



FINAL TEXT OF REGULATIONS
HAZARDOUS WASTES OF CONCERN: REPORTING BY GENERATORS
Department Reference Number: R-03-18

1. Amend section 66261.111 to the California Code of Regulations, title 22, division 4.5, chapter 11, article 5, to read as follows:

§66261.111. Hazardous Waste of Concern Criteria.

(a) A hazardous waste of concern is a hazardous waste that originated from a material with a label placed by the manufacturer with one of the following hazard class divisions, or a hazardous waste that is identified on the Uniform Hazardous Waste Manifest with one of the following hazard divisions within the U.S. DOT description, or otherwise known as:

(1) An explosive material, hazard division 1.1, 1.2, or 1.3, as defined under 49 Code of Federal Regulations section 173.50 (as revised October 1, 2002); or

(2) A poisonous material, hazard division 6.1, packing group I or II, as defined under 49 Code of Federal Regulations section 173.132 (as revised October 1, 2002); or

(3) A poisonous gas, hazard division 2.3, as defined under 49 Code of Federal Regulations section 173.115 (as revised October 1, 2002).

(b) “Missing hazardous waste of concern” is a hazardous waste of concern that has been lost, stolen, or disappeared is unaccounted for, or a difference in type has been identified when it is received at the designated facility. It does not include the unintentional release of a hazardous waste of concern within the meaning of 49 Code of Federal Regulations section 171.16 (as revised October 1, 2002).

(c) Specified reporting requirements for missing hazardous wastes of concern apply in instances where the missing waste represents a reportable quantity or a reportable difference in type.

(1) Reportable quantities of missing hazardous waste of concern are:

(A) for bulk waste, variations greater than 3 percent in weight or volume; and

(B) for containerized waste, any variation in piece count, such as a discrepancy of one drum in a truckload.

(2) Reportable differences in type of a hazardous waste of concern are obvious differences that can be discovered by observation of the physical properties of the waste, through inspection, or waste analysis (e.g., waste solvent substituted for used oil mineral spirits substituted for waste carbon tetrachloride, or waste that contains hazardous constituents not reported on the manifest that would change the shipping name or waste code).

NOTE: Authority cited: Sections 25150, 25169.6, and 25169.8, and 58012, Health and Safety Code. Reference: Sections 25169.5, 25169.6, 25169.7, and 25169.8, Health and Safety Code.

2. Amend section 66262.10 to the California Code of Regulations, title 22, division 4.5, chapter 12, article 1, to read as follows:

§66262.10. Purpose, Scope, and Applicability.

(a) This chapter establishes standards for generators of hazardous waste located in California.

(b) A generator who treats, stores, or disposes of hazardous waste on-site shall ~~only~~ comply with the following sections of this chapter with respect to that waste: section 66262.11 for determining whether or not the generator has a hazardous waste, section 66262.12 for obtaining an identification number, section 66262.34 for accumulation of hazardous waste, section 66262.40(c) and (d) for recordkeeping, section 66262.43 for additional reporting, section 66262.44 for hazardous waste of concern reporting, and if applicable, section 66262.70 for farmers.

(c) Any person who imports hazardous waste into the State to a designated facility within the State from outside the United States shall comply with the standards applicable to generators established in this chapter.

(d) Any person who exports or imports hazardous waste subject to the Federal manifesting requirements of 40 CFR Part 262, or to the universal waste management standards of 40 CFR Part 273, to or from the countries listed in 40 CFR section 262.58(a)(1) or section 66262.58(a)(1) for recovery of hazardous waste, shall comply with 40 CFR Part 262, Subpart H or this article.

(e) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of section 66262.70 is not required to comply with other standards in this chapter or chapters 2014, 15, or 18 of this division with respect to such pesticides.

(f) A person who generates a hazardous waste as defined by chapter 11 of this division is subject to the compliance requirements and penalties prescribed in chapter 6.5 of division 20 of the Health and Safety Code (commencing with section 25100) if the generator does not comply with the requirements of this chapter.

(g) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility shall comply with the generator standards established in this chapter. The provisions of section 66262.34 shall be applicable to the on-site accumulation of hazardous waste by generators. Therefore, the provisions of section 66262.34 shall apply ~~only apply~~ to owners or operators who are shipping hazardous waste which they generated at that facility.

(h) A generator who treats, stores, or disposes of hazardous waste on-site shall comply with the applicable standards and permit requirements set forth in chapters 14, 15, 16, 18 and 20 of this division.

(i) This article does not apply to generators handling only hazardous waste produced incidental to owning and maintaining their own place of residence.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 25179.6 and 58012, Health and Safety Code. Reference: Sections 25150, 25159, 25159.5, 25169.7, and 58012, Health and Safety Code; 40 CFR Code of Federal Regulations Section 262.10.

3. Add section 66262.44 to the California Code of Regulations, title 22, division 4.5, chapter 12, article 4, to read as follows:

§66262.44. Reporting Hazardous Wastes of Concern Discovered by the Generator to be Missing.

(a) Generators, including those operating under a Permit by Rule, Conditional Authorization, or Conditional Exemption, shall comply with reporting requirements set forth in this section, in the event that a hazardous waste of concern, as defined in section 66261.111(a), is discovered to be missing during storage including generator accumulation areas within the facility, and the waste at issue represents a reportable quantity or a reportable difference in type, as specified in section 66261.111(b) and (c).

(b) Upon discovering that a hazardous waste of concern is missing, and the waste at issue represents a reportable quantity or a reportable difference in type, the generator shall immediately attempt to reconcile the reportable quantity or difference (e.g., by reviewing facility records). If the reportable quantity or difference is not reconciled within 24 hours after it was discovered, the owner or operator shall immediately notify the Department by calling 1-800-69-TOXIC (1-800-698-6942) and provide the following information:

(1) Generator name and identification number;

(2) Waste information (information that is typically provided on the manifest or as detailed on a material safety data sheet), including proper shipping name, hazard class or division, identification number, packing group, number of containers, container type (as listed in Table I of the Appendix to Chapter 12), quantity or volume of waste at issue, weight or volume units, and waste codes; and

(3) Potential locations or transportation routes where the hazardous waste of concern may have become missing (e.g., areas at the facility where the waste was handled, stored or transported within the facility).

(c) If the reportable quantity or difference is not reconciled within 24 hours after it was discovered, in addition to complying with subsection (b), within 5 days after the reportable quantity or difference was discovered, the generator shall submit to the Department a letter describing the reportable quantity or difference and attempts to reconcile it, and a copy of the manifest.

(1) If the hazardous waste generator is located in the counties of Los Angeles, Ventura, Santa Barbara, San Bernardino, Orange, Riverside, San Diego, or Imperial, submit the letter to the Complaint Coordinator, Department of Toxic Substances Control, Statewide Compliance Division, Glendale Branch, 1011 North Grandview Avenue, Glendale, California 91201-2205.

(2) If the hazardous waste generator is located in any other county, submit the letter to the Complaint Coordinator, Department of Toxic Substances Control, Statewide Compliance Division, Northern California Branch, 8800 Cal Center Drive, Sacramento, California 95826-3200.

(d) Generators that handle hazardous wastes of concern will identify themselves as such when complying with Health and Safety Code section 25205.16.

NOTE: Authority cited: Sections 25150 and 58012, Health and Safety Code.
Reference: Sections 25150, 25169.7 and 58012, Health and Safety Code.