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TITLE 22

45-DAY PUBLIC NOTICE AND COMMENT PERIOD

Standardized Permit Application Procedures

Department Reference Number: R-2005-11

Office of Administrative Law Notice File Number: Z-07-0313-09

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to amend/adopt California Code of Regulations, title 22, sections: 66270.67, 66270.69, 66270.69.1, 66270.69.2, 66270.69.3, 66270.69.4, 66270.69.5, 67800.1 and 67800.5.

PUBLIC HEARING AND WRITTEN COMMENT PERIOD

A written comment period has been established commencing on March 23 and closing on May 8, 2007. DTSC will hold a public hearing on the proposed regulations at 10:00 a.m. on May 8, 2007 in Conference Room 210, 2nd Floor, 1001 "I" Street, Sacramento, at which time any person may present statements or arguments orally or in writing, relevant to this proposal. Please submit written comments to the contact person listed at the end of this notice. Written comments on the rulemaking submitted no later than 5:00 p.m. on May 8, 2007 will be considered.

Representatives of DTSC will preside at the hearing. Persons who wish to speak are requested to register before the hearing. Pre-hearing registration will be conducted at the location of the hearing from 9:30 a.m. to 10:00 a.m. Registered persons will be heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded an opportunity after the registered persons have been heard.

Due to enhanced security precautions at the Cal/EPA Headquarters Building located at 1001 I Street, Sacramento, all visitors are required to sign in prior to attending any meeting. Sign-in and badge issuance occur in the Visitor and Environmental Services Center. This Center is located just inside and to the left of the building's public entrance. Depending on their destination and the building security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license,

military identification card, or state or federal identification cards. Depending on the size and number of meetings scheduled on any given day, the security check-in could take from three to fifteen minutes. Please allow adequate time to sign in before being directed to your meeting.

If you have special accommodation or language needs, please contact Laura Hayashi, Regulations Coordinator, at (916) 322-6409 or by e-mail at regs@dtsc.ca.gov by April 24, 2007. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

In accordance with the California Government Code and Americans with Disabilities Act requirements, this publication can be made available in Braille, large print, computer disk, or tape cassette (etc) as a disability-related reasonable accommodation for an individual with a disability. To discuss how to receive a copy of this publication in an alternative format, please contact Adrian Ricio, Reasonable Accommodation Coordinator at (916) 324-3095 or by e-mail at aricio@dtsc.ca.gov.

AUTHORITY AND REFERENCE

These regulations are being proposed under the following authorities:

Health and Safety Code section 25150. This section grants DTSC authority to adopt standards dealing with the management of hazardous waste.

Health and Safety Code section 25201.6. This section grants DTSC authority to adopt regulations dealing with standardized permit facilities.

Health and Safety Code section 58012 (Added by Gov. Reorg. Plan No. 1, §146, eff. July 17, 1991.) This section grants DTSC authority to adopt regulations to execute its duties. (note: this section enacted by GRP 1, see http://www.dtsc.ca.gov/LawsRegsPolicies/upload/OEARA_REG_GRP1.pdf)

These regulations implement, interpret, or make specific the following:

Health and Safety Code section 25150, 25201.6 and 58012.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Law: In 1993, Health and Safety Code section 25201.6 established the standardized permit tier for certain activities at existing hazardous waste facilities, and DTSC developed regulations that established the application process. Eligible facilities received interim status to continue operating until the standardized permits could be processed. Standardized permit interim status is no longer available, so section 25201.6 is now outdated, and does not provide clear direction for eligibility for the standardized permit tier.

Existing Regulations: The original standardized permit regulations dealt only with existing facilities and interim status. In a 2002 regulations revision, DTSC inadvertently removed the language describing the permit application process. In addition, even the original regulatory language was no longer strictly applicable, because interim status was no longer available, and because a proposed, rather than only an existing, facility may now apply. The application process needs updating and clarifying. Changes are also needed as a result of other regulation packages. Current article 5 of chapter 45, Schools Hazardous Waste Collection, Consolidation and Accumulation Facilities (SHWCCAFs), mistakenly includes two sections that apply only to standardized permitting.

Policy Statement Overview

The specific objectives of the proposed regulations are to organize, update, and clarify the existing regulations and guidance documents applicable to standardized permit hazardous waste management facilities. There are no changes to the permit tier eligibility or operating requirements for these facilities.

Proposed Regulations

For clarity, the standardized permit sections are being proposed to be removed from article 5 and placed in a new article dedicated to standardized permitting, article 6.5. The proposed regulations will apply to both new applicants and to existing standardized permit facilities when those facilities apply for a permit renewal.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

DTSC has found this rulemaking project to be exempt under CEQA. A draft of the Notice of Exemption (NOE) is available for review with the rulemaking file and the NOE will be filed with the State Clearinghouse when the regulations are adopted.

PEER REVIEW

Under the provisions of Health and Safety Code section 57004, peer review is not required because the proposed regulations do not establish a regulatory level, standard or other requirement subject to peer review.

BUSINESS REPORT

DTSC has determined that this rulemaking will not require businesses to write a new report, as defined by Government Code section 11346.3(c).

FISCAL IMPACT ESTIMATES

Mandates on Local Agencies and School Districts: DTSC has made a preliminary determination that adoption of these regulations will create no new local mandates.

Estimate of Potential Cost or Savings to Local Agencies Subject to Reimbursement: DTSC has made a preliminary determination that adoption of these regulations will not impose a local mandate or result in costs subject to reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or saving to local agencies.

Cost or Saving to Any State Agency: DTSC has made a preliminary determination that the proposed regulations will have no impact on State revenue or costs.

Cost or Savings in Federal Funding to the State: DTSC has made a preliminary determination that the proposed regulations will have no impact on Federal revenue or costs.

Effect on Housing Costs: DTSC has made an initial determination that there will be no impact on housing costs.

Cost Impacts on Representative Private Persons or Businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations are clarifying and procedural only, and will have no impact on private persons or businesses. If there is any impact, it would be a slight savings of time in the preparation of the permit application documents.

Significant Statewide Adverse Economic Impact on Business: DTSC has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with businesses in other states.

Assessment Statement:

- (A) **Creation or elimination of jobs within California** – DTSC has made a preliminary determination that no jobs will be created or eliminated in California as a result of the proposed regulations.
- (B) **Creation of new businesses or the elimination of existing businesses in California** – DTSC has made a preliminary determination that no businesses will be created or eliminated in California as a result of the proposed regulations.

- (C) **Expansion of businesses currently doing business in California** – DTSC has made a preliminary determination that no businesses in California will be expanded as a result of the proposed regulations.

Effect on Small Businesses: These regulations are not expected to result in any impacts on small businesses in California. If there is any impact, it would be a slight savings of time in the preparation of the permit application documents.

CONSIDERATION OF ALTERNATIVES

DTSC must determine that no reasonable alternative to these regulations would be more effective or less burdensome to the affected parties than the proposed regulations. DTSC considered the alternative of not developing the subject regulations, but this alternative was rejected because it does not provide the needed procedural clarifications for the universe of standardized permit facilities. Updating and organizing the regulations will ease the procedural permit application preparation and review burden on facility owner/operators and on DTSC permitting staff.

AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

Copies of the Initial Statement of Reasons and text of the proposed regulations are posted to DTSC's Internet site at <http://www.dtsc.ca.gov> or may be obtained from Ms. Laura Hayashi of DTSC's Regulations Section, as specified below. The information upon which DTSC relied is also available at the address listed below.

POST-HEARING CHANGES

After the close of the comment period, DTSC may adopt the proposed regulations. If substantive changes are made, the modified text will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulations, attend the hearing, or provide written comments on these specific regulations will be sent a copy of the modified text, if substantive changes are made.

Once a regulation has been adopted, DTSC prepares a Final Statement of Reasons that updates the Initial Statement of Reasons, summarizes how DTSC addressed comments and includes other materials, as required by Government Code section 11346.9. Copies of the Final Statement of Reasons may be obtained from Ms. Hayashi at the address listed below. A copy of the Final Statement of Reasons will also be posted on DTSC's Internet site at <http://www.dtsc.ca.gov>, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulations.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulations or CEQA documents may be directed to Ms. Jan Smith of DTSC at (916) 324-0705 or, if unavailable, Ms. Sherri Lehman of DTSC at (916) 327-4509. However, such oral inquiries are not part of the rulemaking record.

Statements, arguments or contentions regarding rulemaking and/or supporting documents must be submitted, in writing or may be presented orally or in writing at the public hearing in order for them to be considered by DTSC before it adopts, amends or repeals these regulations. To be included in this regulation package's mailing list, and to receive updates of this rulemaking, please visit <http://www.calepa.ca.gov/Listservs/dtsc/> and subscribe to the applicable Listserv. You may also leave a message on the DTSC mailing list phone line at (916) 324-9933 or e-mail: regs@dtsc.ca.gov.

Please direct all written comments, procedural inquiries and requests for documents by mail, e-mail or fax to:

Ms. Laura Hayashi, Regulations Coordinator
Regulations Section
Department of Toxic Substances Control

Mailing Address: P.O. Box 806
Sacramento, California 95812-0806

E-mail Address: regs@dtsc.ca.gov

Fax Number: (916) 323-3215

Ms. Hayashi's phone number is (916) 322-6409. If Ms. Hayashi is unavailable, please call Ms. Nicole Sotak at (916) 327-4508.