled at the site, as well as the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals. Should there be no Local Emergency Planning Committee, should it not respond, or should the Local Emergency Planning Committee determine that it is not the appropriate organization to make arrangements with, then the small quantity generator must make arrangements with the local fire department and other relevant emergency responders, (e.g., police and hospitals).

(1) A small quantity generator that must make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals.

(2) As part of this coordination, the small quantity generator shall make arrangements, as necessary, to familiarize the above organizations with the layout of the site, the properties of hazardous waste handled at the site and associated hazards, places where site personnel would normally be working, entrances to roads inside the site, and possible evacuation routes as well as the types of injuries or illnesses that could result from fires, explosions, or releases at the site.

(3) Where more than one police or fire department might respond to an emergency, the small quantity generator shall enter into agreements designating primary emergency authority to a specific fire or police department, and agreements with any others to provide support to the primary emergency authority.

(B) A small quantity generator shall maintain records documenting the arrangements with the Local Emergency Planning Committee, or if appropriate, with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include a certified letter or any other documentation that confirms such arrangements actively exist.

(9) Emergency procedures. The small quantity generator complies with the following conditions for those areas of the generator site where hazardous waste is generated and accumulated:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the site within a short period of time) with the responsibility for coordinating all emergency response measures specified in paragraph (b)(9)(iv) of this section. This employee is the emergency coordinator.

(ii) The small quantity generator must post the following information next to telephones or in areas directly involved in the generation and accumulation of hazardous waste:

(A) The name and emergency telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm;
and

(C) The telephone number of the fire department, unless the site has a direct alarm.

(iii) The small quantity generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal site operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, the small quantity generator is responsible for containing the flow of hazardous waste to the extent possible, and as soon as is practicable, cleaning up the hazardous waste and any contaminated materials or soil. Such containment and cleanup can be conducted either by the small quantity generator or by a contractor on behalf of the small quantity generator;

(C) In the event of a fire, explosion, or other release that could threaten human health outside the site or when the small quantity generator has knowledge that a spill has reached surface water, the small quantity generator must immediately notify the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include the following information:

(1) The name, address, and U.S. EPA Identification Number of the small quantity generator;

(2) Date, time, and type of incident (e.g., spill or fire);

(3) Quantity and type of hazardous waste involved in the incident;

(4) Extent of injuries, if any; and

(5) Estimated quantity and disposition of recovered materials, if any.

(c) *Mixing hazardous waste with nonhazardous waste.* A small quantity generator may mix its hazardous waste with non-hazardous waste and remain eligible for the conditional exemption applicable to a small quantity generator provided that either paragraph (c)(1) or (2) of this section is met.

(1) The mixture is not a hazardous waste according to the mixture rules in §§ 261.3(a)(2)(iv), (b)(2) and (3), and (g)(2)(i); or

(2) If the mixture is a hazardous waste, the mixture does not cause the generator to exceed the small quantity generator quantity limits for a calendar month, as identified in the definition of small quantity generator at § 260.10 of this chapter. If the mixture does exceed the small quantity generator quantity limits, a small quantity generator, to remain exempt from the permitting and interim status standards, must meet the conditions for exemption applicable to a large quantity generator.

(d) *Transporting over 200 miles.* A small quantity generator who must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more for off-site treatment, storage or disposal may accumulate hazardous waste on site for 270 days or less without a permit or without having interim status provided that the generator complies with the conditions of paragraph (a) of this section.

(e) *Accumulation time limit extension.* A small quantity generator who accumulates hazardous waste for more than 180 days (or for more than 270 days if it must transport its waste, or offer its waste for transportation, over a distance of 200 miles or more) is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264, 265, 267, 268, and 270 and the permit requirements of 40 CFR part 270 unless it has been granted an extension to the 180-day (or 270-day if applicable) period. Such extension may be granted by EPA if hazardous wastes must remain on site for longer than 180 days (or 270 days if applicable) due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(f) *Rejected load.* A small quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of § 264.72 or 265.72 of this chapter may

Commented [LK30]: This references the mixing regulations under the definition of hazardous waste.

Commented [LK31]: Moved from 262.34(e)

Commented [LK32]: Moved from 262.34(f)

Commented [LK33]: Moved from 262.34(m)

accumulate the returned waste on site in accordance with paragraphs (a), (c), and (d) of this section. Upon receipt of the returned shipment, the generator must:

(i) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(ii) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(g) A small quantity generator experiencing an episodic event may accumulate hazardous waste in accordance with subpart L of this part in lieu of § 262.17.

§ 262.17 Conditions for exemption for a large quantity generator that accumulates hazardous waste.

A large quantity generator may accumulate hazardous waste on-site without a permit or interim status, and without complying with the independent requirements of parts 124, 264 through 268, and 270 of this chapter, provided that all of the conditions for exemption listed in this section are met:

(a) Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in § 262.17(b) through (e). The following accumulation conditions also apply:

(1) Accumulation in containers. If the hazardous waste is placed in containers, the large quantity generator must comply with the following:

(i) Air emission standards. The applicable requirements of subparts AA, BB, and CC of 40 CFR part 265;

(ii) Condition of containers. If a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the conditions for exemption of this section;

(iii) Compatibility of waste with container. The large quantity generator must use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be stored, so that the ability of the container to contain the waste is not impaired;

(iv) Management of containers. (A) A container holding hazardous waste must always be closed during accumulation, except when it is necessary to add or remove waste.

Commented [LK34]: Paragraph (g) allows SQGs to use the proposed Episodic Generation provisions.

Commented [LK35]: Moved from 262.34((a), (b), (g)-(i), (m), with some revisions.

Commented [LK36]: Section 262.34(a)(1)(i) currently references part 265 subpart I and subparts AA, BB, CC air emission requirements. We propose to retain a reference to AA, BB, and CC, but copy the container standards into 262.17

(B) A container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

(v) Inspections. At least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See paragraph (a)(1)(ii) of this section for remedial action required if deterioration or leaks are detected.

(vi) Special conditions for accumulation of ignitable and reactive wastes. (A) Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the site's property line unless a written waiver is obtained from the local fire department allowing hazardous waste accumulation to occur within this restricted area. Record of this approval must be maintained as long as ignitable or reactive hazardous waste is accumulated in this area.

(B) The large quantity generator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to the following: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the large quantity generator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(vii) Special conditions for accumulation of incompatible wastes. (A) Incompatible wastes, or incompatible wastes and materials, (see appendix V of part 265 for examples) must not be placed in the same container, unless § 265.17(b) of this chapter is complied with.

(B) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material (see appendix V of part 265 for examples), unless § 265.17(b) of this chapter is complied with.

(C) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(2) Accumulation in tanks. If the waste is placed in tanks, the large quantity generator must comply with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265 except § 265.197(c) of Closure and postclosure care and § 265.200—Waste analysis and trial tests.

(3) Accumulation on drip pads. If the waste is placed on drip pads, the large quantity generator must comply with subpart W of 40 CFR part 265 and maintain at the facility the

Commented [LK37]: EPA is proposing to maintain references to part 265 for management in tanks, drip pads, and containment buildings at an LQG.

following records by use of inventory logs, monitoring equipment records, or any other effective means:

(i) A written description of procedures that will identify the date hazardous waste first entered the drip pad and ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(ii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(4) Accumulation in Containment Buildings. (i) If the waste is placed in containment buildings, the large quantity generator must comply with subpart DD of 40 CFR part 265 and must place its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the generator's files prior to operation of the unit.

(ii) The large quantity generator shall maintain the following records by use of inventory logs, monitoring equipment records, or any other effective means:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the site showing that they are consistent with respecting the 90 day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once every 90 days.

(5) Labeling and marking of containers, tanks, drip pads, and containment buildings—(i) Containers. A large quantity generator must mark its containers with the following:

(A) The words "Hazardous Waste";

(B) Other words that identify the contents of the containers (examples may include, but are not limited to the name of the chemical(s), such as "acetone" or "methylene dichloride"; or the type or class of chemical, such as "organic solvents" or "halogenated organic solvents or, as applicable, the proper shipping name and technical name markings used to comply with Department of Transportation requirements at 49 CFR part 172 subpart D)";

(C) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); a hazard class label consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling); a label consistent with the Occupational Safety and Health Administration Hazard; a chemical hazard label consistent with the National Fire Protection Association code 704; a hazard pictogram consistent with the United Nations' Globally Harmonized System; or any other marking or labeling commonly used nationwide in commerce

that identifies the nature of the hazards associated with the contents of the waste accumulation unit); and

(D) The date upon which each period of accumulation begins clearly visible for inspection on each container.

(ii) Tanks, drip pads, and containment buildings. A large quantity generator accumulating hazardous waste in tanks, drip pads, and containment buildings must do the following:

(A) Mark or label its waste accumulation units with the words "Hazardous Waste." In the case of hazardous wastes accumulated in drip pads and containment buildings, generators must label their drip pads and containment buildings with the words "Hazardous Waste" in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, etc.

(B) Use inventory logs, monitoring equipment, or records to identify the contents of the tank, drip pad or containment building and its associated hazards.

(C) Use inventory logs, monitoring equipment or records to identify the date upon which each period of accumulation begins; and

(D) Keep inventory logs or records with the above information in close proximity to the tank, drip pad, or containment building.

(6) Emergency procedures. The large quantity generator complies with the standards in subpart M of this part, Preparedness, Prevention and Emergency Procedures for Large Quantity Generators.

(7) Personnel training. (i)(A) Site personnel must successfully complete a program of classroom instruction, online training, or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator must ensure that this program includes all the elements described in the document required under paragraph (a)(7)(iv) of this section.

(B) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches site personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

(C) At a minimum, the training program must be designed to ensure that site personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

Commented [LK38]: Section 262.34(a)(4) currently references part 265 subparts C and D. EPA proposes copying both those subparts into part 262 subpart M, with some revisions.

Commented [LK39]: Section 262.34(a)(4) currently references 265.16, which EPA proposes to copy into 262.17 here.

(1) Procedures for using, inspecting, repairing, and replacing site emergency and monitoring equipment;

(2) Key parameters for automatic waste feed cut-off systems;

(3) Communications or alarm systems;

(4) Response to fires or explosions;

(5) Response to ground-water contamination incidents; and

(6) Shutdown of operations.

(D) For site employees that receive emergency response training pursuant to Occupational Safety and Health Administration regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the large quantity generator is not required to provide separate emergency response training pursuant to this section, provided that the overall site training meets all the conditions of exemption in this section.

(ii) Site personnel must successfully complete the program required in paragraph (a)(7)(i) of this section within six months after the effective date of these regulations or six months after the date of their employment or assignment to the site, or to a new position at the site, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training standards of paragraph (a)(7)(i) of this section.

(iii) Site personnel must take part in an annual review of the initial training required in paragraph (a)(7)(i) of this section.

(iv) The large quantity generator must maintain the following documents and records at the site:

(A) The job title for each position at the site related to hazardous waste management, and the name of the employee filling each job;

(B) A written job description for each position listed under paragraph (a)(7)(iv)(A) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of site personnel assigned to each position;

(C) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (a)(7)(iv)(A) of this section;

(D) Records that document that the training or job experience, required under paragraphs (a)(7)(i), (ii), and (iii) of this section, has been given to, and completed by, site personnel.

(v) Training records on current personnel must be kept until closure of the site. Training records on former employees must be kept for at least three years from the date the employee last worked at the site. Personnel training records may accompany personnel transferred within the same company.

(8) Closure. A large quantity generator accumulating hazardous wastes in containers, tanks, drip pads, and containment buildings, prior to closing a unit that accumulates hazardous waste at the site or prior to closing the site must meet the following conditions:

(i) Notification. (A) Notify EPA no later than 30 days prior to closing a unit that accumulates hazardous waste at the site or prior to closing the site.

(B) Notify EPA within 90 days after closure of a unit that accumulates hazardous waste at the site or prior to closing the site that it has either clean closed (e.g., complied with the applicable closure performance standards of § 262.17(a)(8)(ii)) or, if it cannot clean close, notify as a landfill under § 265.310 of this chapter.

(ii) Closure performance standards. (A) At closure, the generator must close the waste accumulation unit or site in a manner that:

(1) Minimizes the need for further maintenance by controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, the post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere.

(2) Properly disposes of or decontaminates all contaminated equipment, structures and soil and any remaining hazardous waste residues from waste accumulation units including containment system components (pads, liners, etc.), contaminated soils and subsoils, bases, and structures and equipment contaminated with waste. Any hazardous waste residues remaining in the unit(s) being closed must be removed from the unit(s). Any leakage must also be decontaminated or removed and managed as a hazardous waste unless § 261.3(d) of this chapter applies.

(3) Any hazardous waste generated in the process of closing either the generator's site or unit(s) accumulating hazardous waste must be managed in accordance with all applicable standards of parts 260 through 270 of this chapter, including removing any hazardous waste contained in these units within 90 days of generating it and managing these wastes in a RCRA Subtitle C hazardous waste permitted treatment, storage and disposal facility or interim status facility.

Commented [LK40]: Closure requirements are copied from part 265 subparts J, W, and DD and consolidated here for generators. These subparts are currently referenced from 262.34(a).

(4) If the generator demonstrates that any contaminated soils and wastes cannot be practicably removed or decontaminated as required in paragraph (a)(8)(ii)(A)(2) of this section, then the waste accumulation unit is considered to be a landfill and the generator must close the waste accumulation unit and perform postclosure care in accordance with the closure and post-closure care requirements that apply to landfills (§ 265.310 of this chapter). In addition, for the purposes of closure, post-closure, and financial responsibility, such a waste accumulation unit is then considered to be a landfill, and the generator must meet all of the requirements for landfills specified in subparts G and H of part 265 of this chapter.

(9) Land disposal restrictions. The large quantity generator complies with all applicable requirements under 40 CFR part 268.

(b) Accumulation time limit extension. A large quantity generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264, 265, 267, and 268, and the permit requirements of 40 CFR part 270 unless it has been granted an extension to the 90-day period. Such extension may be granted by EPA if hazardous wastes must remain on site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(c) Accumulation of F006. A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, may accumulate F006 waste on site for more than 90 days, but not more than 180 days without a permit or without having interim status provided that it complies with all of the following conditions:

(1) The large quantity generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants entering F006 or otherwise released to the environment prior to its recycling;

(2) The F006 waste is legitimately recycled through metals recovery;

(3) No more than 20,000 kilograms of F006 waste is accumulated on site at any one time; and

(4) The F006 waste is managed in accordance with the following:

(i)(A) If the F006 waste is placed in containers, the large quantity generator must comply with the applicable conditions for exemption in § 262.17(a)(1); and/or

(B) If the F006 is placed in tanks, the large quantity generator must comply with the applicable conditions for exemption of § 262.17(a)(2); and/or

Commented [LK41]: Moved from 262.34(b)

Commented [LK42]: F006 provisions are moved from current 262.34(g), (h), and (i).

(C) If the F006 is placed in containment buildings, the large quantity generator must comply with subpart DD of 40 CFR part 265, and has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the site's files prior to operation of the unit. The large quantity generator must maintain the following records:

(1) A written description of procedures to ensure that the F006 waste remains in the unit for no more than 180 days, a written description of the waste generation and management practices for the site showing that they are consistent with the 180-day limit, and documentation that the large quantity generator is complying with the procedures; or

(2) Documentation that the unit is emptied at least once every 180 days.

(ii) The large quantity generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for those referenced in § 262.17(a)(8).

(iii) The date upon which each period of accumulation begins is clearly marked and must be clearly visible for inspection on each container;

(iv) While being accumulated on site, each container and tank is labeled or marked clearly with:

(A) The words "Hazardous Waste";

(B) Other words that identify the contents of the container or tank; and

(C) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); a hazard class label consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling); a label consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1920.1200; a chemical hazard label consistent with the National Fire Protection Association code 704; a hazard pictogram consistent with the United Nations' Globally Harmonized System; or any other marking or labeling commonly used nationwide in commerce that identifies the nature of the hazards associated with the contents of the waste accumulation unit); and

(v) The large quantity generator complies with the requirements in §§ 262.17(a)(6) and (7).

(d) F006 transported over 200 miles. A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the EPA hazardous waste number F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on site for more than 90 days, but not more than 270 days without a

permit or without having interim status if the large quantity generator complies with all of the conditions for exemption of paragraphs (c)(1) through (4) of this section.

(e) F006 accumulation time extension. A large quantity generator accumulating F006 in accordance with paragraphs (c) and (d) of this section who accumulates F006 waste on site for more than 180 days (or for more than 270 days if the generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more), or who accumulates more than 20,000 kilograms of F006 waste on site is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264, 265, and 267, and the permit requirements of 40 CFR part 270 unless the generator has been granted an extension to the 180-day (or 270-day if applicable) period or an exception to the 20,000 kilogram accumulation limit. Such extensions and exceptions may be granted by EPA if F006 waste must remain on site for longer than 180 days (or 270 days if applicable) or if more than 20,000 kilograms of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the Regional Administrator on a case-by-case basis.

(f) Mixing hazardous waste with nonhazardous waste. Mixtures of hazardous waste with non-hazardous waste are subject to the mixture rule in §§ 261.3(a)(2)(iv), (b)(2) and (3), and (g)(2)(i).

(g) Consolidation of hazardous waste received from very small quantity generators. Large quantity generators may receive hazardous waste from very small quantity generators under control of the same person (as defined in § 260.10), provided that they comply with the following conditions. “Control,” for the purposes of this section, means the power to direct the policies of the generator site, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator sites on behalf of a different person shall not be deemed to “control” such generator sites.

(1) The large quantity generator notifies EPA thirty (30) days prior to receiving the first shipment from a very small quantity generator(s) using EPA form 8700–12; and

(i) Identifies on the form the name(s) and site address(es) for the very small quantity generator(s) as well as the name and business telephone number for a contact person for the very small quantity generator(s); and

(ii) Submits an updated Site ID form (EPA form 8700–12) within 30 days after a change in the name, site address, or contact information for the very small quantity generator.

(2) The large quantity generator maintains records of shipments for three years from the date the hazardous waste was received from the very small quantity generator. These records must identify the name, site address, and contact information for the very small quantity generator and include a description of the hazardous waste received, including the

Commented [LK43]: This references the mixing regulations under the definition of hazardous waste.

Commented [LK44]: Section 262.17(g): LQG requirements when consolidating waste from very small quantity generators.

quantity, all applicable EPA hazardous waste number(s) (EPA hazardous waste codes) in subparts C and D of part 261 for the hazardous waste, and the date the waste was received.

(3) The large quantity generator manages all hazardous waste received from a very small quantity generator in compliance with the independent requirements in § 262.10(a)(1)(ii) and conditions for exemption in § 262.17 applicable to a large quantity generator. For purposes of the labeling and marking regulations in § 262.17(a)(5), the large quantity generator must label the container or unit with the date accumulation started (i.e., the date the hazardous waste was received from the very small quantity generator). If the large quantity generator is consolidating incoming hazardous waste from a very small quantity generator with either its own hazardous waste or with hazardous waste from other very small quantity generators, the large quantity generator must label each container or unit with the earliest date any hazardous waste in the container was accumulated on site.

(h) **Rejected load.** A large quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of § 264.72 or 265.72 of this chapter may accumulate the returned waste on site in accordance with paragraphs (a) and (b) of this section. Upon receipt of the returned shipment, the generator must:

(1) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(2) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

§ 262.18 EPA identification numbers and re-notification for small quantity generators and large quantity generators.

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.

(b) A generator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700-12. Upon receiving the request the Administrator will assign an EPA identification number to the generator.

(c) A generator must not offer its hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number. (d) Re-notification.

(i) A small quantity generator must notify EPA by February 1 of each even-numbered year thereafter using EPA Form 8700-12.

Commented [LK45]: Moved from 262.34(m)

Commented [LK46]: Moved from 262.12. Revised to add SQG renotification.

(ii) A large quantity generator must notify EPA by March 1 of each even numbered year thereafter using EPA Form 8700–12. A large quantity generator may submit this renotification as part of its biennial report required under § 262.41.

Subpart B—Manifest Requirements Applicable to Small and Large Quantity Generators

Subpart C—Pre-Transport Requirements Applicable to Small and Large Quantity Generators

§262.32 Marking.

(a) Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172;

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 119 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR 172.304:

HAZARDOUS WASTE—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Generator's Name and Address _____.

Generator's EPA Identification Number _____.

Manifest Tracking Number _____.

(c) Before transporting or offering hazardous waste for transportation off site, a generator must mark each container with the applicable EPA hazardous waste numbers (EPA hazardous waste codes) in subparts C and D of part 261 of this chapter.

§262.34 **[Reserved]**

§ 262.35 Liquids in landfills prohibition.

The placement of bulk or noncontainerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

Deleted: The

Deleted: Accumulation time.¶

(a) Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, provided that:¶

(1) The waste is placed:¶

(i) In containers and the generator complies with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265; and/or¶

(ii) In tanks and the generator complies with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265 except §§265.197(c) and 265.200; and/or¶

(iii) On drip pads and the generator complies with subpart W of 40 CFR part 265 and maintains the following records at the facility:¶

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and¶

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or¶

(iv) In containment buildings and the generator complies with subpart DD of 40 CFR part 265, has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:¶

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the 90 day limit, and documentation that the procedures are complied with; or¶

(B) Documentation that the unit is emptied at least once every 90 days.¶

In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for §§265.111 and 265.114.¶

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;¶

(3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Hazardous Waste"; and¶

(4) The generator complies with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with §265.16, and with all applicable requirements under 40 CFR part 268.¶

(b) A generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute ...

Commented [LK47]: Copied from 258.28

Subpart D—Recordkeeping and Reporting Applicable to Small and Large Quantity Generators

§262.40 Recordkeeping.

(a) A generator must keep a copy of each manifest signed in accordance with §262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

(b) A generator must keep a copy of each Biennial Report and Exception Report for a period of at least three years from the due date of the report.

(c) Reserved

(d) The periods or retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

§262.41 Biennial report for large quantity generators.

(a) A generator who is a large quantity generator for at least one month of the reporting year, must complete and submit EPA form 8700-13, to the Regional Administrator by March 1 of each even numbered year, for all hazardous wastes generated during the previous calendar year. This requirement also applies to generators who treat, store, or dispose of hazardous waste on site in accordance with the provisions of 40 CFR parts 264, 265, 266, 267, and 270 and to large quantity generators that receive hazardous waste from very small quantity generators pursuant to § 262.17(g).

(b) Exports of hazardous waste to foreign countries are not required to be reported on the Biennial Report form. A separate annual report requirement is set forth at 40 CFR 262.56 for hazardous waste exporters.

§262.43 Additional reporting.

The Administrator, as deemed necessary under sections 2002(a) and 3002(6) of the Act, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 CFR part 261.

§262.44 Special requirements for small quantity generators,

A small quantity generator is subject only to the following independent requirements in this subpart:

(a) Section 262.40(a), (c), and (d), recordkeeping;

Commented [LK48]: Requirement is moved to 262.11

Deleted: A generator must keep records of any test results, waste analyses, or other determinations made in accordance with §262.11 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

Deleted: ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States

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Commented [LK49]: This is the LQG reporting requirement for CESQG consolidation.

Deleted: The Biennial Report must be submitted on EPA Form 8700-13A, must cover generator activities during the previous year, and must include the following information:¶

(1) The EPA identification number, name, and address of the generator;¶

(2) The calendar year covered by the report;¶

(3) The EPA identification number, name, and address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year;¶

(4) The name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage or disposal facility within the United States;¶

(5) A description, EPA hazardous waste number (from 40 CFR part 261, subpart C or D), DOT hazard class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage or disposal facility within the United States. This information must be listed by EPA identification number of each such off-site facility to which waste was shipped.¶

(6) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.¶

(7) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.¶

(8) The certification signed by the generator or authorized representative.

Deleted: Any generator who treats, stores, or disposes of hazardous waste on-site must submit a biennial report covering those wastes in accordance with the provisions of 40 CFR parts 270, 264, 265, 266, and 267. Reporting for e

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(b) Section 262.42(b), exception reporting; and

(c) Section 262.43, additional reporting.

Subpart I—~~Reserved~~

Subpart J—~~Reserved~~

Subpart K—Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities

§262.200 Definitions for this subpart.

Trained professional means a person who has completed the applicable RCRA training requirements of §262.17 for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with §262.16 for small quantity generators and *very* small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

§262.201 Applicability of this subpart.

(a) *Large quantity generators and small quantity generators.* This subpart provides alternative requirements to the requirements in §§262.11 and 262.15 for the hazardous waste determination and accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subpart, provided that they complete the notification requirements of §262.203.

(b) *Very small quantity generators.* This subpart provides alternative requirements to the conditional exemption in §262.14 for the accumulation of hazardous waste in laboratories owned by eligible academic entities that choose to be subject to this subpart, provided that they complete the notification requirements of §262.203.

§262.202 This subpart is optional.

(a) *Large quantity generators and small quantity generators:* Eligible academic entities have the option of complying with this subpart with respect to its laboratories, as an alternative to complying with the requirements of §§262.11 and 262.15.

(b) *Very small quantity generators.* Eligible academic entities have the option of complying with this subpart with respect to its laboratories, as an alternative to complying with the conditional exemption of §262.14.

Deleted: New York State Public Utilities

Deleted: §262.90 Project XL for Public Utilities in New York State.

(a) The following definitions apply to this section:

(1) A *Utility* is any company that operates wholesale and/or retail oil and gas pipelines, or any company that provides electric power or telephone service and is regulated by New York State's Public Service Commission or the New York Power Authority.

(2) A *right-of-way* is a fixed, integrated network of aboveground or underground conveyances, including land structures, fixed equipment, and other appurtenances, controlled or owned by a Utility, and used for the purpose of conveying its products or services to customers.

(3) A *remote location* is a location in New York State within a Utility's right-of-way network that is not permanently staffed.

(4) A *Utility's central collection facility (UCCF)* is a Utility-owned facility within the Utility's right-of-way network to which hazardous waste, generated by the Utility at remote locations within the same right-of-way network, is brought.

(b) A UCCF designated pursuant to paragraph (e) of this section may consolidate hazardous waste (with the exception of mixed waste) generated by that Utility at its remote locations (and at that UCCF) for up to 90 days without a permit or without having interim status, provided that:

(1) The Utility complies with all applicable requirements for generators in 40 CFR part 262 (except §262.34 (d) through (f)) for hazardous waste generated at its remote locations and at the UCCF, including the manifest and pretransport requirements for all shipments greater than 100 kilograms sent from a remote location to a UCCF.

Deleted: University Laboratories XL Project—Laboratory Environmental Management Standard

Deleted: §262.100 To what organizations does this subpart apply?

Deleted: Central accumulation area means an on-site hazardous waste accumulation area subject to either §262.34(a)-(b) of this part (large quantity generators) or

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§262.203 How an eligible academic entity indicates it will be subject to the requirements of this subpart.

(a) An eligible academic entity must notify the appropriate EPA Regional Administrator in writing, using the RCRA Subtitle C Site Identification Form (EPA Form 8700-12), that it is electing to be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity under the same EPA Identification Number. An eligible academic entity that is a very small quantity generator and does not have an EPA Identification Number must notify that it is electing to be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity that are on-site, as defined by §260.10. An eligible academic entity must submit a separate notification (Site Identification Form) for each EPA Identification Number (or site, for very small quantity generators) that is electing to be subject to the requirements of this subpart, and must submit the Site Identification Form before it begins operating under this subpart.

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(b) When submitting the Site Identification Form, the eligible academic entity must, at a minimum, fill out the following fields on the form:

- (1) Reason for Submittal.
- (2) Site EPA Identification Number (except for very small quantity generators).
- (3) Site Name.
- (4) Site Location Information.
- (5) Site Land Type.
- (6) North American Industry Classification System (NAICS) Code(s) for the Site.
- (7) Site Mailing Address.
- (8) Site Contact Person.
- (9) Operator and Legal Owner of the Site.
- (10) Type of Regulated Waste Activity.
- (11) Certification.

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§262.204 How an eligible academic entity indicates it will withdraw from the requirements of this subpart.

(a) An eligible academic entity must notify the appropriate EPA Regional Administrator in writing, using the RCRA Subtitle C Site Identification Form (EPA Form 8700-12), that it is electing to no longer be subject to the requirements of this subpart for all the laboratories owned by the eligible academic entity under the same EPA Identification Number and that it will comply with the requirements of §§262.11 and 262.15 for small quantity generators and large quantity generators. An eligible academic entity that is a very small quantity generator and does not have an EPA Identification Number must notify that it is withdrawing from the requirements of this subpart for all the laboratories owned by the eligible academic entity that are on-site and that it will comply with the conditional exemption in §261.14. An eligible academic entity must submit a separate notification (Site Identification Form) for each EPA Identification Number (or site, for conditionally exempt small quantity generators) that is withdrawing from the requirements of this subpart and must submit the Site Identification Form before it begins operating under the requirements of §§262.11 and 262.15 for small quantity generators and large quantity generators, or §261.14 for very small quantity generators.

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§262.206 Labeling and management standards for containers of unwanted material in the laboratory.

* * * * *

(b) Management of Containers in the Laboratory: An eligible academic entity must properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human health or the environment. Proper container management must include the following:

(1) Containers are maintained and kept in good condition and damaged containers are replaced, overpacked, or repaired, and

(2) Containers are compatible with their contents to avoid reactions between the contents and the container; and are made of, or lined with, material that is compatible with the unwanted material so that the container's integrity is not impaired, and

(3) Containers must be kept closed at all times, except:

(i) When adding, removing or bulking unwanted material, or

(ii) A working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the working container must either be closed or the contents emptied into a separate container that is then closed, or

(iii) When venting of a container is necessary;

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(A) For the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs, or

(B) To prevent dangerous situations, such as build-up of extreme pressure.

§262.207 Training.

An eligible academic entity must provide training to all individuals working in a laboratory at the eligible academic entity, as follows:

* * * * *

(d) A trained professional must:

(1) Accompany the transfer of unwanted material and hazardous waste when the unwanted material and hazardous waste is removed from the laboratory, and

(2) Make the hazardous waste determination, pursuant to §262.11(a) through (d), for unwanted material.

§262.208 Removing containers of unwanted material from the laboratory.

(a) Removing containers of unwanted material on a regular schedule. An eligible academic entity must either:

(1) Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed 12 months; or

(2) Remove containers of unwanted material from each laboratory within 12 months of each container's accumulation start date.

* * * * *

§262.209 Where and when to make the hazardous waste determination and where to send containers of unwanted material upon removal from the laboratory.

* * * * *

(b) Very small quantity generators—an eligible academic entity must ensure that a trained professional makes a hazardous waste determination, pursuant to §262.11(a) through (d), for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with §262.210.

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§262.210 Making the hazardous waste determination in the laboratory before the unwanted material is removed from the laboratory.

If an eligible academic entity makes the hazardous waste determination, pursuant to §262.11, for unwanted material in the laboratory, it must comply with the following:

(a) A trained professional must make the hazardous waste determination, pursuant to §262.11(a) through (d), before the unwanted material is removed from the laboratory.

(b) If an unwanted material is a hazardous waste, the eligible academic entity must:

(1) Write the words “hazardous waste” on the container label that is affixed or attached to the container, before the hazardous waste may be removed from the laboratory; and

(2) Write the appropriate hazardous waste code(s) on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste is transported off-site.

(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to §261.13, in the calendar month that the hazardous waste determination was made.

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(c) A trained professional must accompany all hazardous waste that is transferred from the laboratory(ies) to an on-site central accumulation area or on-site interim status or permitted treatment, storage or disposal facility.

(d) When hazardous waste is removed from the laboratory:

(1) Large quantity generators and small quantity generators must ensure it is taken directly from the laboratory(ies) to an on-site central accumulation area, or on-site interim status or permitted treatment, storage or disposal facility, or transported off-site.

(2) Very small quantity generators must ensure it is taken directly from the laboratory(ies) to any of the types of facilities listed in §262.14,

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(e) An unwanted material that is a hazardous waste is subject to all applicable hazardous waste regulations when it is removed from the laboratory.

§262.211 Making the hazardous waste determination at an on-site central accumulation area.

If an eligible academic entity makes the hazardous waste determination, pursuant to §262.11, for unwanted material at an on-site central accumulation area, it must comply with the following:

(a) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site central accumulation area.

(b) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site central accumulation area.

(c) The unwanted material becomes subject to the generator accumulation regulations of §262.16 for small quantity generators or §262.17 for large quantity generators, as soon as it arrives in the central accumulation area, except for the “hazardous waste” labeling requirements of §262.16(b)(6) and §262.17(a)(5).

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Deleted: §262.34(a) (or §262.34(j) and (k) for Performance Track members) for large quantity generators or §262.34(d)-(f) for small quantity generators

Deleted: 34(a)(3) (or §262.34(j)(6) for Performance Track members).

(d) A trained professional must determine, pursuant to §262.11(a) through (d), if the unwanted material is a hazardous waste within 4 calendar days of the unwanted materials' arrival at the on-site central accumulation area.

(e) If the unwanted material is a hazardous waste, the eligible academic entity must:

(1) Write the words “hazardous waste” on the container label that is affixed or attached to the container, within 4 calendar days of arriving at the on-site central accumulation area and before the hazardous waste may be removed from the on-site central accumulation area, and

(2) Write the appropriate hazardous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the hazardous waste may be treated or disposed of on-site or transported off-site, and

(3) Count the hazardous waste toward the eligible academic entity's generator status, pursuant to §262.13 in the calendar month that the hazardous waste determination was made, and

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(4) Manage the hazardous waste according to all applicable hazardous waste regulations.

§262.212 Making the hazardous waste determination at an on-site interim status or permitted treatment, storage or disposal facility.

If an eligible academic entity makes the hazardous waste determination, pursuant to §262.11, for unwanted material at an on-site interim status or permitted treatment, storage or disposal facility, it must comply with the following:

* * * * *

(d) A trained professional must determine, pursuant to §262.11(a) through (d), if the unwanted material is a hazardous waste within 4 calendar days of the unwanted materials' arrival at an on-site interim status or permitted treatment, storage or disposal facility.

* * * * *

§262.213 Laboratory clean-outs.

(a) One time per 12 month period for each laboratory, an eligible academic entity may opt to conduct a laboratory clean-out that is subject to all the applicable requirements of this subpart, except that:

(1) If the volume of unwanted material in the laboratory exceeds 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), the eligible academic entity is not required to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), as required by §262.208. Instead, the eligible academic entity must remove all unwanted materials from the laboratory within 30 calendar days from the start of the laboratory clean-out; and

(2) For the purposes of on-site accumulation, an eligible academic entity is not required to count a hazardous waste that is an unused commercial chemical product (listed in 40 CFR part 261, subpart D or exhibiting one or more characteristics in 40 CFR part 261, subpart C) generated solely during the laboratory clean-out toward its hazardous waste generator status, pursuant to ~~§262.13~~. An unwanted material that is generated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward hazardous waste generator status, pursuant to ~~§262.13~~, if it is determined to be hazardous waste; and

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Deleted: 1.5(c) and (d)

(3) For the purposes of off-site management, an eligible academic entity must count all its hazardous waste, regardless of whether the hazardous waste was counted toward generator status under paragraph (a)(2) of this section, and if it generates more than 1 kg/month of acute hazardous waste or more than 100 kg/month of hazardous waste (i.e., the very small quantity generator limits as defined in §260.10), the hazardous waste is subject to all applicable hazardous waste regulations when it is transported off-site; and

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(4) An eligible academic entity must document the activities of the laboratory clean-out. The documentation must, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of hazardous waste generated during the laboratory clean-out. The eligible academic entity must maintain the records for a period of three years from the date the clean-out ends; and

(b) For all other laboratory clean-outs conducted during the same 12-month period, an eligible academic entity is subject to all the applicable requirements of this subpart, including, but not limited to:

(1) The requirement to remove all unwanted materials from the laboratory within 10 calendar days of exceeding 55 gallons (or 1 quart of reactive acutely hazardous unwanted material), as required by §262.208; and

(2) The requirement to count all hazardous waste, including unused hazardous waste, generated during the laboratory clean-out toward its hazardous waste generator status, pursuant to §262.13.

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§262.214 Laboratory management plan.

* * * * *

(b) In Part II of its Laboratory Management Plan, an eligible academic entity must:

* * * * *

(5) Describe its intended best practices for making hazardous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards at §262.11(a) through (d) and §§262.209 through 262.212).

* * * * *

§262.216 Non-laboratory hazardous waste generated at an eligible academic entity.

An eligible academic entity that generates hazardous waste outside of a laboratory is not eligible to manage that hazardous waste under this subpart; and

(a) Remains subject to the generator requirements of §§262.11 and 262.15 for large quantity generators and small quantity generators (if the hazardous waste is managed in a satellite accumulation area), and all other applicable generator requirements of 40 CFR part 262, with respect to that hazardous waste; or

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(b) Remains subject to the conditional exemption of §262.14 for very small quantity generators, with respect to that hazardous waste.

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Subpart L—Alternative Standards for Episodic Generation

Commented [LK50]: Episodic Generation Provisions

Sec. 262.230 Applicability.

262.231 Definition of an episodic event.

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

262.233 Petition to manage one additional episodic event per calendar year.

262.234 Petition for a 30-day extension to an episodic event.

Subpart L—Alternative Standards for Episodic Generation

§ 262.230 Applicability.

This subpart is applicable to very small quantity generators and small quantity generators as defined in § 260.10.

§ 262.231 Definition of an episodic event.

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

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

(a) Very small quantity generator. A very small quantity generator may maintain its existing generator category during an episodic event provided that the generator complies with the following conditions:

(1) The very small quantity generator is limited to one episodic event per calendar year unless a petition is granted under § 262.233;

(2) The very small quantity generator must notify EPA no later than thirty (30) calendar days prior to initiating a planned episodic event using EPA form 8700-12. In the event of an unplanned episodic event, the generator must notify EPA within 24 hours of the unplanned event or as soon as possible via phone or email and subsequently submit EPA form 8700-12. The generator shall include the start date of the episodic event, the reason(s) for the event, types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to an emergency;

(3) The very small quantity generator must have an EPA identification number or obtain an EPA identification number using EPA form 8700-12;

(4) Accumulation. A very small quantity generator is prohibited from accumulating hazardous waste generated from an episodic event on drip pads and in containment buildings. When accumulating hazardous waste in containers and tanks the following conditions apply:

(i) Containers. A very small quantity generator accumulating in containers must mark its containers with the following:

(A) The words "Episodic Hazardous Waste;"

(B) Other words that identify the contents of the containers (examples may include, but are not limited to the name of the chemical(s), such as "acetone" or "methylene dichloride"; or the type or class of chemical, such as "organic solvents" or "halogenated organic solvents" or,

as applicable, the proper shipping name and technical name markings used to comply with Department of Transportation requirements at 49 CFR part 172 subpart D);

(C) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); a hazard class label consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling); a label consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1920.1200; a chemical hazard label consistent with the National Fire Protection Association code 704; or a hazard pictogram consistent with the United Nations' Globally Harmonized System; or any other marking or labeling commonly used nationwide in commerce that identifies the nature of the hazards associated with the contents of the waste accumulation unit); and

(D) The date upon which the episodic event began, clearly visible for inspection on each container.

(ii) Tanks. A very small quantity generator accumulating episodic hazardous waste in tanks must do the following:

(A) Mark or label the tank with the words "Episodic Hazardous Waste;"

(B) Use inventory logs, monitoring equipment, or records to identify the contents of the tank and its associated hazards;

(C) Use inventory logs, monitoring equipment or records to identify the date upon which each episodic event begins; and

(D) Keep inventory logs or records with the above information in close proximity to the tank.

(iii) Hazardous waste must be managed in a manner that minimizes the possibility of a fire, explosion, or release of hazardous waste or hazardous waste constituents to the air, soil, or water;

(A) Containers must be in good condition and compatible with the hazardous waste being accumulated therein. Containers must be kept closed except to add or remove waste.

(B) Tanks must be in good condition and compatible with the hazardous waste accumulated therein. Tanks must have procedures in place to prevent the overflow (e.g., be equipped with a means to stop inflow with systems such as a waste feed cutoff system or bypass system to a standby tank when hazardous waste is continuously fed into the tank). Tanks must be inspected at least once each operating day to ensure all applicable discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems are in good working order and to ensure the tank is operated according to its design by

reviewing the data gathered from monitoring equipment such as pressure and temperature gauges from the inspection.

(5) The very small quantity generator must comply with the hazardous waste manifest provisions of 40 CFR part 262 subpart B when it sends its episodic event hazardous waste off site to a RCRA-designated facility.

(6) The very small quantity generator has up to forty-five (45) calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a RCRA-designated facility unless an extension is granted pursuant to § 262.233.

(7) Very small quantity generators must maintain the following records for three (3) years from the end date of the episodic event:

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

(ii) A description of the episodic event;

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

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

(v) Name(s) of hazardous waste transporters;

(vi) An approval letter from EPA if the generator petitioned to conduct one additional episodic event per calendar year; and

(vii) An approval letter from EPA if the generator petitioned for an additional thirty (30) calendar day extension.

(b) *Small quantity generators.* A small quantity generator may maintain its existing generator category during an episodic event provided that the generator complies with the following conditions:

(1) The small generator is limited to one episodic event per calendar year unless a petition is granted under § 262.233;

(2) The small quantity generator must notify EPA no later than thirty (30) calendar days prior to initiating a planned episodic event using EPA form 8700-12. In the event of an unplanned episodic event, the small quantity generator must notify EPA within 24 hours of the unplanned event or as soon as possible via phone or email and subsequently submit EPA form 8700-12. The small quantity generator shall include the start date of the episodic event and the

reason(s) for the event, types and estimated quantities of hazardous wastes expected to be generated as a result of the episodic event, and identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to emergency;.

(3) The small quantity generator must have an EPA identification number or obtain an EPA identification number using EPA form 8700-12.

(4) Accumulation by small quantity generators. A small quantity generator is prohibited from accumulating hazardous wastes generated from an episodic event waste on drip pads and in containment buildings. When accumulating hazardous waste generated from an episodic event in containers and tanks, the following conditions apply:

(i) Containers. A small quantity generator accumulating episodic hazardous waste in containers that meet the standards at part 265 subpart I of this chapter, except §§ 265.176 and 265.178 of this chapter, must mark its containers with the following:

(A) The words “Episodic Hazardous Waste”;

(B) Other words that identify the contents of the containers (examples may include, but are not limited to the name of the chemical(s), such as “acetone” or “methylene dichloride”; or the type or class of chemical, such as “organic solvents” or halogenated organic solvents” or, as applicable, the proper shipping name and technical name markings used to comply with Department of Transportation requirements at 49 CFR part 172 subpart D);

(C) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); a hazard class label consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling); a label consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1920.1200; a chemical hazard label consistent with the National Fire Protection Association code 704; or a hazard pictogram consistent with the United Nations’ Globally Harmonized System; or any other marking or labeling commonly used nationwide in commerce that identifies the nature of the hazards associated with the contents of the waste accumulation unit); and

(D) The date upon which the episodic event began, clearly visible for inspection on each container.

(ii) Tanks. A small quantity generator accumulating episodic hazardous waste in tanks that meet the standards at § 265.201 in subpart J must do the following:

(A) Mark or label its tank with the words “Episodic Hazardous Waste;”

(B) Use inventory logs, monitoring equipment, or records to identify the contents of the tank and its associated hazards;

(C) Use inventory logs, monitoring equipment or records to identify the date upon which each period of accumulation begins and ends; and

(D) Keep inventory logs or records with the above information immediately accessible. (iii) Comply with the applicable conditions listed in § 262.16.

(5) The small quantity generator must treat hazardous waste generated from an episodic event on site or manifest and ship such hazardous waste off site to a RCRA-designated facility within forty-five (45) calendar days from the start of the episodic event, unless an extension is granted pursuant to § 262.233.

(6) The small quantity generator must maintain the following records for three (3) years from the end date of the episodic event:

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

(ii) A description of the episodic event;

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

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

(v) Name(s) of hazardous waste transporters;

(vi) An approval letter from EPA if the generator petitioned to conduct one additional episodic event per calendar year; and

(vii) An approval letter from EPA if the generator petitioned for an additional thirty (30) calendar day extension.

§ 262.233 Petition to manage one additional episodic event per calendar year.

(a) A very small quantity generator or a small quantity generator may petition EPA for one additional episodic event per calendar year without it impacting its generator category. The petition must include the following:

(1) The reason(s) why an additional episodic event is needed and the nature of the episodic event;

(2) The estimated amount of hazardous waste to be managed from the event;

(3) How the hazardous waste is to be managed;

(4) The estimated length of time needed to complete management of the hazardous waste generated from the episodic event—not to exceed 45 days; and

(5) Information regarding the previous episodic event managed by the generator, including the nature of the event and whether it was a planned or unplanned event.

(b) The petition must be made via fax, email, or letter.

(c) The generator cannot manage the hazardous waste generated from an additional episodic event under subpart L until written approval by EPA, including email, has been received.

(d) The generator must retain written approval in its records for three years from the date the episodic event ended.

§ 262.234 Petition for a 30-day extension to an episodic event.

(a) The very small quantity generator or a small quantity generator may petition EPA for a thirty (30) calendar day extension to complete the management of hazardous waste generated by an episodic event. The petition must include the following:

(1) The nature of the episodic event;

(2) The estimated amount of additional hazardous waste to be managed from the episodic event if the extension is granted; and

(3) The generator's rationale for needing an extension of an additional 30 days beyond the 45-day limit to complete management of the hazardous waste generated from the episodic event.

(b) The generator must petition EPA via fax, email, or letter within fifteen (15) calendar days of the event ending.

(c) The generator cannot go beyond the 45-day limit unless written approval from EPA has been received.

(d) The generator must retain written approval in its records for three years from the date the episodic event ended.

Subpart M—Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators

Sec. 262.250 Applicability.

262.251 Maintenance and operation of facility.

262.252 Required equipment.

262.253 Testing and maintenance of equipment.

262.254 Access to communications or alarm system.

262.255 Required aisle space.

262.256 Arrangements with local authorities.

262.260 Purpose and implementation of contingency plan.

262.261 Content of contingency plan.

262.262 Copies of contingency plan.

262.263 Amendment of contingency plan.

262.264 Emergency coordinator.

262.265 Emergency procedures.

Subpart M—Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators

§ 262.250 Applicability.

The regulations of this subpart apply to those areas of a large quantity generator where hazardous waste is generated or accumulated on site in accordance with the conditions in § 262.17.

§ 262.251 Maintenance and operation of facility.

A large quantity generator must maintain and operate its site to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

§ 262.252 Required equipment.

All areas where hazardous waste is being either generated or accumulated must be equipped with the items in paragraphs (a) through (d) of this section (unless none of the hazards posed by waste handled at the site could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below). A large quantity generator may determine the most appropriate locations within its generator site to locate equipment necessary to prepare for and respond to emergencies:

Commented [LK51]: Emergency Preparedness Provisions, copied from Subparts C and D of Part 265 with some revisions.

(a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to site personnel;

(b) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(c) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(d) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

§ 262.253 Testing and maintenance of equipment.

All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency. § 262.254 Access to communications or alarm system.

(a) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under § 265.252 of this chapter.

(b) In the event there is just one employee on the premises while the site is operating, the employee must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required under § 265.252 of this chapter.

§ 262.255 Required aisle space.

The large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of site operation in an emergency, unless aisle space is not needed for any of these purposes.

§ 262.256 Arrangements with local authorities.

(a) The large quantity generator must make arrangements with the Local Emergency Planning Committee for the types and quantities of hazardous waste handled at the site, as well as the

potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals. Should there be no Local Emergency Planning Committee, should it not respond, or should the Local Emergency Planning Committee determine that it is not the appropriate organization to make arrangements with, then the large quantity generator must make arrangements with the local fire department and other relevant emergency responders (e.g., police and hospitals).

(1) A large quantity generator that must make arrangements with its local fire department must determine the potential need for the services of the local police department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals.

(2) As part of this coordination, the large quantity generator shall make arrangements, as necessary, to familiarize the above organizations with the layout of the site, the properties of the hazardous waste handled at the site and associated hazards, places where personnel would normally be working, entrances to roads inside the site, and possible evacuation routes as well as the types of injuries or illnesses which could result from fires, explosions, or releases at the site.

(3) Where more than one police or fire department might respond to an emergency, the large quantity generator shall enter into agreements designating primary emergency authority to a specific fire or police department, and agreements with any others to provide support to the primary emergency authority.

(b) The large quantity generator shall maintain records documenting the arrangements with the Local Emergency Planning Committee, or if appropriate, with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include a certified letter or any other documentation that confirms such arrangements actively exist.

§ 262.260 Purpose and implementation of contingency plan.

(a) A large quantity generator must have a contingency plan for the site. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or nonsudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

(b) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

§ 262.261 Content of contingency plan.

(a) The contingency plan must describe the actions site personnel must take to comply with §§ 262.260 and 262.265 in response to fires, explosions, or any unplanned sudden or nonsudden

release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the site.

(b) If the generator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with part 112 of this chapter, or some other emergency or contingency plan, it need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the standards of this part. The generator may develop one contingency plan that meets all regulatory standards. EPA recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan").

(c) The plan must describe arrangements agreed to with the Local Emergency Planning Committee. Should there be no Local Emergency Planning Committee, should it not respond, or should the Local Emergency Planning Committee determine that it is not the appropriate organization to make arrangements with, then the plan must describe arrangements agreed to by local fire departments and other relevant emergency responders (e.g., police and hospitals) to coordinate emergency services, pursuant to § 262.256.

(d) The plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see § 262.264), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator site has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.

(e) The plan must include a list of all emergency equipment at the site (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(f) The plan must include an evacuation plan for generator personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

§ 262.262 Copies of contingency plan.

A copy of the contingency plan and all revisions to the plan must be maintained at the large quantity generator's site and—

(a) The large quantity generator must submit a copy of the contingency plan to the Local Emergency Planning Committee. Should there be no Local Emergency Planning Committee, should it not respond, or should the Local Emergency Planning Committee determine that it is not the appropriate organization to make arrangements with, the large quantity generator must submit the copy to the local emergency responders.

(b) A generator that first becomes subject to these provisions after [date 6 months after the date of publication of the final rule in the Federal Register] must submit an executive summary of the contingency plan to the Local Emergency Planning Committee. Should there be no Local Emergency Planning Committee, should it not respond, or should the Local Emergency Planning Committee determine that it is not the appropriate organization to make arrangements with, the generator must submit the copy to the local emergency responders. The executive summary must include the following elements:

(1) The types/names of hazardous wastes in layman's terms and the associated hazard associated with each waste present at any one time (e.g., toxic paint wastes, spent ignitable solvent, corrosive acid);

(2) The estimated maximum amount of each hazardous waste that may be present at any one time;

(3) The identification of any hazardous wastes where exposure would require unique or special treatment by medical or hospital staff;

(4) A map of the site showing where hazardous wastes are generated and accumulated and routes for accessing these wastes;

(5) A street map of the site in relation to surrounding businesses, schools and residential areas to understand how best to get to the facility and also evacuate citizens and workers;

(6) The locations of water supply (e.g., fire hydrant and its flow rate);

(7) The identification of on-site notification systems (e.g., a fire alarm that rings off site, smoke alarms); and

(8) The name of the emergency coordinator and 7/24-hour emergency telephone number.

§ 262.263 Amendment of contingency plan.

The contingency plan must be reviewed, and immediately amended, if necessary, whenever:

(a) Applicable regulations are revised;

(b) The plan fails in an emergency;

(c) The generator site changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency;

(d) The list of emergency coordinators changes; or

(e) The list of emergency equipment changes.

§ 262.264 Emergency coordinator.

At all times, there must be at least one employee either on the generator's premises or on call (i.e., available to respond to an emergency by reaching the site within a short period of time) with the responsibility for coordinating all emergency response measures and implementing the necessary emergency procedures outlined in § 262.265. This emergency coordinator must be thoroughly familiar with all aspects of the generator's contingency plan, all operations and activities at the site, the location and characteristics of waste handled, the location of all records within the site, and the site's layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

§ 262.265 Emergency procedures.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(1) Activate internal site alarms or communication systems, where applicable, to notify all site personnel; and

(2) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. The emergency coordinator may do this by observation or review of the site records or manifests and, if necessary, by chemical analysis.

(c) Concurrently, the emergency coordinator must assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water or chemical agents used to control fire and heat-induced explosions).

(d) If the emergency coordinator determines that the site has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, the emergency coordinator must report the findings as follows:

(1) If the assessment indicates that evacuation of local areas may be advisable, the emergency coordinator must immediately notify appropriate local authorities. The emergency coordinator must be available to help appropriate officials decide whether local areas should be evacuated; and

(2) The emergency coordinator must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll free number 800/424-8802). The report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of the generator;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health, or the environment, outside the site.

(e) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the generator's site. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(f) If the generator's site stops operations in response to a fire, explosion or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(g) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility. Unless the generator can demonstrate, in accordance with § 261.3(c) or (d) of this chapter, that the recovered material is not a hazardous waste, then it is a newly generated hazardous waste that must be managed in accordance with all the applicable independent requirements and conditions for exemption in parts 262, 263, and 265 of this chapter.

(h) The emergency coordinator must ensure that, in the affected area(s) of the site:

(1) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(2) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(i) The generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, the generator must submit a written report on the incident to the Regional Administrator. The report must include:

(1) Name, address, and telephone number of the generator;

(2) Date, time, and type of incident (e.g., fire, explosion);

(3) Name and quantity of material(s) involved;

(4) The extent of injuries, if any;

(5) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and

(6) Estimated quantity and disposition of recovered material that resulted from the incident.

§263.12 Transfer facility requirements.

A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of §262.30 at a transfer facility for a period of ten days or less is not subject to regulation under parts ~~264~~, ~~265~~, ~~267~~, ~~268~~, and ~~270~~ of this chapter with respect to the storage of those wastes.

(b) The transporter must hold hazardous wastes that are stored at transfer facilities in containers marked with the following information:

(1) The words "Hazardous Waste;"

(2) The applicable EPA hazardous waste number(s) (EPA hazardous waste codes) in subparts C and D of part 261 of this chapter;

(3) Other words that identify the contents of the containers (examples may include, but are not limited to the name of the chemical(s), such as "acetone" or "methylene dichloride"; or the type or class of chemical, such as "organic solvents" or "halogenated organic solvents" or,

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as applicable, the proper shipping name and technical name markings used to comply with Department of Transportation requirements at 49 CFR part 172 subpart D); and

(4) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); a hazard class label consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling); a label consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1920.1200; a chemical hazard label consistent with the National Fire Protection Association code 704; a hazard pictogram consistent with the United Nations' Globally Harmonized System; or any other marking and labeling commonly used nationwide in commerce that identifies the nature of the hazards associated with the contents of the waste accumulation unit).

§264.1 Purpose, scope and applicability.

* * * * *

(g) The requirements of this part do not apply to:

(1) The owner or operator of a facility permitted, licensed, or registered by a state to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this part by §262.14 of this chapter;

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(2) The owner or operator of a facility managing recyclable materials described in §261.6 (a)(2), (3), and (4) of this chapter (except to the extent they are referred to in part 279 or subparts C, F, G, or H of part 266 of this chapter).

(3) A generator accumulating waste on-site in compliance with §262.14, 262.15, 262.16, or 262.17 of this chapter;

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* * * * *

§264.15 General inspection requirements.

(a) The owner or operator must inspect his facility for malfunctions and deterioration, operator errors, and discharges which may be causing—or may lead to—(1) release of hazardous waste constituents to the environment or (2) a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b)* * *

(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of

an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in §§264.174, 264.193, 264.195, 264.226, 264.254, 264.278, 264.303, 264.347, 264.602, 264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089, where applicable. Part 270 of this chapter requires the inspection schedule to be submitted with part B of the permit application. EPA will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of this review, EPA may modify or amend the schedule as may be necessary.

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(i) Submit a request for a Class I permit modification with prior approval to the Director. The modification request must identify the facility as a member of the National Environmental Performance Track Program and identify the management units for reduced inspections and the proposed frequency of inspections. The modification request must also specify, in writing, that the reduced inspection frequency will apply for as long as the facility is a Performance Track member facility, and that within seven calendar days of ceasing to be a Performance Track member, the facility will revert to the non-Performance Track inspection frequency. Inspections must be conducted at least once each month.¶

(ii) Within 60 days, the Director will notify the Performance Track member facility, in writing, if the request is approved, denied, or if an extension to the 60-day deadline is needed. This notice must be placed in the facility's operating record. The Performance Track member facility should consider the application approved if the Director does not: deny the application; or notify the Performance Track member facility of an extension to the 60-day deadline. In these situations, the Performance Track member facility must adhere to the revised inspection schedule outlined in its request for a Class 1 permit modification and keep a copy of the application in the facility's operating record.¶
(iii) Any Performance Track member facility that discontinues their membership or is terminated from the program must immediately notify the Director of their change in status. The facility must place in its operating record a dated copy of this notification and revert back to ...

§264.71 Use of manifest system.

* * * * *

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of part 262 of this chapter. The provisions of §262.15, 262.16, and 262.17 of this chapter are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of §262.15, 262.16, and 262.17 of this chapter only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

* * * * *

§264.75 Biennial report.

The owner or operator must complete and submit EPA form 8700-13 to the Regional Administrator by March 1 of each even numbered year for facility activities during the previous calendar year.

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§264.170 Applicability.

The regulations in this subpart apply to owners and operators of all hazardous waste facilities that store hazardous waste in containers, except as §264.1 provides otherwise.

[Comment: Under §261.7 and §261.33(c), if a hazardous waste is emptied from a container the residue remaining in the container is not considered a hazardous waste if the container is "empty" as defined in §261.7. In that event, management of the container is exempt from the requirements of this subpart.]

§264.174 Inspections.

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors. See §§264.15(c) and 264.171 for remedial action required if deterioration or leaks are detected.

Deleted: , except for Performance Track member facilities, that may conduct inspections at least once each month, upon approval by the Director

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§264.191 Assessment of existing tank system's integrity.

(a) For each existing tank system that does not have secondary containment meeting the requirements of §264.193, the owner or operator must determine that the tank system is not leaking or is fit for use. Except as provided in paragraph (c) of this section, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by a qualified Professional Engineer, in accordance with §270.11(d) of this chapter, that attests to the tank system's integrity by January 12, 1988.

* * * * *

§264.195 Inspections.

(a) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

(b) The owner or operator must inspect at least once each operating day data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.

[NOTE: Section 264.15(c) requires the owner or operator to remedy any deterioration or malfunction he finds. Section 264.196 requires the owner or operator to notify the Regional Administrator within 24 hours of confirming a leak. Also, 40 CFR part 302 may require the owner or operator to notify the National Response Center of a release.]

(c) In addition, except as noted under paragraph (d) of this section, the owner or operator must inspect at least once each operating day:

(1) Above ground portions of the tank system, if any, to detect corrosion or releases of waste.

(2) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

(d) Owners or operators of tank systems that either use leak detection systems to alert facility personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly those areas described in paragraphs (c)(1) and (c)(2) of this section. Use of the alternate inspection schedule must be documented in the

facility's operating record. This documentation must include a description of the established workplace practices at the facility.

(e) ~~Reserved~~

* * * * *

§264.1030 Applicability.

(a) The regulations in this subpart apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in §264.1).

(b) Except for §264.1034, paragraphs (d) and (e), this subpart applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw, if these operations are conducted in one of the following:

(1) A unit that is subject to the permitting requirements of 40 CFR part 270, or

(2) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of 40 CFR 262.17 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of 40 CFR part 270, or

(3) A unit that is exempt from permitting under the provisions of 40 CFR 262.34(a) (i.e., a "90-day" tank or container) and is not a recycling unit under the provisions of 40 CFR 261.6.

* * * * *

§264.1050 Applicability.

(a) The regulations in this subpart apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in §264.1).

(b) Except as provided in §264.1064(k), this subpart applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

(1) A unit that is subject to the permitting requirements of 40 CFR part 270, or

(2) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of 40 CFR 262.34(a) (i.e., a hazardous waste recycling unit that is not a "90-day" tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of 40 CFR part 270, or

Deleted: Performance Track member facilities may inspect on a less frequent basis, upon approval by the Director, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track member facility must follow the procedures described in §264.15(b)(5).

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(3) A unit that is exempt from permitting under the provisions of 40 CFR 262.17 (i.e., a “90-day” tank or container) and is not a recycling unit under the provisions of 40 CFR 261.6.

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§264.1101 Design and operating standards.

(c) ***

(4) Inspect and record in the facility operating record, at least once every seven days, data gathered from monitoring and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste.

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§265.1 Purpose, scope, and applicability.

(c) The requirements of this part do not apply to:

(5) The owner or operator of a facility permitted, licensed, or registered by a State to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this part by §262.14 of this chapter;

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(7) A generator accumulating waste on-site in compliance with §262.15, 262.16, and 262.17 of this chapter, except to the extent the requirements are included in §262.15, 262.16, or 262.17 of this chapter;

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§265.15 General inspection requirements.

(a) The owner or operator must inspect his facility for malfunctions and deterioration, operator errors, and discharges which may be causing—or may lead to:

(1) Release of hazardous waste constituents to the environment or

(2) a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b)(1) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

(2) He must keep this schedule at the facility.

(3) The schedule must identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in §§265.174, 265.193, 265.195, 265.226, 265.260, 265.278, 265.304, 265.347, 265.377, 265.403, 265.1033, 265.1052, 265.1053, 265.1058, and 265.1084 through 265.1090, where applicable.

§265.71 Use of manifest system.

* * * * *

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of part 262 of this chapter. The provisions of §262.15, 262.16, and 262.17 of this chapter are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of §262.15, 262.16, and 262.17, only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

* * * * *

§265.75 Biennial report.

The owner or operator must complete and submit EPA form 8700-13 to the Regional Administrator by March 1 of each even numbered year for facility activities during the previous calendar year.

§265.111 Closure performance standard.

The owner or operator must close the facility in a manner that:

Deleted: , except for Performance Track member facilities, that must inspect at least once each month, upon approval by the Director, as described in paragraph (b)(5) of this section

Deleted: (5) Performance Track member facilities that choose to reduce inspection frequencies must:¶

(i) Submit an application to the Director. The application must identify the facility as a member of the National Environmental Performance Track Program and identify the management units for reduced inspections and the proposed frequency of inspections. Inspections must be conducted at least once each month.¶

(ii) Within 60 days, the Director will notify the Performance Track member facility, in writing, if the application is approved, denied, or if an extension to the 60-day deadline is needed. This notice must be placed in the facility's operating record. The Performance Track member facility should consider the application approved if the Director does not: (1) Deny the application; or (2) notify the Performance Track member facility of an extension to the 60-day deadline. In these situations, the Performance Track member facility must adhere to the revised inspection schedule outlined in its application and maintain a copy of the application in the facility's operating record.¶

(iii) Any Performance Track member facility that discontinues its membership or is terminated from the program must immediately notify the Director of its change in status. The facility must place in its operating record a dated copy of this notification and revert back to the non-Performance Track inspection frequencies within seven calendar days.¶

(c) The owner or operator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.¶

(d) The owner or operator must record inspections in an inspection log or summary. He must keep these records for at least three years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of th[...]

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(a) Minimizes the need for further maintenance, and

(b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere, and

(c) Complies with the closure requirements of this subpart, including, but not limited to, the requirements of §§265.197, 265.228, 265.258, 265.280, 265.310, 265.351, 265.381, 265.404, 265.445, and 265.1102.

§265.114 Disposal or decontamination of equipment, structures and soils.

During the partial and final closure periods, all contaminated equipment, structures and soil must be properly disposed of, or decontaminated unless specified otherwise in §§265.197, 265.228, 265.445, 265.258, 265.280, 265.310, or 265.1102. By removing all hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that hazardous waste in accordance with all applicable requirements of part 262 of this chapter.

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§265.174 Inspections.

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See §265.171 for remedial action required if deterioration or leaks are detected.

Deleted: , except for Performance Track member facilities, that must conduct inspections at least once each month, upon approval by the Director. To apply for reduced inspection frequency, the Performance Track member facility must follow the procedures described in §265.15(b)(5) of this part.

§265.195 Inspections.

(a) The owner or operator must inspect, where present, at least once each operating day, data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.

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NOTE: Section 265.15(c) requires the owner or operator to remedy any deterioration or malfunction he finds. Section 265.196 requires the owner or operator to notify the Regional Administrator within 24 hours of confirming a release. Also, 40 CFR part 302 may require the owner or operator to notify the National Response Center of a release.

(b) Except as noted under the paragraph (c) of this section, the owner or operator must inspect at least once each operating day:

(1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

(2) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and

(3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

(c) Owners or operators of tank systems that either use leak detection equipment to alert facility personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly those areas described in paragraphs (b)(1) through (3) of this section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

(d) **[Reserved]**

(e) Ancillary equipment that is not provided with secondary containment, as described in §265.193(f)(1) through (4), must be inspected at least once each operating day.

(f) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(1) The proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter; and

(2) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

NOTE: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

(g) The owner or operator must document in the operating record of the facility an inspection of those items in paragraphs (a) and (b) of this section.

§265.201 [Reserved]

§265.1030 Applicability.

(a) The regulations in this subpart apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes (except as provided in §265.1).

Deleted: Performance Track member facilities may inspect on a less frequent basis, upon approval by the Director, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track member facility must follow the procedures described in §265.15(b)(5).

Commented [LK52]: The tank requirements for small quantity generators would be moved into 262.16(b)(3)

Deleted: Special requirements for generators of between 100 and 1,000 kg/mo that accumulate hazardous waste in tanks.¶

(a) The requirements of this section apply to small quantity generators of more than 100 kg but less than 1,000 kg of hazardous waste in a calendar month, that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and do not accumulate over 6,000 kg on-site at any time.¶

(b) Generators of between 100 and 1,000 kg/mo hazardous waste must comply with the following general operating requirements:¶

(1) Treatment or storage of hazardous waste in tanks must comply with §265.17(b).¶

(2) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.¶

(3) Uncovered tanks must be operated to ensure at least 60 centimeters (2 feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top 60 centimeters (2 feet) of the tank.¶

(4) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a standby tank).¶

NOTE: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).¶

(c) Except as noted in paragraph (d) of this section, generators who accumulate between 100 and 1,000 kg/mo of hazardous waste in tanks must inspect, where present:¶

(1) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;¶

(2) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;¶

(3) The level of waste in the tank at least once each operating day to ensure compliance with §265.201(b)(3);¶

(4) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and¶

(b) Except for §§265.1034, paragraphs (d) and (e), this subpart applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw, if these operations are conducted in one of the following:

(1) A unit that is subject to the permitting requirements of 40 CFR part 270, or

(2) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of 40 CFR 262.17 (i.e., a hazardous waste recycling unit that is not a 90-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of 40 CFR part 270, or

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(3) A unit that is exempt from permitting under the provisions of 40 CFR 262.17 (i.e., a “90-day” tank or container) and is not a recycling unit under the requirements of 40 CFR 261.6.

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§265.1101 Design and operating standards.

Deleted: NOTE: The requirements of §§265.1032 through 265.1036 apply to process vents on hazardous waste recycling units previously exempt under paragraph 261.6(c)(1). Other exemptions under §§261.4, and 265.1(c) are not affected by these requirements.]¶

* * * * *

(c) * * *

(4) Inspect and record in the facility's operating record at least once every seven days data gathered from monitoring and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste.

Deleted: , except for Performance Track member facilities, that must inspect up to once each month, upon approval of the director,

Deleted: To apply for reduced inspection frequency, the Performance Track member facility must follow the procedures described in §265.15(b)(5).

* * * * *

§268.1 Purpose, scope, and applicability.

* * * * *

(e) The following hazardous wastes are not subject to any provision of part 268:

(1) Waste generated by very small quantity generators, as defined in §260.10 of this chapter;

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§268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities.

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(5) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under 40 CFR 262.15, 262.16, and 262.17, to meet applicable LDR treatment standards found at §268.40, the generator must develop and follow a written waste analysis plan which describes the procedures they will carry out to comply with the treatment standards. (Generators treating hazardous debris under the alternative treatment standards of Table 1, §268.45, however, are not subject to these waste analysis requirements.) The plan must be kept on site in the generator's records, and the following requirements must be met:

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§268.50 Prohibitions on storage of restricted wastes.

(a) Except as provided in this section, the storage of hazardous wastes restricted from land disposal under subpart C of this part of RCRA section 3004 is prohibited, unless the following conditions are met:

(1) A generator stores such wastes in tanks, containers, or containment buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in §262.34 and parts 264 and 265 of this chapter.

(2) An owner/operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks, containers, or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and:

(i) Each container is clearly marked with:

(A) The words "Hazardous Waste;"

(B) The applicable EPA hazardous waste number(s) (EPA hazardous waste codes) in subparts C and D of part 261 of this chapter;

(C) Other words that identify the contents of the containers (examples may include, but are not limited to the name of the chemical(s), such as "acetone" or "methylene dichloride"; or the type or class of chemical, such as "organic solvents" or "halogenated organic solvents" or, as applicable, the proper shipping name and technical name markings used to comply with Department of Transportation requirements at 49 CFR part 172 subpart D); and

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(D) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); a

hazard class label consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling); a label consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1920.1200; a chemical hazard label consistent with the National Fire Protection Association code 704; a hazard pictogram consistent with the United Nations' Globally Harmonized System; or any other marking and labeling commonly used nationwide in commerce that identifies the nature of the hazards associated with the contents of the waste accumulation unit); and

(E) The date each period of accumulation begins.

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(ii) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating record at that facility. Regardless of whether the tank itself is marked, an owner/operator must comply with the operating record requirements specified in §264.73 or §265.73.

§270.1 Purpose and scope of these regulations.

(a) Coverage.

(3) *Technical regulations.* The RCRA permit program has separate additional regulations that contain technical requirements. These separate regulations are used by permit issuing authorities to determine what requirements must be placed in permits if they are issued. These separate regulations are located in 40 CFR parts 264, 266, and 267, and 268.

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(c) *Scope of the RCRA permit requirement.*

(2) *Specific exclusions.* The following persons are among those who are not required to obtain a RCRA permit:

(i) Generators who accumulate hazardous waste on-site in compliance with all the conditions for exemption provided in 40 CFR 262.14, 262.15, 262.16, and 262.17,

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(ii) Farmers who dispose of hazardous waste pesticides from their own use as provided in §262.70 of this chapter;

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(iii) Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulations under this part by 40 CFR 261.4.

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§270.42 Permit modification at the request of the permittee.

* * * * *

(l) Reserved

§273.8 Applicability—household and conditionally exempt small quantity generator waste.

(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this part:

(1) Household wastes that are exempt under §261.4(b)(1) of this chapter and are also of the same type as the universal wastes defined at §273.9; and/or

(2) Very small quantity generator wastes that are exempt under §262.14 of this chapter and are also of the same type as the universal wastes defined at §273.9.

(b) Persons who commingle the wastes described in paragraphs (a)(1) and (a)(2) of this section together with universal waste regulated under this part must manage the commingled waste under the requirements of this part.

§273.81 Factors for petitions to include other wastes under 40 CFR part 273.

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in subpart D of part 261 of this chapter, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in subpart C of part 261 of this chapter. (When a characteristic waste is added to the universal waste regulations of this part 273 by using a generic name to identify the waste category (e.g., batteries), the definition of universal waste in §260.10 of this chapter and §273.9 will be amended to include only the hazardous waste portion of the waste category (e.g., hazardous waste batteries.) Thus, only the portion of the waste stream that does exhibit one or more characteristics (i.e., is hazardous waste) is subject to the universal waste regulations of this part 273;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, very small quantity generators, small businesses, government organizations, as well as large industrial facilities);

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Deleted: or 261.5 (small generator exemption)

Deleted: Performance Track member facilities. The following procedures apply to Performance Track member facilities that request a permit modification under appendix I of this section, section O(1).¶

(1) Performance Track member facilities must have complied with the requirements of §264.15(b)(5) in order to request a permit modification under this section.¶

(2) The Performance Track member facility should consider the application approved if the Director does not: deny the application, in writing; or notify the Performance Track member facility, in writing, of an extension to the 60-day deadline within 60 days of receiving the request. In these situations, the Performance Track member facility must adhere to the revised inspection schedule outlined in its application and maintain a copy of the application in the facility's operating record.

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§279.10 Applicability.

This section identifies those materials which are subject to regulation as used oil under this part. This section also identifies some materials that are not subject to regulation as used oil under this part, and indicates whether these materials may be subject to regulation as hazardous waste under parts 260 through 266, 268, 270, and 124 of this chapter.

* * * * *

(b) *Mixtures of used oil and hazardous waste—*

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(3) Very small quantity generator hazardous waste. Mixtures of used oil and very small quantity generator hazardous waste regulated under §262.14 of this chapter are subject to regulation as used oil under this part.

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