



Generator Improvements Rule Adoption

Chosu Khin

Senior Environmental Scientist

TH-B3

February 29, 2024



26th California Unified Program
Annual Training Conference
February 26-29, 2024

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 (10 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/ DTSC is the implementing agency
- Federal regulation adoption and effect on authorized states
- California must adopt mandatory GIR requirements to be effective in California



Phase 1 and 2 of the GIR

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
- RCRA and/or non-RCRA hazardous wastes

Phase 2 – Adopt selected optional requirements

- Less stringent/equivalent to California's hazardous waste program
- Not required to maintain authorization



GIR Phase 1 Rulemaking Process

- Health and Safety Code, Chapter 6.5, Section 25159 requires DTSC to adopt regulations to maintain RCRA authorization
- Regular Rulemaking
 - Public Participation
 - 45-day and 15-day public comment periods
 - Economic and Fiscal Impact
 - Rulemaking Record Documentation
 - 1 year to complete



Amendments Proposed in Phase 1 Rulemaking

- Federal provisions that are currently more stringent than those of California
- Reorganization of the regulations
- Adding new definitions and modifying some existing definitions
 - Changing the term Conditionally Exempt Small Quantity Generator (CESQG) to Very Small Quantity Generator (VSQG)



CESQG to VSQG

- Previous term: Conditionally Exempt Small Quantity Generator
- New term added: Very Small Quantity Generator
 - *The thresholds for VSQG in California*

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 (SQG)	Section 66262.16
	Conditions for exemption for large quantity generator (LQG)	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



Add and Modify Definitions

Added definitions:

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

Modified definitions:

- Small quantity generator
- Acute hazardous waste

Where is it located?

Federal: 40 CFR 260.10

State (Proposed): 22 CCR 66260.10



Generator Categories

Quantity of <u>acute</u> hazardous waste generated in a calendar month	Quantity of <u>extremely</u> hazardous waste generated in a calendar month	Quantity of <u>non-acute</u> hazardous waste generated in a calendar month	Generator category
> 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
≤ 1 kg	≤ 1 kg	≤ 100 kg	VSQG

Where is it located?

Federal: 40 CFR 262.13

State (Proposed): 22 CCR 66262.13

26th California Unified Program
Annual Training Conference
February 26-29, 2024



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 (QRG)



Renotification

- SQGs must renotify DTSC every four years using EPA Form 8700-12 starting 2023.
- LQGs use EPA Form 8700-12 for renotification
- LQGs may include EPA Form 8700-12 as a part 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 hazard 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

- LQG 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(b)



Closure Requirements for Containers

- 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 wastes

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 and/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 QRG that summarizes their contingency plan for emergency responders
- Existing LQGs must develop a QRG 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 QRG

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: March 24 - May 8, 2023**
- **15-day comment period: July 5 – July 20, 2023**
- **Final package submission to OAL: March 2024**
- **Effective date: July 1, 2024**



GIR Phase 1 Rulemaking Updates

<https://dtsc.ca.gov/reggs/gir/>

The screenshot shows the DTSC website homepage. At the top, there is a blue navigation bar with the CA.GOV logo, social media icons (Facebook, Instagram, LinkedIn, X, YouTube), and links for Newsroom, Publications & Forms, Calendar, and Contact Us. A language selection dropdown and a settings gear icon are on the right. Below the navigation bar is a white section with the DTSC logo (Department of Toxic Substances Control) and a row of icons for various services: Hazardous Waste, Site Mitigation, Safer Consumer Products, Chemistry, Get Involved, Laws & Regulations, and About DTSC. A search icon is also present. The main content area features a large banner with a blurred background of a building interior. The banner text reads "Laws & Regulations" in a large, dark font, with a smaller subtitle below it: "We advocate for innovative protections and safer products for all California communities".

Generator Improvements Rule

- DTSC Reference Number: R-2023-08R
- OAL Reference Number: 2023-0314-03

15-Day Notice of Modified Text

Public Comment Period: 07/05/2023 – 07/20/2023

- [15-Day Notice](#)
- [Proposed Modified Text of Regulations](#)

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
Summer 2024**

Outreach will include:

- Media notifications: newsletters, DTSC website, GIR listserv
- FAQs via DTSC webpage
- Templates and pamphlets for QRG made available on DTSC webpage
- GIR presentations: in-person, virtual and recorded sessions



Phase 1 Questions



26th California Unified Program
Annual Training Conference
February 26-29, 2024

GIR Optional Provisions

Phase 2



26th California Unified Program
Annual Training Conference
February 26-29, 2024

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

- Definition
 - Conditions for exemption (COE)
- List independent requirements that apply to each generator category
- List sections that specify COE for each generator category

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
- Identify EPA hazardous waste numbers where applicable
- Any exclusions or exemptions
- 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

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

Where is it located?

Federal: 40 CFR 262.10



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 if VSQG accumulates:
 - Less than 1 kg of acute hazardous waste
 - Less than 100 kg of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill
 - Less than 1,000 kg 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
 - Unplanned 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

- LQGs
- 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 Large Quantity Generators

- 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.”



Phase 2 Process

- Discussions held with CUPAs and internal DTSC staff
- Planning stakeholder workshops in the Summer/Fall 2024
- Projected Phase 2 rulemaking beginning 2025



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
 - Chosu Khin (DTSC) Phone: (916)324-2428





Any Questions?

Chosu Khin, Senior Environmental Scientist,
DTSC/HWMP
chosu.khin@dtsc.ca.gov
916-324-2428



26th California Unified Program
Annual Training Conference
February 26-29, 2024