State of Oregon Department of Environmental Quality

Hazardous Waste Federal Rules Alignment 2021

Hazardous Waste Rules Advisory Committee
Meeting Notes and Committee Recommendations
April 27, 2021

Overview and Purpose

The U.S. Environmental Protection Agency (EPA) authorizes the Oregon Department of Environmental Quality to operate the federal Resource Conservation and Recovery Act (RCRA) hazardous waste program in lieu of EPA. Oregon must periodically review and adopt new or amended federal rules to retain this federal authority. DEQ last updated its hazardous waste rules in July 2017. In that rulemaking, DEQ incorporated by reference most federal hazardous waste rules enacted through June 30, 2015.

In this rulemaking, DEQ proposes to align its hazardous waste rules with the federal rules. DEQ will do this by incorporating new federal rules not previously adopted into Oregon rules. These changes will enable Oregon to ask EPA to continue authorizing Oregon to operate its RCRA hazardous waste program in lieu of EPA. To ensure DEQ issues fair and appropriate civil penalties for noncompliance of the adopted rules, DEQ is also including proposed changes to Division 12 enforcement rules with this rulemaking.

DEQ convened an advisory committee known as the Hazardous Waste Rules Advisory Committee. DEQ asked the committee to provide comments and recommendations on DEQ's proposed rule recommendations, in addition to fiscal impact questions as required by the Administrative Procedures Act (Oregon Revised Statutes 183.333).

Regarding each proposed rule, DEQ asked the committee:

- Do you agree with DEQ's proposal to adopt the rule by reference or with state-only amendments?
  - If not, what do you recommend?
- Will the rule have a fiscal impact?
  - If so, what is the extent of the fiscal impact?
- Will the rule have a significant adverse impact on small businesses (less than 50 employees)?
  - If so, how can DEQ reduce the economic impact of the rule on small business?

This document includes a summary of the committee's recommendations and responses to the above questions. The public notice for this proposed rulemaking will also include those recommendations. A summary of the key decisions and recommendations is at the end of this document.

The second advisory committee meeting convened virtually via Zoom on Tuesday, April 27, 2021, from 9 a.m. to 3:30 p.m. Prior to the meeting, DEQ provided the committee with summaries of each rule, recommendations on how DEQ will adopt each rule – by reference or with state-only amendments, and draft fiscal impact statements. The proposed rule recommendations and fiscal impact statements provided to the Committee were drafts and subject to further development before DEQ opens public comment in mid 2021. DEQ will consider all comments before preparing a final rule proposal to present to the Environmental Quality Commission for adoption consideration in November 2021.

Committee members

All committee members attended the virtual meeting on April 27, 2021:

Name	Affiliation
Ryan Binford	Department of Veterans Affairs
Keri Bishop	Oregon Health & Science University
Jim Denson	Chemical Waste Management
Jennifer Eisele	Beyond Toxics
Patrick Gottsacker	Intel
Cynthia Holm	Providence Health & Services in Medford
Jennifer Losson	Oregon Military Department
Marjorie MartzEmerson	Formerly PNW Pollution Prevention Resource Center, currently Coyote & Chirp Biosphere LLC
Max Yoklic	Stoel Rives LLP for Oregon Business and Industry

Non-committee members

DEQ staff in attendance:

Name	Role, Title
Ellie Brown	Rulemaking Lead/Facilitator, Senior Hazardous Waste Policy Analyst
Audrey Obrien	Special Advisor to the Committee, Environmental Partnership Manager
Svetlana Lazarev	Project Manager, Air Quality Modeling Specialist
David Livengood	Project Sponsor, Hazardous Waste Program Manager
Jeannette Acomb	Rule Lead and Project Advisor, Senior Hazardous Waste Policy Analyst
Brian Allen	Rule Lead, Eastern Region Hazardous Waste Inspector
Sarah Wheeler	Rule Lead, Environmental Law Specialist
Killian Condon	Rule Lead, Western Region Hazardous Waste Inspector
Ron Doughten	Materials Management and Hazardous Waste Manager
Jay Collins	Rule Lead, Northwest Region Hazardous Waste Inspector
Bart Collinsworth	Rule Lead, Western Region Hazardous Waste Technical Assistance Specialist
Mary Fritzmann	Rule Lead, Hazardous Waste Reporting and Invoicing Specialist
Zeb Bates	Rule Support, Northwest Region Hazardous Waste Inspector
Chris Bayham	Rule Support, Western Region Hazardous Waste Inspector
Jeremy Fleming	Rule Support, Northwest Region Hazardous Waste Inspector
Maitri Dirmeyer	Hazardous Waste Program Analyst
Alex Bertolucci	Northwest Region Hazardous Waste Technical Assistance Specialist

Stakeholders and interested parties in attendance:

Name	Affiliation
Margaret Olson	EPA State RCRA Coordinator
Interested parties	Various/unknown

There were approximately 20 members of the public in attendance.

Proposed Rules

The proposed rules discussed during the April 27, 2021 meeting were:

- **Hazardous Waste Generator Improvements Rule**
- **Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine**

DEQ also presented proposed changes to Division 12 enforcement rules for both federal rules and the Committee discussed them.

Discussion summary

At the beginning of the meeting, DEQ staff delivered an overview of the March 30, 2021 meeting highlights and provided a summary of each of the proposed rules listed above, which the Hazardous Waste Program is considering for proposed adoption.

A summary is provided in four parts for each rule:

1. Committee members' discussion, comments, and questions on each proposed rule;
2. Committee members' responses to the fiscal impact questions required by Oregon Adminstrative Rule 183.333;
3. Committee members' recommendation on adoption of the proposed rule; and
4. DEQ's responses to comments or questions not addressed during the meeting.

The following are the highlights of the roundtable discussion. *Editor's Note: Bracketed items [ ] are to add further clarity.*

Hazardous Waste Generator Improvements Rule

The rule finalizes a much-needed update to the hazardous waste generator regulations to make the rules easier to understand, facilitate better compliance, provide greater flexibility in hazardous waste management, and close important gaps in the regulations.

The proposed rule:

1. Reorganizes hazardous waste generator regulations.
2. Adds clarity, fills gaps and codifies guidance.
3. Reflects technical corrections and deleted obsolete provisions, e.g., EPA Performance Track provisions, Project XL university labs, etc.
4. Provides more flexibility for generators with three optional provisions:
   - Fifty-foot property line rule waiver option
   - Large Quantity Generator (LQG) consolidation
   - Episodic Generation

DEQ's proposal recommends adopting all mandatory provisions by reference and adopting optional provisions as follows:

1. Fifty-foot property line rule waiver option by reference
2. LQG consolidation by reference, and

3. Episodic Generation with amendments: DEQ is proposing to modify EPA's 30-day notification to a 60-day notification for planned episodic events. These events will require written approval and reporting. Unplanned events will require an initial 72-hour notification, then an official notification within five calendar days, written approval and reporting.

Part 1: **Committee discussion, comments, and questions**

The highlights of the committee members' discussion on the Generator Improvements Rule and its potential fiscal impacts are below.

1. **The GIR Episodic Generation events will require more scrutiny and management by DEQ, and this may be more difficult in eastern Oregon where DEQ *[technical assistance]* staffing is limited.**

2. **LQG consolidation provision will benefit military installations, retail establishments, universities, and health care systems.**

3. **Excellent guidance for GIR will be critical to *[implementation]* success.**

4. **Episodic Generation: the initial reporting is a supported requirement. Q. Why require 60 days' notice of a planned episodic event and not 30 days?** A. Based on Washington and California's experience, not all events reported as episodic are true episodic events. Field and/or policy staff would need to review each event to make sure they are really episodic events. As Washington suggests in their guidance, DEQ decided to incorporate this provision into rule.

5. **Q. Is short term generator the same as an episodic generator?** A. No, a short term generator is not an episodic generator. An episodic event generally happens once a year at a facility routinely generating hazardous waste, *[such as an annual maintenance cleanout]*. A short term generator is a one-time, non-recurring, temporary event not related to normal production processes. Short-term generators produce hazardous waste from a particular activity for a limited time and then cease conducting that activity *[such as an accidential spill and cleanup]*. A short-term generator can generate hazardous waste longer than 60 days while an episodic event cannot last longer than 60 days.

6. **Changes to OAR 340-102-0230, Episodic Generation. Q. Regarding the requirement to obtain the identification number; how will the identification number be assigned prior to an unplanned event?** A. DEQ would require notification of an unplanned event within 72 hours by phone, fax, or email with a follow up submittal of a DEQ Site ID notification within 5 days. The start date, the end date, and an estimate of the amount and type of generated waste will need to be submitted with the Site ID form. If the facility does not have a site ID number, it will be issued a number at the time of that submittal.

7. **Are there standards or thresholds for an approval of a petition? DEQ is proposing requiring approvals for all events. How will DEQ decide to approve a petition or not?** A. DEQ does not propose requiring a petition for the first event. The first event requires only a notification whether its an planned or unplanned event. Under the proposed, more-stringent Oregon rule, DEQ will require prior approval of planned events for the event to qualify as

episodic. We will base this approval on the standards for episodic generation in the adopted federal rules. For a second event, we will require a petition in the same year per EPA regulations. An unplanned event requires a 72-hour initial notification. We will require a written approval for both the first and the second events. An automatically-generated email from DEQ's online database or an email from hazardous waste staff upon notification or petition submission will serve as an approval.

8. **Will there be a time lag before the rule goes into effect?** A. The current plan is to propose the rule for adoption by Environmental Quality Commission (EQC) in November 2021, and for the rule to become effective in January 2022. We will ensure we set ample time for education and implementation for both generators and DEQ. We will consider all factors prior to taking an enforcement action. DEQ uses **Division 12 classifications** to list violations and responses in an internal agency directive called the **Enforcement Guidance For Field Staff**. For new regulations, the first time violation that does not carry a risk of environmental harm will likely trigger a Warning Letter, and may receive an offer of technical assistance while facilities learn more about the new regulations. The rules will be in effect, and not complying with the rules will be considered a violation. DEQ's response will be to take a practical approach to rule implementation and enforcement. Usually when DEQ adopts new rules, management discusses how best to phase in and implement new rules. DEQ wants to make sure the regulated community is successful with the new requirements through training, education, outreach and compliance technical assistance.

9. **The labeling requirement will be the most challenging and time consuming aspect to implement for generators with hundreds of containers.** A. Generators can start labeling Satellite Accumulation containers now. There is helpful guidance available on the web from EPA **here**.

10. **Q. Does five-day notification mean calendar or business days?** A. Calendar days.

11. **Q. LQG consolidation question: is there a requirement to track waste back to the original VSQG?** A. Once the very small quantity generator (VSQG) waste arrives at the large quantity generator (LQG), the LQG will assign it a distinct source code. The source code will identify the waste as VSQG waste under the LQG's control. If treatment, storage and disposal (TSD) facilities have an issue with a specific shipment, the TSD will notify the LQG, and that LQG will assume responsibility for the waste in question.

12. **Q. Do episodic waste generators without a site ID pay the one time non-refundable $200 fee?** A. Yes. They have to get a DEQ RCRA identification number issued to them if they do not already have one, and that comes with a $200 onetime, nonrefundable fee. That is the standard process right now, and will not change with the adoption of the Episodic Generation provision.

13. **Any clarification DEQ can provide on how the Quick Reference Guides (QRGs) are going to work with current National Fire Protection Association (NFPA) regulations already in place for master sites and evacuation plans would be beneficial.**

A: EPA has compiled draft **FAQs** and answers specific to the Quick Reference Guide requirements, and is working on finalizing them along with a memo. EPA has not provided a timeframe for when the federal agency will release the final document.

Regarding NFPA: a Quick Reference Guide (QRG) facility map (40 CFR 262.262(b)(4)) must at a minimum show routes of access to hazardous waste locations, while the street map (40 CFR 262.262(b)(5)) must show the site's surroundings to allow responders access to the site and facilitate evacuations if needed. EPA's important direction on this, in collaboration with the QRG workgroup of EPA and states, is to work with local responders to get them a practical plan that will be useful in the event of an emergency.

Regarding universities and other sites with hundreds of satellite accumulation areas: The pinpoint location of SAAs do not need to be identified in the QRG. The regulations require identification of locations where hazardous waste may be present, which can be interpreted flexibly depending on the size and complexity of the facility. For a university with hundreds or more of SAAs, a campus map marking which buildings may have hazardous waste in them would be sufficient.

With respect to the contingency plan and overlapping requirements: A facility subject to contingency planning under multiple statutes may use the "One Plan". If a facility chooses to use a "One Plan," that plan has to meet all the requirements for all the statutes that apply. More information is provided by EPA here.

DEQ plans to host virtual generator training and technical assistance, and EPA plans to resume in-depth and in-person training when safe, targeted at states like Oregon that are close to adopting GIR. For now, there is a recording of the three-part, in-depth training available to view on EPA's GIR website here.

14. **Other states that adopted GIR and service providers are a good source of information.**

Part 2: Fiscal Impact Questions

The committee discussed DEQ's four questions derived from OAR 183.333. Fiscal impact analysis attempts to project future impacts based on currently available information. The committee's summarized responses to the required questions are:

1. Will the rule have a fiscal impact?
Initially, the rule will have minor negative fiscal impact on generators as they move into compliance, especially around container labeling, contingency planning, and training. Overall, the rule should benefit generators by providing increased flexibility of hazardous waste management.

If so, what is the extent of the fiscal impact?
The committee members agreed that there will be a minimal fiscal impact and made the following comments during the fiscal impact discussion:

- Fiscal impact on businesses, small and large, is always associated with the learning curve of a new rule, but should be manageable with DEQ assistance.
- There will be some fiscal impact for universities, written comment will be provided.
- There may be negligible initial fiscal impact on generators.
- There will be a minor initial outreach, education, and compliance fiscal impact to DEQ.

3. Will the rule have a significant adverse impact on small businesses (less than 50 employees)?
The committee members agreed that there may be a minor adverse impact for small businesses by adopting this rule. DEQ can mitigate the impacts by developing guidance, documentation, emergency preparedness, training and education while providing technical assistance.

4. If so, how can DEQ reduce the economic impact of the rule on small businesses?
DEQ can help mitigate any potential fiscal impact on businesses with outreach, education and technical assistance.

Part 3: Committee Recommendation

All committee members supported DEQ's recommendation to adopt the rule with all mandatory provisions and the optional LQG Consolidation and 50-foot property line waiver by reference. The committee members supported DEQ's recommendation to adopt the optional Episodic Generation provision with the state amendments of 60-day notification in place of EPA's 30-day notification for planned events and the EPA 72-hour initial notification followed by five-day notification; written approval, report, and fees for all events. The following comments were made during the committee recommendation discussion:

- Specific training for universities for hazardous waste determination (HWD) and quick reference guide (QRG) was requested.
- Additional comments on the optional 50-foot property line waiver may be submitted.
- Additional comments on Episodic Generation optional provision may be submitted.
- Outreach, education, and technical assistance from DEQ will be necessary.
- A delayed timeline for enforcement was suggested.

Part 4. DEQ's responses to comments or questions not addressed at the meeting

Management Standards for Hazardous Waste Pharmaceutical and Amendment to the P075 Listing for Nicotine

The rule streamlines standards for handling hazardous waste pharmaceuticals to better fit the operations of the healthcare sector while maintaining protection of human health and the environment.

DEQ recommends adopting this mandatory rule by reference, with the following state-only changes:

- Require notification on the Oregon Site Identification form for all healthcare facilities and reverse distributors within 60 days of being subject to the rule.
- Do not adopt EPA's less than 20-bed long term care facility VSQG presumption. In Oregon, long term care facilities will need to inventory their hazardous waste and prove their generator size, regardless of the number of beds at the facility.
- Do not adopt more flexible options for proving one-year accumulation has not been exceeded. Amend to utilize only option for labeling each container.
- Require reverse distributors to report annually to DEQ, not biennially to EPA.
- For empty container residuals: follow 110 gallons and not 119 gallons, per DEQ definitions.

Part 1: Committee discussion, comments and questions

The following are the highlights of the committee members' discussion and comments on the Pharma and Nicotine rule and its potential fiscal impacts.

1. **Q. Whose responsibility it is to make the determination if the waste is hazardous or not; the generator's or the reverse distributor's?** A. It's the generator's responsibility. The generators will have to do their due diligence and verify management and distribution on the reverse distribution side of the process. All hazardous waste, pharmaceutical or not, has to be counted to determine the generator category. If the generator is LQG or SQG, the federal rule 266 subpart P applies. VSQGs can opt in.

2. **At some point most of an LQG's waste will be considered either evaluated or non-creditable.** A. The LQG makes the determination of whether the waste is potentially creditable and the reverse distributors makes the determination of whether the waste is evaluated. Non-creditable waste will go to a TSDF and the creditable to the reverse distributor. The reverse distributor will evaluate and ship it to a TSDF as evaluated**.**

3. **Q. Waste shipped to a TSDF usually is not marked LDR; what is LDR?** A. Healthcare facilities are subject to Land Disposal Restrictions. Generators have to treat their waste to certain standards before it can be disposed. Any treated waste has to have an LDR document accompany it if it's sent to a TSDF. Healthcare facilities can use generic organic waste LDRs to determine if the waste can be incinerated by a TSDF, if they so choose. Regardless of if the waste is incinerated or not, it must go to TSDF.

4. **Q. In respect to potentially creditable reverse distribution cycle: there is reverse distribution software that "goes green" for potentially creditable materials. The list of creditable materials is updated by the reverse distributor quarterly. If the generator was unaware of the updates because the update didn't happen in a timely manner, would the generator be responsible for sending something that was potentially not creditable.** A. Yes. Non-creditable waste should not be sent to the reverse distributor. If the reverse distributor receives non-creditable waste, they will file a report with DEQ.

5. **Q. Will arsenic trioxide still need to be separated from all other pharmaceutical waste?** A. Yes.

6. **Is there maximum time retention for potentially creditable waste? Can waste become non-creditable during the time it takes to get it evaluated?** A. Once the determination is made that the waste is potentially creditable, and the waste is containerized and set aside with the proper paperwork, it will not lose its determination status.

7. **Please address overlapping rules by Drug Enforcement Agency (DEA), Food and Drug Administration (FDA) and Consumer Protection Safety Commission (CPSC).** A. EPA's **FAQ** has a good explanation.

8. **Q. Regarding the use of only option for labeling each container: is that when the container comes to the waste accumulation area? Right now the clinics are allowed to store their waste medication bins in their rooms until they are full. At that point the bin gets picked up and dated. Will they need to be dated in medication rooms when the rule goes into effect?** A**.**

The non-creditable hazardous waste needs to be dated at the point of generation. Smaller containers may be beneficial. DEQ will provide assistance and training to the labs.

9. **Q. There are currently no reverse distributors in Oregon. Is the goal to invite the reverse distributors to locate in the state and if so, should we be less restrictive on reporting requirements? Reverse distributors located in the state would reduce the waste's carbon footprint and would help reach some sustainability goals.** A. DEQ assumes that some will locate in Oregon or Washington in the future. There is not a way around having them report annually.

10. **Dating pharmaceutical containers at healthcare facilities will need DEQ guidance and assistance.** A. Yes, DEQ will include in outreach materials.

11. **Q. At what point is the waste considered bio-hazardous versus pharmaceutical hazardous? Will EPA or DEQ develop any guidance to help differentiate?** A. EPA's **website** describes the regulation of medical waste. However, this website doesn't clearly define biohazardous waste or compare it to hazardous waste and puts management of medical wastes into the hands of state health authorities. Oregon-specific information can be found **here**.

    EPA used to produce sector notebooks to summarize environmental regulations in a holistic way. In 2005, EPA produced a sector notebook on the healthcare industry that seems to be most helpful at distinguishing the different types of waste produced in a healthcare setting and does separately define biohazardous waste as well as all other types of waste generated. For the purposes of training staff in the different types of waste generated in a healthcare facility, the sector notebook found **here** may be a resource.

Part 2: Fiscal Impact Questions

The committee discussed DEQ's four questions derived from OAR 183.333. Fiscal impact analysis attempts to project future impact based on currently available information. The committee's responses are summarized below:

1. Will the rule have a fiscal impact?
Most committee members agreed there will be potential fiscal impact to both generators and DEQ. In the long term, the fiscal impact to generators is likely to be beneficial.

2. If so, what is the extent of the fiscal impact?
The committee agreed that the extent of the impact will be moderate. Training, new standard operating procedures (SOPs) and additional staffing resources will be required.

3. Will the rule have a significant adverse impact on small businesses (less than 50 employees)?
Most committee members agreed there will be potential fiscal impact to small businesses.

4. If so, how can DEQ reduce the economic impact of the rule on small businesses?
The committee identified DEQ-developed guidance, training and technical assistance would help small businesses plan their management strategy and mitigate any potential impacts.

Part 3: Committee Recommendation

All committee members supported DEQ's recommendation to adopt the optional P075 amendment by reference and adopt the mandatory provisions of the pharmaceutical rule by reference, with the following exceptions:

- Require notification on the Oregon Site Identification form for all healthcare facilities and reverse distributors within 60 days of being subject to the rule.
- Do not adopt EPA's less than 20-bed long term care facility VSQG presumption. In Oregon, long term care facilities will need to inventory their hazardous waste and prove their generator size, regardless of the number of beds at the facility.
- Do not adopt more flexible options for proving one-year accumulation has not been exceeded. Amend to utilize only option for labeling each container.
- Require reverse distributors to report annually to DEQ, not biennially to EPA.
- For empty container residuals: follow 110 gallons and not 119 gallons, per DEQ definitions.

Part 4. DEQ's responses to comments or questions not addressed at the meeting.

1. **The sewering ban is important, and septic tank/leach field disposal restrictions are also important.**

   A. 40 CFR section 261.4(a)(1)(ii) allows the discharge of what would otherwise be a hazardous waste to publicly owned treatment works (POTWs), without being considered solid or hazardous waste. The prohibition on discharges of hazardous waste pharmaceuticals, promulgated as part of the Pharmaceuticals final rule, reduces the scope of the exclusion in the existing regulations. Discharges of hazardous waste to other types of sewage systems, such as septic tanks, privately owned treatment works and federally owned treatment works, are not allowed by the exclusion in 40 CFR section 261.4(a)(1)(ii). Therefore, the discharge of hazardous wastes to septic tanks, privately owned treatment works and federally owned treatment works is already prohibited, even though it is not explicitly stated in the sewer prohibition of Subpart P. This states pharmaceuticals are not specifically prohibited from disposal in septic systems, but industrial, commercial and business hazardous wastes are prohibited from septic system disposal. This means DEQ does not allow disposal in this manner of hazardous wastes of any kind, including hazardous waste pharmaceuticals. Further, most septic system permits or agreements are governed by the local county governments in Oregon. Just a few are covered by DEQ. In these permits and agreements, it is also stated that no industrial waste may be placed in the septic system.

   EPA provides more information on the topic in the FAQ **here**.

2. **What about agricultural pharmaceuticals? You covered vet clinics under healthcare facilities, but many animal agricultural operations use excessive animal pharmaceuticals and they are businesses, albeit some are small businesses. Those waste pharmaceuticals should somehow be covered.** A. It is hard to find any outright statement that says these agricultural pharmaceuticals are not specifically covered in the new pharmaceutical rule DEQ is adopting, but the new 40 CFR 266 Subpart P rule does not cover them. The simple answer is that agricultural facilities are not healthcare facilities; instead, they are a regular hazardous waste

generator. Remember, this new rule is not only waste specific, but also sector specific. This new rule covers "hazardous waste pharmaceuticals". In addition, most agricultural pharmaceuticals that are not administered by a veterinary doctor, which could be covered under the new rule, are antibiotics. Antibiotics are not RCRA hazardous waste. If the agricultural facility staff disposes of hazardous waste of any sort, including hazardous waste drugs, then these wastes would be subject to regular RCRA hazardous waste regulations, not these special alternate management standards in the new pharmaceutical rule for hazardous waste pharmaceuticals at healthcare facilities.

DEQ's Division 12 Enforcement Proposed Amendments

Oregon Administrative Rules (OAR) Chapter 340, Division 12: 340-012-0026 through 340-012-0170. Division 12 rules do not impose requirements on regulated facilities. The proposed changes are necessary so that DEQ can enforce the proposed rules once adopted.

Proposed Class I change OAR 340-012-0068 (1):

(a) Failing to make or document a complete and accurate hazardous waste determination of a residue as requires; and (u) Failing to accurately determine generator status.

Proposed Class II changes to OAR 340-012-0068 (2):

(b) Failing to label tanks or containers used for accumulation or storage of hazardous waste with "hazardous waste", hazards of the contents, or waste codes;
(v) Failing to timely notify DEQ of LQG closure:
(w) Failing to comply with episodic generation conditions, not otherwise classified; or
(x) Failing to notify, keep records, or other requirements for consolidation of VSQG waste at LQG owned by the same person, by the LQG;

Committee discussion, comments and questions

The following are the highlights of the committee members' discussion and comments on proposed changes to Division 12 rules related to the Generator Improvements Rule (GIR).

1. **Q. Are satellite accumulation containers included in the (b)** A. Yes, the (b) applies any time you have to label a container or a tank, including a satellite accumulation container.

2. **Q. If you are not currently an LQG and you are closing your facility, does the (x) notification requirement apply?** A. No, the notification requirement does not apply in that case. Large quantity generators have to notify DEQ if they are closing a facility, but do not have to notify if closing an accumulation area. The notification requirement applies only to the LQGs at the time of closure. Regulations generally apply based on the current generator status.

3. **Q. In reference to (u): Is failing to accurately determine generator status a new violation? Fiscal impact of this broader violation could be a concern.** A. It has always been a violation; the Generator Improvements Rule expressly adds the documentation part. DEQ does not look at fiscal impact associated with Division 12. DEQ's expectation is that regulated facilities must comply with the underlying rules. If a facility violates the rule, the fiscal impact is not because of the rule, but because a generator did not comply with a rule.

4. **Q. In reference to (w): what does "not otherwise classified" mean?** A. There are other classifications that might cover potential episodic event situations. This provision allows us to classify the potential VSQG and SQG violations as Class II. For example, if a generator has an event they think is episodic, but DEQ inspects and finds that the event was not episodic. The (w) would cover a situation when everything is done mostly right under the episodic generation provision, but something like record keeping, for example, got omitted or the waste was not labeled as episodic, or maybe it was an episodic event but it took too long to ship waste offsite. All of that would be captured under the "not otherwise classified".

5. **Q. Does (x) only apply to LQGs?** A. Yes

6. **Q. Discuss closure of a unit versus closure of a facility.** A. The difference between the two is the Generator Improvements Rule requires *notification* of the closing of a facility. We will not require notification for the closing of a unit. However, we will require documentation and a record of the closing of a unit.

7. **Q. Will VSQGs that have episodic events require a RCRA site ID number?** A. Yes. The initial 72-hour notification will not require the site identification number, but the follow up five-day notification will require it for very small quantity generators.

DEQ thanked the Committee and the public for participating, and the expressed appreciation to the Committee for commenting on the proposed rules and fiscal impacts. Meeting was adjourned.

Next Rules Advisory Committee meeting is on Tuesday, May 18, 9 a.m. – 12 p.m.

Summary of Committee's Recommendations

GIR: All committee members supported DEQ's recommendation to adopt the rule with all mandatory provisions and optional LQG Consolidation and 50-foot Property Line Waiver by reference. The committee members supported DEQ's recommendation to adopt the optional Episodic Generation provision with amendments of 60-day notification for planned events and 72-hour initial notification followed by five-day notification for unplanned events; written approval, reporting, and existing fees are required for all events. The Committee made the following comments during the recommendations discussion:

- Specific training for universities for hazardous waste determination (HWD) and Quick Reference Guide (QRG) was requested.
- Additional comments on the optional 50-foot Property Line waiver will be submitted.
- Additional comments on Episodic Generation optional provision may be submitted.
- Outreach, education, and technical assistance from DEQ will be necessary.
- A delayed timeline for enforcement was suggested.

Pharma and Nicotine: All committee members supported DEQ's recommendation to adopt the optional P075 amendment by reference and adopt the mandatory provisions of the pharmaceutical rule by reference, with the following exceptions:

- Require notification on the Oregon Site Identification form for all healthcare facilities and reverse distributors within 60 days of being subject to the rule.

- Do not adopt EPA's less than 20-bed long term care facility VSQG presumption. In Oregon, long term care facilities will need to inventory their hazardous waste and prove their generator size, regardless of the number of beds at the facility.
- Do not adopt more flexible options for proving one-year accumulation has not been exceeded. Amend to utilize only option for labeling each container.
- Require reverse distributors to report annually to DEQ, not biennially to EPA.
- For empty container residuals: follow 110 gallons and not 119 gallons, per DEQ definitions.

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email **deqinfo@deq.state.or.us**.