

December 23, 2015

US Environmental Protection Agency  
EPA Docket Center (EPA/DC)  
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Washington, DC, 20460

Transmitted via email: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov)  
Attention: **Docket ID No. EPA-HQ-RCRA-2012-0121**



Dear Sir or Madam,

The National Steering Committee (NSC) for the national network of state Small Business Environmental Assistance and Small Business Ombudsman Programs thank you for the opportunity to comment on the proposed Hazardous Waste Generator Improvements rule, published in the *Federal Register* on September 25, 2015 in Docket ID No. **EPA-HQ-RCRA-2012-0121**.

The state Small Business Environmental Assistance and Small Business Ombudsman Programs (SBEAP/SBO) were created under section 507 of the Clean Air Act Amendments of 1990. For over 20 years, the SBEAP/SBOs have provided extensive, hands-on assistance to small businesses to help them understand environmental regulations such as the New Source Performance Standards (NSPS), National Emissions Standards for Hazardous Air Pollutants (NESHAP), and numerous state-based standards.

The SBEAP/SBOs have submitted comments during the development of prior EPA rules, most notably many of the area source NESHAP standards that regulated many small businesses for the first time. The SBEAP/SBO network, through their Technical Subcommittee, stands ready to work with EPA to develop rule language and implement tools and templates that will greatly enhance the ability of a small business to comply. Comments from the National Steering Committee on the proposed rule reflect the experience of SBEAP/SBOs.

On behalf of the national SBEAP/SBO network, the NSC respectfully submits the following comments:

### ***Preamble and Summary***

In general, the NSC supports the EPA's proposed revisions to the hazardous waste generator regulations found in 40 CFR Parts 260-265, 268, 270, 273 and 279 to address gaps, provide flexibility, reorganize, make them user-friendly, improve readability and make technical corrections.

### ***Proposed addition of 40 CFR Part 262, Subpart L for generators that temporarily change generator category as a result of an episodic event***

We concur with the proposed addition which gives generators the option to maintain their status in lieu of complying with additional obligations for a relatively short period. Far too

often small businesses undertake a facility cleanout or experience an unplanned event such as a spill that bumps them into the next larger generator category causing panic and confusion. This provision will encourage businesses to clean out and properly dispose of unused materials and cleanup debris in lieu of storing these [waste] materials on-site indefinitely. However, the proposed requirements may also be confusing to small entities, so EPA should be prepared to provide guidance to them.

### ***CESQG Waste Consolidation***

The NSC is in favor of allowing CESQGs to send their hazardous waste to an LQG that is under the same ownership. The NSC believes that this provision will increase the proper handling of hazardous waste, since most large quantity generators are well-versed in proper disposal procedures. In addition, consolidating waste eases the financial and administrative burden for CESQGs, and makes it easier for them to appropriately manage their hazardous waste.

### ***Labeling***

The NSC agrees that indicating the hazard contents of containers is important to protect the health and safety of facility workers, emergency responders, and others from potential hazards posed by its contents. However, we feel that EPA should provide more guidance and clarification in strengthening the marking and labeling of containers in SAAs (satellite accumulation areas).

The rule states, "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);"

It would be less confusing, especially for emergency responders, if EPA selected one method for indicating a waste's hazard content, instead of allowing the facility to choose from several possible methods. At the very least, EPA should develop a plain language guidance document, an FAQ, or a small business compliance guide on hazardous waste labeling to help facilities label their waste to be in compliance with the proposed standards. In addition, some workers who come in contact with hazardous waste may not speak English. EPA should clarify what facilities with non-English speaking employees should do to ensure proper handling and worker safety.

### ***Terminology Change***

There is concern among SBEAP/SBO programs regarding changing the term Conditionally Exempt Small Quantity Generator to Very Small Quantity Generator. Many businesses are already familiar with the term CESQG and could become confused if it changes. Another concern is that some facilities currently misinterpret CESQG to mean that they are exempt from having to follow any requirements. While the name change might help clear this up, it will be very confusing at first, especially to those who misunderstood the term in the first

place. EPA should conduct a lot of outreach on this topic whether or not it chooses to change the terminology.

### ***Limited Exceptions to Keeping Containers Closed at all Times in SAAs***

The NSC encourages EPA to clearly define or issue specific guidance on when it is acceptable to allow a container at an SAA to be open so facilities can remain compliant with this requirement. EPA is proposing to allow containers to remain open to prevent dangerous situations such as build-up of extreme pressure or heat. Will there be other exceptions? If so, what discretion will EPA or a particular state allow for other situations that may pose possible similar dangerous situations?

### ***Re-Notifications***

Requiring SQGs to re-notify EPA of their generator information every other year will provide valuable, up-to-date information. However, many states are already collecting this information, and EPA should explore the possibility of collaborating with the states regarding this information.

### ***Record Keeping***

EPA recommends that records be kept until facility closure instead of the mandatory three years. This could result in an unmanageable amount of records for small entities. It would be helpful to have additional guidance on specifically which types of records should be kept beyond the required date so this does not become overly burdensome.

### ***40 CFR 262.14 Conditions for Exemption for a Very Small Quantity Generator (VSQG)***

The NSC supports the reorganization of the rule by relocating 40 CFR 261.5 Special requirements for hazardous waste generated by conditionally exempt small quantity generators (CESQG) to 40 CFR 262.14 and making wording changes including the subtitle, Conditions for exemption for a very small quantity generator.

Reducing cross-referencing within the rule will make it much easier for regulated entities to understand. When citing parts or a certain section of RCRA, it would greatly benefit the reader if a footnote or parenthesis were added to identify that part or section.

VSQG notification to obtain an EPA ID and notify of an episodic event is a new obligation from the standpoint of retaining generator status. Is it EPA's intent that all VSQGs should obtain an EPA ID or just those who experience an episodic event? The obligation may be overlooked by the small business, i.e., vehicle maintenance shop, if it is not currently notifying the state and/or EPA.

### ***Outreach***

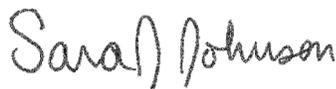
This proposal contains many changes that may be confusing to small businesses. The NSC would like to emphasize the importance of outreach to the regulated community,

especially small entities. SBEAP/SBO programs specialize in such efforts and will be key players in helping businesses comply with the final rule.

We recommend a coordinated educational strategy involving state and EPA RCRA programs, waste haulers and the SBEAP/SBOs. The strategy could include online resources reminding generators that a waste determination needs to be made, explaining how to do it in simple terms, helping quantify hazardous waste generated for a given calendar month and determining when and how to notify the state and/or EPA. For instance, EPA could provide grants to states to develop electronic systems for waste determination.

We appreciate the opportunity to comment on the proposed Hazardous Waste Generator Improvements rule. If you need any additional information or clarification of our comments, please contact Lisa Ashenbrenner Hunt or Mark Stoddard, Co-Chairs of the NSC Technical Subcommittee. Lisa can be reached at (608) 266-6887 or [Lisa.AshenbrennerHunt@wisconsin.gov](mailto:Lisa.AshenbrennerHunt@wisconsin.gov). Mark can be reached at (317) 233-1039 or [mstoddard@idem.IN.gov](mailto:mstoddard@idem.IN.gov).

Sincerely,



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NH Small Business Ombudsman



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