



Department of
Environmental
Conservation

RCRA Regulations Under Consideration

FedReg 6 – Focus on Generator Rule

April 8, 2020

Webinar Reminders

Please *remain muted* (all participants were muted on entry)

If we need to unmute you to clarify a question, the host will unmute you.

- If you have a question or comments, please send them to all or to the participant labeled as “1Comments”
- If you have questions or concerns about a particular issue at a particular facility, please email hwregs@dec.ny.gov
- If you accidentally unmute yourself, the host will mute you; if you continue to unmute yourself we will need to remove you from the meeting

Thank you for your cooperation!



Agenda

- Covid-19 related information
- Status of the current rulemakings
- Overview of the EPA Rules we plan to include in FedReg6
- Focus on Generator Rule
- Open discussion
- Next steps

COVID-19 emergency issues

- Extension of time – please contact the Regional Materials Manager and/or Tom Killeen
- Handwritten signatures – procedures issued March 27, 2020, outlined at:
- <https://www.dec.ny.gov/chemical/8793.html>
- How to contact DEC:
- <http://www.dec.ny.gov/about/558.html>

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Handwritten Signatures

Alternative procedures issued March 27, 2020

- Effective within New York State;
- Requirements of other NYS agencies, other states, or the federal government are effective if applicable;
- Will end on September 7, 2020 unless extended or revoked.



Non-Hazardous Waste and Used Oil Shipments

This procedure may be used for both paper and electronic-based waste shipping papers:

1. The driver picking up the waste must print the name of the generator in the Generator Name box.
2. The driver must write "on behalf of" in the Generator Signature box and then sign the driver's name in the appropriate space.
3. If there is only a Generator Signature box on the waste shipping document, the driver must write "on behalf of", print the generator's name, and then sign the driver's name in that box.



Hazardous Waste Shipments

1. Affected parties shall use hybrid and electronic hazardous waste manifests, whenever those options are available to all parties listed on the manifest.
2. If the options identified in paragraph 1, above, are not available to all parties listed on the manifest and a paper-based hazardous waste manifest must be used, affected parties shall follow the specified procedure from Appendix 30 of 6 NYCRR Part 372 for a transporter signing "on behalf of" a generator for a hazardous waste shipment.



Low-Level Radioactive Waste Shipments

Follow the specified procedure in 6 NYCRR 381.12 for a transporter signing "on behalf of" a generator for a low-level radioactive waste shipment.

Status of FedReg 5

- Proposed regulations public comment period ended on **August 26, 2019**
- A response to comments has been prepared.
- Express terms including revisions based on comments have been prepared.
- File regulatory revisions with NYS Department of State – **February 18, 2020**
- Published regulatory changes on DEC website **March 4, 2020**
- Final regulations published in State Register **March 4, 2020**
- Regulatory changes effective **April 19, 2020**



FedReg 5 Summary

- The rule covers the incorporation of 38 federal rules predominantly from 2002 to 2012.
- 11 of those rules are directly related to regulation of Hazardous Waste Combustors



FedReg 5 Summary

- *Changes to the Standards for Hazardous Air Pollutants for Hazardous Waste Combustors* from September 30, 1999 to present.
- *TCLP Use with Manufactured Gas Plant (MGP) Waste.*
- *Universal Waste Rule* for mercury containing equipment.
- *Methods Innovation Rule.*
- *RCRA Burden Reduction Initiative.*
- *The Cathode Ray Tubes(CRT) Rule.*
- *Alternative Requirements for College Labs.*

State Initiatives:

- *Notification under 6 NYCRR 371.1(c)(7).*
- *Loading and unloading areas are part of a tank system.*
- *“Small Quantity Generator” definition.*



FedReg6 Overview

Status of FedReg 6

Prepare draft regulations and evaluation documents (explaining the effects)

Next steps:

- Early Public Outreach– webinars and meetings
- **More focused outreach/prepare draft regulations**
- Evaluate comments, revise as needed
- Propose regulations – public meetings and hearing(s)
- Evaluate comments, revise as needed
- Approval process
- Publish final regulations
- Effective 60 days later



EPA Rules Included in FedReg 6

- **Conditional Exclusions for Solvent Contaminated Wipes (Wipes Rule) (78 FR 46448)** – will replace policy **DSH-HW-03-09 Regulatory Status of Laundered Industrial Rags & Soiled Clothing**.
- **Conditional Exclusion for Carbon Dioxide (CO₂) Streams in Geologic Sequestration Activities (79 FR 350)**
- **Hazardous Waste Electronic Manifest Rule (e-Manifest Rule) (79 FR 7518) and User Fee Rule (83 FR 420)**. Much of this rule went into effect June 30, 2018.



EPA Rules Included in FedReg 6 (cont.)

- **Revisions to the Definition of Solid Waste** (73 FR 64668) *as amended by: Revisions to the Definition of Solid Waste (DSW Rule)* (80 FR 1694) – Legal challenges to this rule appear to be over. DEC will adopt many provisions of this rule, but some statutory requirements will not allow full adoption of the transfer based exclusion.
- **Hazardous Waste Export-Import Revisions (Export-Import Rule)** (81 FR 85696) – Enforceable only by EPA, and in effect on January 1, 2017.
- **Hazardous Waste Generator Improvements Rule (GIR)** (81 FR 85732) - The primary focus of this presentation.



EPA Rules Included in FedReg 6 (cont.)

- **Air Bags Rule (Interim Final Rule)** (83 FR 61552) – Creates a streamlined method to handle waste airbags particularly those from the Takata Recall.
- **Pharmaceuticals Rule (40 CFR 266, Subpart P)** (84 FR 5816) – Sewering ban in effect nationwide on August 21, 2019. Changes to Nicotine listing P075 are in effect in NY as of August 21, 2019 under an enforcement discretion letter.
- **Aerosol Cans Rule** – (84 FR 67202, December 9, 2019) – Adds aerosol cans to the list of wastes that may be managed as universal waste.



EPA Rules – Upcoming Rules

- **Modernizing Ignitable Liquids Determinations (Update to ignitability test method)** – The current test method for ignitability has been out of date for some time. Rule was proposed by EPA on April 2, 2019.



State Initiatives

- Define “staging” to eliminate confusion about “no prior storage” with respect to the recycling exemption.
- Add cold crushing option for used oil filters.
- Add paint waste and solar panels to Universal Waste Rule.
- Extend secondary containment of liquids provisions to all liquid storage of greater than 185 gallons throughout the state, and include a phase-in period (by quantity or by location?)
- Extend closure requirements to all LQGs statewide.

Additional State Initiatives Under Consideration

- Part 364 CESQG self-transport quantity
- Part 364 Used oil transport quantities
- Clarify that materials that are not solid waste for the purposes of the hazardous waste regulations may still be regulated under the state Part 360 series solid waste management regulations
- Amend drilling waste exclusion in 371.1(e)(2)(v)

Enforcement Discretion Letters

Pharms Rule: Nicotine Listing Policy

Listing has been amended to exclude FDA-approved over-the-counter nicotine replacement therapies (OTC NRTs)

Nicotine P075 Listing

No Longer Part of Listing

- Nicotine Patches
- Nicotine Gums
- Nicotine Lozenges

Still Included in Listing

- E-liquids/e-juices in e-cigarettes, cartridges, or vials
- Prescription nicotine (e.g., nasal spray, inhaler)
- Legacy pesticides containing nicotine
- Nicotine used in research and manufacturing
- Other unused formulations

Conditional exemption for Vehicle Airbags

- Reduced requirements for airbags sent for safe disposal.
- Airbags managed under the special exemption won't be counted towards generator status.
- Airbags may be deployed while still installed in a vehicle that will be recycled for scrap metal value – deploying installed airbags in vehicles that will go for scrap metal recycling is considered exempt treatment.
- Generator can electronically deploy non-defective airbag modules outside of the vehicle and direct the metal for recycling under the hazardous scrap metal exemption; CESQGs can electronically deploy non-defective airbags.

DEC Enforcement Directive signed July 5, 2019; includes state notification requirement



Universal Waste Rule Revisions

Universal Waste Rule Revisions

- Aerosol Cans
- Waste Paint
- Solar Panels

Solar panels will be considered in FedReg6; we may proceed with aerosol cans and paint waste as a separate rulemaking.



Aerosol Cans

- May be hazardous waste due to contents and/or due to propellant
- Fire and explosion hazard from containers still under pressure



EPA's Aerosol Can Rule

Handlers may:

- sort aerosol cans by type;
- consolidate intact aerosol cans in larger containers;
- remove actuators to reduce the risk of accidental release;
- When following certain conditions, are allowed to puncture and drain aerosol cans when the emptied cans are to be recycled.

Accumulation:

- Container storage performance standards;
- Temperature control;
- Follow written procedures for puncturing, including procedures for segregation incompatible waste



Paint Waste

- New state product stewardship law will require take-back system, likely to take effect in 2021
- New law covers architectural paint sold in 5-gallon or smaller container from consumers (consumers include businesses)
- Oil-based paints may be an ignitable hazardous waste
- Universal waste classification would facilitate collection from non-households
- What standards should be applicable?
- What universe – should other types of paint waste such as marine paints and other specialty paints be included in universal waste rule?



Generator Improvements Rule



State Regulation (6 NYCRR)	EPA Regulation Code of Federal Regulations (40 CFR)	Description
<u>Part 370</u>	Part 260	Hazardous Waste Management System: General
<u>Part 371</u>	Part 261	Identification and Listing of Hazardous Waste
<u>Part 372</u>	Part 262	Standards Applicable to Generators of Hazardous Waste
<u>Part 372, Part 364</u>	Part 263	Standards Applicable to Transporters of Hazardous Waste
<u>Subpart 373-1, Part 621, Part 624</u>	Parts 270/124	Hazardous Waste Treatment, Storage and Disposal Facility Permitting Requirements; Uniform Procedures (Part 621) and Permit Hearing Procedures (Part 624)
<u>Subpart 373-2</u>	Part 264	Final Status: Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
<u>Subpart 373-3</u>	Part 265	Interim Status: Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
<u>Subpart 374-1</u>	Part 266	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
<u>Subpart 374-2</u>	Part 279	Standards for the Management of Used Oil
<u>Subpart 374-3</u>	Part 273	Standards for Universal Waste Management
<u>Subpart 374-4</u>	no equivalent	Standards for the Management of Elemental Mercury and Dental Amalgam Wastes at Dental Facilities
<u>Part 376</u>	Part 268	Land Disposal Restrictions and Treatment Standards

Hazardous Waste Generator Improvements Rule (GIR)

81 FR 85732, Published November 28, 2016

Effective in non-authorized states May 30, 2017

State modification deadline to adopt more stringent provisions was July 1, 2018 (July 1, 2019 if statutory changes needed)

Generator Improvements Rule

More stringent Provisions Include:

- SQGs and LQGs must re-notify.
- SGQs and LQGs must indicate the hazards of the contents when labeling containers and tanks.
- LQG contingency plan quick reference guide.
- LQG that cannot “clean close” their facility or accumulation unit, must close the unit or facility as a landfill.

Generator Improvements Rule

- Less stringent Provisions:
 - VSQG allowed to send waste to LQG if both are under control of the same person (*Consolidation of VSQG Waste*).
 - VSQGs and SQGs are allowed to conduct episodic events, provided that certain conditions are met.
 - LQGs are allowed to seek a waiver from the 50-foot setback requirement for ignitable or reactive hazardous waste.



Some Key Provisions

- Reorganizes the regulations – less cross-referencing
- Hazardous waste determinations – more explicit, adds recordkeeping for SQGs and LQGs
- Generator Categories – can't be different categories for acute vs non-acute hazardous waste
- Labeling – hazards of the waste
- Preparedness and Prevention
- LQG Quick Reference Guide to the Contingency Plan

Hazardous Waste Determinations

A person who generates a solid waste, as defined in section 371.1(c)(1) of this Title, must make an **accurate** determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations:

- 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 it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change.

Determination Process

- Is it excluded under 371.1(e);
- Is it listed in 371.4? Must use knowledge of the waste. Acceptable knowledge “may include waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information.”
- Does it exhibit one or more characteristics?
 - Use knowledge or testing; acceptable knowledge is described;
 - When available knowledge is inadequate to make an accurate determination, must test the waste using a method set forth in the regulations or other method approved by the Department. (In NY, ELAP certified lab);
 - Testing, when properly performed, is definitive.

Maintain Records – Analogous to 372.2(c)(1)(iii) and (v)

- Applies to small and large quantity generators;
- Maintain records supporting determinations, including records that identify whether a solid waste is a hazardous waste;
- At least three years from when the waste was last sent for treatment, storage or disposal;
- Records comprise generator's knowledge and support the determination.
- The periods of record retention are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the department.

Other Clarifications

- Generators may manage non hazardous wastes as hazardous wastes if they choose;
- While awaiting test results, generators must manage potential hazardous waste as hazardous waste.
- If a waste is determined to be hazardous, SQGs and LQGs must identify all applicable hazardous waste codes.
- Clarifies how mixing of hazardous waste and non-hazardous waste impacts generator category (40 CFR 262.13)

Mixing – VSQGs

Addresses VSQG mixing of hazardous waste and non-hazardous waste:

- If mixture does not exhibit HW characteristics, mixture can exceed VSQG quantity limits;
- If mixture exhibits HW characteristics, mixture is a newly generated waste, and total amount counts towards monthly generation.

Mixing – SQGs and LQGs

- Mixing is a form of dilution “unless the solid waste provides a useful contribution to decharacterizing the waste instead of just diluting” (see 81 FR 85756, 261.13(f));
- Generator can’t dilute as a substitute for effective treatment (LDRs – 268.3(a));



Definitions

- Very Small Quantity Generator (VSQG) – currently called “Conditionally Exempt Small Quantity Generator (CESQG)”
- Small Quantity Generator (SQG)
- Large Quantity Generator (LQG)

- Central Accumulation Area

Generator categories can change from month to month.



Hazardous Waste Counting

TABLE 1 to 40 CFR § 262.13—Generator Categories Based on Quantity of Waste Generated In A Calendar Month (Source: USEPA)

Quantity of acute hazardous waste generated in a calendar month	Quantity of non-acute hazardous waste generated in a calendar month	Quantity of residues from a cleanup of acute hazardous waste generated in a calendar month	Generator Category
> 1 kg	Any amount	Any amount	LQG
Any amount	≥ 1,000 kg	Any amount	LQG
Any amount	Any amount	> 100 kg	LQG
≤ 1 kg	> 100 kg and < 1,000 kg	≤ 100 kg	SQG
≤ 1 kg	≤ 100 kg	≤ 100 kg	VSQG (CESQG)

VSQGs



Very Small Quantity Generators (VSQG)

- Adopting new EPA definition of VSQG – can't be in different categories for acute vs non-acute HW
- Most regulations unchanged;

VSQG Requirements

- Make hazardous waste determination; determine generator category;
- Send the hazardous waste to an authorized facility;
- Ensure delivery – by self-transporting up to 100 kg (220 lbs.) in any shipment or using a Part 364 hauler (may change to 500 lbs. or 55 gallons)

Two new options:

- Episodic Generation
- VSQG to LQG consolidation



VSQGs – Additional Changes

From the Pharmaceuticals Rule:

- VSQGs may ensure delivery to Reverse Distributors for potentially creditable hazardous waste pharmaceuticals, or
- VSQGs may ensure delivery to a healthcare facility under the same control for hazardous waste pharmaceuticals.
- Landfill prohibition of bulk liquids



Consolidation of VSQG Waste

Topic	GIR requirements
Who is exempt from TSDF permitting?	LQGs under control of the same “person”
Part 360 requirements	Must meet 360 as well
Notification - LQG	File Notification of Hazardous Waste Activity with EPA (30 days prior to accepting waste)
Labeling - VSQG	VSQGs label the waste as “hazardous waste” and indication of hazards.
Recordkeeping	LQG maintains records of shipments received from the VSQGs for 3 years
Accumulation Time Limit at LQG	90 day clock for the VSQG waste begins when waste is received from the VSQG
Other	Comply with all LQG requirements for that waste and their own generated HW, even if they would otherwise be a VSQG or SQG

Consolidation of VSQG Waste

Possible Changes:

- Adjustment of maximum amount of VSQG hazardous waste which may be self-transported (Part 364 currently allows only 220 lbs.)
- Require the VSQG consolidation notification to include the EPA ID number for any VSQG who has already obtained one.



Satellite Accumulation Areas

Satellite Accumulation Areas (SAAs)

1. Requirements for incompatible wastes – 40 CFR 262.15(a)(3)
2. Additional exceptions to keeping containers closed at all times
3. Clarified what is meant by “remove excess waste from the SAA within 3 days” – means 3 calendar days
4. Providing maximum weight for accumulation of acute hazardous waste in an SAA – 2.2 lbs. for solids
5. Clarified how excess waste may be managed – 40 CFR 262.15(a)(6)
6. Extension of the preparedness, prevention, and emergency procedures provisions for SQGs and LQGs to SAAs
7. Rescinded memo allowing reactive HW to be stored in SAA away from the point of generation
8. Clarified term “Under the Control of the Operator”

New Labeling Requirements

Generator Improvements Rule requires that SQGs and LQGs mark or label with an indication of the hazards of the contents.

Options include, but aren't limited to:

- Hazardous waste characteristic(s)
- DOT hazard communication consistent with 49 CFR 172 Subpart E or F
- OSHA Hazard Communication Standard consistent with 29 CFR 1910.1200

Includes containers in Satellite Accumulation Areas



Labeling Examples



OSHA HCS
Pictograms



DOT Labels



NFPA Chemical
Hazard Labels



UN GHS
Pictograms

IGNITABLE

RCRA
Characteristics

New Labeling: Where It Applies*

Satellite Accumulation Area	SQG	LQG
Containers	Containers	Containers
	Tanks	Tanks
	Containment Buildings	Containment Buildings

*Also applies to VSQG waste, if operating under consolidation provisions



SQG Requirements

Small Quantity Generators

EPA clarified regulations about SQGs with respect to drip pads and containment buildings:

- Must comply with the technical standards of Subparts W and DD, but otherwise comply with SQG regulations;
- Clarified that VSQGs may accumulate on drip pads if they comply with 40 CFR part 265 subpart W;

Less stringent provision – states don't have to adopt;

Drip pads are used for accumulation of wastes from certain industries.



SQG Preparedness and Planning

- Emergency planning and preparedness requirements apply where hazardous waste is being generated or accumulated at the generator's site—including points of generation, satellite accumulation areas, and central accumulation areas (180-day areas)
- May determine the most appropriate locations for emergency equipment, when it is not possible or unsafe to have the equipment located immediately next to the generating equipment;
- “Immediate access” definition includes “direct or unimpeded access;”
- Relevant emergency response information should be posted next to the telephone;
- SQGs may use contractors to address releases;
- One-Plan is still applicable for generators under multiple statutes



SQG Arrangements With Emergency Responders

- Document that they have attempted to make arrangements with local responders, and keep the records;
- Large facilities with internal response capabilities may seek a waiver from arrangements with local authorities;
- More flexibility with respect to form or type of documentation, and where documentation can be retained.



Recordkeeping and Reporting – SQGs

- Episodic events;
- Tanks – demonstrate tank is emptied every 180 days;
- Arrangements with local authorities – maintain in operating record;

Demonstrating Tanks are Emptied Every 180 Days

- May use logs, monitoring equipment or other records;
- Regulations address both batch and continuous flow processes;
- Records kept on site, readily available for inspection.

Reporting

SQG re-notification:

- Renotify starting in 2021, and every four years;
- By September 1st of that year;
- Use EPA Form 8700-12;
- States may allow electronic reporting;
- States may require more frequent re-notification.



LQGs

New Options

- LQG consolidation of VSQG waste;
- Variance from 50' setback for ignitable and reactive hazardous waste
- Taking comment on potential additions:
 - Submit proof of written approval to DEC
 - Require written approval from insurance underwriter

LQG revisions include

- Clarifying that Personnel Training may be done using computer-based tools (but must be specific to facility);
- LQGs can use an emergency telephone number (instead of employees' personal numbers), and position title, if staffed at all times;



LQG Preparedness and Prevention

- Emergency planning and preparedness requirements apply where hazardous waste is being generated or accumulated at the generator's site—including points of generation, satellite accumulation areas, and central accumulation areas (90-day areas);
- May determine the most appropriate locations for emergency equipment, when it is not possible or unsafe to have the equipment located immediately next to the generating equipment;
- “Immediate access” definition includes “direct or unimpeded access;”
- One-Plan is still applicable for generators under multiple statutes

Arrangements with Emergency Responders

- Document that they have attempted to make arrangements with local responders, and keep the records;
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Quick Reference Guide (QRG)

Regulatory References

- Federal: 40 CFR 262.262(a)
- New York State: 6 NYCRR Part 372-1.13 (*new citation*)

Background

- Proposed initially to be an Executive Summary to all regulated and prescribed Contingency Plans
- Intent was to assist Emergency Responders
- Requires eight information elements

Quick Reference Guide

Eight Information Elements

1. The types and names of the hazardous wastes on site and their hazard in layman's terms
2. An estimated maximum amount of each hazardous waste on site at any one time;
3. The identification of any hazardous waste that would require unique or special treatment by medical staff in the event of exposure;
4. A map of the facility identifying where hazardous waste may be located;
5. A street map of the facility in relation to surrounding businesses, residences, and schools;
6. The location of the water supply;
7. Information about any on-site notification systems to communicate with people at the facility; and
8. The name of an emergency coordinator available at any time.

Quick Reference Guide

Submission Requirements

- New LQGs must submit the quick reference guide when they submit their contingency plan to local emergency responders.
- An LQG in operation when the regulations went into effect on May 30, 2017, must submit a QRG at the time they next submit a revised contingency plan to local responders due to other necessary revisions (40 CFR 262.262(b)).
- SQGs are not required to have QRGs, but are strongly encouraged to develop QRG which may assist in meeting other requirements such as coordinating with local emergency responders and hospitals as well as certain Spill Prevention, Control, and Countermeasure (SPCC) Plans.



Quick Reference Guide

Granularity Concerns

- Laymen's terms used to describe present wastes and associated hazards.
- Map with enough detail to describe emergency ingress and egress routes.
- Satellite Accumulation Areas are accounted for in QRG.
- What level of facility changes trigger the resubmission of the QRG (and/or Contingency Plan)?
 - When the requirements change because the applicable regulations are revised;
 - When the plan fails in an emergency;
 - When the generator facility changes in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency;
 - When the list of emergency coordinators changes; or
 - When the list of emergency equipment changes.

Recordkeeping – LQGs

- VSQG consolidation – records of shipments from VSQG;
- Tanks – demonstrate tank is emptied every 90 days;
- Arrangements with local authorities – maintain in operating record;
- Closure of waste accumulation area;
- 50-foot waiver;
- Arrangements with local authorities;

Demonstrating Tanks are Emptied Every 90 Days

- May use logs, monitoring equipment or other records;
- Regulations address both batch and continuous flow processes;
- Records kept on site, readily available for inspection.

Reporting – LQGs

- LQGs receiving waste from VSQGs:
 - Notify EPA or state; includes VSQG locations;
- Episodic Generation;
- Biennial Reporting (annual reporting in NYS)
 - Updates what information must be reported;
 - LQGs must identify all hazardous waste generated in the year, not just months when they were an LQG;
 - Facilities not storing hazardous waste prior to recycling must report this waste;
 - Closure;

Transportation

Pre-Transport Requirements

SQGs and LQGs must identify and mark hazardous waste codes on containers prior to sending the waste off-site;

EPA clarifies that the generator may use labels, or *a nationally recognized electronic system (such as bar coding)*



Transporters: Consolidating Waste

- When consolidating the contents of two or more containers of the **same hazardous waste** or **two different hazardous wastes that are compatible** into a new container, Transporters must mark the containers of 119 gallons or less with the words “Hazardous Waste” and the applicable hazardous waste codes;
- Transporters can also use nationally recognized electronic system, like barcoding in compliance with 40 CFR 262.32(c) to indicate the applicable hazardous waste codes.

Recyclers

Annual Reporting

- Facilities that do not store prior to recycling will now be required to file an Annual Report – 40 CFR 261.6(c)(2)(iv)

Episodic Generation



Episodic Generation: Summary

- Provisions can be used by VSQGs or SQGs;
- Two types of events: planned and unplanned
- Notification: 30 days before planned, within 72 hrs. of unplanned;
- One event per year. Can petition for second of the other type;
- Duration: starts first day of generation, and all waste must be gone within 60 days of the start;
- Labeling “Episodic Hazardous Waste,” with date that the event started, identify the hazard for the waste;
- Records retention: 3 years.

Episodic Generation: Issues

- Notification – to DEC as well as EPA; when for unplanned;
- Distinguishing between normal and episodic generation;
- Clarifying how soon Site ID form must be submitted for unplanned event;
- Clarifying what happens if event lasts longer than 60 days;
- Outreach – non-traditional generators may not even know they have hazardous waste;

Additional NYS Requirements

- Directly notify DEC in addition to filing notification
- Use a Part 364 permitted waste transporter to ship waste generated from event
- File an Annual Report if amount of waste generated from event plus amount generated during the rest of the calendar year ≥ 15 tons

May include:

- Secondary containment of liquids (especially for planned events)
- Meet closure performance standard at conclusion of event



LQG Closure

Closure

- New notification requirements;
- Explicitly requires LQGs that accumulate hazardous waste in containers to close as a landfill if they can't meet the closure performance standard;
- Clarifies that closure does not apply to satellite accumulation areas.

Closure Notifications

- **Waste Accumulation Units** – must place notice in operating record within 30 days of closure or meet applicable closure performance standards and notify EPA Region 2.
- **Facilities**
 - Must notify EPA Region 2 using Form 8700-12 at least 30 days prior to closure.
 - Must notify EPA Region 2 using Form 8700-12 within 90 days of closure; must clean close or has to close as landfill

Closure – State Initiatives

- Require facilities to notify both EPA and DEC when submitting notifications of closure for units and facility?
- One statewide standard: apply sole source aquifer closure requirements statewide to all LQGs?

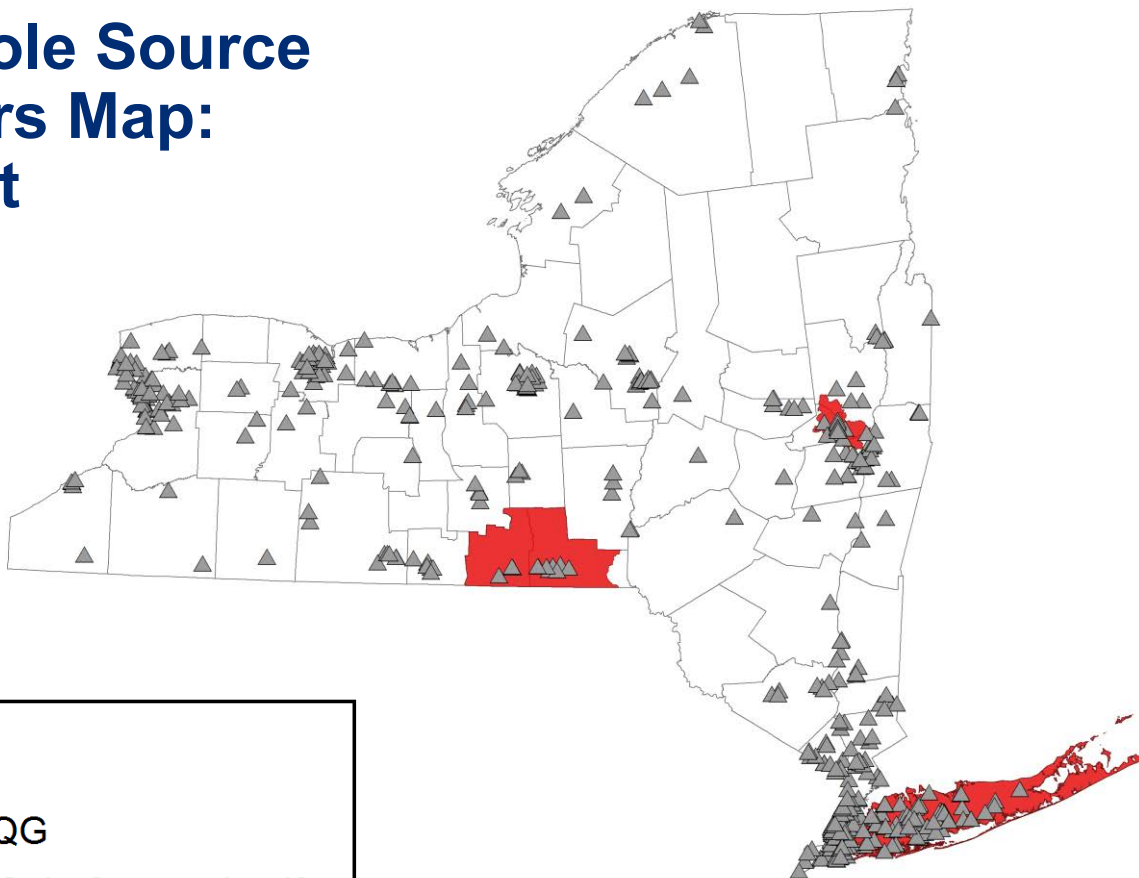
	DEC SSA	EPA
Notification	45 days after ceasing operations	EPA (unit – operating record or notification to EPA within 30 days of closing the unit; facility – 30 days)
Public Notice	Yes	No
Certification	w/in 60 days of partial or final closure, PE Cert	EPA 90 days (is this just full closure?) – Site ID form; unit closure w/in 30 days
Date on which they expect to begin closure	within 30 days; or 1 year if reasonable expectation of receiving more waste	Within 30 days
Date to remove final volume of hazardous waste	Within 90 days after receiving the final volume of hazardous wastes, or the final volume of nonhazardous wastes if the owner or operator complies with all applicable requirements in paragraphs (4) and (5) of this subdivision, at a hazardous waste management unit or facility, or within 90 days after approval of the closure plan, whichever is later	Within 90 days; the request for extension of time language seems to match current DEC closure requirements
Closure performance standard	Same as EPA	Same; If can't close clean, must close as a landfill
Written closure plan	Maintained onsite, furnished upon request	No

Secondary Containment of Liquid HW

Sole Source Aquifers

- List of sole-source aquifers is out of date
- Delineation of aquifers in definitions is confusing
- Protection of drinking water is a major issue

DEC Sole Source Aquifers Map: Current

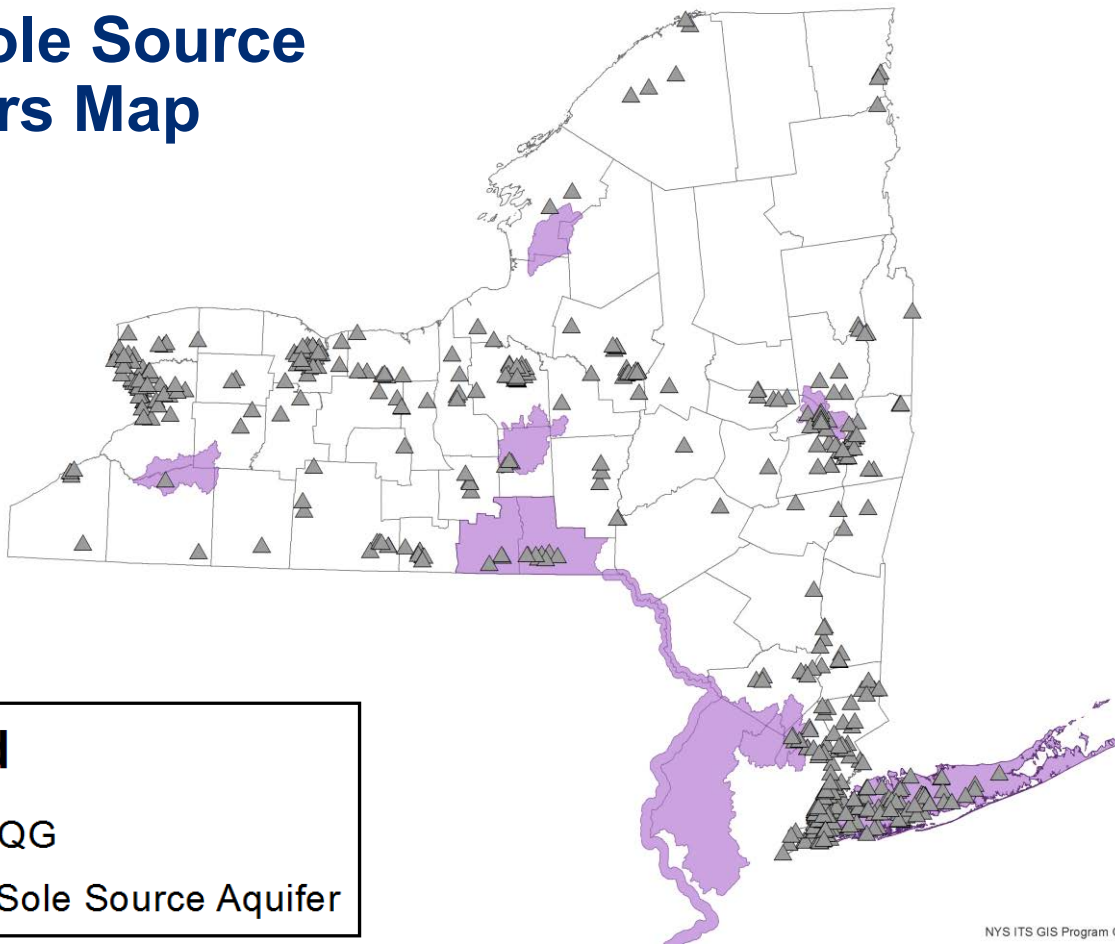


Legend

▲ NY LQG

■ DEC Sole Source Aquifer

EPA Sole Source Aquifers Map



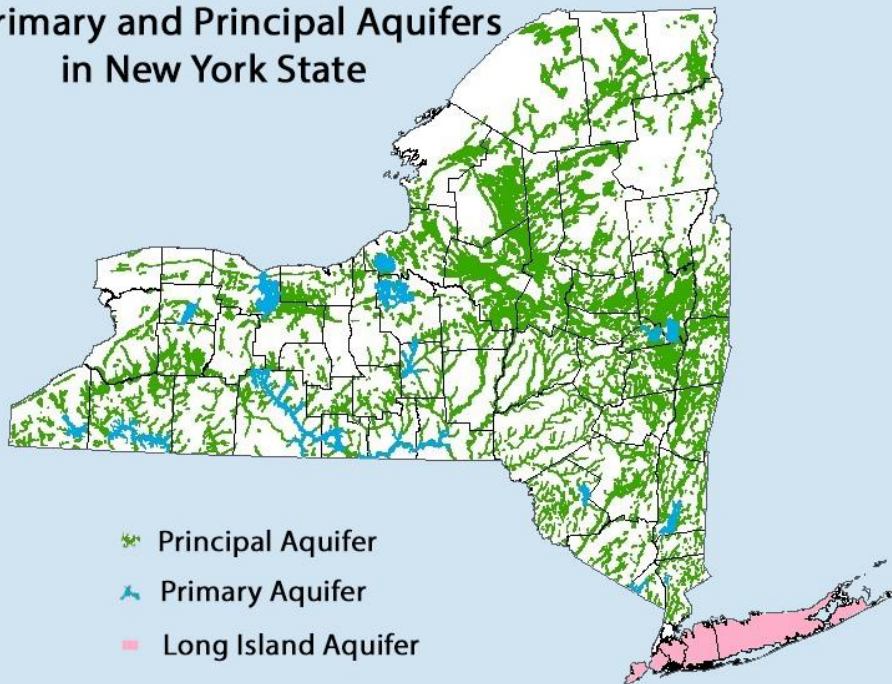
Legend

▲ NY LQG

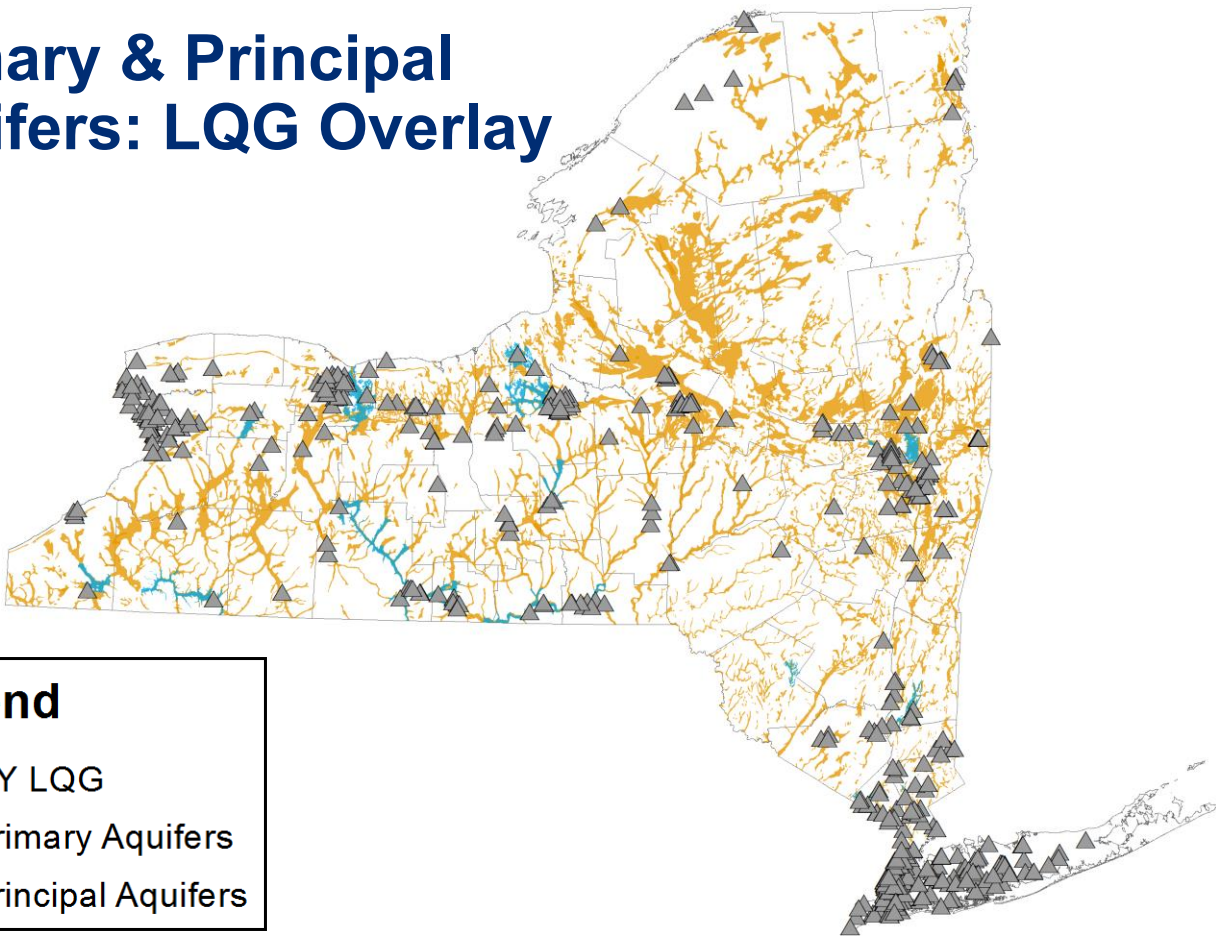
■ EPA Sole Source Aquifer

Primary and Principal Aquifers Map

Primary and Principal Aquifers in New York State



Primary & Principal Aquifers: LQG Overlay



Update Secondary Containment Requirements

- SQG and LQG storage of liquid hazardous waste in quantities greater than 185 gallons;
- Phase-in time?
 - By volume that can be stored;
 - By time;
 - By priority



Questions and Answers

How to Comment

Submit **written** comments:

- Email: HWregs@dec.ny.gov (Include "Comments on Regulatory Initiatives" in the subject line of the email) or
- Mail: Michelle Ching; Division of Materials Management; NYSDEC; 625 Broadway, Albany, NY 12233-7256



Contact Information

Please send all written comments and questions to: HWregs@dec.ny.gov
Preferred by **April 15, 2020**

Michelle Ching:

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Phone number if unable to email: 518-402-8651 (request to leave message for Tom or Michelle)

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