

**Comment Summary Response & Concise Statement -
Hazardous Waste Generator Improvements Rule
LAC 33:V.Chapters 1, 3, 5, 10, 11, 13, 15, 17, 18,
19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 35, 38,
40, 41, 42, 43, 45, 49, 51, and 53
Log Number HW124**

COMMENT 1: General--Incorporation of Other Comments.

LCA hereby adopts and incorporates by reference those comments on the proposed HWGI Rules made by the Louisiana Mid-Continent Oil and Gas Association (“LMOGA”), members of LCA, and members of LMOGA, to the extent that such comments are not inconsistent with the comments made herein by LCA.

FOR: No argument is necessary; the comment does not suggest an amendment or change.

RESPONSE: LDEQ acknowledges the comment. Note LDEQ did not receive comments from LMOGA.

COMMENT 2: General--Support for HWGI Rules.

LCA supports the proposed HWGI Rules. For the most part, the proposed rules are based on the corresponding federal regulations promulgated by the United States Environmental Protection Agency (“EPA”). 81 Fed. Reg. 85732, et seq. (November 28, 2016). With the adoption of the proposed rules, the Department will ensure that (a) the Louisiana hazardous waste regulations, LAC 33:V, remain at least as stringent as the corresponding federal hazardous waste requirements, and (b) EPA’s delegation to Louisiana of the non-HSWA portion of the federal hazardous waste program remains appropriate.

LCA participated in a working group organized by LDEQ to assist in developing the proposed HWGI Rules. LCA lauds LDEQ for this cooperative effort and for all of the good work put in by Department personnel in developing these rules.

FOR: No argument is necessary; the comment does not suggest an amendment or change.

RESPONSE: LDEQ appreciates the support of LCA.

COMMENT 3: General--No Desire for Substantive Changes at This Time.

LCA does not desire any delay in the final promulgation of the proposed HWGI Rules. To the extent that any LCA comments set forth below require “substantive changes” that would entail additional public notice and an additional public comment period, LCA submits that the Department should address these comments in a subsequent, separate “cleanup” rulemaking.

FOR: Comments 4 through 26 below are minor in nature and offer simple clarifications and corrections. The current language of the rule does not interfere with the intent, with the compliance, nor with the enforceability of the rule. Addressing Comments 4 through 26 now would require an additional public notice and comment period, which would delay the rule from going final. In discussions with the states regarding the rule, the U.S. Environmental Protection Agency has indicated that a federal cleanup rule may be necessary for corrections and clarification. Such a federal rule package may or may not include the issues raised in Comments 4 through 26.

RESPONSE: LDEQ agrees with the comment. LDEQ will initiate subsequent, separate “cleanup” rulemaking and shall include LDEQ’s responses to Comments 4 through 26 below. This rulemaking may be included with any forthcoming cleanup rule initiated by USEPA.

COMMENT 4: LAC 33:V.105.D.1.g.

LCA submits that proposed LAC 33:V.105.D.1.g should be revised to read as follows:

“g. spent sulfuric acid used to produce virgin sulfuric acid provided it is not *accumulated speculatively* as defined in LAC 33:V.109. Accumulated Speculatively Solid Waste,”

FOR: No argument is necessary; LDEQ agrees with Comment 4.

RESPONSE: LAC 33:V.105.D.1.g will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as indicated in response to Comment 3.

COMMENT 5: LAC 33:V.109.Definitions--“Final Closure”.

LCA submits that the definition of “Final Closure” in proposed LAC 33:V.109 should be revised to read as follows:

“*Final Closure*—the closure of all hazardous waste management

units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under LAC 33:V.Chapters 15, 19, 21, 23, 25, 27, 29, 31, 33, 35 and 43 are no longer conducted unless subject to provisions of LAC 33:V.1009, 1011, 1013, and 1015.”

FOR: No argument is necessary; LDEQ agrees with Comment 5.

RESPONSE: LAC 33:V.109. *Final Closure* will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as indicated in response to Comment 3.

COMMENT 6: LAC 33:V.109.Definitions--“Large Quantity Generator”.

LCA submits that the definition of “Large Quantity Generator” in proposed LAC 33:V.109 should be revised to read as follows:

“*Large Quantity Generator*—a generator who generates any of the following amounts in a calendar month:

1. greater than or equal to 1,000 kilograms (2200 lbs) of nonacute hazardous waste; or
2. greater than 1 kilogram (2.2 lbs) of acute hazardous waste listed in LAC 33:V.4901.B with the assigned hazard code of (H) or LAC 33:V.4901.E; or
3. greater than 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in LAC 33:V.4901.B with the assigned hazard code of (H) or LAC 33:V.4901.E.”

FOR: No argument is necessary; LDEQ agrees with Comment 6.

RESPONSE: LAC 33:V.109. *Large Quantity Generator* will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as indicated in response to Comment 3.

COMMENT 7: LAC 33:V.109.Definitions--“Small Quantity Generator”.

LCA submits that the definition of “Small Quantity Generator” in proposed LAC 33:V.109 should be revised to read as follows:

“*Small Quantity Generator*—a generator who generates the following

amounts in a calendar month:

1. greater than 100 kilograms (220 lbs) but less than 1,000 kilograms (2200 lbs) of nonacute hazardous waste; and
2. less than or equal to 1 kilogram (2.2 lbs) of acute hazardous waste listed in LAC 33:V.4901.B with the assigned hazard code of (H) or LAC 33:V.4901.E; and
3. less than or equal to 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in LAC 33:V.4901.B with the assigned hazard code of (H) or LAC 33:V.4901.E.”

FOR: No argument is necessary; LDEQ agrees with Comment 7.

RESPONSE: LAC 33:V.109.*Small Quantity Generator* will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as indicated in response to Comment 3.

COMMENT 8: LAC 33:V.109.Definitions--“Very Small Quantity Generator”.

LCA submits that the definition of “Very Small Quantity Generator” in proposed LAC 33:V.109 should be revised to read as follows:

“*Very Small Quantity Generator*—a generator who generates less than or equal to the following amounts in a calendar month:

1. 100 kilograms (220 lbs) of nonacute hazardous waste; and
2. 1 kilogram (2.2 lbs) of acute hazardous waste listed in **in** LAC 33:V.4901.B with the assigned hazard code of (H) or LAC 33:V.4901.E; and
3. 100 kilograms (220 lbs) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in **in** LAC 33:V.4901.B with the assigned hazard code of (H) or LAC 33:V.4901.E.”

FOR: No argument is necessary; LDEQ agrees with Comment 8.

RESPONSE: LAC 33:V.109.*Very Small Quantity Generator* will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as indicated in response to Comment 3.

COMMENT 9: LAC 33:V.305.C.2.

LCA submits that proposed LAC 33:V.305.C.2 should be revised to read as follows:

“ C. Specific Exclusions and Exemptions. The following persons are not required to obtain a hazardous waste permit:

1. ...
2. generators who accumulate hazardous waste on-site in compliance with all of the conditions for exemption provided in LAC 33:V.1009, 1011, 1013, and 1015, as applicable;”

FOR: No argument is necessary; LDEQ agrees with Comment 9.

RESPONSE: LAC 33:V.305.C.2 will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 10: LAC 33:V.1003.A.1.b.vi.

LCA submits that proposed LAC 33:V.1003.A.1.b.vi should be revised to read as follows:

“b. Independent requirements for a small quantity generator include:

* * *

- vi. LAC 33:V.1107 (~~The Manifest~~ System Requirements);”
33:V.1009, 1011, 1013, and 1015, as applicable;”

FOR: No argument is necessary; LDEQ agrees with Comment 10.

RESPONSE: LAC 33:V.1003.A.1.b.vi will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 11: LAC 33:V.1013.C.3.b.v.

LCA submits that to be consistent with the corresponding federal regulation, 40 CFR 262.16(b)(3)(iii)(E), proposed LAC 33:V.1013.C.3.b.v should be revised to read as follows:

“b. Except as noted in Subparagraph C.3.c of this Section, a

small quantity generator that accumulates hazardous waste in tanks shall inspect, where present:

* * *

v. the construction materials of, and the area immediately surrounding, discharge confinement **structures** (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation). The generator shall remedy any deterioration or malfunction of equipment or structures, which the inspection reveals on a schedule, which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.”

FOR: No argument is necessary; LDEQ agrees with Comment 11.

RESPONSE: LAC 33:V.1013.C.3.b.v will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 12: LAC 33:V.1013.C.4.a.

LCA submits that to be consistent with the corresponding federal regulation, 40 CFR 262.16(a)(4)(ii), proposed LAC 33:V.1013.C.4.a should be revised to read as follows:

“4. Accumulation of Hazardous Waste on Drip Pads. If the waste is placed on drip pads, the small quantity generator shall:

a. comply with LAC 33:V.2801, 2803, 2804, 2805, 2807, and 2809 **(except 2809.C and D);**”

FOR: LDEQ agrees with Comment 12. However, 40 CFR 262.16.(b)(4)(i) is the correct federal equivalent regulation and not 40 CFR 262.16.(a)(4)(ii). 40 CFR 262.16.(b)(4)(i) states that the small quantity generator must comply with “Subpart W of 40 CFR part 265 (except §265.445 (c)”. Subpart W is equivalent to LAC 33:V.2801, 2803, 2804, 2805, 2807 and 2809; 265.445(c) is equivalent to LAC 33:V.2809.C and D.

RESPONSE: LAC 33:V.1013.C.4.a will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 13: LAC 33:V.1013.C.5.a-c.

LCA submits that to be consistent with the corresponding federal regulation, 40 CFR 262.16(b)(5), proposed LAC 33:V.1013.C.5.a-c should be revised to read as follows:

“5. Accumulation of Hazardous Waste in Containment Buildings. If the wastes is placed in containment buildings, the small quantity generator shall:

- a. comply with LAC 33:V.Chapter 43.Subchapter T;
- b. label its containment building with the words “Hazardous Waste” in a conspicuous place easily visible to employees, visitors, emergency responders, waste handlers, or other persons on-site;
- c. provide an indication of the hazards of the contents in a conspicuous place (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazardous communication consistent with the U.S. Department of Transportation requirements in 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the U.S. Occupational Safety and Health Administration Hazard Communication Standard in 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association Code 704);”

FOR: No argument is necessary; LDEQ agrees with Comment 13.

RESPONSE: LAC 33:V.1013.C.5.a-c will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 14: LAC 33:V.1013.C.6.a.ii.

LCA submits that to be consistent with the corresponding federal regulation, 40 CFR 262.16(b)(6), proposed LAC 33:V.1013.C.6.a.ii should be revised to read as follows:

“6. Labeling and Marking of Containers and Tanks

- a. A small quantity generator shall mark or label its containers and tanks accumulating hazardous waste with:
 - i. the words “Hazardous Waste”; and
 - ii. an indication of the hazards of the contents

(examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the U.S. Department of Transportation requirements in 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the U.S. Occupational Safety and Health Administration **Hazard** Communication Standard in 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association Code 704).”

FOR: No argument is necessary; LDEQ agrees with Comment 14.

RESPONSE: LAC 33:V.1013.C.6.a.ii will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 15: LAC 33:V.1013.C.8.b.

LCA submits that proposed LAC 33:V.1013.C.8.b should be revised to read as follows:

“8. Preparedness and Prevention

* * *

b. Required Equipment. All areas where hazardous waste is either generated or accumulated shall be equipped with the items in Clauses 1013.C.8.b.i-iv of this Section, unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below. A small quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies. The required equipment consists of:”

FOR: No argument is necessary; LDEQ agrees with Comment 15.

RESPONSE: LAC 33:V.1013.C.8.b will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 16: LAC 33:V.1015.B.1.a.

LCA submits that proposed LAC 33:V.1015.B.1.a should be revised to read as follows:

“ B. Accumulation. A large quantity generator accumulates hazardous waste on-site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 waste accumulation conditions for exemption in Subsections C-F of this Section. The following accumulation conditions also apply.

1. Accumulation of Hazardous Waste in Containers. If the hazardous waste is placed in containers, the large quantity generator shall comply with the following:

a. Air Emission Standards. The applicable requirements of LAC 33:V.Chapter 43.Subchapters Q, R, and V;”

FOR: No argument is necessary; LDEQ agrees with Comment 16.

RESPONSE: LAC 33:V.1015.B.1.a will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 17: LAC 33:V.1015.B.8.a.i.

LCA submits that proposed LAC 33:V.1015.B.8.a.i should be revised to read as follows:

“ a. Notification of Closure of a Central Accumulation Area. A large quantity generator shall perform one of the following when closing a central accumulation area.

i. The large quantity generator shall notify the Office of Environmental Services following the procedures in Subparagraph B.8.b of this Paragraph in order to meet the closure performance standards of Clause B.8.c.i of this Paragraph for container storage, tank systems, and containment buildings or Clause B.8.c.ii of this Paragraph for drip pads. If the central accumulation area is subsequently reopened, the large quantity generator shall update the notice in the operating record.”

FOR: No argument is necessary; LDEQ agrees with Comment 17.

RESPONSE: LAC 33:V.1015.B.8.a.i will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 18: LAC 33:V.1015.B.8.j.

LCA submits that proposed LAC 33:V.1015.B.8.j should be revised to read as follows:

“j. Closure Guidance. The large quantity generator should review all guidance that may be issued by the department and posted on its website including, but not limited to, guidance on confirmatory sampling for aboveground structures and environmental media. The purpose of such guidance is to ensure best management practices, promote consistency, and produce technically defensible closures. Any such guidance issued by the department is not regulation and shall not substitute for the requirements of Subparagraph B.8 of this Paragraph. Thus, any guidance does not impose any new requirements. The department shall retain discretion to use approaches on a case-by-case basis that differ from such guidance where appropriate. The department will **make base** decisions regarding closure activities required by Subparagraph B.8 of this Paragraph in accordance with the Act and regulations as applied to the specific facts of the closure. Whether or not the recommendations in any guidance are appropriate in a given situation will depend on site-specific circumstances.”

FOR: No argument is necessary; LDEQ agrees with Comment 18.

RESPONSE: LAC 33:V.1015.B.8.j will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 19: LAC 33:V.1023.D.

LCA submits that to be consistent with the corresponding federal regulation, 40 CFR 262.42(c), proposed LAC 33:V.1023.D should be revised to read as follows:

“D. For rejected shipments of hazardous waste or container residues contained in nonempty containers that are forwarded to an alternate facility by a designated facility using a new manifest,

following the procedures of LAC 33:V.1516.C.5.a.i-vi, the generator shall comply with the requirements of Subsections A or C of this Section, as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of Subsections A or -C of this Section for a shipment forwarding such waste to an alternate facility by a designated facility, the following conditions shall apply.”

FOR: No argument is necessary; LDEQ agrees with Comment 19.

RESPONSE: LAC 33:V.1023.D will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 20: LAC 33:V.1035.A.1.

LCA submits that proposed LAC 33:V.1035.A.1 should be revised to read as follows:

“ A. A generator may petition the administrative authority for a second episodic event in a calendar year without impacting its generator category under the following conditions. If a very small quantity generator or small quantity generator has already held:

1. a planned episodic event in a calendar year, the generator may petition the administrative authority for an additional unplanned episodic event in that calendar year within 72 hours of the unplanned event; or”

FOR: No argument is necessary; LDEQ agrees with Comment 20.

RESPONSE: LAC 33:V.1035.A.1 will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 21: LAC 33:V.1045.A.

LCA submits that to be consistent with the corresponding federal regulation, 40 CFR 254(b), proposed LAC 33:V.1045.A should be revised to read as follows:

“ A. Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation shall

have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under Section 1041 of this Subchapter.”

FOR: No argument is necessary; LDEQ agrees with Comment 21.

RESPONSE: LAC 33:V.1045.A will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 22: LAC 33:V.2201.A.4.

LCA submits that proposed LAC 33:V.2201.A.4 should be revised to read as follows:

“4. waste generated by very small quantity generators, as defined in LAC 33:V. 4009109. Very Small Quantity Generator,”

FOR: No argument is necessary; LDEQ agrees with Comment 22. However, the citation should be LAC 33:V.2201.I.4.

RESPONSE: LAC 33:V.2201.I.4 will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 23: LAC 33:V.2249.C.3.

LCA submits that proposed LAC 33:V.2249.C.3 should be revised to read as follows:

“3. if the waste is generated by a very small quantity generator, as defined in LAC 33:V. 4009109. Very Small Quantity Generator.”

FOR: No argument is necessary; LDEQ agrees with Comment 23.

RESPONSE: LAC 33:V.2249.C.3 will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 24: LAC 33:V.3001.C.3.

LCA submits that proposed LAC 33:V.3001.C.3 should be revised to read as follows:

“3. hazardous wastes that are exempt from regulation under LAC 33:V.105.D and 4105.A.1.c-d.iii, and hazardous wastes that are subject to the special requirements for very small quantity generators under LAC 33:V.1007 and 1009; and”

FOR: LDEQ agrees that Section 1007 (Generator Category Determination) should not be referenced here. The equivalent federal regulation for LAC 33:V.3001.C.3, 40 CFR 266.100(c)(3), does not contain a reference to the equivalent federal regulation for LAC 33:V.1007, 40 CFR 262.13.

AGAINST: This edit was initiated by USEPA Region 6 during its oversight review of the proposed rule language. The reference appears to be superfluous, but does not affect the intent, the compliance nor the enforceability of the rule.

RESPONSE: LDEQ tentatively agrees with this comment. LDEQ will discuss this comment with USEPA Region 6 and determine whether LAC 33:V.3001.C.3 will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

COMMENT 25: LAC 33:V.4143.B.2.

LCA submits that proposed LAC 33:V.4143.B.2 should be revised to read as follows:

“2. generators shall operate in accordance with LAC 33:V.1107 and 1108;”

AGAINST: LAC 33:V.4143.B.2 has always included reference to LAC 33:V.1108 and is equivalent to the federal regulations. 40 CFR 266.70(b)(2), the federal equivalent to LAC 33:V.4143.B.2, references 40 CFR 262 Subpart B (i.e., the Manifest Requirements Applicable to Small and Large Quantity Generators). 40 CFR 262 Subpart B includes 262.21 which is the federal equivalent to LAC 33:V.1108.

RESPONSE: LDEQ does not agree with this comment. LAC 33:V.4143.B.2 will not be amended.

COMMENT 26: LAC 33:V.5121.B.2.

LCA submits that proposed LAC 33:V.5121.B.2 should be revised to read as follows:

“2. ~~90-day~~ Storage Extension. Application for 30-day Extension of Accumulation Time Limit in LAC 33:V.1013.E and LAC 33:V.1015.C. All requests for extension of accumulation time limit shall be accompanied by a \$500 application fee.

FOR: No argument is necessary; LDEQ agrees with Comment 26.

RESPONSE: LAC 33:V.5121.B.2 will be amended in a subsequent, separate “cleanup” rulemaking initiated by LDEQ as stated in response to Comment 3.

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Hazardous Waste Generator Improvements Rule
LAC 33:V.Chapters 1, 3, 5, 10, 11, 13, 15, 17, 18,
19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 35, 38,
40, 41, 42, 43, 45, 49, 51, and 53
Log Number HW124**

Comment #

SUGGESTED BY

1-26

Tokesha Collins-Wright, on behalf of Louisiana Chemical
Association

Comments reflected in this document are repeated verbatim from the written submittals.

Total Commenters: 1

Total Comments: 26