

# LDEQ Adoption of the Hazardous Waste Generator Improvements Rule



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Part III

Environmental Protection Agency

40 CFR Parts 257, 258, 260, et al.  
Hazardous Waste Generator Improvements Rule; Final Rule



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ENVIRONMENTAL  
REGULATORY  
CODE



Title 33  
ENVIRONMENTAL QUALITY

Part V. Hazardous Waste  
Subpart 1

2020

# HWGIR Presentation Outline

- Background
- General Changes
- HW Determination
- Generator Category Determination
- Satellite Accumulation Area
- Very Small Quantity Generator
- VSQG HW Consolidation
- Episodic HW Generation
- Small Quantity Generator
- Marking & Labelling
- Emergency Preparedness & Planning
- Waiver to 50-Foot Buffer Zone Requirement
- Recordkeeping for a Tank
- Annual Reporting
- LQG Closure Notification

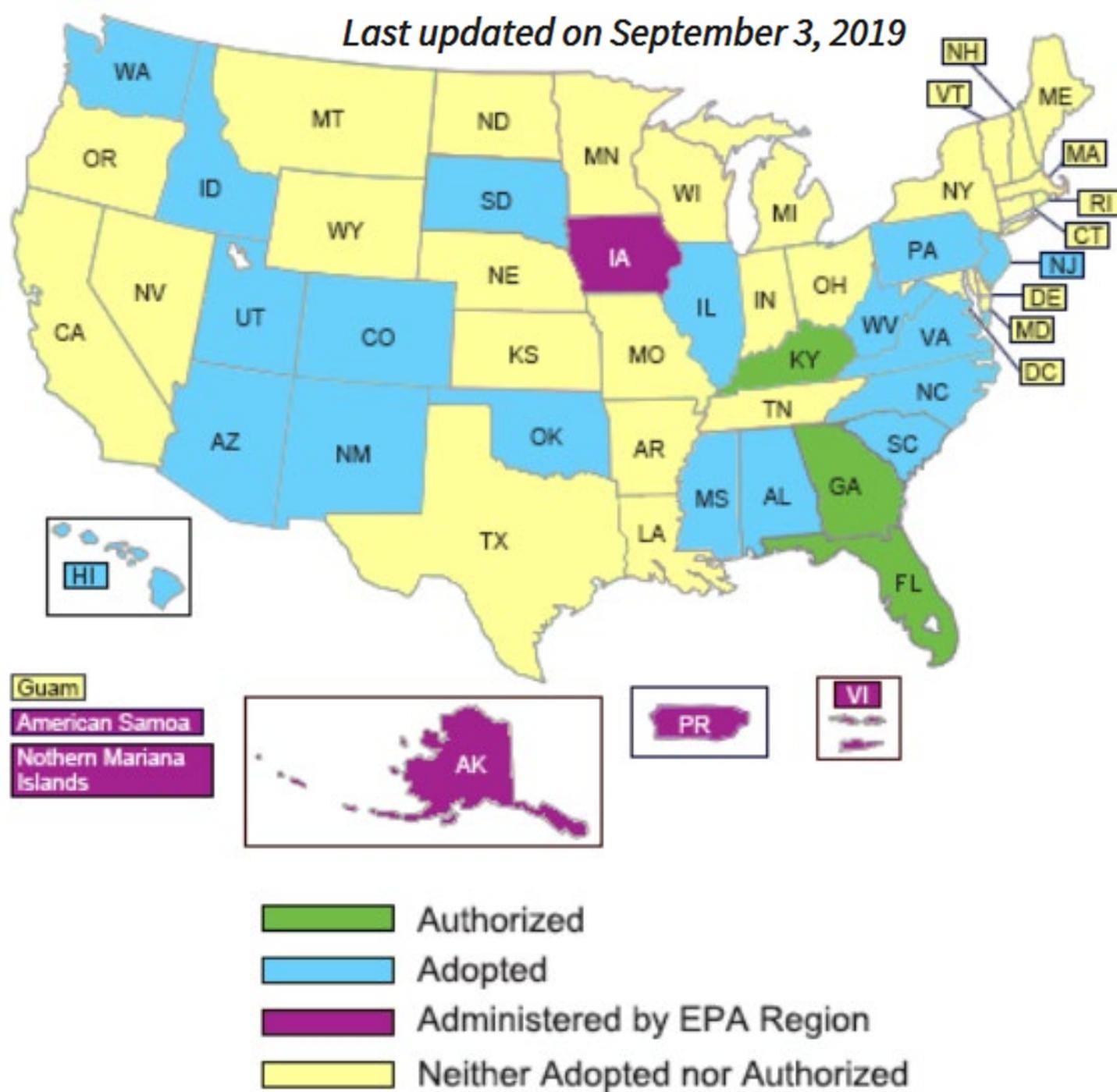
# History of the Rule

- Resource Conservation & Recovery Act (RCRA) enacted in 1976
- Most HW generator rules promulgated in the 1980s
- Has not changed significantly since
- Between 2004 & 2014 EPA conducted several reviews
- Final Rule published in Federal Register on November 28, 2016
- Effective dates
  - May 30, 2017, for unauthorized states & territories
  - Not effective in Louisiana (an authorized state) until LDEQ adopts

# Legal Challenge to Rule

- Industry groups challenged rule in D.C. Circuit Court of Appeals on February 24, 2017 (USCA Case #17-1064)
- *“Independent requirements”* versus *“conditions for exemption from permitting”*
- Assertion: violating “condition for exemption” would be considered operating without a permit
- EPA contends it is not new concept, albeit less explicit
- Final briefs were due September 8, 2017
- Rule can no longer be stayed
- *“In settlement”*

Last updated on September 3, 2019



# Status of Adoption by States

# LDEQ Reg Development

- LDEQ doesn't adopt most HW rules by reference (actually rewrite)
  - Takes longer; opportunity for clarifications
- LDEQ met internally & with regulated community
  - Clarification & implementation issues
- Plan to adopt all parts of rule
  - Optional provisions (VSQG consolidation, episodic generation, 50-foot waiver), depending on LDEQ resources
  - Equally stringent (reorg, certain clarifications)
  - More stringent requirements
- Future timeline
  - Draft regulations finalized by end of 2019
  - Draft regulations public noticed in 1<sup>st</sup> Qtr 2020
  - Final rule adopted in 3<sup>rd</sup> Quarter 2020



# Goals of the Rule

- Reorganizes regs to make them more user-friendly
- Offers more flexibility to manage HW
  - Episodic generation
  - Consolidation from VSQG\*-to-LQGs
  - Recordkeeping for emptying tanks
- Addresses certain gaps in regs
- Clarifies certain ambiguities



*\* VSQG (very small quantity generator) formerly referred to as (CESQG) conditionally exempt small quantity generator*

# Reorganization of Generator Regulations

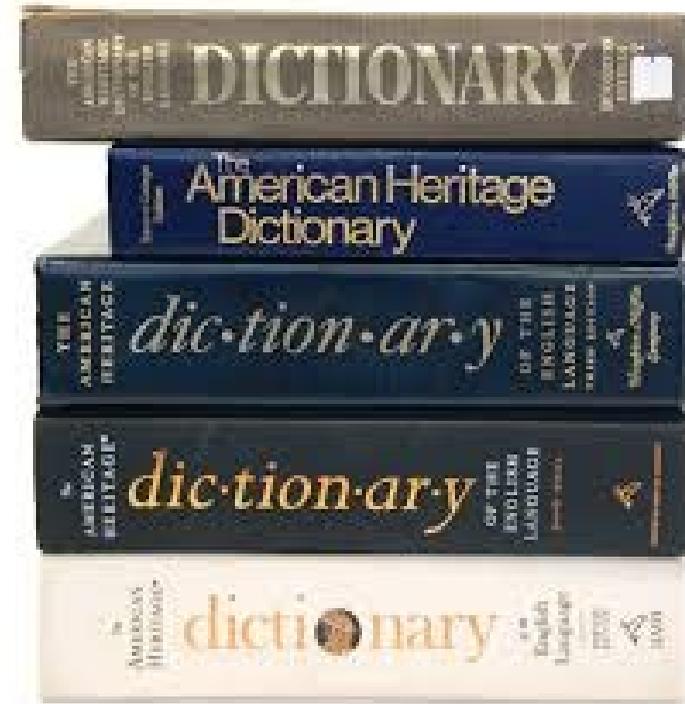
- Consolidation of regs for generators
  - i.e., LAC 33:V. Chapter 10 (new chapter)
- Better organization
  - e.g., separate sections for VSQG, SQG & LQG requirements
- Most requirements “self-contained”
  - Less reference to other parts of regs
- Easier to read & understand



*NOTE: Chapter 11 will continue to contain manifesting, importing and exporting.*

# New/Revised Terms & Definitions

- Acute & non-acute hazardous waste (new def)
- Central accumulation area (new def)
- Large quantity generator (new def)
- Satellite accumulation area (new term)
- Small quantity generator (revised def)
- Very small quantity generator (new def)



# Other Clarifications & Revisions

- Technical corrections
  - e.g., tweaks to the definitions of Treatability Study, Universal Waste Handler, Universal Waste Transporter
- Clarifies generators are subject to prohibition of landfill disposal of bulk or non-containerized liquid HW
- Deleted obsolete provisions
  - e.g., several Performance Track provisions (never adopted by LDEQ)
- Improves the readability of various sections



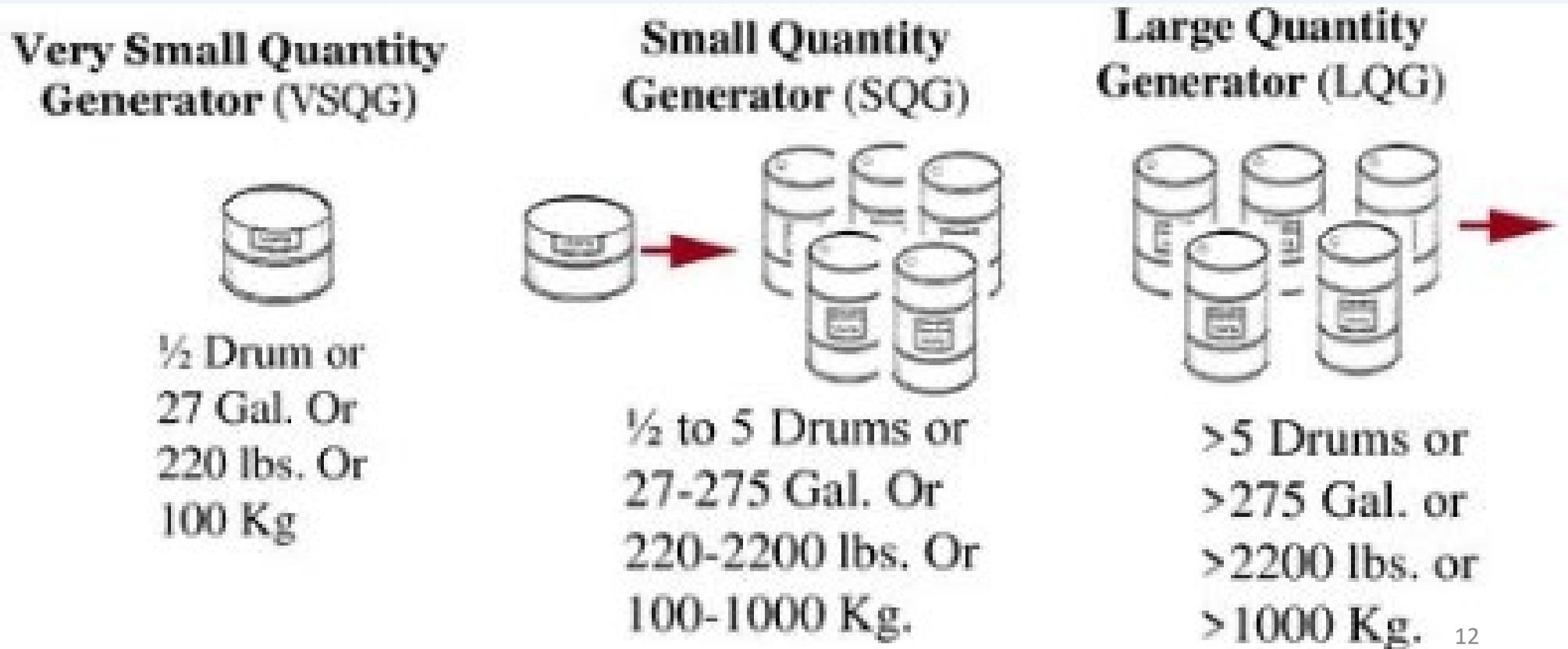
# Hazardous Waste Determination

- Clarifies the accuracy of HW determinations!
- Confirms when they must be made
  - at point of origin
  - before dilution, mixing or other alteration
  - whenever mgmt may change properties & classification
- Elaborates on how to determine if a SW is listed and/or characteristic HW
- Reiterates recordkeeping
- Requires SQGs & LQGs to put RCRA waste codes on containers prior to sending HW off-site



# Generator Category Determination

- Clarifies process for determining category for calendar month
- Clarifies for acute HW, non-acute HW & mixing
- Clarifies impact of mixing of HW with non-HW



# Satellite Accumulation Area

*(i.e., storage of 55 gallons [or 1 qt acute] HW at or near point of generation and under control of operator)*



## Revisions & Clarifications

- Term “satellite accumulation area” now used in regs
- Prohibition from mixing incompatible HWs
- Limits opening of containers when necessary for safe operations
- Adds 1 kg weight limit (in addition to volume) for acute HW
- Clarifies three consecutive calendar days to move HW
- Rescinds reactive HW storage away from point of generation
- Marking & labeling consistent with central accumulation areas
- Must be include in emergency preparedness

# Very Small Quantity Generator (VSQG)

- Very Small Quantity Generator (VSQG)– replaces the term “conditionally-exempt small quantity generator (CESQG)”
- Same limited requirements under old regs & new rule
- Relocated to Chapter 10 from Chapter 1
- New options for flexibility for VSQG in other parts of regs
  - Consolidation at sister LQG
  - Episodic generation



# VSQG HW Consolidation



# VSQG HW Consolidation

- VSQG can send HW to LQG “under the control of the same person”
- VSQG requirements
  - Label containers (“Hazardous Waste” & hazards)
  - HW manifest & transporter not required; DOT requirements would apply
- LQG requirements
  - Notify LDEQ
  - Manage HW as LQG
  - Recordkeeping
  - Report waste in biennial (annual) report



# Episodic HW Generation

Because things happen.

And that's no bull.

And I wouldn't steer you wrong.

# Episodic HW Generation

- Allows VSQG & SQG to maintain existing category with streamlined requirements (i.e., episodic waste won't count toward category)
- 1 planned event (e.g., tank cleanout) & 1 unplanned event (e.g., upset, spill) per year (must petition for the 2<sup>nd</sup>)
- 30-day prior notification if planned; 72-hour notification if unplanned
- Must conclude event within 60 days
- SQG just needs to comply with SQG regulations & maintain records
- VSQG Streamlined Requirements
  - RCRA ID#; use manifest & transporter to send HW to designated facility; minimize accidents & releases; label containers; ID emergency coordinator; recordkeeping

# Small Quantity Generator (SQG)

- Clarifies SQG may accumulate HW on drip pads & in containment buildings, provided:
  - Meet their respective standards
  - Meet all of the conditions for SQG
- SQG Re-Notification
  - SQG to re-notify at least every 4 years
  - Electronic reporting an option
  - Compliance date delayed until 2021





# Marking & Labeling



- Labeling at point of generation & includes satellite accumulation, central accumulation & transfer facilities
- Labels must indicate the hazards (e.g., toxicity, flammability, etc.)
- Flexibility in methods (e.g., DOT, OSHA, NFPA, or RCRA)
- For containment buildings, can keep logs or records near the unit
- Containers must be marked (bar-coded) with RCRA waste codes prior to sending off-site

# Emergency Preparedness & Planning



# Emergency Preparedness & Planning

## Arrangements with Local Emergency Responders

- Must document attempts to make arrangements with local responders
- No specific type of documentation & flexibility where retained
- Facilities with internal capabilities may seek waiver
- Local Emergency Planning Committees (LEPCs) OK



# Emergency Preparedness & Planning

## LQG Contingency Plan Quick Reference Guide

- Required for new or updated contingency plans
- Part of contingency plan to help local emergency responders
- Executive Order 13650 on Improving Chemical Facility Safety & Security
- 8 elements
  - HW & associated hazards
  - Estimated maximum amounts of HW
  - HW requiring unique/special treatment
  - Map showing where HW generated, accumulated or treated (includes SAAs)
  - Map of facility & surroundings with access & evacuation routes
  - Location of water supply
  - On-site notification systems
  - Emergency coordinator(s) & emergency telephone number(s)

# Quick Reference Guide Example (pg 1)

## EXAMPLE QUICK REFERENCE GUIDE

This example was created by EPA Region 7 to be used as a guide to assist the regulated community with compliance. It does not substitute for or replace any regulatory requirements.

### Contingency plan quick reference guide

ABC FACILITY  
 1000 SW Main Street  
 Anytown, Iowa 50000

#### Facility Contacts:

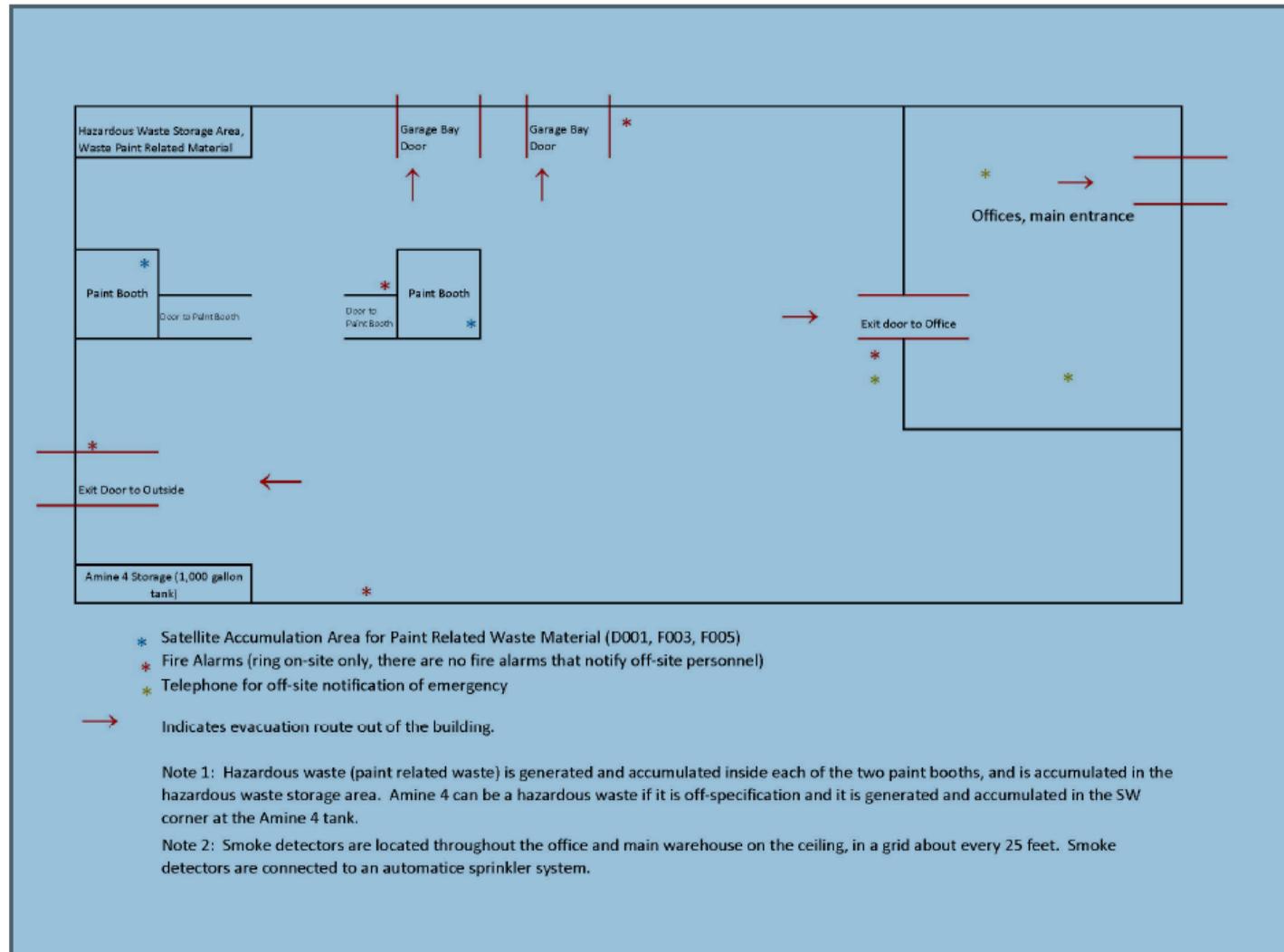
Primary Emergency Coordinator: George Washington Mobile Number (24/7): 515-555-0000  
 Secondary Emergency Coordinator: Abraham Lincoln Mobile Number (24/7): 515-555-0001  
 Tertiary Emergency Coordinator: Martha Washington Mobile Number (24/7): 515-555-0002

**Note:** ABC Facility operates 3 shift, 24/7, but the order of contact during an emergency is listed above.

#### Hazardous Waste Information:

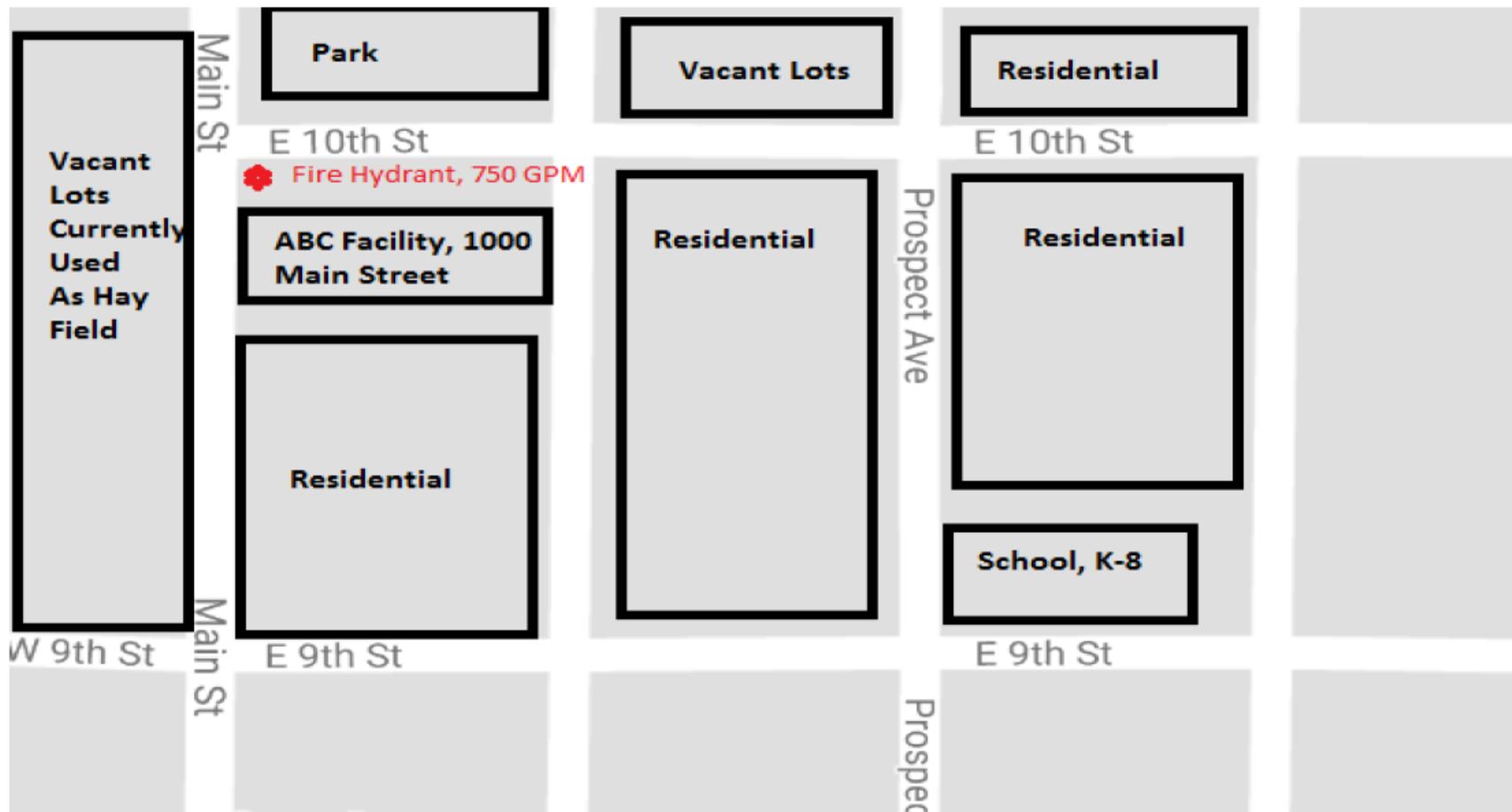
Name of Waste	Waste Codes/Hazards	Location Accumulated	Maximum Amounts Present	Response Notes	Special Notes to Hospital/Treatment personnel
Paint Related Wastes (liquid)	D001 (ignitability, flash point <140 °F); F003, F005 (Benzene, Methyl Ethyl Ketone, Toluene, Toxicity)	NW corner of Warehouse, hazardous waste storage area	Five, 55-gallon drums (2,065 pounds)	If personnel come into direct contact with material, decontamination at the hospital may be required prior to treatment.	None
Paint Related Wastes (liquid)	D001 (ignitability, flash point <140 °F); F003, F005 (Benzene, Methyl Ethyl Ketone, Toluene, Toxicity)	Two Satellite Accumulation Areas as noted with blue asterisks on the attached map.	One, 55-gallon drum (440 pounds)	If personnel come into direct contact with material, decontamination at the hospital may be required prior to treatment.	None
Off-specification 2, 4-D, a herbicide, (brand name is Amine 4) (liquid)	D016 (toxicity); Flashpoint 190 °F.	SW corner of warehouse near new product storage of Amine 4.	Off-Spec – 1 tank, 1,000 gallons New product – 1 tank (same tank as off-spec), 1,000 gallons	Use PPE to prevent contact with skin and eyes. Immediately prevent spills from entering drains and waterways. Prevent sources of ignition and open flames.	Contact Chemtrac for emergency medical treatment information at 1-800-424-9300. If in eyes, wash eyes for several minutes.

# Quick Reference Guide Example (pg 2)



# Quick Reference Guide Example (pg 3)

## Street Map



# Emergency Preparedness & Planning

## Other Clarifications & Areas of Flexibility

- Contingency & emergency planning applies only to HW
- Includes points of generation, satellite accumulation areas, and central accumulation areas
- Can eliminate unnecessary personal info in plan
- Clarifies “immediate access” as “direct or unimpeded access”
- SQG & LQG may determine the most appropriate locations for emergency equipment
- SQG may use contractor to address releases
- Relevant emergency response info should be posted “next to the telephone” for SQG

# Waiver to 50-Foot Zone Requirement

## Current HW Regulations

- Containers holding ignitable or reactive waste must be located 15 m (50 feet) from property line
- Can be impossible to meet, especially in urban areas

## New Waiver Allowance

- LQGs can apply for waiver from
- fire marshal if appropriate & safe



# Recordkeeping for a Tank

How to show tank emptied or HW has been “turned over”

- Inventory logs, monitoring equipment or other records to demonstrate:
  - Batch process: tank has been emptied every 90 or 180 days
  - Continuous flow process: estimated volumes of HW entering tank daily exit tank within 90 or 180 days\*

*\*LDEQ previously codified guidance*



# Annual Reporting\*

## Clarifications Consistent with Existing Guidance

- Refers generators directly to form instructions instead of listing specific elements
- LQGs must report all HW generated & managed for year
- LQGs managing HW off-site must follow existing guidance
- LQGs must report HW generated throughout calendar year, even for months when they are an SQG

## Closing Regulatory Gap

- Recycling facilities w/o storage permit must report recycled HW

*\*NOTE: EPA requires biennial reporting (every 2 years); LDEQ requires annual reporting*

# LQG Closure Notification



# LQG Closure Notification

- Requires LQG to notify LDEQ when closing a facility and/or central accumulation unit
- Consolidates closure performance standards in one place (performance standards have not changed)
- Container storage must “close as a landfill” if closure performance standards not met (already for tanks, drip pads & containment buildings)
- Clarifies that closure does not apply to SAAs

# LQG Closure Notification

## EPA'S RCRA SUBTITLE C SITE IDENTIFICATION FORM (LDEQ'S HW-1 FORM)

### 15. Notification of LQG Site Closure for a Central Accumulation Area (CAA) (optional) OR Entire Facility (required)

<input type="checkbox"/>	Y	<input type="checkbox"/>	N	LQG Site Closure of a Central Accumulation Area (CAA) or Entire Facility.
				A. <input type="checkbox"/> Central Accumulation Area (CAA) or <input type="checkbox"/> Entire Facility
				B. Expected closure date: _____ mm/dd/yyyy
				C. Requesting new closure date: _____ mm/dd/yyyy
				D. Date closed : _____ mm/dd/yyyy
				<input type="checkbox"/> 1. In compliance with the closure performance standards 40 CFR 262.17(a)(8)
				<input type="checkbox"/> 2. Not in compliance with the closure performance standards 40 CFR 262.17(a)(8)

# LQG Closure Notification

## Closure Performance Standards (Consolidated; NOT changed)

- Minimize further maintenance by controlling, minimizing, or eliminating, to extent necessary to protect human health & environment, post-closure escape of HW, haz constituents, leachate, contaminated run-off, or HW decomposition products to ground or surface waters or to atmosphere
- Remove or decontaminate all contaminated equipment, structures and soil and any remaining HW residues from waste accumulation units...
- Proper management of any HW generated from closure
- Close as a landfill if HW or contaminated soils is not removed

# LQG Closure Notification

## Closure Notification

- Central accumulation area
  - Place notice in op record within 30 days of closure; **OR**
  - Notify LDEQ in accordance with facility closure notification
- Facility
  - Notify LDEQ no later than 30 days prior to closing facility
  - Notify LDEQ within 90 days after closing facility **if closure performance standard met or not**
  - Extension allowed, but must notify LDEQ within 75 days after closing facility

# LQG Closure Notification

## *LDEQ's Proposed Clarifications*

### NOTE OF CAUTION ON LDEQ'S PROPOSED CLARIFICATIONS

- *Only draft and subject to change*
- *Would be broader in scope than fed rule (clarifies and expounds upon rule language and preamble)*
- *Intended to be consistent with fed rule (language & preamble) & EPA/LDEQ's historical HW policies*
- *Based upon discussions with various LDEQ personnel & stakeholders*
- *Still must be fully vetted by all key personnel including the stakeholders, EPA, LDEQ executive staff & LDEQ legal staff*
- *Would be subject to public comment period in formal rule-making process*

# LQG Closure Notification

## *LDEQ's Proposed Clarifications*

- *Would require basic info for operating record & closure notifications*
  - *(e.g., reason, unit name, description, location, HW, etc.)*
- *Would allow for the use of risk-evaluation (i.e., RECAP)*
- *Would allow for closures with contamination from other sources*
- *Would allow LQG to request “sufficiency demonstration” for changes in closure (e.g., documents, submittals, deconning & sampling), BUT MUST MEET CLOSURE PERFORMANCE STANDARDS*
- *Would allow for use of guidance (e.g., closure info, confirmatory protocol, closure report, etc.)*
- *Would grandfather in closures initiated prior to final reg date*

# LQG Closure Notification

## *LDEQ's Proposed Clarifications*

### *Closure of container storage (i.e., drum, roll-off box, etc.)*

- Would include container(s) AND long-term/fixed secondary containment*
- Would allow for presumptive demonstration of closure (i.e., by removing containers, unit would be closed & presumed to meet closure performance standards)*
- Would NOT require deconning or confirmatory sampling under “normal” circumstances where waste was “properly” managed demonstrated by op record (i.e., inspections, spill response, etc.)*
- LDEQ would receive notification; supporting documents kept on site & reviewed by LDEQ at compliance or closure inspection for facility*

# LQG Closure Notification

## *LDEQ's Proposed Clarifications*

### *Closures of tank systems, containment buildings & drip pads\**

- Would require additional closure info to be submitted with prior notification (deconning, confirmatory sampling)*
- Would specify RECAP screening standards as the numerical closure performance standards*
- Would require a report to be submitted to the department for review and approval*

*\*Would also be applicable to container storage requiring additional closure efforts*

# LQG Closure Notification

## *LDEQ's Proposed Clarifications*

- *Draft*
- *May change; probably will*
- *Public comment period*



# HWGIR Information

EPA's Webpage on the HWGIR

[epa.gov/hwgenerators/final-rule-hazardous-waste-generator-improvements](http://epa.gov/hwgenerators/final-rule-hazardous-waste-generator-improvements)

LDEQ's Rules & Regulations Webpage

[deq.louisiana.gov/page/rules-regulations](http://deq.louisiana.gov/page/rules-regulations)

Louisiana Register at the Division of Administration

[doa.la.gov/Pages/osr/reg/register.aspx](http://doa.la.gov/Pages/osr/reg/register.aspx)

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