

**EXHIBIT A: California Hazardous Waste Regulations
Applicable to Generators, 22 CCR §66262.10 et seq.
(selected provisions)**

**Chapter 12. Standards Applicable to
Generators of Hazardous Waste**

Article 1. Applicability

§ 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 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 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 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 and 58012, Health and Safety Code; and 40 CFR Section 262.10.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Amendment of subsection (g) and NOTE filed 10-24-94 as an emergency; operative 10-24-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-20-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (g) and NOTE refiled 2-21-95 as an emergency; operative 2-21-95 (Register 95, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-21-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (g) and NOTE refiled 6-19-95 as an emergency; operative 6-19-95 (Register 95, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-17-95 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (g) and NOTE refiled 10-16-95 as an emergency; operative 10-16-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-24-94 order transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).
7. Change without regulatory effect adding new subsection (d) and relettering subsections filed 8-20-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 34).

§ 66262.11. Hazardous Waste Determination.

A person who generates a waste, as defined in section 66261.2, shall determine if that waste is a hazardous waste using the following method:

(a) the generator shall first determine if the waste is excluded from regulation under section 66261.4 or section 25143.2 of the Health and Safety Code;

(b) the generator shall then determine if the waste is listed as a hazardous waste in article 4 of chapter 11 or in Appendix X of chapter 11 of this division. If the waste is listed in Appendix X and is not listed in article 4 of chapter 11, the generator may determine that the waste from his particular facility or operation is not a hazardous waste by either:

(1) testing the waste according to the methods set forth in article 3 of chapter 11 of this division, or according to an equivalent method approved by the Department pursuant to section 66260.21; or

(2) applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used and the characteristics set forth in article 3 of chapter 11 of this division.

(c) For purposes of compliance with chapter 18 of this division (commencing with section 66268.1), or if the waste is not listed as a hazardous waste in article 4 (commencing with section 66261.30) or in Appendix X of chapter 11 of this division, the generator shall determine whether the waste exhibits any of the characteristics set forth in article 3 of chapter 11 of this division by either:

(1) testing the waste according to the methods set forth in article 3 (commencing with section 66261.20) of chapter 11 of this division, or according to an equivalent method approved by the Department under section 66260.21; or

(2) applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(d) If the waste is determined to be hazardous, the generator shall refer to chapters 14, 15, and 18 of this division for possible exclusions or restrictions pertaining to management of the specific waste.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25115, 25117, 25159 and 25159.5, Health and Safety Code; 40 CFR Section 262.11.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66262.12. Identification Numbers for the Generator.

(a) A generator shall not treat, store, dispose of, transport or offer for transportation, hazardous waste without having received an Identification Number.

(b) A generator who has not received an Identification Number may obtain one by applying to the Administrator or to the Department using EPA form 8700-12 (Revised 1/90). Following receipt of the request, the generator will be assigned an identification number.

(c) A generator shall not offer the hazardous waste to transporters or to transfer, treatment, storage or disposal facilities that have not received an Identification Number.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; 40 CFR Section 262.12.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

Article 2. The Manifest

§ 66262.20. General Requirements.

(a) A generator who transports, or offers for transportation, hazardous waste for off-site transfer, treatment, storage, or disposal shall prepare a Manifest, DHS Form 8022A, and if necessary, the EPA continuation Form 8700-22A, according to the instructions included in the Appendix to chapter 12 of this division before the waste is transported off-site. All manifest requests should be submitted to the following agency:

DEPARTMENT OF GENERAL SERVICES
DOCUMENTS AND PUBLICATIONS
P.O. BOX 1015
NORTH HIGHLANDS, CA 95660

For further information with regard to manifest ordering and associated fees, contact the Department of General Services' Customer Service Office at (916) 973-3700.

(b) A generator shall designate on the manifest one facility which is permitted to handle the waste described on the manifest.

(c) A generator may also designate on the manifest one alternate facility which is permitted to handle the waste in the event an emergency prevents delivery of the waste to the primary designated facility.

(d) If the transporter is unable to deliver the hazardous waste to the designated facility or the alternate facility, the generator shall either designate another facility or instruct the transporter to return the waste.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25161, Health and Safety Code. Reference: Sections 25159, 25159.5 and 25160, Health and Safety Code; 40 CFR Section 262.60.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66262.21. Acquisition of Manifests.

(a) If the state to which the shipment is manifested (consignment state) supplies the manifest and requires its use, then the generator shall use that manifest.

(b) If the consignment state does not supply the manifest, the generator shall use the California Uniform Hazardous Waste manifest, EPA 8700-22/DHS 8022A (6-89).

NOTE: Authority cited: Sections 208, 25150, 25159 and 25161, Health and Safety Code. Reference: Sections 25159, 25159.5 and 25160, Health and Safety Code; 40 CFR Section 262.21.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66262.22. Number of Copies.

The manifest consists of at least six copies which will provide the generator with two copies, the transporter with one copy, the owner or operator of the designated facility with one copy and the Department with two copies.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25161, Health and Safety Code. Reference: Sections 25159, 25159.5 and 25160, Health and Safety Code; 40 CFR Section 262.22.

HISTORY

1. New section filed 5-28-91; operative 7-1-91 (Register 91, No. 22).

§ 66262.23. Use of the Manifest.

(a) The generator of any hazardous or extremely hazardous waste to be transported off-site shall:

(1) complete the generator and waste section and sign the manifest certification according to the instructions in the Appendix to this chapter, and

(2) obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(3) retain two copies, in accordance with section 66262.40(a); and

(4) within 30 days of each shipment of hazardous waste submit to the Department a legible copy of each manifest used.

(b) The generator shall give the transporter the remaining copies of the manifest.

(c) For shipments of hazardous waste within the United States solely by water (bulk shipments only), the generator shall send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(d) For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator shall send at least three copies of the manifest dated and signed in accordance with this section to:

1) the next non-rail transporter, if any; or

(2) the designated facility if transported solely by rail; or

(3) the last rail transporter to handle the waste in the United States if exported by rail.

(e) For shipments of hazardous waste to a designated facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

NOTE: Authority cited: Sections 25150, 25159 and 25161, Health and Safety Code; Section 58012 of the Governor's Reorganization Plan No. 1 of 1991. Reference: Sections 25159, 25159.5 and 25160, Health and Safety Code; 40 CFR Section 262.23.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

2. Change without regulatory effect adding new subsection (e) and amending NOTE filed pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 18).

Article 3. Pre-Transport Requirements

§ 66262.30. Packaging.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall package the waste in accordance with the applicable Department of Transportation regulations on packaging under Title 49 CFR Parts 173, 178, and 179.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25161, Health and Safety Code. Reference: Sections 25159, 25159.5 and 25160, Health and Safety Code; 40 CFR Section 262.30.

HISTORY

New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66262.31. Labeling.

Before transporting or offering hazardous waste for transportation off-site, a generator shall label each package in accordance with the applicable Department of Transportation regulations on hazardous materials under Title 49 CFR Part 172.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25161, Health and Safety Code. Reference: Sections 25159, 25159.5 and 25160, Health and Safety Code; 40 CFR Section 262.31.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66262.32. Marking.

(a) Before transporting or offering hazardous waste for transportation off-site, a generator shall mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under Title 49 CFR Part 172;

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall mark each container of 110 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of Title 49 CFR 172.304:

HAZARDOUS WASTE-State and Federal Law Prohibit Improper Disposal. If found, contact the nearest police or public safety authority, the U.S. Environmental Protection Agency or the California Department of Health Services.

Generator's Name and Address _____

Manifest Document Number _____

NOTE: Authority cited: Sections 208, 25150, 25159 and 25161, Health and Safety Code. Reference: Sections 25159, 25159.5 and 25160, Health and Safety Code; 40 CFR Section 262.32.

HISTORY

1. New section filed 5-28-91; operative 7-1-91 (Register 91, No. 22).

§ 66262.33. Placarding.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator shall ensure that the transport vehicle is correctly placarded according to Department of Transportation regulations for hazardous materials under Title 49 CFR Part 172, Subpart F.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25161, Health and Safety Code. Reference: Sections 25159, 25159.5 and 25160, Health and Safety Code; 40 CFR Section 262.33.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

§ 66262.34. Accumulation Time.

(a) Except as provided in subsections (c) and (d) of this section, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or grant of interim status, provided that:

(1)(A) the waste is placed in containers and the generator complies with article 9 of chapter 15 of this division, or the waste is placed in tanks and the generator complies with article 10 of chapter 15 of this division, except sections 66265.197(c) and 66265.200. In addition, such a generator is exempt from all the requirements in articles 7 and 8 of chapter 15 of this division, except for sections 66265.111 and 66265.114; or

(B) the waste is placed on drip pads and the generator complies with chapter 15, article 17.5, and maintains the following records at the facility:

1. a description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

2. documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(C) the waste is placed in containment buildings and the generator complies with article 29 of Chapter 15 of this division, has placed its professional engineer (PE) certification that the building complies with the design standards specified in 66265.1101 in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation

of the unit. The owner or operator shall maintain the following records at the facility:

1. a written description of procedures to ensure that each waste volume remains in the unit for no more than 90 days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the 90 day limit, and documentation that the procedures are complied with; or

2. documentation that the unit is emptied at least once every 90 days; and

(2) the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container; and

(3) the generator complies with the requirements of subsection (f) of this section; and

(4) the generator complies with the requirements for owners or operators in articles 3 and 4 of chapter 15 of this division and with section 66265.16, and with section 66268.7(a)(4).

(b) The beginning of the 90 day period specified in subsections (a) and (c) of this section is determined as follows:

(1) if the generator does not generate more than 100 kilograms of hazardous waste or one kilogram of acutely hazardous waste (listed in section 66261.33(e)) or one kilogram of extremely hazardous waste during any calendar month, the 90 day period begins on the date the generator has accumulated 100 kilograms of hazardous waste or one kilogram of acutely hazardous waste or one kilogram of extremely hazardous waste;

(2) if the generator generates more than 100 kilograms of hazardous waste or one kilogram of acutely hazardous waste or one kilogram of extremely hazardous waste during any calendar month, the 90-day period begins on the first date on which any amount of hazardous waste begins to accumulate during that month.

(c) A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of chapters 14 and 15 of this division and the permit requirements of chapter 20 of this division, unless the generator has been granted an extension to the 90-day period or meets the requirements of subsection (d) or (e) of this section. An extension may be granted by the Department if hazardous wastes must remain on-site for longer than 90 days due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days may be granted at the discretion of the Department on a case-by-case basis.

(d) Notwithstanding subsections (a) and (c) of this section, a generator of less than 1,000 kilograms of hazardous waste in any calendar month who accumulates hazardous waste onsite for 180 days or less, or 270 days or less if the generator transports the generator's own waste, or offers the generator's waste for transportation, over a distance of 200 miles or more, for offsite treatment, storage, or disposal, is not a storage facility if all of the following apply:

(1) The quantity of hazardous waste accumulated onsite never exceeds 6,000 kilograms.

(2) The generator complies with the requirements of subdivisions (d), (e) and (f) of section 262.34 of Title 40 of the Code of Federal Regulations.

(3) The generator does not hold acutely hazardous waste or extremely hazardous waste in an amount greater than one kilogram for more than 90 days.

(e)(1) A generator may accumulate as much as 55 gallons of hazardous waste, one quart of acutely hazardous waste (listed in section 66261.33(e)) or one quart of extremely hazardous waste at or near any point of generation, without a permit or grant of interim status, without complying with subsections (a), (b) and (c) of this section, if all of the following requirements are met with respect to this waste:

(A) the waste is accumulated in containers, other than tanks, at the initial accumulation point which is at or near the area where the waste is generated and which is under the control of the operator of the process generating the waste;

(B) the generator does not hold the waste onsite for more than one year from the initial date of accumulation, or for longer than the applicable accumulation period specified in subdivision (a) or (d), whichever occurs first. For purposes of this subdivision, the applicable accumulation period specified in subdivision (a) or (d) shall start on the date the quantity limitation specified in paragraph 1 of subsection (e) of this section is reached;

(C) the initial date of waste accumulation is clearly marked and visible for inspection on each container used for accumulation of hazardous waste;

(D) the generator complies with sections 66265.171, 66265.172, and 66265.173(a) of this division; and

(E) the generator complies with subsections (e)(2), (e)(3) and (f)(3) of this section.

(2) Except as provided in subsections (e)(2)(A) and (e)(2)(B) of this section, a process or group of processes meeting the requirements of subsection (e)(1) of this section, shall be subject to a single 55 gallon or one quart accumulation limit for that process or group of processes.

(A) If not all of the wastestreams generated by a single process or group of processes located within the same physical area are compatible, a separate 55 gallon or one quart limit shall apply to each group of wastestreams that are compatible.

(B) If the generator determines that using only one 55-gallon or one-quart container to initially accumulate specific compatible wastestreams is not practical (e.g., prevents recycling or requires unreasonable accumulation procedures) or safe from an environmental or worker/public health and safety standpoint, the generator may use a separate 55-gallon or one-quart container for those specific compatible wastestreams. The generator's determination shall be subject to review and approval by the Department at any time.

(3) A generator who has accumulated an amount of hazardous waste, acutely hazardous waste or extremely hazardous waste equal to any applicable quantity limitation listed in subsection (e)(1) of this section at or near any point of generation shall, with respect to that waste, comply within three days with subsection (a) of this section and other applicable provisions of this division. During the three day period the generator shall continue to comply with subsection (e)(1) of this section. Within the three day period, the generator shall mark the container holding the hazardous waste with the date the applicable quantity limitation was reached.

(f) Generators who accumulate hazardous waste on site without a permit or grant of interim status shall comply with the following requirements:

(1) the date upon which each period of accumulation begins shall be clearly marked and visible for inspection on each container and portable tank;

(2) the date the applicable accumulation period specified in subsection (a) or (d) of this section begins, for purposes of subsections (a) and (b) of this section, shall be clearly marked and visible for inspection on each container and tank; and

(3) each container and tank used for onsite accumulation of hazardous waste shall be labeled or marked clearly with the words, "Hazardous Waste." Additionally, all containers and portable tanks shall be labeled with the following information:

(A) composition and physical state of the wastes;

(B) statement or statements which call attention to the particular hazardous properties of the waste (e.g., flammable, reactive, etc.);

(C) name and address of the person producing the waste.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 25179.6 and 58012, Health and Safety Code. Reference: Sections 25123.3, 25150, 25159, 25159.5, and 58012, Health and Safety Code; and 40 CFR Section 262.34.

HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

2. Designation and amendment of subsection (a)(1)(A), new subsections (a)(1)(B)-(C) and amendment of NOTE filed 7-29-94; operative 8-1-94 (Register 94, No. 30).

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; 40 CFR Section 265.14.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§ 66265.15. General Inspection Requirements.

(a) The owner or operator shall inspect the facility for malfunctions and deterioration, operator errors, and discharges which may be causing or may lead to: (1) release of hazardous waste constituents to the environment; or (2) a threat to human health. The owner or operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b)(1) The owner or operator shall develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

(2) The owner or operator shall keep this schedule at the facility.

(3) The schedule shall identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

(4) The frequency of inspection may vary for the items on the schedule. However, it should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, or malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, shall be inspected daily when in use. At a minimum, the inspection schedule shall include the items and frequencies called for in sections 66265.174, 66265.193, 66265.195, 66265.226, 66265.260, 66265.278, 66265.304, 66265.347, 66265.377, 66265.403, 66265.1033, 66265.1052, 66265.1053, and 66265.1058, where applicable.

(c) The owner or operator shall remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.

(d) The owner or operator shall record inspections in an inspection log or summary. The owner or operator shall keep these records for at least three years from the date of inspection. At a minimum, these records shall include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

NOTE: Authority cited: Sections 25150 and 25159, Health and Safety Code; and Governor's Reorganization Plan Number 1 of 1991. Reference: Sections 25159 and 25159.5, Health and Safety Code; and 40 CFR Section 265.15.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

2. Amendment of subsection (b)(4) and NOTE filed 12-23-92; operative 1-22-93 (Register 93, No. 1).

3. Amendment of subsection (b)(4) and NOTE filed 7-19-95; operative 8-18-95 (Register 95, No. 29).

§ 66265.16. Personnel Training.

(a)(1) Facility personnel shall successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this chapter. The owner or operator shall ensure that this program includes all the elements described in the document required under subsection (d)(3) of this section.

(2) This program shall be directed by a person trained in hazardous waste management procedures, and shall include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

(3) At a minimum, the training program shall be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

(A) procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(B) key parameters for automatic waste feed cut-off systems;

(C) communications or alarm systems;

(D) response to fires or explosions;

(E) response to ground-water contamination incidents; and

(F) shutdown of operations.

(b) Facility personnel shall successfully complete the program required in subsection (a) of this section within six months after the date of their employment or assignment to a facility, or to a new position at a facility. Employees hired after the effective date of these regulations shall not work in unsupervised positions until they have completed the training requirements of subsection (a) of this section.

(c) Facility personnel shall take part in an annual review of the initial training required in subsection (a) of this section.

(d) The owner or operator shall maintain the following documents and records at the facility:

(1) the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(2) a written job description for each position listed under subsection (d)(1) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but shall include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;

(3) a written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under subsection (d)(1) of this section;

(4) records that document that the training or job experience required under subsections (a), (b), and (c) of this section has been given to, and completed by, facility personnel.

(e) Training records on current personnel shall be kept until closure of the facility. Training records on former employees shall be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code. Reference: Sections 25159 and 25159.5, Health and Safety Code; 40 CFR Section 265.16.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§ 66265.17. General Requirements for Ignitable, Reactive, or Incompatible Wastes.

(a) The owner or operator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste shall be separated and protected from sources of ignition or reaction including but not limited to: Open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator shall confine smoking and open flame to specially designated locations. "No Smoking" signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) Where specifically required by other sections of this chapter, the transfer, treatment, storage, or disposal of ignitable or reactive waste, and the mixture or commingling of incompatible wastes, or incompatible wastes and materials, shall be conducted so that it does not:

(1) generate extreme heat or pressure, fire or explosion, or violent reaction;

(2) produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;

(3) produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(4) damage the structural integrity of the device or facility containing the waste; or

EXHIBIT B: 42 U.S.C.A. §6971(a)-(d); Employee Protection

§ 6971. Employee protection

(a) General

No person shall fire, or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this chapter or under any applicable implementation plan, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter or of any applicable implementation plan.

(b) Remedy

Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of Title 5. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions of the Administrator or subject to judicial review under this chapter.

(c) Costs

Whenever an order is issued under this section to abate such violation, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary of Labor, to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(d) Exception

This section shall have no application to any employee who, acting without direction from his employer (or his agent) deliberately violates any requirement of this chapter.

**EXHIBIT C: DTSC Management Memo # EO-93-031-MM
(Definition of "Onsite" and "Onsite Facility")**

Hazardous Waste Management Program
Management Memo # EO-93-031-MM

DEFINITION OF "ONSITE" AND "ONSITE FACILITY"

Effective Date: November 20, 1993

Program Management Manual Volume: Permits, Surveillance and Enforcement

Subject Categories: Generator Requirements; Storage; Treatment; Transportation; Manifesting

Affected Programs: Facility Permitting, Surveillance and Enforcement

Issue:

The purpose of this management memo is to clarify several issues that have been raised relating to the interpretation and application of the definitions of "onsite" and "onsite facility" as set forth in Title 22, California Code of Regulations (22 CCR), section 66260.10. These definitions determine when transportation and manifest requirements apply; whether a storage or treatment unit is onsite or offsite with respect to the hazardous waste it receives (and thus what requirements and limitations apply); and whether two or more units can be considered as a single facility.

Background:

Health and Safety Code (HSC), chapter 6.5, article 2 and 22 CCR, section 66260.10 contain the following definitions:

"Onsite" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along, the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which that person controls and to which the public does not have access, is also considered onsite property.

"Onsite facility" or "Onsite hazardous waste facility" means a facility:

(a) at which a hazardous waste is generated and which is owned by, leased to, or under the control of, the generator of the waste; and

(b) which is located on same or geographically contiguous property, on which the waste is produced, which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing as opposed to going along, the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which that person controls and to which the public does not have access, is also considered onsite property.

"Generator" or "Producer" means any person, by site, whose act or process produces hazardous waste identified or listed in chapter 11 of this division or whose act first causes a hazardous waste to become

subject to regulation.

"Person" means an individual, trust, firm, joint stock company, business concern, corporation, including, but not limited to, a government corporation, partnership and association....

"Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Action:

1. Large Institutions

Most large universities and certain other institutions and governmental agencies can be physically described as one large contiguous property (referred to below as "campus"), owned by or otherwise under the control of the institution. This campus is typically intersected by a network of roadways, which may or may not be owned by or otherwise under the control of the institution, although the public has some degree of access to these roadways as dictated and controlled by the institution. In an urban setting the campus may be intersected by public streets not under the control of the institution.

On the typical campus there are numerous research labs, teaching labs, maintenance yards and buildings, etc., where hazardous waste is generated. The hazardous wastes generated at these numerous and scattered points are moved to one or more central hazardous waste management units located on the campus. Such movement typically involves the transportation of hazardous waste across and along the roadways intersecting the campus, but without transporting hazardous wastes outside the perimeter of the campus. The labs and other points of generation may be directly owned and operated by the institution or they may be operated by various "affiliates" of the institution pursuant to leases, agreements, interlocking directors and staff, research funding arrangements, etc.

The definitions listed above (see Background) shall be applied to universities and similar institutions as follows:

(a) All portions of the campus owned or under the control of the institution are considered to be a single onsite property, as long as they are contiguous and/or are connected by rights-of-way controlled by the institution.

(b) The central hazardous waste management units are considered to be onsite with respect to all hazardous waste generated on the campus, as described above in paragraph (a), IF the institution assumes full responsibility and liability in writing as the generator for all hazardous waste generated on the campus by the institution and its affiliates.

(c) Pursuant to 22 CCR, section 66263.10(b), transportation of hazardous waste from one portion of the campus meeting the "onsite" criteria described above in paragraph (a) to another is considered onsite transportation not subject to the transporter requirements of HSC, chapter 6.5, article 6 and 22 CCR, division 4.5, chapter 13, IF: (i) the institution assumes full responsibility as the generator of the waste; and (ii) the transportation of the waste occurs solely within the confines of the campus. If the hazardous waste is transported outside the perimeter of the campus, then the transporter requirements of the HSC and 22 CCR must be met.

2. Connected Non-contiguous Properties

Two non-contiguous properties connected by a right-of-way are considered to be "onsite" with respect to each other, IF all of the following criteria are met:

- The two properties are owned by or are under the control of the same "person";
- The connecting right-of-way is also owned by or is under the control of the same "person";

- The connecting right-of-way is used to transport hazardous waste from one property to the other; and
- There is no public access to the connecting right-of-way. For example, the following would meet this criteria: an underground pipeline, an underground tunnel, or a securely fenced walkway or roadway.

The following policies apply to connected non-contiguous properties meeting the above criteria:

(a) Hazardous waste generated on one of the properties by the "person" who owns or controls both properties may be managed on either property as an onsite hazardous waste.

(b) Pursuant to 22 CCR, section 66263.10(b), transportation of hazardous waste along the connecting right-of-way, meeting the above criteria, is considered onsite transportation not subject to the transporter requirements of HSC, chapter 6.5, article 6 and 22 CCR, division 4.5, chapter 13. However, if hazardous wastes are transported from one property to the other along public rights-of-way (or rights-of-way not under the control of the person who owns or controls the properties), the transporter requirements (including manifesting) of the HSC and 22 CCR must be met.

(c) Connected non-contiguous properties meeting criteria (a) and (b) above that are used to manage offsite hazardous waste may be considered to be a single facility. (The regulations do not specifically address this issue. However, there is no apparent rationale or environmental or public health benefit for distinguishing between onsite and offsite facilities with respect to this particular issue.)

3. One Property Owner / Multiple Operators

For purposes of applying regulatory requirements that differentiate between hazardous wastes generated "onsite" versus "offsite" (for example, the lower tiers of the tiered permitting program are only available for wastes generated onsite), "onsite" waste is hazardous waste generated on contiguous property (or "connected" property meeting the criteria specified in section 2. above) owned by or under the control of the generator of the waste. This is consistent with the definition of "onsite facility".

For example, Company A may own a piece of contiguous property on which:

- (a) Company A generates hazardous waste;
- (b) Company B generates hazardous waste on a portion of the property which Company B leases from Company A;
- (c) Company A manages hazardous waste generated on the property by Company A as well as some of the waste generated by Company B; and
- (d) Company B also manages some of the hazardous waste it generates on the property leased from Company A.

Under this scenario, Company A's management of the waste generated by Company A and Company B's management of the waste generated by Company B are both considered to be onsite hazardous waste management activities. However, the management by Company A of the waste generated by Company B is an offsite hazardous waste management activity.

4. Treatment Residuals

Pursuant to HSC section 25200.3(c)(8), hazardous residuals resulting from the treatment of hazardous waste are not considered to be newly generated waste, and must be managed as either onsite or offsite

hazardous waste depending upon the status of the waste prior to treatment.

Therefore, an authorized treatment facility that treats offsite hazardous waste must manage the hazardous residuals from such treatment as offsite hazardous waste. An authorized treatment facility that treats hazardous waste originally generated onsite may accumulate the resulting hazardous treatment residuals as onsite waste under the provisions of 22 CCR, section 66262.34. Onsite treatment residuals may also be treated (or otherwise managed) under the statutory and regulatory provisions applicable to onsite treatment and management activities.

5. U.S. Department of Transportation (DOT) Requirements

U.S. Department of Transportation (DOT) requirements apply to the transportation of hazardous waste along (versus across) all roads used by members of the general public, except those roads to which access is controlled at all times (e.g., control gates or guards). The distinction between "onsite" and "offsite", as described in this Management Memo, does not affect the applicability of the DOT requirements. These requirements, which address packaging, labelling, placarding, etc., are set forth in the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq., and the Hazardous Materials Regulations, 49 CFR parts 171 through 180.

References: 22 CCR, sections 66260.10, 66263.10(b); Health and Safety Code, chapter 6.5, article 6 and sections 25117.12, 25118, 25120 and 25200.3(c)(8).

Contact:

Odette Madriago
Hazardous Waste Management Program
(916) 324-2997 or 8-454-2997
PROFS: OMADRIAG

Approved by: Ted N. Rauh, Deputy Director, Hazardous Waste Management Program

[Note:

If you have specific questions regarding this policy document in relation to your specific facility, please contact the **duty officer** in your region. If you have general questions regarding the policy document itself, please contact the individual listed in the policy document, or you may call (916) 323-6042.]

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**EXHIBIT D: DTSC Management Memo # EO-93-008-MM
Pages 1, 8-10 only (Generator Accumulation and Facility Storage
Requirements)**

Hazardous Waste Management Program
Management Memo # EO-93-008-MM

GENERATOR ACCUMULATION AND FACILITY STORAGE ACTIVITIES

Effective Date: January 10, 1994

Former Number: 93-HWM 4

Program Management Manual Volume: Permits, Surveillance and Enforcement

Subject Categories: Storage; Generators; Containers; Tanks; Treatment

Affected Programs: Facility Permitting, Surveillance & Enforcement

Issue:

The purpose of this management memo is to clarify a number of questions that have been raised relating to hazardous waste accumulation and storage activities at generator sites and at authorized storage facilities.

When a grant of authorization from the Department is required to hold hazardous waste, those holding activities are referred to as "storage." Those hazardous waste holding activities that do not require a grant of authorization are referred to as "accumulation", and are limited to the holding of waste onsite by the generator of the waste. There are two levels of regulation governing hazardous waste accumulation activities: "satellite" accumulation and "90-day" accumulation.

The BACKGROUND section of this management memo begins with a summary of the statutory and regulatory provisions that govern which hazardous waste holding activities require a grant of authorization and those which do not. This is followed by a step-by-step discussion of how to determine which storage or accumulation requirements apply to a given hazardous waste holding activity. The ACTION section of the management memo addresses a number of questions and issues that have been raised regarding hazardous waste accumulation and storage requirements.

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Background:

A. Summary of Generator Accumulation Requirements and Limitations

B. Determining Applicability of Accumulation/Storage Requirements

Action:

A. Definitions

and waste input and output records are maintained to ensure to the Department's satisfaction that the 5,000 gallon limit is not exceeded. Examples of control devices that might be used for this purpose are level measuring instruments and alarms, cutoff valves and overflow mechanisms. If the volume of waste in the tank/container exceeds 5,000 gallons at any time, a grant of authorization is required for the tank/container.

Note: Similarly, authorized storage facilities may replace tanks described in the original grant of authorization with larger tanks without a modification, if control devices and recordkeeping practices are used to ensure to the Department's satisfaction that the tank volume limit specified in the grant of authorization is not exceeded.

5. Storage in Excess of the Accumulation Quantity Limits

(a) Onsite storage of RCRA and non-RCRA wastes in excess of the 5,000 or 50,000 gallon limits for no more than 90 days is proposed for inclusion in the permit-by-rule (PBR) program. Therefore, pending adoption of new PBR regulations, the regulation of these storage activities will be addressed in the same manner as for other potential PBR activities.

(b) When a generator's accumulation volume exceeds one or both of the 50,000 gallon per-site limits for hazardous waste containing free liquids, the generator must obtain an applicable grant of authorization. However, the generator is not required to include all accumulation activities in the grant of authorization. The generator may continue to accumulate hazardous waste under the "90-day rules" as long as the total volume of hazardous waste containing free liquids held at the generator site under the "90-day rules" does not exceed the 50,000 gallon per-site limits.

Likewise, when an authorized storage facility (which is also a generator) exceeds one or both of the 50,000 gallon per-site limits in its generator accumulation activities, the facility must obtain a modification, as needed, to accommodate the excess within the scope of its storage authorization. However, the facility is not required to add all of its generator accumulation activities to the grant of authorization.

Once an activity is designated as authorized storage, it must continue to be operated as such, unless/until it qualifies for generator accumulation and the facility has complied with applicable requirements for conversion to generator status for that activity. (Conversion requirements will be addressed in a separate management memo.)

E. "Satellite" Accumulation Exemption

1. Qualifying Criteria for "Satellite" Accumulation Exemption

In order for a generator accumulation activity to qualify for management under the "satellite accumulation rules", all of the following criteria must be satisfied:

(a) The hazardous waste must be accumulated in containers.

(b) The hazardous waste must be accumulated "at the initial accumulation point", which must be "at or near the area where the waste is generated."

The term "at or near" means that the process generating the waste and the "satellite" accumulation point must be in the same or adjacent room or work area.

The term "initial accumulation point" means that there cannot be any interim accumulation of the waste prior to its being accumulated at the "satellite" accumulation point. However, certain generating activities (for example, equipment maintenance) may necessitate the temporary interim accumulation of the waste during the process of performing such activities. Such temporary interim storage will not disallow "satellite" accumulation of the waste, if the interim accumulation is necessary to the generating activity and if the waste is placed in the "satellite" accumulation area prior to the end of the work shift of