



Article 5. Categories of Hazardous Waste

§66261.100. RCRA Hazardous Waste.

(a) A hazardous waste is a RCRA hazardous waste if it meets any of the following criteria:

(1) it exhibits any of the characteristics of ignitability, corrosivity, reactivity, or toxicity identified in sections 66261.21, 66261.22(a)(1), 66261.22(a)(2), 66261.23, and 66261.24(a)(1);

(2) it is listed as a hazardous waste in article 4 of this chapter and has not been excluded by the USEPA Administrator from 40 CFR Part 261, Subpart D pursuant to 40 CFR sections 260.20 and 260.22. Wastes excluded by the USEPA Administrator pursuant to 40 CFR sections 260.20 and 260.22 are listed in 40 CFR Part 261, Appendix IX;

(3) it is identified as a hazardous waste pursuant to section 66261.3(a)(2)(B), section 66261.3(a)(2)(D), section 66261.3(a)(2)(E), or section 66261.3(c)(2).

(b) A hazardous waste is presumed to be a RCRA hazardous waste unless or until the generator determines that the waste is non-RCRA hazardous waste pursuant to section 66261.101.

NOTE: Authority cited: Sections 208, 25141 and 25159, Health and Safety Code. Reference: Sections 25117, 25120.2, 25141 and 25159, Health and Safety Code.

HISTORY

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

§66261.101. Non-RCRA Hazardous Waste.

(a) A hazardous waste is a non-RCRA hazardous waste if it meets all of the following criteria:

(1) it does not exhibit any of the characteristics of ignitability, corrosivity, reactivity or toxicity as identified in sections 66261.21, 66261.22(a)(1), 66261.22(a)(2), 66261.23 and 66261.24(a)(1);

(2) it exhibits any of the characteristics of corrosivity and toxicity identified in sections 66261.22(a)(3), 66261.22(a)(4) and 66261.24 (a)(2) through (a)(8) or otherwise meets the definition of a hazardous waste in section 66261.3(a)(2)(C) or 66261.3(a)(2)(F);

(3) it is not listed as a hazardous waste in article 4 of this chapter or is listed and has been excluded by the USEPA Administrator pursuant to 40 CFR sections 260.20 and 260.22.

(4) it is listed in article 4.1 and is not identified as a RCRA hazardous waste in section 66261.100.

(b) A hazardous waste is a non-RCRA hazardous waste if it exhibits any characteristic set forth in article 3 of this chapter and meets any of the following criteria:

(1) it is identified as a potential non-RCRA hazardous waste in section 66261.2(d)(1)(B) or section 66261.2(d)(2)(B), or is identified as a potential non-RCRA hazardous waste in Table 1 of section 66261.2;

(2) it is excluded from classification as a solid waste or a hazardous waste in 40 CFR section 261.4.

(c) A container, or an inner liner from a container, which is empty pursuant to 40 CFR section 261.7, but is required to be managed as a hazardous waste pursuant to section 66261.7 is a non-RCRA hazardous waste.

(d) A waste which is not classified as a non-RCRA hazardous waste pursuant to the criteria in subsections (a) through (c) of this section may be classified as a non-RCRA hazardous waste if the generator can otherwise determine that the waste would not be regulated as a hazardous waste pursuant to subtitle C of RCRA or implementing regulations.

(e) The Department or the USEPA may request the following items from a person claiming that the hazardous waste generated or managed by that person is a non-RCRA hazardous waste:

(1) documentation demonstrating that the waste meets the applicable criteria in subsection (a), (b), (c) or (d) of this section;

(2) analytical information, from a laboratory certified by the Department pursuant to chapter 44 of this division, demonstrating that the extracts from representative samples of the waste, developed using the Toxicity Characteristic Leaching Procedure in Appendix I of chapter 18 of this division, contain none of the substances in section 66261.24(a)(1)(B) at a concentration which equals or exceeds the value for that substance in that section;

(3) representative samples of that waste.

NOTE: Authority cited: Sections 25141, 25159 and 58012, Health and Safety Code. Reference: Sections 25117, 25117.9, 25141 and 25159, Health and Safety Code.

HISTORY

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

2. Amendment of subsection (a)(3), new subsection (a)(4) and amendment of NOTE filed 2-13-2003; operative 3-15-2003 (Register 2003, No. 7).

§66261.107. Applicability of Extremely Hazardous Waste Criteria.

Any waste which is extremely hazardous pursuant to any of the criteria of section 66261.110 or 66261.113 is an extremely hazardous waste and shall be managed in accordance with the specific provisions of this division pertaining to extremely hazardous waste.

NOTE: Authority cited: Sections 208 and 25141, Health and Safety Code. Reference: Sections 25115, 25117 and 25141, Health and Safety Code.

HISTORY

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

§66261.110. Extremely Hazardous Waste Criteria.

- a) A waste, or a material, is extremely hazardous if it:
- (1) has an acute oral LD₅₀ less than or equal to 50 milligrams per kilogram; or
 - (2) has an acute dermal LD₅₀ less than or equal to 43 milligrams per kilogram; or
 - (3) has an acute inhalation LC₅₀ less than or equal to 100 parts per million as a gas or vapor; or
 - (4) contains any of the substances listed in section 66261.24(a)(7) at a single or combined concentration equal to or exceeding 0.1 percent by weight; or
 - (5) has been shown through experience or testing that human exposure to the waste or material may likely result in death, disabling personal injury or serious illness because of the carcinogenicity, high acute or chronic toxicity, bioaccumulative properties, or persistence in the environment of the waste or material; or
 - (6) is water-reactive.
- (b) A waste containing one or more materials which are extremely hazardous according to any criterion of subsection (a)(1) or (a)(2) of this section is not extremely hazardous if the generator determines that neither the calculated acute oral toxicity nor the calculated acute dermal toxicity of the waste using the equation in section 66261.24(c) is numerically equal to or less than the toxicity limits prescribed in subsection (a)(1) or (a)(2) of this section and the waste is not extremely hazardous by any other criterion of this section.

NOTE: Authority cited: Sections 208 and 25141, Health and Safety Code. Reference: Sections 25115, 25117 and 25141, Health and Safety Code.

HISTORY

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

§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, 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., 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, 25169.8, and 58012, Health and Safety Code. Reference: Sections 25169.5, 25169.6, 25169.7 and 25169.8, Health and Safety Code.

HISTORY

1. New section filed 7-10-2003 as an emergency; operative 7-10-2003 (Register 2003, No. 28). Pursuant to Health and Safety Code section 25169.8, this is a deemed emergency and stays effective until revised by the agency.
2. Amendment of subsections (a), (b) and (c)(2) and amendment of Note filed 12-27-2005; operative 1-26-2006 (Register 2005, No. 52).

§66261.113. Total Threshold Limit Concentration Values of Persistent and Bioaccumulative Toxic Substances in Extremely Hazardous Wastes.

- (a) Any waste containing a substance listed in subsection (b) of this section at a concentration equal to or exceeding its listed total threshold limit concentration is an extremely hazardous waste.
- (b) List of Persistent and Bioaccumulative Toxic Substances and Their Total Threshold Limit Concentration (TTLC) Values:

Substance	TTLC (Wet-Weight in mg/kg)
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Substance	TTLIC (Wet-Weight in mg/kg)
Aldrin	140
Arsenic and/or arsenic compounds	50,000 (as As)
Beryllium and/or beryllium compounds*	7,500 (as Be)
Cadmium and/or cadmium compounds*	10,000 (as Cd)
Chlordane	250
2,4-Dichlorophenoxyacetic acid	10,000
Dieldrin	800
Dioxin (2,3,7,8-TCDD)	1
Endrin	20
Heptachlor	470
Kepone	2,100
Lead compounds, organic	1,300 (dry weight basis; as Pb)
Lindane	400
Mercury and/or mercury compounds	2,000 (as Hg)
Mirex	2,100
Polychlorinated biphenyls (PCBs)	5,000
Selenium and/or selenium compounds*	10,000 (as Se)
Thallium and/or thallium compounds*	70,000 (as Tl)
Toxaphene	500
2,4,5-Trichlorophenoxypropionic acid	1,000

*In the case of elemental metals, the specified concentration limits apply only if the metals are in a friable, powdered or finely divided state.

NOTE: Authority cited: Sections 208 and 25141, Health and Safety Code. Reference: Sections 25115, 25117 and 25141, Health and Safety Code.

HISTORY

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

§66261.120. List of Special Wastes.

(a) The following is a noninclusive list of wastes which may be classified as special wastes pursuant to section 66261.122:

- (1) ash from burning of fossil fuels, biomass and other combustible materials;
- (2) auto shredder waste;
- (3) baghouse and scrubber wastes from air pollution control;
- (4) catalyst from petroleum refining and chemical plant processes;
- (5) cement kiln dust;
- (6) dewatered sludge from treatment of industrial process water;
- (7) dewatered tannery sludge;
- (8) drilling mud from drilling of gas and oil wells;
- (9) refractory from industrial furnaces, kilns and ovens;
- (10) sand from sandblasting;
- (11) sand from foundry casting;
- (12) slag from coal gasification;
- (13) sulfur dioxide scrubber waste from flue gas emission control in combustion of fossil fuels;
- (14) tailings from the extraction, beneficiation and processing of ores and minerals;

NOTE: Authority cited: Sections 208 and 25140, Health and Safety Code. Reference: Sections 25117 and 25140, Health and Safety Code.

HISTORY

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

§66261.122. Criteria and Requirements of a Special Waste.

(a) A hazardous waste which meets all of the following criteria and requirements shall be classified as a special waste upon application pursuant to section 66261.124:

(1) it is a solid, a water-based sludge or a water-based slurry of which the solid constituents are substantially insoluble in water;

(2) it is a hazardous waste only because:

(A) it contains a persistent or bioaccumulative substance listed in section 66261.24(a)(2)(A) at a solubilized and extractable concentration exceeding its Soluble Threshold Limit Concentration (STLC), or at a total concentration exceeding its Total Threshold Limit Concentration (TTLC), as said STLC and TTLC values are set forth in section 66261.24(a)(2)(A) and determined as prescribed in Appendix II of this chapter; except that:

1. it shall contain no persistent or bioaccumulative substance listed in section 66261.24(a)(2)(A) at a solubilized and extractable concentration in milligrams per kilogram of waste exceeding the TTLC value for the substance as set forth in section 66261.24(a)(2)(A) and determined as prescribed in Appendix II of this chapter; and

2. it shall contain no persistent or bioaccumulative inorganic substance listed in section 66261.113(b) at a concentration equal to or exceeding the TTLC value of the substance as set forth in section 66261.113(b).

(b) Special wastes do not include wastes which meet any of the following criteria:

(1) wastes which are hazardous wastes pursuant to or because of:

(A) any characteristic of a hazardous waste or other provision set forth in sections 66261.21, section 66261.22, section 66261.23 or section 66261.24(a)(3) through (a)(7); or

(B) any criterion of an extremely hazardous waste or other provision set forth in section 66261.110 or section 66261.113; or

(C) any constituent, except for a substance or material listed in section 66261.24(a)(2)(A), which experience or testing has shown to pose a threat to human health or the environment because of its carcinogenicity, chronic toxicity, bioaccumulative properties or persistence in the environment; or

(D) the characteristic of toxicity, as this characteristic is set forth in section 66261.24(a)(1); or

(E) the lists in article 4 of this chapter, unless a waste is excluded by the USEPA Administrator from 40 CFR Part 261, Subpart D pursuant to 40 CFR sections 260.20 and 260.22. Wastes excluded by the USEPA Administrator pursuant to 40 CFR sections 260.20 and 260.22 are listed in 40 CFR 261 Part 261, Appendix IX;

(2) wastes which contain any of the following:

(A) more than 1.0 percent by weight of any organic substance or mixture of organic substance which is toxic pursuant to section 66261.24(a)(3), section 66261.24(a)(4), or section 66261.24(a)(5); or

(B) more than 0.1 percent by weight of any organic substance or mixture of organic substance which is extremely hazardous pursuant to Appendix X of this chapter or section 66261.110(a)(1), section 66261.110(a)(2), section 66261.110(a)(3), or section 66261.110(a)(4); or

(C) any organic substance listed in section 66261.24(a)(2)(B) at a total concentration exceeding the STLC value given for that substance; or

(D) any inorganic or organic material which is extraneous to the waste as it is normally produced by the producer of the waste, excepting material which are incidental to, or necessary for, the handling of the waste;

(3) hazardous wastes for which there are land disposal restrictions set forth in section 66268.32 and are defined in Health and Safety Code section 25122.7.

NOTE: Authority cited: Sections 208 and 25141, Health and Safety Code. Reference: Sections 25117 and 25141, Health and Safety Code.

HISTORY

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

§66261.124. Classification of a Waste as a Special Waste.

(a) A person who wishes to classify and manage a hazardous waste as a special waste shall obtain prior written approval from the Department for such classification and management. A person seeking approval to classify and manage a hazardous waste as a special waste shall submit an application to the Department which includes all the following information:

(1) the name and address of the applicant and, if different, a billing address for receipt of the fee assessment required by Health and Safety Code section 25205.8;

(2) the address where the waste is generated and located;

(3) a description of the waste which shall include its source, physical state, quantity and rate of generation;

(4) chemical analysis data showing that the waste meets the requisites of a special waste pursuant to section 66261.122(a)(2);

(5) chemical analysis data, chemical and physical test data, and bioassay data, or factual information on the origin of the waste, which establish that it meets the criteria and requirements of special wastes in section 66261.122(a)(1) and section 66261.122(b). Data shall include analyses from a minimum of four representative samples as specified in chapter nine of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," SW-846, 3rd Edition, U.S. Environmental Protection Agency, 1986 (incorporated by reference, see section 66260.11 of this chapter).

(b) The Department, within 30 days of receipt of an application for approval to classify and manage a waste as special waste pursuant to subsection (a) of this section, shall acknowledge in writing receipt of the application. Pending written approval from the Department, the applicant shall manage the waste in accordance with all provisions of this division.

(c) The Department, within 60 days of receipt of an application for approval to classify and manage a waste as special waste pursuant to subsection (a) of this section, shall notify the applicant in writing that classification of the waste as special waste is approved or disapproved or that the application is incomplete or inadequate and what additional information is needed.

(d) If the application is incomplete or inadequate, the Department, within 60 days of receipt of adequate additional information, shall notify the applicant in writing that classification of the waste as special waste is approved or disapproved.

(e) When the Department has notified the applicant in writing that the application is incomplete or inadequate and what additional information is needed, the application will be considered disapproved if the applicant fails to provide the additional information within 90 days from the date the information was requested.

(f) If the applicant cannot submit the additional information within the time frame specified in subsection (e) of this section, the applicant shall notify the Department in writing the reason for the delay and shall specify an additional time frame, up to 90 days, within which the information shall be submitted.

(g) The application will be considered disapproved if the applicant fails to provide the additional information by the end of the additional time frame specified in subsection (f) of this section.

(h) If the Department disapproves the application, the Department shall specify in writing the reason(s) for the disapproval.

(i) Notwithstanding the time frames specified above, the Department shall not notify the applicant of the approval or disapproval of an application until after the applicant submits payment of the fee assessed by the Board of Equalization pursuant to Health and Safety Code section 25205.8.

(j) Upon receipt of written approval from the Department, the applicant may classify and manage the waste as special waste pursuant to section 66261.126.

(k) For wastes which are continuously or repetitively generated at the same facility, from the same process, utilizing the same kinds of materials (with respect to origin, composition and properties), the requirements of this section can be met by the submission of the required information either for each separately generated quantity of the waste or for a representative sample of the continuously or repetitively generated waste.

NOTE: Authority cited: Sections 208 and 25150, Health and Safety Code and Section 15367, Government Code. Reference: Sections 25205.8 and 25150, Health and Safety Code and Section 15367, Government Code.

HISTORY

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

§66261.126. Management of Special Wastes.

(a) A special waste may be disposed of at a landfill disposal facility which is not operated under a hazardous waste facility permit or an interim status document provided:

(1) the facility is operated under waste discharge requirements allowing disposal of the special waste which were issued by the Regional Water Quality Control Board with jurisdiction over the facility; and

(2) the owner or operator of the facility has been granted a variance pursuant to section 66260.210 of this division which allows the special waste to be disposed of at the facility.

(b) Except as provided in subsection (c) of this section, the owner and operator of a landfill disposal facility which is not operated under a hazardous waste facility permit and where a special waste is disposed of are subject to all requirements of this division which are not specifically waived by a variance granted pursuant to section 66260.210 of this division, including, but not limited to, enforcement, inspection, manifest, special measures, incompatible waste, reporting, and payment of land disposal fee requirements.

(c) The owner and operator of a landfill disposal facility authorized to dispose of a special waste pursuant to subsection (a) of this section shall be exempt from requirements implementing Health and Safety Code sections 25245 and 25246 relative to closure and postclosure plans and financial assurances so long as the facility does not handle, treat, store or dispose of any hazardous waste not specifically authorized by a variance issued by the Department or by Health and Safety Code section 25143.7.

(d) The generator of a special waste shall be subject to all generator requirements of this division.

(e) The transporter of a special waste shall be subject to all transporter requirements of this division.

(f) The owner or operator of a facility for the recycling, storage or treatment of a special waste shall have a hazardous waste facility permit for the recycling, treatment or storage of the waste at the facility.

NOTE: Authority cited: Sections 208 and 25150, Health and Safety Code. Reference: Sections 25117, 25143 and 25150, Health and Safety Code.

HISTORY

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