



# Draft Rules – Generator Improvements

## Edits Highlighted

### Key to Identifying Changed Text:

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## Department of Environmental Quality

### Chapter 340

### Division 102

## STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

### 340-102-0011

#### Hazardous Waste Determination

- (1) The provisions of this rule ~~replace~~ are in addition to the requirements of 40 CFR §262.11.
- (2) A person who generates a residue as defined in OAR 340-100-0010 must determine if that residue is a hazardous waste using the following method:
  - (a) Persons should first determine if the waste is excluded from regulation under 40 CFR §261.4 or OAR 340-101-0004;
  - (b) Persons must then determine if the waste is listed as a hazardous waste in Subpart D of 40 CFR Part 261;
  - (c) Persons must then determine if the waste is listed under the following listings:
    - (A) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates identified in 340-102-0011(2)(c)(A)(i) and (ii) are added to and made a part of the list in 40 CFR §261.33(e).
      - (i) P998...Blister agents (such as Mustard agent)
      - (ii) P999...Nerve agents (such as GB (Sarin) and VX); or
    - (B) Hazardous waste identified in 340-102-0011(2)(c)(B)(i) and (ii) are added to and made a part of the list in 40 CFR § 261.31.
      - (i) F998...Residues from demilitarization, treatment, and testing of blister agents (such as Mustard agent).
      - (ii) F999...Residues from demilitarization, treatment, and testing of nerve agents (such as GB (Sarin) and VX).

NOTE: Even if the waste is listed, the person still has an opportunity under OAR 340-100-0022 to demonstrate to the Commission that the waste from their particular facility or operation is not a hazardous waste.

(d) Regardless of whether a hazardous waste is listed through application of subsections (2)(b) or (2)(c) of this rule, persons must also determine whether the waste is hazardous under Subpart C of 40 CFR Part 261 by either:

(A) Testing the waste according to the methods set forth in Subpart C of 40 CFR Part 261, or according to an equivalent method the Department approves under OAR 340-100-0021, or

NOTE: In most instances, the Department will not consider approving a test method until the EPA approves it.

(B) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(e) If the waste is determined to be hazardous, the person must refer to Divisions 100–106 and 40 CFR Parts 264, 265, 268 and 273 for possible exclusions or restrictions pertaining to management of the specific waste.

NOTE: 40 CFR § 268.3 prohibits diluting a hazardous waste to meet Land Disposal Restriction treatment standards. Diluting waste without a permit to meet any hazardous waste standard is prohibited.

(f) If the waste is not identified as hazardous by application of subsection (2)(b) or (2)(c), and/or (2)(d) of this rule, persons must determine if the waste is listed under OAR 340-101-0033.

~~(3) A person who generates a residue, as defined in OAR 340-100-0010(2)(ee), must keep a copy of all documentation used or created in determining whether the residue is a hazardous waste, under section (2) of this rule, for a minimum of three years after the waste stream is no longer generated, or as prescribed in 40 CFR § 262.40(e). The person is not required to create new documentation if no documentation is created in making the waste stream determination.~~

**Statutory/Other Authority:** ORS 466.020 & 466.180

**Statutes/Other Implemented:** ORS 466.015 & 466.195

**History:**

DEQ 87-2018, minor correction filed 04/10/2018, effective 04/10/2018

DEQ 5-2015, f. & cert. ef. 4-15-15

Reverted to DEQ 13-2003, f. & cert. ef. 10-24-03

DEQ 6-2013(Temp), f. & cert. ef. 8-14-13 thru 2-10-14

DEQ 13-2003, f. & cert. ef. 10-24-03

DEQ 13-2002, f. & cert. ef. 10-9-02

DEQ 10-2000, f. & cert. ef. 7-21-00

DEQ 6-1994, f. & cert. ef. 3-22-94

DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92

DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91)

DEQ 8-1985, f. & ef. 7-25-85

### 340-102-0230

#### Episodic Generation

- 1) [The provisions of this rule are in addition to the requirements of 40 CFR 262 Subpart L.](#)
- 2) [All episodic generators, including very small quantity generators, who are required to notify the Department per 40 CFR 262.232 must obtain a Department or EPA identification number.](#)

- submit an annual hazardous waste generator report, and pay hazardous waste generation fees as required by OAR 340-102-0041 and OAR 340-102-0065.
- 3) When notifying the Department, generators must use the form provided by the Department and submit notification 60 days in advance of initiating a planned episodic event.
  - 4) Planned events require prior written Department approval to qualify as episodic.
  - 5) Generators must submit written notification on the form provided by the Department to DEQ within five days of submitting the initial 72-hour notification for unplanned events.

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