

# EPIIODIC EVENTS: GO BIG, STAY SMALL

What happens once a year, can be as big as you want, and will not change your generator status? An episodic event! In 40 CFR Part 262, under the new Hazardous Waste Generator Improvements Rule, the Environmental Protection Agency will allow generators to maintain a smaller generator status even though they have exceeded their mandatory monthly quotas, regardless of whether the events were planned or not. It's new, and will allow thousands of Very Small Quantity Generators (VSQG) and Small Quantity Generators (SQG) to generate large amounts of waste in a very short period of time, without losing their current generator status, if a few additional requirements can be met.

There are two types of episodic events defined in Section 262.231, planned and unplanned. Demolition projects, short production runs, out-of-date chemical inventory removal, tank clean-outs and equipment and plant maintenance would be perfect examples of planned episodic events. An unplanned episodic event would be an event that the generator did not plan for and reasonably did not expect to occur. This would be related to spill clean-ups, product recalls, production mishaps or even hazardous waste generated from floods, hurricanes and tornadoes.

VSQGs and SQGs will be able to take advantage of this new provision, but only if:

- (1) The episodic events are limited to one per calendar year. Unless you petition for a second, and it is not the same type as the first;
- (2) The generator must notify EPA at least 30 calendar days prior to initiating a planned episodic event or within 72 hours after an unplanned episodic event begins. The generator must identify the start and end dates (which may be no more than 60 days apart), provide information about the event, and identify a facility contact or emergency coordinator with 24-hour telephone access to discuss any notifications, submittals or response efforts, if required, regarding an unplanned episodic event;
- (3) The generator must have an EPA ID number; so if a VSQG does not possess one from a previous event, one must be obtained;
- (4) The VSQG must ensure containers and tanks accumulating episodic hazardous waste are in good condition and compatible with the waste being accumulated. Their containers must be kept closed except when adding or removing waste. VSQG tanks require daily inspections and procedures to ensure they do not overflow. SQGs must store their episodic hazardous waste containers or tanks in the central accumulation area, and meet all the regulations under 262.16(b)(2) and 262.16(b)(3) for accumulation of hazardous waste.
- (5) The generator must use a hazardous waste manifest and hazardous waste transporter to ship the

waste generated by the episodic event to a RCRA-designated facility within 60 calendar days from the start of the episodic event;

(6) The generator must complete and maintain specific records: **(a)** the beginning and end dates of the episodic event; **(b)** a description of the episodic event; **(c)** a description of the types and quantities of hazardous wastes generated during the episodic event; **(d)** a description of how the hazardous waste was managed, as well as the name of the RCRA-designated facility that received the hazardous waste; **(e)** name(s) of hazardous waste transporters utilized; and **(f)** an approval letter from EPA if the generator has successfully petitioned to conduct an additional episodic event during the calendar year. These records must be maintained for at least three years from the end date of the episodic release

(7) While accumulating waste generated from an episodic event, the containers and tanks must be marked with the words “Episodic Hazardous Waste” and an indication of the hazards of the contents of the containers and tanks. Acceptable methods of doing this include: the applicable hazardous waste characteristic(s) (ignitable, corrosive, reactive, toxic); hazard communication consistent with the DOT requirements in 49 CFR Part 172 Subpart E (labeling) or Subpart F (placarding); a hazard statement or pictogram consistent with the OSHA Hazard Communication Standard in 29 CFR 1910.1200; or a chemical hazard label consistent with the NFPA Code 704. Then, the generators are required to mark the date that the episodic event began clearly on each container or maintain the tank’s start and end dates in a log or record that must be kept onsite and available for inspection.

And don’t forget, as mentioned above, EPA will allow for a second episodic event within the same calendar year, but only once, provided it is not the same type, by completing a petition process under section 262.233. The given reason by the EPA is that, if a VSQG or SQG exceeds its generator category limits more than twice in one year, it would justify the change to a higher generator status, at the very least, for those months.

Then, finally, an episodic event is not limited to a single project within the facility. A generator could start and complete multiple projects, even at different times, and if completed within the 60-day start and end dates on the notification form, could be considered part of the same episodic event.

I believe this will fundamentally change the way hazardous waste is managed, not just for very small and small quantity generators, but for large quantity generators also. Your generator status may not really be based on how much waste you generate each month, but based more on when or how you generate your hazardous waste each year. Many large quantity generators could re-imagine how and when certain tasks are handled and then realign management and maintenance procedures. Based on those changes, they could dispose very large amounts of hazardous waste while maintaining a smaller generator status.

This new rule comes into effect on May 30, 2017, but don’t wait; plan now. In the meantime, if you have any questions, comments or input on episodic releases, please contact me or sign up for a seminar when I am back in town. As always, thank you for your support and readership.

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