



RURAL COUNTY REPRESENTATIVES
OF CALIFORNIA

May 8, 2023

Mr. Kareem Taylor
Office of Legislation and Regulatory Review
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

RE: Comments on Generator Improvements Rule Proposed Regulations

Transmitted via e-mail regs@dtsc.ca.gov

Dear Mr. Taylor:

On behalf of the Rural County Representatives of California (RCRC), we appreciate the opportunity to provide input on the Generator Improvements Rule (GIR) proposed regulations. RCRC appreciates the opportunity to comment on the proposal and your consideration of our recommendations.

RCRC is an association of forty rural California counties, and the RCRC Board of Directors is comprised of an elected supervisor from each of those member counties. In addition, twenty-six member counties have formed the Rural Counties' Environmental Services Joint Powers Authority (ESJPA) to provide assistance to solid waste managers in rural counties. These solid waste managers have been charged with ensuring that their respective counties meet state-imposed requirements to reduce waste being disposed in landfills and increase recycling/re-use efforts for certain products. Our counties' solid waste managers are dedicated to providing meaningful, environmentally conscious, and cost-effective solid waste services to their residents and businesses. Our counties handle hazardous wastes from maintenance activities, household hazardous waste programs, and hazardous wastes discovered at solid waste facilities.

Overall, the regulations, will provide some regulatory relief for management of hazardous wastes in keeping with the intent of the federal United States Environmental Protection Agency Hazardous Waste Generator Improvement Rule adopted in 2016. Key issues of concern include:

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- Inconsistent proposed definition of very small quantity generators with Health and Safety Code Section 25218.1 (q)
- Recognizing the universal waste exemptions or alternative standards for accumulations and labeling or marking of containers
- Allowing placement of compromised containers into a compatible container in lieu of transferring only the contents

Please reach out to Staci Heaton, ESJPA Deputy Executive Director, at sheaton@rcrcnet.org or 916-447-4806 or Larry Sweetser, ESJPA Consultant, at sweetser@hazman.us or 510-703-0898 with any questions on these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Staci Heaton", with a stylized flourish at the end.

STACI HEATON
Deputy Executive Director, ESJPA

Enclosure

Comments on Proposed Regulatory Text
(Proposed-Text_DTSC_R-2023-08R_GIR.pdf)
March 24, 2023 Draft

Section 66260.10 Definitions, "Central Accumulation Area", page 1

Including Very Small Quantity Generators (VSQG) in the revised definition of "Central Accumulation Area" would provide VSQG the ability to participate in the benefits for collection of very small amounts of hazardous wastes from remote sites.

Section 66260.10 Definitions, "Small quantity commercial source", page 3

The definition for "Small quantity commercial source" is confusing since California has maintained that commercial sources and households are distinct and separate categories. A clarification is suggested such as:

"Small quantity commercial source" means a business which generates less than 100 kilograms of household-like waste,

Section 66260.10 Definitions, "Very small quantity generator", page 3

The proposed text indicates that:

"Very small quantity generator (VSQG) means a generator who generates less than 1,000 kg of hazardous waste the following amounts in a calendar month.:

- (1) 100 kilograms (220 lbs) of non-acute hazardous waste; and
- (2) 1 kilogram (2.2 lbs) of acute hazardous waste listed in section 66261.31 or section 66261.33(e) of this division; and
- (3) 1 kilogram (2.2 lbs) of extremely hazardous waste.

This proposed definition is inconsistent with the existing statute in Health and Safety Code Section 25218.1 (q) as pertaining to acceptance by household hazardous waste (HHW) facilities which states that:

"Very small quantity generator" or "VSQG" means a generator that meets the criteria specified in Section 262.13 of Title 40 of the Code of Federal Regulations. (Amended by Stats. 2021, Ch. 153, Sec. 9. (AB 698) Effective January 1, 2022.)

Since federal Title 40 does not recognize California's extremely hazardous waste category, VSQGs utilizing a HHW facility it is not clear that VSQGs would be able to deliver extremely hazardous waste since these are excluded from the definition of non-acute hazardous wastes and are not acute hazardous wastes.

HHW facilities commonly accept some extremely hazardous wastes listed in Appendix X including common acids, metal compounds including mercury, and pesticides. Acceptance of these extremely hazardous wastes from VSQGs by HHW facilities is an important management option. Please clarify that extremely hazardous wastes will be acceptable at HHW facilities using the definition in Section 25218.1 (q)..

Section 66262.10 Purpose, Scope and Applicability (d), Page 5

The regulations are not clear on how the regulations classify household hazardous wastes (HHW) from tribal nations since California considers HHW as regulated as hazardous wastes. Tribes are increasing using local jurisdiction HHW facilities for managing their HHW and VSQG wastes. Since tribal nations are sovereign governments, any hazardous wastes including HHW entering California would be considered imported hazardous waste and subject to more stringent regulation than HHW or the proposed VSQG management standards. The regulations should allow for the acceptance and management of HHW, VSQG, and other wastes acceptable to HHW facilities. The regulations should be revised as follows:.

d) Any person who exports or imports hazardous wastes, other than hazardous waste qualifying for acceptance at a household hazardous waste facility, shall comply with 40 Code of Federal Regulations section 262.18, 40 Code of Federal Regulations part 262, subpart H, section 66262.18, and article 8, chapter 12 of this division.

Section 66262.13.(b) Generator Category Determination, page 7

Table 1 should include the limits for VSQGs to provide clarity and consistency of all generator categories in one easy table by adding an addition row as follows:.

<u>Quantity of acute hazardous waste generated in a calendar month</u>	<u>Quantity of extremely hazardous waste generated in a calendar month</u>	<u>Quantity of non-acute hazardous waste generated in a calendar month</u>	<u>Generator category</u>
<u>> 1 kg</u>	<u>Any amount</u>	<u>Any amount</u>	<u>Large quantity generator</u>
<u>Any amount</u>	<u>> 1 kg</u>	<u>Any amount</u>	<u>Large quantity generator</u>
<u>Any amount</u>	<u>Any amount</u>	<u>≥ 1,000 kg</u>	<u>Large quantity generator</u>

≤ 1 kg	≤ 1 kg	$< 1,000$ kg	Small quantity Generator
<u>≤ 1 kg</u>	<u>≤ 1 kg</u>	<u>< 100 kg</u>	<u>Very small quantity generator</u>

Section 66262.13.(c) Generator Category Determination, page 7

In addition to the exclusions from monthly quantity-based determinations for generator, this section should include the exemptions for recyclable latex paint in Section 25217.2 of the Health and Safety Code and oil-based paint under the architectural paint stewardship plan as allowed under Section 25217.2.1 of the Health and Safety Code. The proposal should be revised as follows:

(c) When making the monthly quantity-based determinations required by this section, the generator shall include all hazardous waste that it generates, except hazardous waste that:

- (1) Is exempt from regulation under sections 66261.4(c) through (f), 66261.6(a)(3), or 66261.7(a);
- (2) Is universal waste managed pursuant to the requirements of chapter 23 of this division.
- (3) Recyclable latex paint as specified under Section 25217.2 of the Health and Safety Code
- (4) Oil-based paint as specified under Section 25217.2.1 of the Health and Safety Code

Section 66262.15. Satellite Accumulation Area Regulations for Small and Large Quantity Generators., page 8

Subsection (a)(1) addresses containers not in good condition or leaking and requires immediate transfer the hazardous waste from that container to a container that is in good condition and does not leak. While this can be a prudent measure for some wastes, other unreliable waste containers may not be in a condition that allows the required transfer such as fragile or rotting containers, containers that are unable to be opened due to rust or deposits, toxic powders, reactive metals, or containers too large to safely transfer with available equipment. The safest means to handle these containers is to place the entire unreliable container, with contents, into a reliable larger container. The proposed language should be revised as follows:

- (1) If a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects), or if it begins to leak, the generator shall immediately transfer the hazardous waste from this container, or the entire container and contents, to a container that is in good condition and does not

leak, or immediately transfer and manage the waste in a central accumulation area in compliance with section 66262.16(b) or 66262.17(a).

Section 66262.15. Satellite Accumulation Area Regulations for Small and Large Quantity Generators., page 8

Subsection (5)(A) requires labeling or marking the container with the words “Hazardous Waste” which is appropriate for many hazardous wastes but not all hazardous wastes require the marking of “Hazardous Waste” such as :Universal Wastes”, “Drained Used Oil Filters”, recyclables, and surplus materials. The proposed text should be revised as follows:

(A) The words “Hazardous Waste” or “Universal Waste” or other wording if applicable;

Subsections (B), (C), and (E) also require label or marking each container with composition, physical state, hazards of the contents, and accumulation date. None of these standards are required for universal wastes. Universal wastes are also allowed to be placed “within a designated area demarcated by boundaries that are clearly labeled”. (Code of California Regulations, Title 22, Section 66273.34)

Accumulation date for universal waste is also allowed to be demonstrated by indication on the designated area, a log or other methods (Code of California Regulations, Title 22, Section 66273.35.).

The entire requirement for the generator for labeling or marking should acknowledge the alternative standards for universal wastes as follows:

(5) A generator shall mark or label its container with the following, except as allowed in Code of California Regulations, Title 22, Chapter 23:

Section 66262.15. Satellite Accumulation Area Regulations for Small and Large Quantity Generators., page 9

Subsection (6)(D) allows for a single or separate 55-gallon container. While the maximum limit of 55-gallons is a prudent measure, a safer allowance is for smaller container sizes to be used, such as 30-gallon, 15-gallon, or 5-gallon containers or multiples but not to exceed 55-gallons. The current limitation is 55-gallon or one quart or kilogram containers. Smaller containers allow for ease of movement and transport as well as separation of incompatibles. The proposed regulations should be revised as follows:

(D) Except as provided in subsections (a)(6)(D)1 and (a)(6)(D)2 of this section, a process or group of processes meeting the requirements of subsection (a) of this

section, shall be subject to a [single maximum](#) 55-gallon or one-quart (if liquid) or one kilogram (if solid) accumulation limit for that process or group of processes.

1. 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 separate smaller containers](#) or one-quart (if liquid) or one kilogram (if solid) limit shall apply to each group of wastestreams that are compatible.

2. If the generator determines that using only one 55-gallon [or separate smaller containers](#) or one-quart (if liquid) or one kilogram (if solid) 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 separate smaller containers](#) or one-quart (if liquid) or one kilogram (if solid) container for those specific compatible wastestreams. The generator's determination shall be subject to review and approval by the Department at any time.

Section 66262.16. Conditions for Exemption for a Small Quantity Generator that Accumulates Hazardous Waste. Page10

All the previous comments for Section 66262.15. apply to Section 66262.15 15 including transfer of wastes and container labels and markings.

Section 66262.16. Conditions for Exemption for a Small Quantity Generator that Accumulates Hazardous Waste. Page10

Subsection (b) Accumulation time does not acknowledge the allowance for universal waste to be stored for one year nor other allowances for certain wastes like lead-acid batteries or used oil filters to be accumulated up to one year under certain conditions.

This text should be revised as follows:

(b) Accumulation. The generator accumulates hazardous waste onsite for no more than 180 days, unless in compliance with the conditions for exemption for longer accumulation in subsections (d) and (e) of this section, [Chapter 23, or other accumulation dates for specific waste](#). The following accumulation conditions also apply:

Section 66262.16. Conditions for Exemption for a Small Quantity Generator that Accumulates Hazardous Waste.

(6) Preparedness and prevention. Page 15

Implementation of emergency measures and contacting response personnel is extremely important for protection of employees, the public, and the environment. Unfortunately, many rural and remote areas do not have immediate access to reliable communication equipment due to lack of service, remote location, or even lack of power, or power interruptions. The proposed subsection (B) and (D) need to acknowledge these communication infrastructure limitations. Recommended revisions are as follows:

(B) Required equipment. All areas where hazardous waste is either generated or accumulated shall be equipped with the items in subsection (b)(6)(B)1 through 4 of this section (unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons, or technology limitations, to have a particular kind of equipment specified below). A small quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies.

2. A device, such as a telephone (immediately available at the scene of operations) or a handheld two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

4. Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(D) Access to communications or alarm system.

1. Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation shall have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required under subsection (b)(6)(B) of this section.

2. If there is ever just one employee on the premises while the facility is operating, the employee shall have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a handheld two-way radio, capable of summoning external emergency assistance, unless such a device is not required under subsection (b)(6)(B) of this section, or technology limitations.

Section 66262.16. Conditions for Exemption for a Small Quantity Generator that Accumulates Hazardous Waste.

(6) Preparedness and prevention. Page 16

(F) Arrangements with local authorities.

Attempts to make arrangements with local authorities are sometimes unsuccessful due to the authorities not responding to attempts to acknowledge the requests for confirmation. The proposed language should also include that situation when no response is received despite attempts. Suggested language is as follows:

3. Where state or local authorities decline, or do not acknowledge attempts, to enter into such arrangements, the small quantity generator shall document the refusal in the operating record.

(7) Emergency procedures.

Responding to spills and other emergencies is important to prevent potential injury or damage but is limited by the level of training of the responders. Typically hazardous waste awareness training provides training on cleaning up incidental small spills but larger spills require more expertise and higher levels of training such as Hazardous Waste Operations and Emergency Response (HAZWOPER) technician or operations level. The proposed regulations do not acknowledge these different levels. The proposed regulations should be revised as follows:

(D) 2. In the event of a spill, the small quantity generator is responsible for containing the flow of hazardous waste to the extent possible, within the limits of available trained personnel, and as soon as is practicable, cleaning up the hazardous waste and any contaminated materials or soil.

Section 66262.17. Conditions for Exemption for a Large Quantity Generator that Accumulates Hazardous Waste. Page 19

All the previous comments for Section 66262.15. apply to Section 66262.15 including transfer of wastes and container labels and markings.

Section 66262.253. Testing and Maintenance of Equipment., page 38

The same comments to “Section 66262.16. Conditions for Exemption for a Small Quantity Generator that Accumulates Hazardous Waste, (6) Preparedness and prevention” apply to subsections (a) and (b) regarding remote areas not having immediate access to reliable communication equipment due to lack of service, remote location, or even lack of power, or power interruptions.

Section 66262.254. Access to Communications or Alarm System., page 38

The same comments to “Section 66262.16. Conditions for Exemption for a Small Quantity Generator that Accumulates Hazardous Waste, (6) Preparedness and prevention” apply to this subsection (b) regarding remote areas not having immediate access to reliable

communication equipment due to lack of service, remote location, or even lack of power, or power interruptions.

Section 66262.256. Arrangements with Local Authorities., page 40

The same comment on local authorities not acknowledging attempts for arrangements should be revised into this section similar to the comments in “Section 66262.16. Conditions for Exemption for a Small Quantity Generator that Accumulates Hazardous Waste., (6) Preparedness and prevention., (F) Arrangements with local authorities.”

Fffg;lsk;lkg

(c) Where state or local authorities decline, or do not acknowledge attempts, to enter into such arrangements, the small quantity generator shall document the refusal in the operating record.

Section 66268.50. Prohibitions on Storage of Restricted Wastes, page 60

The same comments regarding labeling and marking apply as provided earlier for “Section 66262.15. Satellite Accumulation Area Regulations for Small and Large Quantity Generators”. The term “Hazardous Waste” is not required for Universal Wastes and some others.

In addition, some hazardous wastes do not “EPA hazardous waste codes” but use California based Waste Codes such as “741 Liquids with halogenated organic compounds > 1000 mg/l”. Also, some wastes may not have a hazard class.

This section should be revised as follows:

(A) each container is clearly marked to identify its contents and ~~the date each period of accumulation begins~~; with:

1. The words “Hazardous Waste” or “Universal Waste” or other wording if applicable;
2. The applicable EPA hazardous waste number(s) (EPA hazardous waste codes), or California Waste Code, in article 3 and 4 of chapter 11 of this division;
3. An indication of the hazards of the contents, if applicable, [examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 Code of Federal Regulations part 172, subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 Code of Federal Regulations 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704]; and

Section 66273.72. Authorization for Disassembling/Draining Activities. page 64

Similar to comments for “Section 66262.15. Satellite Accumulation Area Regulations for Small and Large Quantity Generators.”, it could be safer to transfer the entire mercury containment device into an airtight container than transfer the mercury directly. The text should be revised as follows:

(d)(2)(B) Conduct the activities in a manner that protects persons managing the mercury ampules and/or the mercury switches, and that prevents releases of any universal wastes and/or any components of universal wastes, to the environment, as follows:

3. Ensure that a mercury clean-up system is readily available for immediately transferring from the containment device, or the entire containment device, to an airtight container meeting the requirements of section 66262.15, 66262.16 or 66262.17 66262.34, any mercury spilled or leaked from broken mercury ampules and/or mercury switches.
4. Transfer immediately from the containment device, or the entire containment device, to an airtight container meeting the requirements of section 66262.15, 66262.16 or 66262.17 66262.34, any mercury spilled or leaked from broken mercury ampules and/or mercury switches.