CHAPTER 21. PROCEDURES FOR HAZARDOUS WASTE PERMIT DECISIONS

66271.1. Purpose and Scope.

(a) This chapter contains the Department's procedures for issuing, modifying, revoking and reissuing, denying or terminating all hazardous waste facility "permits" other than "emergency permits" (see Section 66270.61) and "permits by rule" (Section 66270.60). The latter kinds of permits are governed by Chapter 20 of this division. Interim status is not a "permit" and is covered by specific provisions in Chapter 20 of this division. The procedures of this chapter also apply to denial of a permit for the active life of a hazardous waste management facility or unit under Section 66270.29.

(b) Chapter 21 contains general procedural requirements applicable to all permit programs covered by these regulations. Chapter 21 describes the steps the Department will follow in receiving permit applications, preparing draft permits, issuing public notices, inviting public comments and holding public hearings on draft permits. Chapter 21 also covers assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of the final permit decision.

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 124.1.

66271.2. Application for a Permit.

(a) (1) Any person who requires a permit under Health and Safety Code Section 25201 shall complete, sign, and submit to the Department an application for the permit required under Section 66270.1. Applications are not required for permits by rule (Section 66270.60).

(2) The Department shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit. (See Sections 66270.10 and 66270.13.)

(3) Permit applications shall comply with the signature and certification requirements of Section 66270.11.

(b) [Reserved]

(c) (1) No later than 60 calendar days after receipt of a permit application, the Department shall review the application for completeness (in accordance with the provisions of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 2 of the Government Code and Health and Safety Code Section 25199.6)), and notify the applicant in writing whether the application is complete.

(2) If the application is incomplete, the Department's written notice to the applicant shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The

Department shall specify in the notice of deficiency a date for submitting the necessary information. The applicant shall submit to the Department the materials necessary to make the application complete, as specified by the Department in the written notice of incompleteness. No later than 60 calendar days after receiving additional application materials, submitted in response to a notice of incompleteness, the Department shall notify the applicant in writing whether the application with the additional materials is complete.

(3) If the application together with the additional materials is determined to be incomplete, the applicant may appeal the Department's determination to the Director. Such an appeal shall be made in writing within 30 days after the issuance of the incompleteness determination, and shall include a statement of the reasons supporting the appeal. The Director shall grant or deny the appeal in writing no later than 60 calendar days after receipt of the written appeal.

(4) The application shall not be deemed complete if the Department fails to make a written completeness determination within 60 calendar days or if the Director fails to provide a written response to an appeal within 60 calendar days. An application is deemed complete when the Department notifies the applicant in writing that the application is complete.

(5) Nothing in this subsection shall preclude the applicant and the Department from mutually agreeing to an extension of any time limit specified in this subsection.

(6) After the application is completed, the Department may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

(d) The Department may deny a permit for any cause specifed in Health and Safety Code Section 25186.

(e) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under Health and Safety Code Sections 25186, 25187, 25189.3 or 25200.8. If an applicant does not respond to three or more notices of deficiency regarding the same or different deficiences or responds with substantially incomplete or substantially unsatisfactory information on three or more occasions, the Department shall initiate proceedings to deny the permit application in accordance with the requirements of this chapter. This section does not preclude the Department from initiating permit denial proceedings prior to sending three notices of deficiency.

(f) If the Department decides that a site visit is necessary for any reason in conjunction with the processing of an application, the Department shall notify the applicant and a date shall be scheduled.

(g) The effective date of an application is the date on which the Department notifies the applicant that the application is complete as provided in subsection (c) of this section.

(h) For each application from a major new HWM facility the Department shall, no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. The schedule shall specify target dates by which the Department intends to:

(1) Prepare a draft permit;

(2) Give public notice;

(3) Complete the public comment period, including any public hearing; and

(4) Issue a final permit.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code.
Reference: ~~Section 15376 and~~ Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 2 of the Government Code; Sections 25159, 25159.5, 25186, 25187, 25189.3, 25199.6, 25200, and 25200.8 of the Health and Safety Code; 40 CFR Section 124.3.

66271.4. Modification, Revocation and Reissuance, or Termination of Permits.

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Department's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in Section 66270.41 or 66270.43 or Health and Safety Code Section 25186. All requests shall be in writing and shall contain facts or reasons supporting the request.

(b) If the Department decides the request is not justified, the Department shall send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings.

(c) (1) If the Department tentatively decides to modify or revoke and reissue a permit under Section 66270.41 or 66270.42(c) the Department shall prepare a draft permit under Section 66271.5 incorporating the proposed changes. The Department may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Department shall require the submission of a new application.

(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain

in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(3) "Classes 1 and 2 modifications" as defined in Sections 66270.42(a) and (b) are not subject to the requirements of this section.

(d) If the Department tentatively decides to terminate a permit under Section 66270.43, it shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under Section 66271.5.

(e) All draft permits (including notices of intent to terminate) prepared under this section shall be based on the administrative record as defined in Section 66271.8.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code.
Reference: Sections 25159, 25159.5 and 25186, Health and Safety Code; 40 CFR Section 124.5.

66271.5. Draft Permits.

(a) Once an application is complete, the Department shall tentatively decide whether to prepare a draft permit or to deny the application.

(b) If the Department tentatively decides to deny the permit application, the Department shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. See subsection (d) of this section. If the Department's final decision (see Section 66271.14) is that the tentative decision to deny the permit application was incorrect, the Department shall withdraw the notice of intent to deny and proceed to prepare a draft permit under subsection (c) of this section.

(c) If the Department decides to prepare a draft permit, it shall prepare a draft permit that contains the following information:

(1) All conditions under Sections 66270.30 and 66270.32;

(2) All compliance schedules under Section 66270.33;

(3) All monitoring requirements under Section 66270.31; and

(4) Standards for transfer, treatment, storage, and/or disposal and other permit conditions under Section 66270.30;

(d) All draft permits prepared under this section shall be accompanied by a statement of basis (Section 66271.6) or fact sheet (Section 66271.7), and shall be based on the administrative record (Section 66271.8), publicly noticed (Section 66271.9) and made available for public comment (Section 66271.10). The Department shall give notice of opportunity for a public hearing (Section 66271.11), issue a final decision (Section 66271.14) and respond to comments (Section 66271.16). An appeal may be taken under Section 66271.18. Draft permits shall be accompanied by a fact sheet if required under Section 66271.7.

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 124.6.

66271.6. Statement of Basis.

The Department shall prepare a statement of basis for every draft permit for which a fact sheet under Section 66271.7 is not prepared. The statement of basis shall briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis shall be sent to the applicant and, on request, to any other person.

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 124.7.

66271.7. Fact Sheet.

(a) A fact sheet shall be prepared for every draft permit for a major HWM facility, and for every draft permit which the Department finds is the subject of widespread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Department shall send this fact sheet to the applicant and, on request, to any other person.

(b) The fact sheet shall include, when applicable:

(1) A brief description of the type of facility or activity which is the subject of the draft permit;

(2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being transferred, treated, stored, disposed of, injected, emitted, or discharged.

(3) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the administrative record required by Section 66271.8;

(4) Reasons why any requested variances or alternatives to required standards do or do not appear justified;

(5) A description of the procedures for reaching a final decision on the draft permit including:

(A) The beginning and ending dates of the comment period under Section 66271.9 and the address where comments will be received;

(B) Procedures for requesting a hearing and the nature of that hearing; and

(C) Any other procedures by which the public may participate in the final decision.

(6) Name and telephone number of a person to contact for additional information.

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 124.8.

66271.8. Administrative Record for Draft Permits.

(a) The provisions of a draft permit prepared under Section 66271.5 shall be based on the administrative record defined in this section.

(b) For preparing a draft permit under Section 66271.5, the record shall consist of:

(1) The application, if required, and any supporting data furnished by the applicant;

(2) The draft permit or notice of intent to deny the application or to terminate the permit;

(3) The statement of basis (Section 66271.6) or fact sheet (Section 66271.7);

(4) All documents cited in the statement of basis or fact sheet; and

(5) Other documents contained in the supporting file for the draft permit.

(c) Material readily available at the Department or published material that is generally available, and that is included in the administrative record under subsection (b) of this section, need not be physically included with the rest of the record as long as it is specifically referred to in the statement of basis or the fact sheet.

NOTE: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code.
Reference: Sections 25159 and 25159.5, Health and Safety; 40 CFR Section 124.9.

66271.9. Public Notice of Permit Actions and Public Comment Period.

(a) Scope.

(1) The Department shall give public notice that the following actions have occurred:

(A) A permit application has been tentatively denied under Section 66271.5(b);

(B) A draft permit has been prepared under Section 66271.5(c);

(C) A hearing has been scheduled under Section 66271.11; or

(D) An appeal has been granted under Section 66271.18(b).

(2) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under Section 66271.4(b). Written notice of that denial shall be given to the requester and to the permittee.

(3) Public notices may describe more than one permit or permit action.

(b) Timing.

(1) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under

subsection (a) of this section shall allow at least 45 days for public comment.

(2) Public notice of a public hearing shall be given at least 30 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.

(c) Methods. Public notice of activities described in subsection (a)(1) of this section shall be given by the following methods:

(1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this subsection may waive his or her rights to receive notice for any classes and categories of permits);

(A) The applicant;

(B) Any other agency which the Department knows has issued or is required to issue a permit for the same facility or activity (including USEPA);

(C) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, and other appropriate government authorities, including any affected States;

(D) Persons on a mailing list developed by:

1. Including those who request in writing to be on the list;

2. Soliciting persons for "area lists" from participants in past permit proceedings in that area; and

3. Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as USEPA Region IX and State-funded newsletters, environmental bulletins, or State law journals. (The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Department may delete from the list the name of any person who fails to respond to such a request.)

(E) Any unit of local government having jurisdiction over the area where the facility is proposed to be located, and each State agency having any authority under State law with respect to the construction or operation of such facility.

(2) (A) For major permits, publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity;

(B) For all permits, publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

(3) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d) Contents. (1) All public notices. All public notices issued under this chapter shall contain the following minimum information:

(A) Name and address of the office processing the permit action for which notice is being given;

(B) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(C) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(D) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit , statement of basis or fact sheet, and the application; and

(E) A brief description of the comment procedures required by Sections 66271.10 and 66271.11 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other

procedures by which the public may participate in the final permit decision.

(F) The location of the administrative record required by Section 66271.8, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record.

(G) Any additional information considered necessary or proper.

(2) Public notices for hearings. In addition to the general public notice described in subsection (d)(1) of this section, the public notice of a hearing under Section 66271.11, shall contain the following information:

(A) Reference to the date of previous public notices relating to the permit;

(B) Date, time, and place of the hearing; and

(C) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

(e) In addition to the general public notice described in subsection (d)(1) of this section, all persons identified in subsections (c)(1)(A), (B), and (C) of this section shall be mailed a copy of the fact sheet or statement of basis, the permit application, and the draft permit.

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 124.10.

66271.10. Public Comments and Requests for Public Hearings.

During the public comment period provided under Section 66271.9, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in Section 66271.16.

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 124.11.

66271.11. Public Hearings.

(a) (1) The Department shall hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a draft permit(s);

(2) The Department may also hold a public hearing at the Department's discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision;

(3) (A) The Department shall hold a public hearing whenever the Department receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under Section 66271.9(b)(1);

(B) Whenever possible the Department shall schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility;

(4) Public notice of the hearing shall be given as specified in Section 66271.9.

(b) Whenever a public hearing will be held, the Department shall designate a Presiding Officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in

writing may be required. The public comment period under Section 66271.9 shall automatically be extended to the close of any public hearing under this section. The Department may also extend the comment period by so stating at the hearing.

(d) A tape recording or written transcript of the hearing shall be made available to the public.

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 124.12.

66271.12. Obligation to Raise Issues and Provide Information During the Public Comment Period.

All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under Section 66271.9. All supporting materials shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of State or Federal statutes and regulations, Department or USEPA documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the administrative record available to the Department as directed by the Department. A comment period longer than 45days may be necessary to give commenters a reasonable opportunity to comply with the requirements of this section. Additional time shall be granted under Section 66271.9 to the extent that a commenter who requests additional time demonstrates the need for such time.

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 124.13.

66271.13. Reopening of the Public Comment Period.

(a) (1) The Department may order the public comment period reopened if the procedures of this subsection could expedite the decisionmaking process. When the public comment period is reopened under this subsection, all persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, shall submit all reasonably available factual grounds supporting their position, including all supporting material, by a date, not less than sixty days after public notice under subsection (a)(2) of this section, set by the Department. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than twenty days after the date set for filing of the material, set by the Department.

(2) Public notice of any comment period under this subsection shall identify the issues which the requirements of Section 66271.13(a) shall apply.

(3) On the Department's own motion or on the request of any person, the Department may direct that the requirements of subsection (a)(1) of this section shall apply during the initial comment period where it reasonably appears that issuance of the permit will be contested and that applying the requirements of subsection (a)(1) of this section will substantially expedite the decisionmaking process. The notice of the draft permit shall state whenever this has been done.

(4) A comment period of longer than 60 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they shall be granted under Section 66271.9 to the extent they appear necessary.

(b) If any data, information or arguments submitted during the public comment period, including information or arguments required under Section 66271.12, appear to raise substantial new questions concerning a permit, the Department may take one or more of the following actions:

(1) Prepare a new draft permit, appropriately modified, under Section 66271.5;

(2) Prepare a revised statement of basis under Section 66271.6, a fact sheet or revised fact sheet under Section 66271.7 and reopen the comment period under Section 66271.13; or

(3) Reopen or extend the comment period under Section 66271.9 to give interested persons an opportunity to comment on the information or arguments submitted.

(c) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under Section 66271.9 shall define the scope of the reopening.

(d) Public notice of any of the above actions shall be issued under Section 66271.9.

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 124.14.

66271.14. Issuance and Effective Date of Permit.

(a) After the close of the public comment period under Section 66271.9 on a draft permit, the Department shall issue a final permit decision [or a decision to deny a permit for the active life of a hazardous waste management facility or unit under Section 66270.29.] Final permit decisions shall be made and noticed in accordance with the provisions of Health and Safety Code Section 25199.6 and Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 2 of the Government Code. The Department shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a permit or for contesting a decision to terminate a permit. For the purposes of this section, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision [or a decision to deny a permit for the active life of a hazardous waste management facility or unit under Section 66270.29] shall become effective 30 days after the service of notice of the decision unless:

(1) A later effective date is specified in the decision; or

(2) Review is requested under Section 66271.18 or an evidentiary hearing is requested under Health and Safety Code Section 25186.1; or

(3) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

Note: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code.
Reference: Section 15376 and Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 2 of the Government Code; Sections 25159.5, 25186.1, 25199.6 and 25200, Health and Safety Code; 40 CFR Section 124.15.

66271.15. Stays of Contested Permit Conditions.

(a) Stays. (1) If a request for review of a permit is granted, the effect of the contested permit conditions shall be stayed and shall not be subject to judicial review pending final Department action. If the permit involves a new facility, the applicant shall be without a permit for the proposed new facility.

(2) Uncontested conditions which are not severable from those contested shall be stayed together with the contested conditions. Stayed provisions of permits for existing facilites shall be identified by the Department. All other provisions of the permit for the existing facility shall remain fully effective and enforceable.

(b) Stays based on cross effects. A stay may be granted based on the grounds that an appeal to the Department under Section 66271.18 of one permit may result in changes to another permit only when each of the permits involved has been appealed to the Department and the Department has accepted each appeal.

(c) Any facility or activity holding an existing permit shall:

(1) Comply with the conditions of that permit during any modification or revocation and reissuance proceeding under Section 66271.4; and

(2) To the extent conditions of any new permit are stayed under this section, comply with the conditions of the existing permit which

correspond to the stayed conditions, unless compliance with the existing conditions would be technologically incompatible with compliance with other conditions of the new permit which have not been stayed.

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 124.16.

66271.16. Response to Comments.

(a) At the time that any final permit decision is issued under Section 66271.14, the Department shall issue a response to comments. This response shall:

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(2) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

(b) Any documents cited in the response to comments shall be included in the administrative record for the final permit decision as defined in Section 66271.17. If new points are raised or new material supplied during the public comment period, the Department may document its response to those matters by adding new materials to the administrative record.

(c) The response to comments shall be available to the public.

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 124.17.

66271.17. Administrative Record for Final Permit.

(a) The Department shall base final permit decisions under Section 66271.14 on the administrative record defined in this section.

(b) The administrative record for any final permit shall consist of the administrative record for the draft permit and:

(1) All comments received during the public comment period provided under Section 66271.9 (including any extension or reopening under Section 66271.13);

(2) The tape or transcript of any hearing(s) held under Section 66271.11;

(3) Any written materials submitted at such a hearing;

(4) The response to comments required by Section 66271.16 and any new material placed in the record under that section;

(5) Other documents contained in the supporting file for the permit; and

(6) The final permit.

(c) The additional documents required under subsection (b) of this section shall be added to the record as soon as possible after

their receipt. The record shall be complete on the date the final permit is issued.

(d) This section applies to all final permits when the draft permit was subject to the administrative record requirements of Section 66271.8.

(e) Material readily available at the Department, or published materials which are generally available and which are included in the administrative record under the standards of this section or of Section 66271.16 ("Response to comments"), need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the statement of basis or fact sheet or in the response to comments.

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 124.18.

66271.18. Appeal of Permits Decisions.

(a) Within 30 days after a final permit decision [or a decision under Section 66270.29 to deny a permit for the active life of a hazardous waste management facility or unit] has been issued under Section 66271.14, any person who filed comments on that draft permit or participated in the public hearing may petition the Department to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent of the changes from the draft to the final permit decision. Any person may petition the Department to review any condition of a temporary authorization under Section 66270.42(f). The 30-day period within which a person may request review under this section begins with the service of notice of the Department's action unless a later date is specified in that notice. The petition shall include a statement of the reasons supporting that review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations and when appropriate, a showing that the condition in question is based on:

(1) A finding of fact or conclusion of law which is clearly erroneous, or

(2) An exercise of discretion or an important policy consideration which the Department should, in discretion, review.

(b) The Department may also decide on its initiative to review any condition of any permit issued under this chapter. The Department shall act under this subsection within 30 days of the service date of notice of the Department's action.

(c) Within a reasonable time following the filing of the petition for review, the Department shall issue an order either granting or denying the petition for review. Public notice of any grant of review by the Department under subsection (a) of this section shall be given as provided in Section 66271.9. Public notice shall set forth a briefing schedule for the appeal and shall state that any interested person may file an amicus brief. Notice of denial of review shall be sent only to the person(s) requesting review.

(d) A petition to the Department under subsection (a) of this section is a prerequisite to the seeking of judicial review of the final Department action.

(e) The Department shall initiate adjudicatory proceedings to deny, condition suspend, revoke, or terminate a permit under the Administrative Procedure Act (Government Code Section 11500 et. seq) by serving a Statement of Issues (Government Code Section 11504) or an Accusation (Government Code Section 11503) on the applicant for or holder of the permit:

(1) When no timely petition for review has been filed pursuant to subsection (a) of this section; or

(2) When the Department issues an order denying review pursuant to subsection (c) of this section; or

(3) When the Department issues a decision on the merits of the petition for review.

(f) A final permit decision shall be issued by the Department:

(1) Upon completion of any appeal proceedings under the Administrative Procedure Act; or

(2) When a timely request for a hearing pursuant to the Administrative Procedure Act has not been filed.

(g) Judicial review requested by applicants and permit holders of decisions issued pursuant to proceedings conducted pursuant to the Administrative Procedure Act pursuant to subsection (e) of this Section shall be governed by Government Code Section 11523.

(h) For purposes of judicial review requested by a party other than the applicant for or holder of the permit, final Department action occurs when a final permit is issued, denied or terminated by the Department, and Department review procedures specified in subsection (a) of this section and the administrative adjudication procedures referred to in subsection (e) of this section are exhausted.

Note: Authority cited: Sections 208, 25150 and 25159, Health and Safety Code.

Reference: Sections 25159, 25159.5 and 25186.1, Health and Safety Code; 40 CFR Section 124.19.

66271.19. Computation of Time.

(a) Any time period scheduled to begin on the occurrence of an act or event shall begin on the day after the act or event.

(b) Any time period scheduled to begin before the occurrence of an act or event shall be computed so that the period ends on the day before the act or event.

(c) If the final day of any time period falls on a weekend or legal holiday, the time period shall be extended to the next working day.

(d) Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon that party or person by mail, three days shall be added to the prescribed time.

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 124.20.