

## OnePoint Alert



May 15, 2019

## Are You Ready for the Hazardous Waste Generator Improvements Rule? Ready Or Not, It's Here!

By [Bernard F. Hawkins, Jr.](#)

On **November 28, 2016**, the United States Environmental Protection Agency (EPA) published the final ***Hazardous Waste Generator Improvements Rule (HWGIR)***, amending hazardous waste regulations promulgated under the federal Resource Conservation and Recovery Act (RCRA) as it applies to generators of hazardous waste. The HWGIR **became effective on May 30, 2017**, but it gave states authorized to implement RCRA requirements a period of **up to two years** to adopt certain portions of HWGIR that are considered by EPA to be more stringent than current hazardous waste requirements.

Other portions of the HWGIR that are viewed by EPA as being either "less stringent" than current federal hazardous waste regulations or are viewed by EPA as being simply "clarifications" of existing hazardous waste regulations are not required to be adopted by authorized states, but many states are adopting these provisions as part of incorporating the HWGIR into their state RCRA programs. Portions of the rule that EPA considers to be more stringent that must be adopted were to be in place by **July 1, 2018** or no later than **July 1, 2019** for states requiring a state regulatory process that includes a legislative step. See <https://www.epa.gov/hwgenerators/where-hazardous-waste-generator-improvements-rule-effect> for state summaries, but note you should consult your state to determine if more recent information is available. **For South Carolina, the HWGIR is scheduled to be published in the state register as a final rule on May 24, 2019.**

### Why Is It Important To Know What Is In The HWGIR?

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The answer is that there are **over sixty (60) changes** to the hazardous waste management program for generators, some of which are sure to surprise unsuspecting generators. As explained, some of these changes are more stringent than the current hazardous waste requirements. For example, in the final HWGIR, EPA identified the following requirements as being in its view more stringent than current federal hazardous waste requirements:

- Requiring Small Quantity Generators (SQGs), Large Quantity Generators (LQGs) and transfer facilities to better define the risks of hazardous wastes accumulated in tanks, containers, drip pads, and containment buildings, as well as when hazardous waste is accumulated in satellite accumulation areas;
- Requiring LQGs to notify EPA or their authorized state when they plan to close their facilities;
- Requiring SQGs to re-notify every four years;
- Requiring LQGs to submit a Biennial Report that identifies all of the hazardous wastes generated in the calendar year, not just for the months the facility was a LQG;
- Requiring LQGs updating their Contingency Plan to prepare a quick reference guide (QRG) for their Contingency Plan to assist responders in an emergency; and
- Requiring facilities that recycle hazardous waste, without storing the waste, to prepare and submit a Biennial Report.

Other requirements that are not specifically identified by EPA as being “more stringent ” or are identified by EPA as merely being “clarifications” of existing hazardous waste requirements may in fact change the manner in which a generator of hazardous waste needs to manage that waste at its facility. The HWGIR adds new requirements and/or in EPA’s view clarifies requirements for management of hazardous waste with respect to such things as:

- Waste determinations (including reliance on generator knowledge and when testing should be performed);
- Determining the quantity of hazardous waste;
- Marking and labeling (including containers, tanks and containment buildings);
- Very Small Quantity Generator (VSQG) to Large Quantity Generator (LQG) consolidation under the control of the same person;
- Episodic generation (accounting for and management of hazardous waste from episodic events)
- Satellite Accumulation Areas;
- Emergency Preparedness and Prevention;
- Closure; and,
- Re-Notification.

To determine if you are ready, ask yourself some example questions:

- Have you reviewed your waste determinations to ensure they are “accurate” and confirmed that you have appropriate records documenting these determinations?
- Have waste determinations been made “at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management...that may change the properties of the waste such that the RCRA classification of the waste may change?”
- Have you labeled waste containers, tanks, and/or containment buildings to identify “hazards” of hazardous waste being accumulated at the point of it being generated?
- Have you identified satellite accumulation areas under emergency preparedness and prevention requirements?
- Have you properly accounted for mixing of any solid and hazardous wastes?
- Do you understand the rules for accounting for episodic events when generating hazardous waste?

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- If you are a LQG, do you understand the obligations for incorporating a QRG into your Contingency Plan?

Being able to answer these types of questions is critical for compliance with the HWGIR. A careful examination of the HWGIR in advance of the approaching effective date is a must. Don't learn about HWGIR requirements as part of your next regulatory inspection! If you need help to address the HWGIR, contact Bernie Hawkins (803-255-9581 or 803-331-5410). We can coordinate getting you technical and legal assistance to understand and be prepared to comply with this rule before your next inspection.

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## GET IN TOUCH



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