

APPLICABILITY OF THE RESOURCE CONSERVATION AND RECOVERY ACT LAND DISPOSAL RESTRICTIONS ON SMALL QUANTITY GENERATORS

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Under the Resource Conservation and Recovery Act (RCRA), there are two categories of small quantity generators. They are: (a) small quantity generators and (b) conditionally exempt small quantity generators.

Presently, small quantity generators are subject to limited generator requirements but *are* subject to all requirements of the RCRA land disposal restrictions. Conditionally exempt small quantity generators *are not* subject to any of the RCRA provisions except waste determination and designation. The following provides a discussion on the applicability of the land disposal restrictions (LDR) to small quantity generators and conditionally exempt small quantity generators.

SMALL QUANTITY GENERATORS

Definition of A Small Quantity Generator

"A small quantity generator means a generator who generates less than 1000 kg of hazardous waste in a calendar month." [40 CFR 260.10 (a)] Also, as inferred from 40 CFR 261.5 e (1), the small quantity generator must generate less than 1 kg of *acute* hazardous waste per calendar month. Acute hazardous waste is defined as: dioxin wastes with the EPA waste codes F020, F021, F022, F023, F026, and F027 as defined in 40 CFR 261.31; or those discarded commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products as identified in 40 CFR 261.33(e).

Generally, a small quantity generator is subject to limited generator requirements under the RCRA regulations. Those requirements include manifesting, compliance with container and tank requirements, marking and labeling, preparedness and prevention, and limited contingency planning and recordkeeping [40 CFR 262.34 (d)].

Normal Storage Time Limits for Small Quantity Generators

A generator who generates greater than 100 kg but less than 1000 kg of hazardous waste in a calendar month may accumulate waste onsite for up to 180 days without a permit as long as the quantity of waste accumulated onsite never exceeds 6000 kg [40 CFR 262.34 (d)]. If the generator must transport waste or offer waste for transportation over a distance of 200 miles or more for offsite treatment, storage, or disposal, he may accumulate hazardous waste onsite for up to

270 days without a permit as long as the quantity of waste accumulated onsite never exceeds 6000 kg [40 CFR 262.34 (e)].

Application of the Land Disposal Restrictions to Small Quantity Generators

One of the major comments that the Environmental Protection Agency (EPA) received on the proposed rulemaking for the regulatory framework of the LDR was related to the EPA's application of the land disposal prohibitions to waste generated by small quantity generators. However, EPA responded that the major concern with land disposal is the toxicity of the waste rather than the quantity and because small quantity generators produce many of the same types of waste and use many of the same waste management practices as large quantity generators, the full provisions of the land disposal prohibitions should apply to small quantity generators [51 Federal Register (FR) 40580 (Nov. 7, 1986)].

In establishing treatment standards for solvents, the EPA lacked sufficient characterization data to allow determination of the treatment capacity needed for waste solvents generated by small quantity generators. Therefore, in order to compare the total quantity of solvents generated with the available treatment capacity, EPA distributed the capacity demand for these wastes between incineration, distillation, and fuel substitution based on the relative demand projected for those technologies. As a result of that analysis, EPA clearly identified the basis for a two-year national capacity extension for waste solvents generated by small quantity generators [51 FR 40615 (Nov. 7, 1986)]. In the November 7, 1986 final rule, EPA granted a two-year

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national capacity extension for waste solvents generated by small quantity generators. However, that two-year national capacity extension has expired, and the land disposal prohibitions for solvent waste from small quantity generators are now in effect.

Land Disposal Restriction Storage Prohibitions for Small Quantity Generators

To implement the storage prohibitions under the LDR, EPA requires owners/operators of small quantity generators to comply with the requirements for dating containers as set forth for generators under

40 CFR 262.34 (a)(2). Therefore, under the normal storage limits as described above, a small quantity generator is not subject to the LDR storage prohibitions until after the 180 or 270 days normally allowed. Of course, as allowed in 40 CFR 268.50, a small quantity generator could store a hazardous waste prohibited from land disposal beyond the time limits allowed in 40 CFR 262.34 if the storage is for the sole purpose of accumulating sufficient quantities as necessary to facilitate proper recovery, treatment, or disposal. In such case, the small quantity generator would need to be operating under the RCRA interim status requirements or maintain a final RCRA permit.

CONDITIONALLY EXEMPT SMALL QUANTITY GENERATORS

Definition of A Conditionally Exempt Small Quantity Generator

"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" [40 CFR 261.5 (a)]. (Also, as inferred from 40 CFR 261.5 (e)(1), the conditionally exempt small quantity generator must generate less than 1 kg of *acute* hazardous waste per calendar month).

Application of the Land Disposal Restrictions to Conditionally Exempt Small Quantity Generators

A conditionally exempt small quantity generator is subject to only the waste determination and designation requirements of RCRA. Waste generated by a conditionally exempt small quantity generator is not subject to any of the other regulations under RCRA, including the RCRA land disposal restrictions [40 CFR 261.5 (b)].

A conditionally exempt small quantity generator may either treat or dispose of *acute* and hazardous waste in an onsite facility or ensure delivery to an offsite treatment, storage, or disposal facility that meets one or more of the following conditions:

- Operating under RCRA interim status or a RCRA final permit
- Authorized to manage hazardous waste by a state with an approved RCRA program
- Permitted, licensed, or registered by a state to manage municipal or industrial solid waste

- A facility that either recycles or reclaims waste [40 CFR 261.5 (f) (3) and (g) (3)].

As stated above, a conditionally exempt small quantity generator is not subject to the land disposal prohibitions. Specifically, 40 CFR 268.1 (c) states that "prohibited wastes may continue to be land disposed as follows: . . . (3) where the waste is generated by small quantity generators of less than 100 kilograms of non-acute hazardous waste per month or less than 1 kilogram *acute* hazardous waste per month as defined in 261.5 of this chapter."

A conditionally exempt small quantity generator is subject to full regulation including the land disposal prohibitions if any one or more of the following conditions apply:

- A total of 1 kg of *acute* hazardous waste is generated in a calendar month
- A total of 100 kg of any residue or contaminated soil, waste, or other debris resulting from the cleanup of spill of any *acute* hazardous waste is generated in a calendar month
- A total of 1 kg of *acute* hazardous waste; or 100 kg of *acute* hazardous residue or contaminated soil, waste, or other debris (as identified above) is accumulated onsite by the generator.

A conditionally exempt small quantity generator is subject to the requirements for small quantity generators, including the land disposal prohibitions if a total of 1000 kg or more of hazardous waste is accumulated onsite by the generator.

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