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## Department of Toxic Substances Control

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**INITIAL STATEMENT OF REASONS  
FACILITIES ANNUAL REPORTING REQUIREMENTS  
Department of Toxic Substances Control Reference Number: R-2011-01  
Office of Administrative Law Notice File Number: Z-2012-1113-03**

### **DETAILED STATEMENT OF THE SPECIFIC PURPOSE AND RATIONALE**

California regulations require owners and/or operators of hazardous waste Treatment, Storage and Disposal Facilities (TSD) to annually report specific information on the hazardous wastes handled each year and to describe the efforts undertaken during the year to reduce the volume and toxicity of waste generated in what is called the "annual report" (California Code of Regulations (CCR), title 22, division 4.5, chapter 14, section 66264.75 and chapter 15, section 66265.75). In the annual report, hazardous waste facilities provide the following data: 1) the Resource Conservation and Recovery Act (RCRA) and non-RCRA hazardous waste codes and quantities handled; 2) the method of transfer, treatment, storage or disposal for each waste; 3) closure and post-closure cost estimates; 4) environmental monitoring data; and 5) the certification of recycling, incineration or shipment out-of-state for high British thermal unit (BTU) or Volatile Organic Compound (VOC) waste. Sections 66264.75 and 66265.75 require hazardous waste facilities to submit a state annual report to Department of Toxic Substances Control (DTSC) by March 1<sup>st</sup> of each year. The purpose of the data collection was to gain a better understanding of hazardous waste generation and management.

The annual reports are submitted either in electronic form (e.g., CD) or on paper forms. Some facilities use software (BRState) to compile the reports; however the software is difficult to use and often facilities submit paper forms to DTSC. DTSC staff uploads the electronic copies of the report and compiles the information into a database called the Annual Facility Report (AFR) database. For the paper copies, DTSC has to manually enter information from the reports into the BRState software. Once entered, the software performs error checks which may require facilities to resubmit data to correct the problems. DTSC also stores the paper copies of the report.

Most of the information provided in the annual reports is available to DTSC through the manifest system which DTSC developed called the Hazardous Waste Tracking System (HWTS) to store and analyze information from all manifests utilized in California. Approximately 100,000 manifests are used in California annually. HWTS is publically available on a DTSC website - [http://hwts.dtsc.ca.gov/report\\_list.cfm](http://hwts.dtsc.ca.gov/report_list.cfm). The manifest database provides tools to investigate and compile hazardous waste generation and

disposal information. Through the HWTS system, DTSC is able to gather and evaluate detailed information for hazardous waste facilities.

Although most of the information gathered from the annual report is duplicated within the HWTS, a small portion is not. For Off-Site facilities (accept waste from other generators), the annual report data is essentially a regurgitation of the manifest data in summary form. For on-site facilities (manage only their own generated waste), the annual report data is a summary of the manifest data with one twist, the waste is grouped by the activity that generated the waste (e.g. fleet maintenance, or part degreasing). Although this information could be valuable, it is only gathered for this very small subset of generators; it is not reported on the manifests. It would be very difficult and potentially misleading to utilize this information to make inferences about overall generator behavior given the very small sample size.

The annual report data also presents a partial summary of waste shipped out-of-state, since waste shipped directly from a generator to an out-of-state facility would not be captured. The HWTS captures detailed information from each manifest regardless of final destination. Due to the summary nature of the annual report data and because it only partial capture of out-of-state waste shipments, the HWTS is a much more versatile tool to investigate and compile hazardous waste generation and disposal information.

In addition to California requirements, federal regulations require hazardous waste facilities to submit the federal biennial report every other year (40 Code of Federal Regulations sections 264.75 and 265.75). This report describes their hazardous waste management activities for the previous calendar year. The biennial report requires facilities to provide the following information: 1) a description and the quantity of each hazardous waste the facility received during the year; 2) the method of treatment, storage, or disposal for each hazardous waste; 3) the most recent closure cost estimate or the most recent post-closure cost estimate for disposal facilities; 4) for generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and 5) for generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years. DTSC compiles the information collected from the biennial reports and submits it to U.S. EPA, where it is made publicly available to the regulated community and other interested stakeholders.

The annual report requirements in the California regulations (22 CCR sections 66264.75 and 66265.75) are more stringent than the federal requirements because facilities are required to submit reports annually. Federal law allows state hazardous waste programs to be more stringent than the federal requirements as long as they are consistent with federal rules. Health and Safety Code section 25159 grants DTSC authority to adopt and revise regulations that allows California to maintain authorization from U.S. EPA to administer its state hazardous waste program in lieu of the federal RCRA program. However, the federal biennial report contains many of the same or similar reporting requirements as the annual report. For the years when the federal biennial report is

required, DTSC has accepted the biennial report as fulfilling the requirement for the annual report.

The proposed regulations retain the existing requirements to annually submit environmental monitoring data, which is more stringent than the federal requirements. For the environmental monitoring data, the proposed regulations clarify the environmental monitoring data that needs be submitted and results in a small reduction in the existing requirements. DTSC determined that retaining this submission was vital to the oversight of hazardous waste facilities.

DTSC proposes to amend the annual report requirements in its regulations to reduce the reporting frequency to biennial which will more closely align California reporting requirements with the RCRA federal regulations. In 1985, when DTSC implemented the annual report requirements, it created more stringent reporting requirements than the corresponding federal regulations in order to gain a better understanding of hazardous waste generation and management. After collecting and analyzing hazardous waste generator and disposal information in California over the past twenty years, DTSC now has a comprehensive understanding and no longer requires as much information as it did in the past. Additionally, much of the information gathered from the annual report is duplicative because similar data is contained in the HWTS. Proposed regulations will still require certain facilities to submit annual environmental monitoring data that they have in their operating records. DTSC uses this data when evaluating the operations of the protective system used at the TSDFs. However, reporting requirements will be less burdensome for the facility owner/operators and will allow DTSC to redirect staff that allocate time to process and manage the annual report data to work on other high priority projects. Furthermore, eliminating the annual report will not diminish DTSC's ability to protect public health and the environment from the harmful effects of hazardous waste.

#### **ECONOMIC IMPACT ANALYSIS** (per Gov. Code sec. 11346.3(b))

In accordance with Government Code section 11346.3(b), DTSC has made the following assessments regarding the proposed regulation:

##### **Creation or Elimination of Jobs within California**

As this rulemaking would reduce TSDF's reporting requirements from annual to biennial, DTSC has determined that no jobs in California will be created or eliminated by amending its reporting requirements in title 22 of the California Code of Regulations.

##### **Creation of New Businesses or Elimination of Existing Businesses within California**

DTSC has made a preliminary determination that no businesses will be created or eliminated in California as a result of the proposed regulations.

##### **Expansion of Current California Businesses**

DTSC has determined that no current California businesses will expand as the result of the adoption of these regulations.

### **Anticipated Benefits**

Due to the availability of the HWTS database, the information contained in the annual report is largely duplicative. The HWTS database provides tools to investigate and compile hazardous waste generation and disposal information, and as such, meets the purpose of the annual report regulations by an alternate means. As the information collected from the annual report is duplicative, this regulatory action will provide significant savings to TSDFs through the reduction of unnecessary paperwork.

Reducing the frequency of reporting would allow DTSC to reallocate resources required from processing the annual report to other high priority projects.

### **REPORTS RELIED ON**

DTSC has relied upon the Economic Impact Assessment (STD 399) in proposing the regulatory action.

### **MANDATED USE OF SPECIFIC TECHNOLOGIES OR EQUIPMENT**

The proposed regulatory action would not mandate the use of specific technologies or equipment.

### **REASONABLE ALTERNATIVES CONSIDERED**

DTSC considered two possible alternatives to this regulation. For each of these alternatives, DTSC assumed that the current requirements for submission of environmental monitoring data would be retained but submitted separately from the annual report. This element of the annual report is utilized for programmatic purposes. This way, the alternatives focused on aspects of the annual report which are not currently utilized:

#### **1. Do Nothing**

DTSC considered this option because it avoids the cost of amending a regulation and continues the uninterrupted collection of facility data, which, although unused now, might be found valuable in the future for programmatic use. This option would continue to require DTSC to continue to dedicate resources towards managing the annual report data, instead of using resources for other high priority projects. It also continues to impose a cost of compliance in the range of \$3,000 to \$6,000 per each approximately 100 facilities to prepare the report. This alternative was rejected because 1) the data gathered in the annual report are largely duplicative of the information already publicly available from the HWTS database, 2) DTSC uses the HWTS data for programmatic analyses, and 3) the costs to TSDFs of \$300,000 to \$600,000 to gather/process the information were determined to be too high for data that might be useful in the future.

#### **2. Reduce required data**

DTSC also considered an option to continue the annual report but reduce the information reported to only include the data that was not duplicated on the manifest. The data would be gathered only from on-site facilities (which manage only their own

waste) and would require the waste generation data to be grouped by the activity that generated the waste (e.g. fleet maintenance, or part degreasing). There are approximately 40 on-site facilities completing the annual report. This option was rejected because it would require reporting only for this very small subset of generators. It would be very difficult and potentially misleading to utilize this information to make inferences about overall generator behavior given the very small sample size.

### **EVIDENCE SUPPORTING A DETERMINATION THAT THE PROPOSAL WILL HAVE NO ADVERSE ECONOMIC IMPACT ON BUSINESS**

DTSC has prepared the Economic and Fiscal Impact Statement (STD. 399) which describes the estimated costs and savings associated with the proposed regulation. DTSC has determined that there is no adverse economic impact on businesses.

### **DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS**

The proposed regulation is based on, and nearly identical to, but does not conflict with any federal regulation. The rulemaking aligns California biennial reporting requirements with RCRA federal regulations and implements Health and Safety Code section 25159 which allows for duplication with federal hazardous waste regulations.

### **DETAILED STATEMENT OF REASONS: SUMMARY AND RATIONALE**

#### **Chapter 12, Standards Applicable to Generators of Hazardous Waste**

##### **Section 66262.41**

This section specifies that a generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States must prepare and submit to the Department a Biennial Report. The section is amended by removing the word “annual” and replacing it with “biennial”. In addition, Health and Safety code section 208 was replaced with section 58012 of the Health and Safety Code which grants DTSC authority to adopt regulations to execute its duties.

#### **Chapter 14. Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities**

##### **Section 66264.73.**

This section specifies the requirements and the process for keeping a written operating record at a facility. The section is amended by deleting section 66264.276 as it never existed. The reference to 66264.276 was inadvertently adopted in a 1991 rulemaking.

##### **Section 66264.73.5**

DTSC determined that retaining environmental monitoring data was vital to the oversight of hazardous waste facilities. This section is therefore added to identify environmental monitoring data that owners and operators of a hazardous waste facility will be required to annually submit to the Department by March 1<sup>st</sup> of each calendar year. The information submittal was previously required under section 66264.75(k) environmental monitoring data. Staff evaluated the environmental monitoring data in

section 66264.73(b)(6) and determined that only data maintained in the facility operating record from sections 66264.226(d), 66264.254(c), 66264.303(c), 66264.309, 66264.602 and Article 6 need to be submitted to the Department in an annual report.

### **Section 66264.75**

This section specifies that the owners and operators of a hazardous waste facility must prepare and submit reports annually to the Department. This section is amended to change the reporting requirement for facilities from annual to biennial. The first two paragraphs were deleted as they are no longer applicable as the time has passed. The reference in subsection (a) to the regional water board was removed as the regional boards have their own reporting requirements. The statement that DTSC shall provide the forms is being removed as they are now available through a U.S. EPA website. The reference to U.S. EPA was revised to be consistent with the language in 40 CFR section 264.75.

Subsection (h) and (i) were amended to remove the word “transfer” to be consistent with the language in 40 CFR section 264.75(d).

Subsection (k) is no longer required to be submitted as part of the reports. Instead the environmental monitoring data reporting requirements are a standalone requirement under section 66264.73.5.

Subsection (l) and all of its paragraphs are deleted as the underlying statute in Health and Safety Code section 25155.5 was removed by Senate Bill 1222 (Calderon, Chapter 638, Statutes of 1995). The certification requirement was established of a 1989 rulemaking to ensure facilities complied with section 25155.5. Now that the requirement to burn certain hazardous waste was removed, the corresponding requirement to certify that those hazardous waste were burned is unnecessary and is being removed in this rulemaking.

This section also is amended by removing Health and Safety code section 208 and replacing it with section 58012 of the Health and Safety Code which grants DTSC authority to adopt regulations to execute its duties. Further, it is amended by removing Health and Safety Code section 25155.5 as a reference, as the section no longer exists.

### **Section 66264.77**

This section specifies additional reports that hazardous waste facilities must submit. It is amended by removing the word “annual” and replacing it with “biennial”. It is also amended by specifying that the owner or operator shall submit environmental monitoring data specified in section 66264.73.5.

## **Chapter 15. Interim Status Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities**

### **Section 66265.73**

This section specifies the requirements and the process for keeping a written operating record at interim status hazardous waste Treatment, Storage and Disposal Facility (TSDF). This section is amended by deleting section 66264.276 as it no longer exists.

### **Section 66265.73.5**

DTSC determined that retaining environmental monitoring data was vital to the oversight of hazardous waste facilities. This section is therefore added to identify environmental monitoring data that owners and operators of a hazardous waste facility will be required to annually submit to the Department by March 1<sup>st</sup> of each calendar year. The information submittal was previously required under section 66265.75(k) environmental monitoring data. Staff evaluated the environmental monitoring data in section 66265.73(b)(6) and determined that only data maintained in the facility operating record from sections 66265.226(b), 66265.260, 66265.304, 66265.309, 66265.714, and Article 6 need to be submitted to the Department in an annual report.

### **Section 66265.75**

This section specifies that the owners and operators of a hazardous waste facility must prepare and submit reports annually to the Department. This section is amended to change the reporting requirement for facilities from annual to biennial. The first two paragraphs were deleted as they are no longer applicable as the time has passed. The reference in subsection (a) to the regional water board was removed as the regional boards have their own reporting requirements. The statement that DTSC shall provide the forms is being removed as they are now available through a U.S. EPA website. The reference to U.S. EPA was revised to be consistent with the language in 40 CFR section 264.75.

Subsection (h) and (i) were amended to remove the word “transfer” to be consistent with the language in 40 CFR section 265.75(d).

Subsection (k) is no longer required to be submitted as part of the reports. Instead the environmental monitoring data reporting requirements are a standalone requirement under section 66264.73.5.

Subsection (l) and all of its paragraphs are deleted as the underlying statute in Health and Safety Code section 25155.5 was repealed in 1995 (Calderon, Chapter 638, Statutes of 1995 (Senate Bill 1222)). The certification requirement was established of a 1989 rulemaking to ensure facilities complied with section 25155.5. Now that the requirement to burn certain hazardous waste was removed, the corresponding requirement to certify that those hazardous waste were burned is unnecessary and is being removed in this rulemaking.

This section also is amended by removing Health and Safety code section 208 and replacing it with section 58012 of the Health and Safety Code which grants DTSC authority to adopt regulations to execute its duties. Further, it is amended by removing Health and Safety Code section 25155.5 as a reference, as the section no longer exists.

### **Section 66265.77**

This section specifies additional reports that hazardous waste facilities must submit. It is amended by removing the word “annual” and replacing it with “biennial”. It is also amended by specifying that the owner or operator shall submit environmental monitoring data specified in section 66265.73.5.

**Section 66265.714.**

This section establishes the reporting requirements for the environmental sampling and analysis at interim status facilities. The environmental monitoring data reporting requirements are no longer required under section 66265.75 so this section was amended to replace section 66265.75 with 66265.73.5. Further, Health and Safety code section 208 was replaced with section 58012 of the Health and Safety Code which grants DTSC authority to adopt regulations to execute its duties.

**Chapter 20. The Hazardous Waste Permit Program**

**Section 66270.30**

This section specifies conditions which are applicable to all hazardous waste permits. It is amended by removing the two words “annual” and replacing them with “biennial”. Further, it is amended by adding the words “odd numbered” to be consistent with the language in 40 CFR section 270.30.

**Section 66270.60**

This section specifies the conditions necessary for permits by rule. It is amended by removing the word “annual” and replacing it with “biennial”.