



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
LAND AND EMERGENCY
MANAGEMENT

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COVERSHEET: EXPLANATION OF CITATION AND/OR TERMINOLOGY CHANGES IN THIS POLICY DOCUMENT

This policy document remains wholly in effect, but some or all of the regulatory citations within it have changed. These changes do not alter the existing regulatory interpretations.

As part of the [2016 Hazardous Waste Generator Improvements Rule](#), many of the regulations that apply to hazardous waste generators were moved to, or reorganized within, title 40 of the Code of Federal Regulations (CFR) part 262. To view a crosswalk between the old and new citations, please visit the [Hazardous Waste Generator Regulations Crosswalk webpage](#).

The Hazardous Waste Generator Improvements Rule also made changes to terms that may be included in this document. The most common term change was replacing “conditionally exempt small quantity generators” (CESQGs) with “very small quantity generators” (VSQGs). In addition, EPA defined the term “central accumulation area” (CAA) to mean a generator’s 90- or 180-day accumulation area for hazardous waste.

A handwritten signature in cursive script that reads "Jessica Young".

Jessica Young
Chief of the Recycling and Generator Branch
Office of Resource Conservation and Recovery

7. Manufacturing Process Units

A manufacturing process unit that holds methylene chloride is located within a building that is slated for demolition. If the owner/operator (o/o) of the unit closes the building and ceases to operate the unit, how long does the o/o have before the methylene chloride must be shipped off-site?

First, the owner/operator of the unit should determine if the methylene chloride would be regulated as a hazardous waste. If the methylene chloride is a spent material it would be regulated as a solid waste if disposed of, used in a manner constituting disposal, burned for energy recovery, reclaimed, or accumulated speculatively (Section 261.2 (c)(1), (2), (3), and (4)). If the spent methylene chloride solution contained, before use, ten percent (10%) or more methylene chloride, it would meet either the F001 or F002 listing in Section 261.31 and subsequently would also be regulated as a hazardous waste, assuming the methylene chloride regulated was utilized for its solvent properties. If the methylene chloride is a commercial chemical product and not a spent material, it would be regulated as a solid waste if used in a manner constituting disposal, disposed of or burned for energy recovery (Section 261.2 (c)(1) and (2)). If the product is reclaimed or accumulated speculatively it would not be regulated as a solid waste (Section 261.2 (c)(3) and (4)). If the solvent is disposed of, used in a manner constituting disposal, or burned for energy recovery it is a solid waste and, due to the fact that it would meet the U080 listing in Section 261.33(f) it would also be regulated as a hazardous waste.

Assuming that the methylene chloride would be regulated as a hazardous waste, 40 CFR Section 261.4(c) states that waste generated in a manufacturing process unit is not subject to regulation until the waste exits the unit or unless the waste remains in the unit for more than 90 days after the unit ceases to be operated. The October 30, 1980 Federal Register (46 FR 72024) explains that this allowance only applies when the generator is in compliance with Section 262.34. That is, generators of more than 1000 kg of hazardous waste per month have 90 days to store the waste without having to obtain a permit or interim status. As stated above, for manufacturing process units this "90-day clock" begins when the waste exists the unit or when the waste remains in the unit for more than 90 days after the unit ceases operation. However, the preamble in 45 FR 72024 states that in situations where the unit does cease to be operated for its primary purpose, the "clock" starts when the operation stops. Thus, the preamble implies that for the owner/operator of the above unit the accumulation period begins the day that the manufacturing process unit is shut down.

It was not the Agency's intent to regulate wastes in these units unless the waste exits the unit or remains in the unit for more than 90 days after the unit is no longer in operation. Therefore, although there is preamble language to the contrary, the accumulation period for the owner/operator of the above unit would begin either when the waste exits the unit, or if the waste remains in the unit for more than 90 days, the clock would then start on day 91.

Furthermore the October 30, 1980 Federal Register goes on to explain that if hazardous wastes do remain in the unit for more than 90 days after cessation of operation, "...EPA believes that these wastes should be fully regulated and that the units should be regulated as storage facilities. Thus, at that point, the owner/operator of the unit would have to have interim status..." (45 FR 72024).

Source: Mike Petruska (202) 475-6676

Matt Straus (202) 475-8551

Research: Chris Bryant