

Adopting U.S. EPA's Generator Improvement Rule in California

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Overview

- The Hazardous Waste Generator Improvement rule
- Authorization Overview
- What is the hazardous waste generator program?
- New provisions and revisions within the rule
- More information/Questions

Hazardous Waste Generator Improvements Rule (GIR)

- Finalizes revisions to the Resource Conservation and Recovery Act (RCRA) hazardous waste generator program proposed on September 15, 2015
- Code of Federal Regulation, title 40, part 262 (also part 260 (definitions))
- Primary objectives include: **re-organization**, provides clarity, **strengthens protections**, greater flexibility

Hazardous Waste GIR

- Federally, took effect on May 30, 2017
- Does not take effect in authorized states, including California, until DTSC adopts the GIR or part thereof

Authorization overview

- RCRA subtitle C (a.k.a. the federal hazardous waste program) may be implemented directly by US EPA or the states
- California implements its own state program (i.e., CA is an authorized state)

Federal Statutory Authority

- The Federal hazardous waste program is implemented through the authority granted to EPA by two statutes:
 - RCRA (a.k.a. non- HSWA), and
 - Its amending statute, the Hazardous and Solid Waste Amendments of 1984 (HSWA)
- Regulations adopted under non-HSWA only take effect in the authorized state when they are adopted while those adopted under HSWA take effect immediately

Federal Statutory Authority

- The hazardous waste generator improvement rule was adopted under non-HSWA authority thus the rule does not take effect in California until DTSC adopts them

What rules apply in California?

- California Code of Regulations, title 22, division 4.5, chapter 12 (California's hazardous waste generator rules).
- What about rules in chapter 12 that reference rules in Code of Federal Regulations, title 40, part 262 that have been moved?
 - The rules in chapter 12 still apply

Maintaining Authorization

- To retain authorization, State programs must be fully equivalent to, and no less stringent than, the Federal program. States may also impose requirements that are “broader in scope” or “more stringent” than the Federal program.
- “No less stringent” signifies that each aspect of the State regulations must be at least as stringent.
- US EPA has categorized all hazardous waste generator improvement rule requirements as either (1) more stringent, (2) less stringent, or (3) neither less or more stringent

To Summarize

- The GIR does not take effect in California until DTSC adopts it
- To retain state authorization, DTSC is required to adopt those provisions within the GIR that are more stringent (**mandatory provisions**)
- DTSC may adopt provisions that are less stringent or neither less nor more stringent, but is not required to (**optional provisions**)

DTSC's plan moving forward

- Adopt the more stringent requirements and re-organize generator regulations via a section 100 rulemaking
- Establish work groups to evaluate other provisions in the GIR

Overview: HW Generator Program

- What is a generator?
 - “...any person, by site, whose act or process produces hazardous waste ... or whose act first causes a hazardous waste to become subject to regulation.”
 - (22 CCR 66260.10)

Overview: HW Generator Program

- What is the first thing a generator is required to do?
 - Perform a hazardous waste determination
 - (22 CCR section 66262.11)

Overview: HW Generator Program

- If a generator produces hazardous waste they are subject to what?
 - Accumulation requirements (22 CCR 66262.34)
- How do I determine which accumulation requirements apply?
 - Must count my hazardous waste (22 CCR 66262.34)

Overview: HW Generator Program

- After I count my hazardous waste I can determine which accumulation requirements apply:
 - Large quantity generator (LQG)
 - (22 CCR 66262.34(a))
 - Small quantity generator (SQG)
 - (22 CCR 66262.34(d))

Overview: HW Generator Program

- LQGs and SQGs are exempt from permitting (for storage) if they meet specific unit and facility requirements.
 - LQGs – 90-day accumulation time limit for central accumulation area
 - SQGs – 180 or 270-day accumulation time limit for central accumulation areas

Overview: HW Generator Program

- Large and small quantity generators are exempt from central accumulation area requirements if they meet certain conditions:
 - Satellite Accumulation Areas
 - (22 CCR 66262.34(e))

New provision and revisions

- Mandatory vs. Optional
- Mandatory = more stringent than State requirements
- Optional = less stringent or equivalent to State requirements

Reorganization - Optional

- **Summary of revisions under GIR:** Moved section 262.34 to new section 262.15 (SAA requirements), 262.16 (SQG requirements) and 262.17 (LQG requirements). Also moved section 261.5 to new section 262.13 (counting) and 262.14 (VSQG requirements).
- DTSC proposes to reorganize its regulations to align with the GIR reorganization

Reorganization - Optional

- DTSC's reorganization will parallel EPA's
 - New section 66262.15 (SAA)
 - New section 66262.16 (SQGs)
 - New section 66262.17 (LQGs)
 - New section 66262.18 (EPA ID#s)
 - New article 9 (Emergency, preparedness and contingency plan requirements)
- What about counting HW and conditionally exempt small quantity generators?

Reorganization - Counting

- Counting HW under State requirements
 - A generator must count all hazardous waste except universal waste
- Counting HW under federal requirements
 - Except many wastes (e.g., used oil, universal waste, spent lead acid batteries, wastewater treatment units)
 - GIR added new requirements for counting acute hazardous waste and non-acute hazardous waste

Reorganization - Counting

- DTSC proposes to move its counting requirements to new section 66262.13 and include acute/nonacute HW counting requirements added by GIR
- DTSC will also add new definition for LQGs and modify SQG definition (mandatory provision)

Reorganization - CESQG

- Conditionally exempt small quantity generators (CESQGs)
 - No conditional exemption for such generators in CA
 - Under RCRA, CESQGs are exempt from most HW management requirements
 - Under the GIR – CESQG term changed to very small quantity generator (created a definition)
 - And the conditions for exemption are moved from 261.5 to 262.14

Reorganization - CESQG

- DTSC will adopt the new term and definition to align with the GIR
- DTSC will not adopt the conditional exemption of very small quantity generators

Reorganization - SAA

- DTSC proposes to move section 66262.34(e) requirements to new section 66262.15.
- Parallels GIR re-organization
- DTSC proposes to add:
 - (1) new container requirement for incompatibles, and
 - (2) new requirement that subjects SAAs to emergency, preparedness and prevention plans

Special requirements for incompatible wastes

- More stringent than State requirement
- What does it require?
 - (1) Incompatible wastes can't be placed in same container, (2) Hazardous waste shall not be placed in an unwashed container that previously held an incompatible waste, (3) A container holding a hazardous waste that is incompatible with any waste transferred or stored nearby in other containers shall be separated from the other materials
- Duplicated from chapter 15 and added

Preparedness, Prevention and Emergency Procedures

- LQGs and SQGs must include SAA in their facility emergency procedure plans

Reorganization - SQG

- DTSC proposes to move section 66262.34(d) to new section 66262.16
- Parallels GIR re-organization – move referenced criteria in 40 CFR into new section
- DTSC proposes to add new requirement for making arrangements with local authorities (facility requirement)

Preparedness, Prevention and Emergency Procedures - SQG

- More stringent than State requirements
- What does it require?
 - It requires SQG's to “document and maintain records that demonstrate an arrangement was made or actively exists with local authorities or that an arrangement was sought out but never made with local authorities.”
- New requirement replaces existing requirement in 40 CFR 265.37(b)

Re-organization - LQG

- DTSC proposes to move section 66262.34 to new section 66262.17
- In addition, DTSC proposes to duplicate referenced Emergency, preparedness, prevention procedures and contingency plan requirements to new article 9
- Parallels GIR re-organization (e.g., moved all container requirements referenced in facility standards to new proposed section)

Re-organization - LQG

- More stringent requirements:
 - Documenting arrangements with local authorities (same as SQG requirement)
 - Closure requirements
 - A quick reference guide for contingency plans
 - Additional requirement for accumulating reactive and ignitable wastes for containers

Closure regulations

- **Summary of revisions:** Consolidated closure standards for facilities, made closure requirements specific to generators and expanded the applicability to containers in Central Accumulation Areas (CAAs).
- Only the container closure requirement is more stringent than State requirements
- How do the requirements work?

Quick Reference Guide

- Types/names of hazardous waste and associated hazards
- Estimated maximum amounts of hazardous wastes
- Hazardous wastes requiring unique/special treatment
- Map showing where hazardous wastes are generated, accumulated or treated at the facility
- Map of facility and surroundings to identify routes of access and evacuation
- Location of water supply
- Identification of on-site notification systems
- Name of emergency coordinator(s) or listed staffed position(s) and 7/24-hour emergency telephone number(s)

Accumulating reactive/ignitable wastes

- *“The large quantity generator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste.*

Re-organization – EPA ID#s

- DTSC proposes to move section 66262.12 to new section 66262.18
- Parallels the GIR reorganization

Enhanced marking requirements

- New pre-transportation requirement:
 - Must mark containers with appropriate EPA hazardous waste number prior to transporting container offsite
- Amended section 66262.32 to add new requirement

Other Optional provisions

- Added clarifying language to HW determination criteria
- Defined Central Accumulation Areas (CAAs)
- Replaced list of specific data with all data elements for biennial reporting
- Clarity and flexibility for Emergency, Preparedness and Planning and Satellite Accumulation Areas
- Mixing non-hazardous and hazardous waste
- Repeated prohibition for sending hazardous liquids to landfills
- Clarified SQGs may accumulate HW on drip pads/containment buildings

Provisions identified by U.S. EPA as less stringent

- Allows vSQGs to voluntarily send HW to LQGs
- Allows LQGs to apply for a waiver from local fire to accumulated HW within the 50 foot facility boundary
- Allows vSQGs and SQGs to maintain existing regulatory status if they have an episodic event

Allows LQGs apply for 50 foot waiver

- **What is it?** This provision allows LQGs to apply for a site-specific waiver from the 50 feet rule for ignitable and reactive hazardous wastes.
- **Conditions:**
 - Written approval must be obtained from the authority having jurisdiction over the local fire code
 - Must maintain record of written approval

Allows VSQGs to voluntarily send HW to LQGs

- **What is it?** This provision provides flexibility to vSQGs and LQGs by allowing vSQGs to send their HW to LQGs (that don't have a RCRA permit) and allows LQGs to accept and consolidate HW generated offsite if certain conditions are met.
- **Conditions:**
 - vSQG and LQG must be under the control of the same person
 - The term "Control," is defined and "...means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, ..."

Allows VSQGs to voluntarily send HW to LQGs

- Conditions:
 - VSQG containers are subject to HW marking and labeling requirements
 - LQGs must notify (using 8700-12) 30 days prior to accepting and identify all locations sending HW to them
 - Maintain records of shipments for 3 years

Allows VSQGs and SQGs to maintain regulatory status

- **What is it?** This provision allows VSQGs and SQGs to maintain their existing category if they have an episodic event.
- **Definition:**
 - *Episodic event* means an activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of hazardous wastes that exceeds the calendar month quantity limits for the generator's usual category.
 - *Planned episodic event*
 - *Unplanned episodic event*

Allows VSQGs and SQGs to maintain regulatory status

- Conditions
 - Notification using 8700-12 30 days prior to event (72 hours for unplanned events) that includes the following information:
 - start date and end date of the episodic event,
 - the reason(s) for the event,
 - types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and
 - identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to an emergency

Allows VSQGs and SQGs to maintain regulatory status

- Conditions (con't)
 - EPA ID#
 - Mark and label containers and tanks with the words “Episodic Hazardous Waste”
 - Must use manifest to transport hazardous waste
 - 60 day accumulation time limit

Allows VSQGs and SQGs to maintain regulatory status

- Must maintain records for 3 years that include the following information:
 - Beginning and end dates of the episodic event;
 - A description of the event, including types and quantities of HW generated
 - A description of how the hazardous waste was managed as well as the name of the designated facility that received the hazardous waste;
 - Name(s) of hazardous waste transporters

Questions

- Developed a web page which identifies how DTSC will adopt various parts of the GIR
 - http://dtsc.ca.gov/HazardousWaste/Generator_Improvement_Rule.cfm
 - Mailbox to ask questions

Questions

- Contact:
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Contact info

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THANK YOU!

