# Comments by the Texas Commission on Environmental Quality Regarding HAZARDOUS WASTE GENERATOR IMPROVEMENTS

# EPA Docket ID NO. EPA-HQ-RCRA-2012-0121

## I. Summary of Proposed Action

On September 25, 2015, the United States Environmental Protection Agency (EPA) published in the Federal Register (Vol. 80 No. 186) **proposed revisions to the hazardous waste generator regulations under the Resource Conservation and Recovery Act (RCRA).**

## The U.S. EPA, recognizing the need for reevaluation of the hazardous waste generator program after 30 years since implementation, proposed revisions to the regulations. The new rule is intended to improve hazardous waste generator requirements through reorganization and clarification of the regulations, allow greater flexibility for generators, and strengthen environmental protection through removal of gaps on in the regulations.

## II. Comments

#### Significant Comment

* The proposed rule allows Very Small Quantity (VSQG) to send hazardous waste to Large Quantity Generators (LQGs) under the control of the same person (see Pg. 57931). This appears to be an informal process and it is not clear if or how the relationship between VSQG and LQG facilities will be documented or reported. A clarification is needed on whether facilities will be required to submit a notification to the regulating authority to track that relationship; or if the facilities will need to keep those records on site as a record keeping requirement. What is the purpose and advantage to send waste from A to B then to C for treatment/disposal? If bulking for cost savings for transportation and disposal is the goal, then additional considerations to the tracking, time frames and waste reporting will require further discussion. Considerations of items such as: Will the first generator be counting towards generator status; will it require a manifest and how to manage the manifest/waste tracking; is there a distance limitation (e.g., within a 50 mile radius); will the receiving facility be required to notify as a receiver; will the receiving site have accumulation time frames that coincide with the original generation date or will there be a separate accumulation and tracking requirement?
* If the intent is to track the related VSQG and LQG facilities, there should be clarification that the RCRAInfo database will be modified to accommodate this. This will require authorized state databases to be altered and additional data entry to be conducted. Clarification is needed regarding whether the EPA or state agency will affiliate the VSGQ facility to the LQG.
* Clarification is required regarding changes of ownership and/or affiliation. A question arises if state agency forms that contain the key Form 8700-12 fields are sufficient documentation of such changes.
* Affiliating VSQG facilities with LQG facilities may cause database complications for authorized states that will process out of state EPA identification numbers which may be in the RCRAInfo database but not in authorized state databases.
* Clarification is needed regarding how tracking from point of generation to point of disposal will occur under the opportunity for a CESQGs to send hazardous waste to LQGs under the control of the same person.

Significant Comment

* TCEQ requests clarification if an annual reporting requirement is sufficient as a method of re-notification. If annual reporting is sufficient to meet re-notification requirements, the TCEQ prefers to have the re-notification year occur during the EPA’s Biennial Reporting which will coincide that year’s annual reporting to the TCEQ.

**Significant Comment**

* The proposed rule allows SQGs and LQGs flexibility in labeling containers (see Pg. 57949). Generators may use a variety of methods to indicate the contents and their associated hazards. As this approach could introduce confusion or ambiguity during compliance investigations, TCEQ recommends specifying required standardized labeling requirements.

**Significant Comment**

* The proposed rule contains requirements to address generators that temporarily change generator category as a result of an episodic event (see Pg. 57972). The TCEQ requests clarification if this is applicable to emergencies and temporary one time clean ups (Short Term Generators on the Form 8700-12 instructions Pg. 22 and Form 8700-12 Pg. 2 item 10.A.2.) or just active registered episodic generators. The TCEQ receives a high number of requests for temporary, provisional EPA Identification numbers for Short Term Generators, or One Time Shipments (OTS), due to cleanups from companies going out of business or emergencies.

Episodic generator items:

* + - * + Please clarify whether all VSQGs which report or notify of an episodic event, will require an EPA ID No. Will there be an indicator for the EPA tracking database that distinguishes between sites that are providing notification of episodic generation events only?
  + Please confirm that episodically generated wastes require inclusion on the biennial report to EPA.
  + In the preamble discussion there is mention for unplanned events a notice is to be provided within 24 hours. The TCEQ requests clarification regarding the specific notification requirements EPA suggest. Who is to be notified and is EPA suggesting a format for this notification? Clarification is also requested regarding the notice of an emergency response episodic event. Does EPA view this notification to be the same or separate from the notification required under 40 CFR 302 for and Reportable Quantities? How does EPA anticipate tracking episodic generation events and the waste generated from episodic events?
* Please clarify the maximum time frame and determining the time frame in the rule such as whether the requirement is that on the 45th day the waste is shipped off site, received at a TSDF, etc.
* Consider requiring consistent labeling of containers and tanks for episodic generated waste that include a start date, end date and contents.
* Please consider providing guidance on the scope of events that would qualify for an extension to the 45-day period.
* In response to EPA’s request for comment on whether a VSQG should be able to conduct onsite treatment, prohibiting a SQG or CESQG from conducting on-site treatment of an episodic waste is reasonable from a compliance perspective and would not require generators of this size to acquire the technical expertise and knowledge required to satisfy the full waste determination, associated treatment standards and notification requirements of the LDR rules. (Page 57975)
* Please clarify what criteria are the considerations to determine whether an extension to the 45 day storage period for episodic wastes generated at a VSQG is appropriate under either proposed 40 CFR 262.33 or 262.34. Please clarify the start date for accumulation when moved from a Satellite Accumulation Area. Current guidance allows for the waste to be removed from a SAA within 3 days of filling the container.

**Significant Comment**

Special requirements for ignitable wastes: The preamble discusses the possibility of allowing local authorities (e.g., fire marshal) to grant the waiver/deviation on the distance requirement (page 57979). How does EPA anticipate this waiver process will work? Clarification is needed to - ensure consistency regarding consideration of applications for duration of, revocation of, opportunity for federal or state regulatory agencies to provide comments on requests or waivers. Procedure for reconsideration or requirement to report changes in conditions under which a waiver was granted, such as the location of a school or a day care center adjacent to the facility, etc. Clarification is needed on what documentation and documentation would be retained by the entity and the local authority and provided to the EPA or state oversight agency. Please clarify what alternative, if any, is available for waivers in a jurisdiction, such as unincorporated areas of Texas, that do not have a fire marshall.