

Hazardous Waste Generator Regulations Compendium

Volume 15: Spills and Releases of Hazardous Waste
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This document includes the following sections:

- Resource View – outlines the document types by which resources are organized.
- Resources by Document Category – lists resources for each document category outlined in the *Resource View*.
- CFR View – provides relevant Code of Federal Regulations (CFR) language reformatted for easy reading.

These three main sections are cross-referenced, i.e., each section includes hyperlinks to the other sections. In addition, each section and its accompanying index include a hyperlink to the Main Index that allows the user to easily navigate from one section to another.

Introduction

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About the Compendium

The Hazardous Waste Generator Regulations Compendium serves as a user-friendly reference to assist regulators, industrial facilities generating and managing solid and hazardous wastes, and the general public in locating resources relevant to specific regulatory topics within the federal hazardous waste generator program.

The objective of this document is to consolidate and streamline the various resources on a topic into a user-friendly format, including references to relevant CFR language, Federal Register (FR) notices, documents posted on RCRA Online (i.e., guidance in the form of memoranda issued by EPA, Q&As, and other publications), and other resources, such as Frequent Questions webpages. The Compendium has been divided into multiple volumes that are available here: www.epa.gov/hwgenerators/hazardous-waste-generator-regulations-compendium.

This document does not change any of the existing solid or hazardous waste requirements, nor does it offer an exhaustive list of relevant resources, as new resources may come into being or older ones may be relevant to a specific issue, but not included. Certain available resources, such as superseded RCRA Online documents, have not been referenced. Rather than including or reproducing referenced resources, this document generally provides hyperlinks to individual resources. As an exception, the Compendium does include relevant sections of the most current CFR regulatory language (as of the date on the cover of the Compendium). The included CFR language has been reformatted to make it easier to read, but it is not a substitute for the official CFR itself, or for the requirements in the CFR. The Government Printing Office frequently updates the e-CFR website; where appropriate, hyperlinks to the respective CFR section at the e-CFR website are provided.

Most states are authorized to administer their own RCRA Subtitle C hazardous waste program. Therefore, states may have their own set of regulations that apply in lieu of federal regulations. State regulations must be at least as stringent as the federal standards, but they can be more stringent. Please visit the following website to determine if the state regulatory program is different from the federal program: <https://www.epa.gov/hwgenerators/links-hazardous-waste-programs-and-us-state-environmental-agencies>, and check with your state agency.

About the Spills and Releases of Hazardous Waste Volume

This volume of the Compendium lists resources pertaining to the spills and releases of hazardous waste provisions that are found at 40 CFR Part 261 and 262. This section describes the generator requirements pertaining to spills and releases of hazardous waste. For more information regarding other topics that apply to facilities generating hazardous waste, refer to other volumes of the Compendium and [EPA's Hazardous Waste Generators Webpage](#).

Please note that the Hazardous Waste Generator Improvements rule of 2016 created new sections in Part 262, which contains the regulations pertaining to generators. Accordingly, some citations in the generator requirements in older resources in this Compendium are outdated, including references to § 261.5, § 262.34, and others. Please see the preamble to the final Hazardous Waste Generator Improvements rule for a discussion of the reorganization of the regulations (81 FR

85735–85740, November 28, 2016). For a specific crosswalk of the regulation citation changes, refer to www.epa.gov/hwgenerators/hazardous-waste-generator-regulations-crosswalk.

For more information on these regulations and any other questions or comments concerning this document, please contact EPA’s Office of Resource Conservation and Recovery:

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Resource View

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Spills and Releases of Hazardous Waste

Resource Index:

- Resource Type:
 - [EPA Memoranda](#)
 - [Questions and Answers \(Q&As\)](#)
 - [Federal Register Notices](#)

Resources by Document Category

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Document Category	RCRA Online/ Resource	Resource Title	Document Date	Keyword(s)	Notes
Memoranda	12016	Program Implementation Guidance on Issuance of Provisional EPA I.D. Numbers	11/26/1980	EPA ID Numbers	
	12298	Tanks Used for Emergency Containment	09/06/1984	Tanks; Secondary Containment	
	11087	Accumulation of Secondary Material – Abandoned vs. Disposed of	07/01/1985	Abandoned Waste; Secondary Material; Speculative Accumulation; Recycling	
	11161	Request for Comment on Memorandum Concerning the Cleanup of Residues of Commercial Chemical Products Within a Warehouse Storage Area	06/03/1986	Pesticides; Immediate Response; Level of Cleanup	
	12748	Responses to Accidental Spills of Listed or Characteristic Hazardous Wastes	09/29/1986	Discharges; Contingency Plan; On-Site Treatment; Transportation; Cleanup; Immediate Response	
	11291	Materials Contaminated with Pesticide Products	09/09/1987	Pesticide Spill; Normal Use; Disposal; Delisting	
	11348	Chlordane and Heptachlor Pesticide Waste	05/03/1988	P-Waste; U-Waste; Pesticides; Abandoned Waste	

Document Category	RCRA Online/ Resource	Resource Title	Document Date	Keyword(s)	Notes
	11398	Regulatory Status of Solvent, "Ultima-Gold"	02/22/1989	P-Waste; U-Waste; Commercial Chemical Product (CCP); Spill Residue	In addition to instructions specific to Ultima-Gold, this resource also includes information applicable to any CCP.
	11492	End-Users of Chlordimeform Exemption	02/14/1990	Exemption; End-Users; Abandoned Waste; Solid Wastes	
	13513	Concurrence on the Use of Section 7003 to Compel the Clean-up of an Oil Spill	11/07/1991	Disposal; RCRA 7003 authority; Characteristic Hazardous Waste; Oil Pollution Act (OPA)	
	13568	Regulatory Status of Soils Contaminated from Releases of Commercial Chemical Products	10/15/1992	Commercial Chemical Products; Contaminated Soil; Contained-In Policy	
	11713	Regulatory Status of Recovered Petroleum Product	11/25/1992	"Free Product"; Solid Waste; Recycling	
	14095	Regulatory Determination on the Status of Certain Manufacturing Wastes	07/24/1997	Dissolution Laboratory Waste; Washdown Water; Integrity Testing; Protective Equipment; Wastewater; Ventilation System Air Filters	
	14650	Regulatory Status of Gasoline Spills	02/02/1998	Gasoline; Solid Waste; Level of Cleanup; Non-Listed Chemical Products	
	14503	Regulatory Status of Petroleum Product Contained In Absorbent Pads	02/19/1999	Absorbent Pads, Petroleum Product, Commercial Chemical Products, Reclamation	
	14547	Land Disposal Restriction Requirements for Characteristic Wastes	05/15/2001	Characteristic Hazardous Waste; Prompt Cleanup; Immediate Response; Illegal Dilution	

Document Category	RCRA Online/ Resource	Resource Title	Document Date	Keyword(s)	Notes
	14826	Closed Container Guidance: Questions and Answers	11/13/2011	Spill Prevention; Closed Containers; Best Management Practices	
	14921	Letter to the Honorable Katherine Hammack from Mathy Stanislaus	04/30/2012	Abandoned Waste; Pesticides	
	14837	Checklist to Assist in Evaluating Whether Commercial Products are Solid and Hazardous Waste Under the Resource Conservation and Recovery Act	05/14/2013	Abandoned Wastes; Commercial Chemical Product (CCP)	
	14892	Safe Handling, Storage, and Treatment of Waste Fireworks	07/06/2017	Inspections; Personnel Training; Preparedness and Prevention; Maintenance; Spills	
Q&As	12489	Solvent Mixture Rule	11/01/1985	Mixed Waste; Characteristic Hazardous Waste	
	13743	Solid Waste Determination for Spilled Commercial Chemical Products	05/01/1995	Commercial Chemical Products; Spill Residue; Legitimate Recycling	
	13335	40 CFR Section 261.33: Spills of Commercial Chemical Products	11/01/1998	Spill Residues; Contaminated Soils; Commercial Chemical Products	
	14560	Universal Waste Release Response	06/01/2001	Definition of Universal Waste Pesticide; Spilled Pesticide; Cleanup Residue	
Federal Register Notices	45 FR 76626	Hazardous Waste Management System	11/19/1980	Definition of Spill; Spill Response; Immediate Response	See preamble discussion on page 76629 and regulatory language on page 76630.

Document Category	RCRA Online/ Resource	Resource Title	Document Date	Keyword(s)	Notes
	55 FR 22520	Land Disposal Restrictions for Third Third Scheduled Wastes	06/01/1990	Spill Residues; Commercial Chemical Products; Legitimate Recycling	See preamble discussion on page 22671.
	81 FR 85732	Hazardous Waste Generator Improvements Rule	11/28/2016	Spills; Releases; Abandoned Waste; Small Quantity Generators (SQGs); Large Quantity Generators (LQGs)	

CFR View Index

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CFR Location	Title/Topic
261.2(b) & (g)	Definition of Solid Waste
260.43	Legitimate Recycling of Hazardous Secondary Materials
262.16(b)(9)	Emergency Response Requirements for Small Quantity Generators (SQGs)
262.17(a)(6)	Emergency Procedures for Large Quantity Generators (LQGs)
262.260	Purpose and Implementation of Contingency Plans for Large Quantity Generators (LQGs)

CFR View

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NOTE: The CFR language may have been excerpted, reformatted and appended with subheadings and explanations/terms in brackets. The most relevant language has been highlighted for the reader's convenience.

§ 261.2(b) & (g) Definition of Solid Waste

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(b) **Materials are solid waste if they are abandoned** by being:

- (1) Disposed of; or
- (2) Burned or incinerated; or
- (3) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned or incinerated; or
- (4) [Sham recycled, as explained in paragraph (g)]

...

(g) *Sham recycling*. A hazardous secondary material found to be sham recycled is considered discarded and a solid waste. Sham recycling is recycling that is not legitimate recycling as defined in § 260.43.

§ 260.43 Legitimate Recycling of Hazardous Secondary Materials

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(a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste. In determining if their recycling is legitimate, persons must address all the requirements of this paragraph and must consider the requirements of paragraph (b) of this section.

(1) Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it:

- (i) Contributes valuable ingredients to a product or intermediate; or

- (ii) Replaces a catalyst or carrier in the recycling process; or
- (iii) Is the source of a valuable constituent recovered in the recycling process; or
- (iv) Is recovered or regenerated by the recycling process; or
- (v) Is used as an effective substitute for a commercial product.

(2) The recycling process must produce a valuable product or intermediate. The product or intermediate is valuable if it is:

- (i) Sold to a third party; or
- (ii) Used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.

(3) The generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control. Where there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. **Hazardous secondary materials that are released to the environment and are not recovered immediately are discarded.**

(b) The following factor must be considered in making a determination as to the overall legitimacy of a specific recycling activity.

(1) The product of the recycling process does not:

- (i) Contain significant concentrations of any hazardous constituents found in appendix VIII of part 261 that are not found in analogous products; or
- (ii) Contain concentrations of hazardous constituents found in appendix VIII of part 261 at levels that are significantly elevated from those found in analogous products, or
- (iii) Exhibit a hazardous characteristic (as defined in part 261 subpart C) that analogous products do not exhibit.

(2) In making a determination that a hazardous secondary material is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor in this paragraph is not met, then this fact may be an indication that the material is not legitimately recycled. However, the factor in this paragraph does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still

legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.

§ 262.16(b)(9) Emergency Procedures

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(9) The small quantity generator complies with the following conditions for those areas of the generator facility 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 facility 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 facility 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 facility 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 facility 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.

§ 262.17(a)(6) Emergency Procedures

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

§ 262.260 Purpose and Implementation of Contingency Plan

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(a) A large quantity generator must have a contingency plan for the facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden 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.