

Kansas Department of Health and Environment
Bureau of Waste Management Policy 2017-P2
EPA's Hazardous Waste Generator Improvements Rule

Purpose

This policy specifies which less stringent provisions of the federal Hazardous Waste Generator Improvements Rule will be implemented in Kansas in advance of the State's adoption of these regulations.

Background

Since 1980, the United States Environmental Protection Agency (EPA) has regulated the management and disposal of hazardous waste to protect human health and the environment. Periodically, the federal regulations are revised. In an effort to provide additional clarity, address deficiencies, and provide flexibility in the regulations, EPA published the Hazardous Waste Generator Improvements Rule in the Federal Register on November 28, 2016 with an effective date of May 30, 2017.

The new rule does not become effective in Kansas until the Kansas Department of Health and Environment (KDHE) formally incorporates the rule into Kansas regulations. KDHE is working on incorporating the new regulations, however it may take a year or longer before they are adopted and in effect in Kansas. Because the rule provides many benefits to the regulated community, KDHE will allow generators to comply with certain less stringent provisions, which KDHE finds protective of public health and the environment, as specified in the "Action" section of this policy.

Definitions for "person" and the four Kansas hazardous waste generator categories discussed in this policy can be found in the following Kansas Statutes Annotated (K.S.A.) and Kansas Administrative Regulations (K.A.R.):

- Person – K.S.A. 65-3430(o)
- Conditionally exempt small quantity generator (CESQG) – K.A.R. 28-31-260a(a)(1)
- Kansas small quantity generator (KSQG) – K.A.R. 28-31-260a(a)(8)
- Small quantity generator (SQG) – K.A.R. 28-31-260(c)(2)(E)
- Large quantity generator (LQG) – K.A.R. 28-31-260a(a)(9)

All references in this policy to Title 40, Code of Federal Regulations (CFR) mean those regulations as in effect on May 30, 2017, substituting "very small quantity generator" with "CESQG and KSQG".

The referenced regulations are described only briefly in this policy, so it is recommended that any facility that wishes to take advantage of this policy review the regulations in their entirety.

Action

On and after May 30, 2017, hazardous waste generators may comply with the following:

CESQG and KSQG Hazardous Waste Sent to an LQG

[40 CFR §§ 262.14(a)(5)(viii) and 262.17(f)]

CESQGs and KSQGs may send their hazardous waste to an LQG that is under the control of the same person (e.g., same company) if they comply with all the requirements of 40 CFR § 262.14(a)(5)(viii).

LQGs may accept waste from CESQGs and KSQGs under the control of the same person (e.g., same company) if they comply with all the requirements of 40 CFR § 262.17(f).

To satisfy the notification requirement in 40 CFR § 262.17(f)(1), the LQG must submit the Notification of Regulated Waste Activity form and addendum for LQG consolidation of CESQG and KSQG hazardous waste to the KDHE Bureau of Waste Management.

Arrangements with Local Emergency Authorities

[40 CFR §§ 262.16(b)(8)(vi) and 262.256(a)]

The requirement for SQGs and LQGs to attempt to make arrangements with local authorities has been updated to include Local Emergency Planning Committees (LEPCs) **if** the LEPC is determined to be the appropriate organization with which to make arrangements.

The new regulatory language is:

The small [or large] quantity generator must attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals, taking into account the types and quantities of hazardous wastes handled at the facility. Arrangements may be made with the Local Emergency Planning Committee, if it is determined to be the appropriate organization with which to make arrangements.

50-foot Rule

[40 CFR § 262.17(a)(1)(vi)(A)]

LQGs may request a site-specific waiver from their local fire code authority if they are unable to locate containers of ignitable (D001) and reactive (D003) hazardous waste 50 feet or more from the site's property line. KDHE will allow LQGs to comply as stated in the federal rule:

Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the facility's property line unless a written approval is obtained from the authority having jurisdiction over the local fire code allowing hazardous waste accumulation to occur within this restricted area. A record of the written approval must be maintained as long as ignitable or reactive hazardous waste is accumulated in this area.

The written approval from the local fire code authority must be readily available during an inspection.

Episodic Events

[40 CFR § Part 262 Subpart L]

An episodic event is defined in the federal rule as follows:

Episodic event means 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. (40 CFR § 262.231)

CESQGs, KSQGs, and SQGs who experience an episodic event may maintain their existing generator category if they comply with the conditions in 40 CFR § 262 Subpart L-Alternative Standards for Episodic Generation.

In addition, KSQGs that chose to maintain their existing generator category must comply with the following additional Kansas requirements, which are already required of KSQGs:

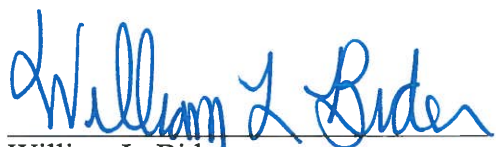
- Inspect the area where episodic waste is stored at least once every 31 days, until the episodic waste is transported offsite for disposal [K.A.R. 28-31-262a(e)(2)].
- Document inspections and maintain copies of the inspections for at least three years [K.A.R. 28-31-262a(e)(3)(G)].

To satisfy the notification requirement in 40 CFR §§ 262.232(a)(2) and 262.232(b)(2), CESQGs, KSQGs, and SQGs must submit the Notification of Regulated Waste Activity form and addendum for episodic generator to the KDHE Bureau of Waste Management.

Failure to comply with the provisions in Subpart L will result in, but not be limited to, a change in the generator's category as appropriate.

In addition to the above requirements, episodic generators will be required to pay KDHE the annual monitoring fee based on the quantity of hazardous waste generated as a result of the episodic event. For example, if a facility that meets the CESQG category has an episodic event that results in the monthly generation of 2,200 or more pounds, the facility will be required to pay the applicable monitoring fee for an LQG.

This policy shall remain in effect until it is revoked or is rendered obsolete by the adoption of the Hazardous Waste Generator Improvements Rule in the Kansas hazardous waste regulations.



William L. Bider
Director, Bureau of Waste Management



Date