

May 13, 2014

Permit Appeals Officer
Dept. of Toxic Substances Control
8800 Cal Center Drive, 2nd floor
Sacramento, California 95826-0806

**ADMINISTRATIVE APPEAL OF DECISION ON APPROVAL OF FINAL
RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), CLASS 3
PERMIT MODIFICATION FOR THE EDWARDS AIR FORCE BASE
FACILITY RCRA-EQUIVALENT PERMIT, LOS ANGELES COUNTY,
CALIFORNIA [EPA ID NO. CA157002504]**

Attention Appeals Officer:

This is a petition for review of the March 7, 2014, decision to approve and issue a Class 3 Hazardous Waste Permit modification for the Edwards Air Force Base (Edwards AFB), California 93524 RCRA-equivalent permit.

In the Fact Sheet, it is stated that Edwards currently treats reactive hazardous wastes through Open Burning and Open Detonation (OB/OD) under the authority of a Stipulation and Order, pending DTSC's decision on the Modification request. It is further stated that if the Modification is granted, it would allow Edwards to continue to treat reactive hazardous wastes under a Resource Conservation and Recovery Act (RCRA) hazardous waste permit in place of the Stipulation and Order. It would allow Edwards to **continue to treat** reactive hazardous waste by OB/OD, to consolidate these treatment activities to the existing OB/OD units, and to expand operations by treating more waste than currently authorized. The types of waste treated include various propellants, unserviceable munitions and ordnance containing pyrotechnics, explosives, munitions casings, containers, and other materials contaminated with explosives. A January 19, 1993 Stipulation and Order has allowed for operation of the OB/OD units until DTSC makes a hazardous waste facility permit determination. I made only a few brief comments dealing with environmental monitoring,

COCs/Authorized waste codes, and the HRA. DTSC ignored these and provided a wholly inadequate response.

The OB/OD unit is essentially an open-air hazardous waste incinerator. DTSC utilizes the miscellaneous unit regulations to govern it---in large measure to avoid the title and quite restrictive hazardous waste incinerator regulations. In any event, however, the hazardous waste incinerator regulations as well as many other regulations covering specific types of units can be applied because of the way the miscellaneous unit regulations were written. Miscellaneous units are a hodge-podge---from smelting kettles to filter presses, and therefore its regulations were written to allow use of most of the other unit-specific regulations. DTSC has failed to do this with the Class 3 permit modification (C3PM). I therefore petition that DTSC go back and properly apply its own regulations to provide adequate protection for human health and the environment. At the same time it must re-visit its inadequate CEQA compliance.

More specifically:

1. DTSC actually cited CCR, 22, §66264.706(b) under Part III, Condition 4(A)(1)(d) of the draft Class 3 Permit Modification for Kettleman Hills Facility (KHF), as the basis for requiring under state authority that KHF to provide for representative sampling of PCBs in the ambient air---- after decades of shirking implementation of its statutory and regulatory authorities with regard to air monitoring at its RCRA facilities. However, it fails to do the same with the Air Force and claims that it cannot do the same for the real-live open-air hazardous waste incinerator aka OB/OD at Edwards. I petition that DTSC revise the permit to meet the requirements of title 22, CCR, §66264 and §66270 to include the appropriate specifications of environmental monitoring.
2. DTSC actually required an additional ambient air monitoring point in Part III, Condition 4(A)(1)(e) of the draft KHF Class 3 Permit Modification, as the basis for requiring under state authority. DTSC fails to do so for the real-live open-air hazardous waste incinerator aka OB/OD at Edwards. I petition that DTSC revise the permit to meet the requirements of title 22, CCR, §66264 and provide for an air monitoring and response plan under Title 22 CCR §66264.706(b). Ambient air monitoring alone is an inadequate monitoring response

with respect to emissions from the real-live open-air hazardous waste incinerator aka OB/OD at Edwards. Specifically, deposition and accumulation of airborne emissions is a major pathway to public exposure that DTSC is aware of but neglects, even at its most dangerous emitting sites such the Exide or Quemetco secondary lead smelters in Los Angeles. Edwards needs to be required to provide a program of deposition monitoring in outside the facility boundaries. Please note that deposition and accumulation of airborne lead emissions has been found 360⁰ around the above-cited lead smelters so that even the proposed ambient air monitoring may not produce adequate representation.

3. DTSC fails to honor “Each permit issued must also include terms and conditions as the Department determines necessary to protect human health and the environment from hazardous waste treatment, storage and disposal related activities. (HSC Section 25200; Cal. Code Regs., title 22, section 66270.32.) DTSC clearly has some discretion in deciding whether to issue and, if so, how to condition issuance of a HWFP modification but it must also honor the above. I petition that DTSC revise the permit to meet the requirements of title 22, CCR, §§66264 and 66270.

4. The development of a Health Risk Assessment is normally required for a HWFP. DTSC typically fails to address airborne emissions deposition and accumulation in them. A corollary is that Title 22 CCR §66270.14(c) (6) (B) requires the Permittee to establish detection monitoring programs for **ALL** media, including air. Section 66264.701(a) requires the Permittee to conduct monitoring and response programs for various environmental media of the regulated unit, including air, pore-gas, and soil. DTSC has not adequately complied with the requirements of Title 22 CCR, Division 4.5, Chapter 14, articles 17 nor of Title 22 CCR §66270 et seq. for all environmental media at the real-live open-air hazardous waste incinerator aka OB/OD at Edwards. I petition that DTSC revise the permit to meet the requirements of title 22, CCR, §66264 and provide for detection monitoring programs for accumulation in soil from the emissions and airborne deposition rates under Title 22 CCR §66264.706(b).

5. DTSC describes that the ambient air monitoring program at the real-live open-air hazardous waste incinerator aka OB/OD at Edwards will be

that to satisfy the local AQMDs. DTSC typically fails to use the waste codes that it proposes to authorize to develop the monitoring parameters. It claims that the program is designed to protect human health and the environment, assess releases of volatile organic compounds, semi-volatile compounds, metals, and particulates.

AQMD use of historic waste profiles and emission characterization to establish the list of monitoring parameters not match the waste codes being authorized by DTSC. I petition that DTSC revise the permit to meet the requirements of title 22, CCR, §66264 and provide for detection monitoring programs for accumulation in soil from the emissions and airborne deposition rates under Title 22 CCR §66264.706(b) of the authorized waste constituents and their daughter products.

6. DTSC fails to honor in the C3PM, that Title 22 CCR § 66264.704(a) states that DTSC "...will specify in the facility permit the hazardous constituents to which the environmental protection standard of §66264.702 applies." DTSC has not done this properly. It further states that "Constituents specified in the permit will be limited to constituents reasonably expected to be in or derived from waste contained in a regulated unit." Clearly the waste that is to be contained in the C3PM unit is the waste it is being permitted for. Emissions from single point in time, given all of the authorized waste codes, are not acceptable. I petition that DTSC revise the permit to meet the requirements of title 22, CCR, §66264 and specify the hazardous constituents under for the environmental protection standard Title 22 CCR §66264.704(a) of the authorized waste constituents and their daughter products.

7. Title 22 CCR §66264.704(a) states that "The facility **permit shall specify concentration limits** for soil, soil-pore gas, and open-air downwind from the regulated unit, for hazardous constituents established under section 66264.703." DTSC fails to do this when it simply including another agency's emissions permit. Such permits rarely suffice for all of the constituents covered by the RCRA waste codes that DTSC proposes to authorize. DTSC has not provided the required specification such that the public can reasonably discern it. I petition that DTSC revise the permit to meet the requirements of title 22, CCR, §66264 and specify the concentration limits hazardous

constituents under for the environmental protection standard Title 22 CCR §66264.704(a) of the authorized waste constituents and their daughter products.

8. Section 66264.701(a) requires the Permittee to conduct a monitoring and response program for air for the regulated unit. DTSC should have required the Permittee to submit to DTSC, for review and approval, an Air Monitoring and Response Plan (AMRP) for the additional stations. This AMRP should have incorporated sampling procedures and analytical protocols that are in accordance with those needed for all chemicals in the proposed RCRA waste codes. This AMRP should have been included as an exhibit to the Operation Plan. Sampling procedures and analytical protocols shall be in accordance with ALL applicable guidance for both ambient air and deposition monitoring. I petition that DTSC revise the permit to meet the requirements of title 22, CCR, §66264 and require an AMRP for the real-live open-air hazardous waste incinerator aka OB/OD at Edwards
9. DTSC fails to address multi-media compliance inspections. The Permittee should also be required to comply with the results and recommendations of any Comprehensive Monitoring Evaluation (CME) to be conducted by DTSC with regard to air ---in particular airborne deposition and accumulation. I petition that DTSC revise the permit to address CMEs for airborne deposition and accumulation at the real-live open-air hazardous waste incinerator aka OB/OD at Edwards.
10. Hazardous waste constituents may be emitted into the ambient air from the real-live open-air hazardous waste incinerator aka OB/OD at Edwards. These airborne hazardous waste constituent emissions may deposit onto the land surface and accumulate as DTSC has established at the secondary lead smelters that it regulates in Los Angeles. Therefore, a monitoring and response program must be conducted for soil. [Title 22 CCR §66264.701 (a) and 66264.702(b)] In addition, the California Code of Regulations, title 22, section 66264.310(c) requires the Permittee to prevent lateral migration of **waste, gas, and vapor from the C3PM unit**. Deposition and accumulation of airborne landfill emissions clearly

represents a form of “lateral migration” of waste. Title 22 CCR, §66270.14(c) (6) (B) also **requires soil-pore gas monitoring**. I petition that a monitoring and response plan shall be included in the C3PM and shall include, at a minimum, the applicable elements of the California Code of Regulations, Title 22.

11. Concentration Limits for air, soil-pore gas and soil are described in Title 22, CCR §66264.704(a) which states “The **facility permit shall specify** concentration limits for **soil**, soil-pore gas, and open-air downwind from the regulated unit, for hazardous constituents established under §66264.703.” [emphasis added] Title 22 CCR § 66264.704(b) states, in part, that “The concentration limit for a hazardous constituent in soil outside the regulated unit shall not exceed the background concentration of that constituent in the soil...” DTSC fails to do this. I petition that DTSC revise the C3PM to meet the requirements of title 22, CCR, §66264 and require that the concentration in soil outside the real-live open-air hazardous waste incinerator aka OB/OD at Edwards shall not exceed background.

I petition that this C3PM be rewritten and the Permittee required to provide compliant environmental monitoring and that DTSC deny any expansion until the following activities are undertaken, at a minimum:

- Do a CEQA assessment of all of the impacts, such as airborne emission deposition and accumulation, using a comprehensive site-conceptual model,
- Spelling out the exact chemical names being authorized for the public ---not **JUST** reciting the EPA/California Waste codes,
- Making specific changes to the environmental monitoring conditions, etc. to bring them into compliance with Title 22 CCR, and
- Re-notice the Class 3 Permit Modification

Thank you for your consideration.

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