



# Generator Improvements Rule Adoption

March 23, 2023



# Disclaimer

*The information in this presentation is for reference only. This information should not be used in place of the actual regulations.*



# Overview

- Background
- Authorization Process
- Adoption Approach
- Rulemaking Process
- Phase 1 Rulemaking: New (Mandatory) Requirements and Other Amendments
- Phase 1 Regulation Adoption Update and Outreach
- Questions/Answers (15 minutes)
- Phase 2 Rulemaking: Optional Requirements
- Questions/Answers



# Background

- The Generator Improvements Rule (GIR) updated Title 40 of the Code of Federal Regulations (CFR)
- Updates became effective federally on May 30, 2017
- Primary objectives include:
  - Reorganization
  - Clarification
  - Strengthen environmental protection
  - Provision of greater flexibility for generators to comply with hazardous waste requirements



# Authorization Overview

- U.S. EPA provides the baseline hazardous waste requirements
- Implementation options:
  - Federal hazardous waste management program or
  - State hazardous waste management program (U.S. EPA authorization required)
- California is an authorized state



# Regulatory Effect

- Federal regulation adoption and effect on authorized states
- The GIR not effective in California yet
- California must adopt mandatory GIR requirements



# Maintaining Authorization

- Resource Conservation and Recovery Act (RCRA) authorization maintenance - the state program must be:
  - Equivalent; or
  - More stringent/broader in scope than the federal program
- Federal GIR requirements are compared to existing state requirements and categorized as either:
  - More stringent/broader in scope – Mandatory requirement
  - Less stringent/equivalent – Optional requirement



# Approach Phase 1 and 2

- **Phase 1 – Adopt mandatory requirements and other amendments**
  - Federal requirements that are more stringent/broader in scope than California's hazardous waste program
    - Required to maintain RCRA authorization*
  - Reorganizational and clarify amendments
- **Phase 2 – Adopt optional requirements**
  - Less stringent/equivalent to California's hazardous waste program
  - Not required to maintain authorization





# The Rulemaking Process

- Health and Safety Code, Chapter 6.5, Section 25159 requires DTSC to adopt regulations to maintain RCRA authorization
- Regular Rulemaking
  - Public Participation
  - Economic and Fiscal Impact
  - Rulemaking Record Documentation



# Other Amendments Proposed in Phase 1 Rulemaking

- Changing the term Conditionally Exempt Small Quantity Generator (CESQG) to Very Small Quantity Generator (VSQG)
- Reorganization of the regulations
- Adding new definitions and modifying some existing definitions



# Changing the Term CESQG to VSQG

- Previous term: CESQG
- New term: VSQG

*The thresholds for VSQG will not change.*

## **Where is it located?**

Federal: Various sections

State (Proposed): Various sections



# Reorganization

Hazardous waste regulations are restructured and reorganized as follows:

Existing Location	Description	Proposed Relocation
Section 66262.34	Hazardous waste counting	Section 66262.13
	Satellite accumulation area (SAA)	Section 66262.15
	Conditions for exemption for small quantity generator	Section 66262.16
	Conditions for exemption for large quantity generator	Section 66262.17
Section 66262.12	ID Number and renotification	Section 66262.18
Articles 3 and 4 of Chapter 15	Preparedness, prevention, and emergency planning procedures	Article 9 in Chapter 12



# Adding and Modifying Definitions

## Added definitions:

- Central accumulation area (CAA)
- Very small quantity generator (VSQG)
- Large quantity generator (LQG)
- Non-acute hazardous waste

## Modified definitions:

- Small quantity generator (SQG)
- Acute hazardous waste

## Where is it located?

Federal: 40 CFR 260.10

State (Proposed): 22 CCR 66260.10



# Generator Categories

Quantity of Hazardous Waste Generated in a Calendar Month			Generator Category
Acute hazardous waste	Extremely hazardous waste	Non-acute hazardous waste	
> 1 kg	Any amount	Any amount	LQG
Any amount	> 1 kg	Any amount	LQG
Any amount	Any amount	≥ 1,000 kg	LQG
≤ 1 kg	≤ 1 kg	< 1,000 kg	SQG

## Where is it located?

Federal: 40 CFR 262.13

State (Proposed): 22 CCR 66262.13



# New Requirements

- Renotification
- Labeling and marking for tanks
- Special condition for ignitable or reactive wastes
- Pre-transportation marking
- Closure requirements for LQGs
- Incompatible waste requirements in SAAs
- Documenting arrangements with local authorities or attempt
- Quick reference guide



# Renotification

- SQGs must renotify DTSC every four years starting in 2023 using EPA Form 8700-12.
- LQGs may use EPA Form 8700-12 instead of the biennial report (EPA Form 8700-13 A/B) for DTSC renotification.

*Only applies to generators of RCRA hazardous waste.*

## Where is it located?

Federal: 40 CFR 262.18(d)(1) and (d)(2)

State (Proposed): 22 CCR 66262.18(d)(1) and (d)(2)





# Labeling and Marking

- Label or mark tanks with an indication of the hazards of the contents of the tank.
- Use inventory logs, monitoring equipment or other records to demonstrate that hazardous waste has been emptied or exits from the tank within the applicable accumulation time
  - Inventory logs or records must be kept on site and available for inspection.

## Where is it located?

Federal: 40 CFR 262.16(b)(6), 262.17(a)(5)

State (Proposed): 22 CCR 66262.16(b)(4)(B), 66262.17(a)(5)(B)



# Special Condition for Ignitable or Reactive Wastes

A large quantity generator must place “No Smoking” signs wherever there is a hazard from ignitable or reactive waste.

## Where is it located?

Federal: 40 CFR 262.17(a)(1)(vi)(B)

State (Proposed): 22 CCR 66262.17(a)(1)(F)2



# Pre-Transportation Marking

Generators must mark their containers with the applicable EPA hazardous waste number(s) prior to shipping their containers offsite.

## Where is it located?

Federal: 40 CFR 262.32(b)

State (Proposed): 22 CCR 66262.32(a)



# Large Quantity Generator Closure Regulations

- LQG facility closure notification requirements:
  - Notify U.S. EPA or the authorized state using EPA Form 8700–12:
    - At least 30 days prior to closing their facility
    - Within 90 days after closing the facility

*Only applies to generators of RCRA hazardous waste.*
- Closure regulations are applicable to containers in CAA.

*Applies to RCRA and non-RCRA hazardous waste generators*

## Where is it located?

Federal: 40 CFR 262.17(a)(8)

State (Proposed): 22 CCR 66262.17(a)(8)



# Incompatible Wastes in Satellite Accumulation Areas

Three special requirements for incompatible wastes in SAA:

1. Incompatibles must not be placed in the same container
2. Hazardous waste must not be placed in an unwashed container that previously held an incompatible
3. A container holding an incompatible must be separated from the other material by means of a dike, berm, wall, or other device

## Where is it located?

Federal: 40 CFR 262.15(a)(3)

State (Proposed): 22 CCR 66262.15(a)(3)



# Arrangement with Local Authorities

- Generators must document their arrangements with local authorities or document their attempt to make arrangements with local authorities
- These arrangements with local authorities are for the mitigation of emergencies

## Where is it located?

Federal: 40 CFR 262.16(b)(8)(vi) and 262.256

State (Proposed): 22 CCR 66262.16(b)(6)(F)2 and 66262.256



# Quick Reference Guide

- New LQGs must develop a quick reference guide that summarizes their contingency plan for emergency responders
- Existing LQGs must develop a quick reference guide when revising their contingency plan

## Where is it located?

Federal: 40 CFR 262.262(b)

State (Proposed): 22 CCR 66262.262(b)



# Elements of the Quick Reference Guide

1. Types/names of hazardous waste and associated hazards
2. Estimated maximum amounts of hazardous wastes
3. Identification of hazardous wastes requiring unique/special treatment
4. Map showing where hazardous wastes are generated, accumulated and treated at the facility
5. Map of facility and surroundings to identify routes of access and evacuation
6. Location of water supply
7. Identification of on-site notification systems
8. The name of the emergency coordinator(s) and 24/7 emergency telephone number(s)










# Phase 1 Rulemaking Update

- Public notice and 45-day comment period begins on March 24, 2023
- Comment period ends on May 8, 2023












# Public Noticed Rulemaking Location

dtsc.ca.gov/dtsc-proposed-regulations/

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Department of Toxic Substances Control

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## Laws & Regulations

We advocate for innovative protections and safer products for all California communities

## DTSC Proposed Regulations

The following list shows all the proposed regulations and the accompanying public comment period, or those regulations pending a decision from the Office of Administrative Law.

- > [Nail Products Containing Toluene](#)
- > [Listing Motor Vehicle Tires Containing N-\(1,3-Dimethylbutyl\)-N'-phenyl-p-phenylenediamine \(6PPD\) as a Priority Product](#)
- > [Amendments to the Nonadmitted Carrier Requirements for Excess and Surplus Line Insurance](#)

## Regulations Links

- [DTSC Regulations](#)
- [Get Involved](#)
- [DTSC Regulations Under Development](#)
- [DTSC Proposed Regulations](#)
- [DTSC Emergency Regulations](#)
- [DTSC Final Regulations](#)
- [Official CCR, Title 22, Division 4.5](#)



# Phase 1 Outreach

## Begins after Phase 1 Rulemaking Adoption

- Anticipated adoption in Fall 2023

Outreach will include:

- GIR presentations: in-person, virtual and recorded sessions
- Guidance and other informative documentation
- Media notifications: newsletters, DTSC website, GIR listserv





# Phase 1 Questions





# GIR Optional Provisions Phase 2



# Optional Provisions

- Purpose, scope, and applicability
- Hazardous waste determination and recordkeeping
- Electronic system bar codes for the wastes
- Independent requirements
- VSQG conditions for exemptions:
  - Allow VSQG to send the hazardous waste to LQG under the control of the same person



# Optional Provisions Continued

- Alternative standards for episodic generation
  - Maintain generator category status if the episodic waste generated is properly managed
- Set back distance from fence line for ignitable and reactive wastes
- Clarifications
  - Mixing hazardous waste with solid wastes for waste counting
  - Biennial reporting
  - Prohibition of liquid hazardous waste disposal in landfills



# Purpose, Scope, and Applicability

- Definitions
  - Independent requirements
  - Conditions for exemption (COE)
- List which independent requirements apply to which generator category
- Provide reference to sections which generators can find COE

## Where is it located?

Federal: 40 CFR 262.1 & 262.10(a)-(l)





# Hazardous Waste Determination & Recordkeeping

- How to determine whether a waste is hazardous
- Hazardous waste determination must be accurate
- Point of generation meaning
- Listed versus characteristic hazardous wastes
- Recordkeeping requirements

## Where is it located?

Federal: 40 CFR 262.11



# Marking

- Use of a nationally recognized electronic system to identify EPA Hazardous Waste Number(s)
- Example: bar code

## Where is it located?

Federal: 40 CFR 262.32(c)



# Independent Requirements

- Add definition to the regulation
- Clarify regulatory language
- Provide a list of sections for independent requirements
- Clarify that generators cannot transport hazardous waste to a non-designated facility

## Where is it located?

Federal: 40 CFR 262.1, 262.10(a)(1)(i), 262.10(a)(3)



# Conditions for Exemption for VSQG

- VSQG category is not recognized in California
- Requirements for VSQG are the same as SQG requirements in California
- VSQG definition is being adopted in Phase 1 rulemaking
- VSQGs are exempt from certain requirements if certain conditions are met under the federal rule

## Where is it located?

Federal: 40 CFR 262.14



# Conditions for Exemption for VSQG Continued

- Certain conditions must be met to be exempt from certain generator requirements
- Examples:
  - Generates less than or equal to the amounts specified in VSQG definition
  - VSQG consolidation provision by LQG under the control of the same person
  - Episodic generation in order to maintain their VSQG status while managing higher amounts of hazardous waste

## Where is it located?

Federal: 40 CFR 262.14



# VSQG Sending Hazardous Waste to LQG

- VSQGs are allowed to send hazardous waste to LQG under the control of the same person
  - Accumulates greater than 1 kg of acute hazardous waste or 100 kg of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill
  - Accumulates 1,000 kg or greater of non-acute hazardous waste

## Where is it located?

Federal: 40 CFR 262.14(a)(5)(viii), 262.17(f)



# Alternative Standards for Episodic Generation

- The federal rule applies to VSQG and SQG
- Definitions
  - Episodic event
  - Planned episodic event
- Maintain existing generator category status for hazardous waste generated during an episodic event if certain conditions are met

## Where is it located?

Federal: 40 CFR 262 Subpart L



# Waiver for Fence Line Setback

- Containers holding ignitable or reactive waste must be located at least 50 feet from the facility's property line
- Written approval is required from the Authority Having Jurisdiction over the local fire code for hazardous waste accumulation within the 50 feet restricted area
- Maintain record

## Where is it located?

Federal: 40 CFR 262.17(a)(1)(vi)(A)





# Mixing Hazardous Wastes with Solid Wastes

- Consolidation of mixing rules for counting hazardous waste to determine generator category
- Clarification of how mixing hazardous waste with solid waste affects generator category determination
- Make aware of the mixing rules for VSQG, SQG, and LQG

## Where is it located?

Federal: 40 CFR 262.13(f)



# Biennial Report for LQG

- Provides clarifying language for biennial reporting regarding:
  - Report on activities conducted in odd numbered year
  - Report due on the following even numbered year
  - Use EPA Form 8700-13 A/B
  - Due on March 1

## Where is it located?

Federal: 40 CFR 261.6(c)(2)(iv), 262.41



# Prohibiting Disposing of Liquids in Landfills

- Clarifying language prohibiting generators from disposing of liquids in landfills

*Existing requirement*

## Where is it located?

Federal: 40 CFR 262.14(b) and 262.35



# Technical Corrections & Conforming Changes

- 20 technical corrections
- Not substantive

## Examples:

- Improve the readability of
  - Spent sulfuric acid used (CFR 261.4(a)(7))
  - Owners and operators of all hazardous waste facilities that store hazardous waste in container (CFR 264.170)
  - Each existing tank system (CFR 264.191(a))
- Add a missing reference to 268 in 270.1(a)(3) to read “The RCRA permit program... in 40 CFR parts 264, 266, 267, and 268.”



# Path Forward

- Ongoing discussions with CUPAs and internal DTSC staff
- Planning stakeholder workshops in the Spring/Summer 2023
- Projected Phase 2 rulemaking to begin towards the end of 2023



# Information and Contact

- DTSC GIR Web Page: <https://dtsc.ca.gov/generator-improvements-rule/>
- Subscribe to the GIR E-List: <https://dtsc.ca.gov/dtsc-e-lists/>
- EPA GIR Web Page: <https://www.epa.gov/hwgenerators/final-rule-hazardous-waste-generator-improvements>
- Contact:
  - Project Email: [gir@dtsc.ca.gov](mailto:gir@dtsc.ca.gov)
  - Kareem Taylor (DTSC) Phone: (916)445-9553
  - Chosu Khin (DTSC) Phone: (916)324-2428

