LDEQ Adoption of the Hazardous Waste Generator Improvements Rule

Mike Hahn
LDEQ
Waste Permits Division

October 16, 2019
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”
Status of Adoption by States

- Green: Authorized
- Blue: Adopted
- Purple: Administered by EPA Region
- Yellow: Neither Adopted nor Authorized

Last updated on September 3, 2019

[Map showing the 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\textsuperscript{st} Qtr 2020
  ◦ Final rule adopted in 3\textsuperscript{rd} 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\textsuperscript{nd})
- 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)
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:

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

- Satellite Accumulation Area for Paint Related Waste Material (D001, F003, F005)
- Fire Alarms (ring on-site only, there are no fire alarms that notify off-site personnel)
- Telephone for off-site notification of emergency

Indicates evacuation route out of the building.

Note 1: Hazardous waste (paint related waste) is generated and accumulated inside each of the two paint booths, and is accumulated in the hazardous waste storage area. Amine 4 can be a hazardous waste if it is off-specification and it is generated and accumulated in the SW corner at the Amine 4 tank.

Note 2: Smoke detectors are located throughout the office and main warehouse on the ceiling, in a grid about every 25 feet. Smoke detectors are connected to an automatic sprinkler system.
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

Closing soon
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**

<table>
<thead>
<tr>
<th></th>
<th>Y</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>15. Notification of LQG Site Closure for a Central Accumulation Area (CAA) (optional) OR Entire Facility (required)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>□</td>
<td>□</td>
</tr>
<tr>
<td>□</td>
<td>Central Accumulation Area (CAA)</td>
<td>□</td>
</tr>
<tr>
<td>□</td>
<td>Expected closure date:</td>
<td>□</td>
</tr>
<tr>
<td>□</td>
<td>Requesting new closure date:</td>
<td>□</td>
</tr>
<tr>
<td>□</td>
<td>Date closed:</td>
<td>□</td>
</tr>
</tbody>
</table>

1. In compliance with the closure performance standards 40 CFR 262.17(a)(8)
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
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

LDEQ’s Rules & Regulations Webpage
deq.louisiana.gov/page/rules-regulations

Louisiana Register at the Division of Administration
doa.la.gov/Pages/osr/reg/register.aspx

Mike Hahn
LDEQ Waste Permits Division
mike.hahn@la.gov
(225) 219-3464