

Appendix G

Hazardous Materials

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This appendix supplements the information provided in Section 4.14 of the WSIP PEIR. It provides an overview of the federal and state hazardous materials regulatory framework.

Regulatory Framework

Hazardous materials and hazardous wastes are extensively regulated by various federal, state, regional, and local regulations, with the major objective of protecting public health and the environment. This appendix summarizes the overall regulatory framework governing hazardous materials management.

Federal Regulations – General Hazardous Materials

The U.S. Environmental Protection Agency (U.S. EPA) is the lead agency responsible for enforcing federal regulations that affect public health or the environment. The primary federal laws and regulations include: the Resource Conservation and Recovery Act of 1974 (RCRA); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA); and the Superfund Amendments and Reauthorization Act of 1986 (SARA). Federal statutes pertaining to hazardous materials and wastes are contained in Title 40 of the Code of Federal Regulations.

RCRA was enacted to provide a general framework for the national hazardous waste management system, including the determination of whether hazardous wastes are being generated, techniques for tracking wastes to eventual disposal, and the design and permitting of hazardous waste management facilities. In 1984, the Hazardous and Solid Waste Amendment was enacted to better address hazardous waste; this amendment began the process of eliminating land disposal as the principal hazardous waste disposal method. Other specific areas covered by the amendment include the regulation of carcinogens, listing and delisting of hazardous wastes, permitting for hazardous waste facilities, and leaking underground storage tanks.

CERCLA, also known as Superfund, was enacted to ensure that a source of funds was available to clean up abandoned hazardous waste sites, compensate victims, address releases of hazardous materials, and establish liability standards for responsible parties. SARA amended CERCLA in 1986 to increase the Superfund budget, modify contaminated site clean up criteria and schedules, and revise settlement procedures. SARA also provides a regulatory program and fund for

underground storage tank cleanups and the Emergency Planning and Community Right-to-Know Program (EPCRA).

In 1976, Congress passed the Toxic Substances Control Act (TSCA) which was implemented in 1979. This act governs the manufacture, processing, distribution in commerce, use, cleanup, storage, and disposal of polychlorinated biphenyls (PCBs). Since 1978, the U.S. EPA has promulgated numerous rules further addressing all aspects of the life cycle of PCBs. The most recent rule was the “Final Rule: Amendments to the TSCA PCB Disposal Regulations Including Amendments to the PCB Notification and Manifesting Rule” promulgated on June 24, 1999. This rule is deregulatory in nature and provides individuals with more flexibility in their PCB disposal practices while continuing to provide protection from unreasonable risk.

State and Regional Regulations – General Hazardous Materials

The California Department of Toxic Substances Control (DTSC) and the Regional Water Quality Control Board (RWQCB) are the primary state agencies regulating hazardous materials in California. These agencies are part of the Cal-EPA. The RWQCB is authorized by the State Water Resources Control Board to enforce provisions of the Porter-Cologne Water Quality Control Act of 1969. This act gives the RWQCB authority to require groundwater investigations when the quality of groundwater or surface waters of the state is threatened, and to require remediation of the site if necessary. The DTSC is authorized by the U.S. EPA to regulate the management of hazardous substances, including the remediation of sites contaminated by hazardous substances.

California hazardous materials laws incorporate federal standards but are often stricter than federal laws. The primary state laws include: the California Hazardous Waste Control Law (HWCL), the state equivalent of RCRA; and the Carpenter-Presley-Tanner Hazardous Substances Account Act (HSAA), the state equivalent of CERCLA. State hazardous materials and waste laws are contained in the California Code of Regulations, Titles 22 and 26.

The HWCL, enacted in 1972 and administered by the DTSC, is the basic hazardous waste statute in California and has been amended several times to address current needs, including bringing the state law and regulations into conformance with federal laws. This act implements the RCRA “cradle-to-grave” waste management system in California but is more stringent in its regulation of non-RCRA wastes, spent lubricating oil, small-quantity generators, transportation and permitting requirements, as well as in its penalties for violations. The HWCL also exceeds federal requirements by mandating the recycling of certain wastes, requiring certain generators to document a hazardous waste source reduction plan, requiring permitting for federally exempt treatment of hazardous wastes by generators, and implementing stricter regulation of hazardous waste facilities.

The HSAA, enacted in 1981, addresses similar concerns as CERCLA. The primary difference is in how liability is assigned for a site with more than one responsible party. This is important for

petroleum cleanup sites because federal law is usually used to force responsible-party cleanups; state law is used for petroleum cleanup sites that are exempt from CERCLA.

Other relevant State of California statutes include:

- The Toxic Pit Cleanup Act of 1984 and the Toxic Injection Well Act of 1985, which were established to provide a regulatory framework for open pits or injection wells as a means of hazardous waste or disposal.
- The Hazardous Waste Management Act of 1986, which coordinates the state's implementation of federal landfill bans and authorizes landfill bans for non-RCRA hazardous wastes.
- The Aboveground Petroleum Storage Act of 1989, which requires the owner or operator of aboveground petroleum storage tanks to file a storage statement with the State Water Resources Control Board if tank storage exceeds 10,000 gallons and holds petroleum or petroleum product that is liquid at ambient temperatures. In addition, the tank or tanks must be registered if they are subject to federal requirements; this potentially expands the requirement for a storage statement to any tank over 660 gallons or aggregate storage of 1,320 gallons.
- The Hazardous Waste Source Reduction and Management Act, which, beginning in 1991, required large-quantity generators to document the hazardous wastes being generated and to prepare a documented waste reduction plan.
- The Hazardous Waste Treatment Permitting Reform Act of 1992, which required a permit for any hazardous waste treatment by a generator beginning on April 1, 1993. This statute established a new, tiered permitting program whereby onsite treatment facilities are permitted or authorized to operate subject to different levels of regulatory requirements, depending on the nature and size of the treatment activity. Amendments to this statute adopted in 1993–1996 have enacted certain exemptions and modified compliance requirements.
- The Hazardous Waste Management Reform Act of 1995, which required the DTSC to revise its regulations to more closely conform to federal hazardous waste identification criteria and essentially eliminate land disposal restrictions for California-only hazardous wastes, among other major changes. However, many of these changes have been deferred to a DTSC advisory committee for further study and are not expected to be implemented for several years, and in certain cases, not at all.

The Bay Area Air Quality Management District, a regional regulatory agency, may impose specific requirements on remediation activities to protect ambient air quality from dust or other airborne contaminants.