

CHAPTER 20: THE HAZARDOUS WASTE PERMIT PROGRAM:

This chapter is primarily based on 40 Code of Federal Regulations (CFR), Part 270. Some portions of Chapter 20 are based on existing Article 4 in Chapter 30 of Division 4 of Title 22 of the California Code of Regulations (CCR), Chapter 6.5 of Division 20 of the Health and Safety Code (H&SC), or Subchapter 15 of Title 23 of the CCR. As discussed in the introduction to this Statement of Reasons (SOR), the proposed Chapter 20 regulations are based on one or more of these state laws wherever the state law is more stringent or broader than the corresponding federal law. This chapter sets forth the general provisions of California's hazardous waste permitting program. Specific subjects addressed include: persons required to obtain a permit; the effect of other relevant federal laws; the relationship between the permit and the regulations; reporting requirements for the Department; Part A and Part B permit application content and other submittal requirements; permit conditions and compliance schedules; permit transfers, modifications, revocations/reissuances and terminations; permit duration and continuation; permits-by-rule, emergency permits, incinerator trial burn permits, land treatment demonstration permits, and research/development/demonstration permits; and general requirements pertaining to interim status. The chapter title is being slightly modified from the title of 40 CFR, Part 270 by deleting the lead-in phrase "EPA Administered Permit Programs". This portion of the corresponding 40 CFR title is not appropriate in the context of the state regulations. The revised title adequately describes the contents of this chapter.

ARTICLE 1: GENERAL INFORMATION:

This article is based on Subpart A of 40 CFR, Part 270. It sets forth general information pertaining to the Hazardous Waste Permit Program including the purpose and scope of the regulations in this chapter, considerations under federal law, effect of a permit, and noncompliance and Departmental program reporting requirements.

40 CFR, Section 270.2: This section of the federal regulations provides definitions and acronyms applicable to 40 CFR, Parts 270 and 124, which are being incorporated into the proposed state regulations as Chapters 20 and 21. The proposed regulations are being organized such that all definitions and acronyms applicable to Chapters 10 through 44 of Division 20 of Title 22, CCR are being set forth in Sections 66260.10 (definitions) and 66260.12 (acronyms) (except that a few definitions unique to only one section are set forth in that section rather than in Section 66260.10). Therefore, 40 CFR, Section 270.2 is not being included in the proposed state regulations. As discussed below in detail, all of the definitions and acronyms contained in 40 CFR, Section 270.2 are either being incorporated into Section 66260.10 or

66260.12, in some cases with modifications, or deleted entirely for various reasons.

The following definitions and acronyms from 40 CFR, Section 270.2 are being incorporated into Section 66260.10 or 66260.12 with no changes, or with nonsubstantive wording changes or generic changes as specified in the introduction to this SOR:

Administrator
Aquifer
Component
CWA (Clean Water Act)
Disposal
Disposal facility
Draft Permit
Elementary neutralization unit
Emergency permit
Environmental Protection Agency (EPA)
Facility Mailing List
Federal, state and local approvals or permits necessary to begin physical constructions
Functionally equivalent component
Ground water
Hazardous waste
In operation
National Pollution Discharge Elimination System (NPDES)
New HWM facility
Off-site
On-site
Owner or Operator Permit
Permit-by-Rule
Physical construction
Publicly owned treatment works (POTW)
RCRA
Safe Drinking Water Act (SDWA)
Site
Storage
Transporter
Treatment
Underground Injection Control Program (UIC)
Underground source of drinking water (USDW)
Wastewater treatment unit

The following definitions from 40 CFR, Section 270.2 are being incorporated into Section 66260.10 with the generic changes specified in the introduction to this SOR and the modifications identified below:

Application: The phrase "approved States" is being changed to "California" since these regulations are only applicable in California.

Closure: The word "securing" is being changed to "closing" for consistency with the terminology used elsewhere throughout the regulations. Additionally, the closure regulations for both permitted and interim status facilities are being referenced for clarification. (The corresponding federal definition only references the regulations for permitted facilities.)

Director: The second sentence in the corresponding federal regulation, which pertains to states in which there is no approved program, is being deleted as it is not pertinent in the context of the state regulations. The remainder of the paragraph is being reworded and restructured for clarification, while retaining the meaning of the federal regulation.

Existing hazardous waste management facility: The phrase "and for which a Part A permit application has been submitted to the Department or the U.S. Environmental Protection Agency (EPA)" is being inserted to conform to existing Title 22, CCR, Section 66056, which is more stringent than the corresponding federal definition.

Generator: The phrase "or whose act first causes a hazardous waste to become subject to regulation" is being added for consistency with the definition of "generator" set forth in 40 CFR, Section 260.10.

Facility or activity: The portions of this definition relating to the term "facility" are being deleted because this definition of "facility" is much less specific than the definition of "facility" which is being added to Section 66260.10 to conform with the definition specified in H&SC, Section 25117.1. Eliminating "facility" from this definition will prevent confusion which would otherwise result from having two different definitions for the same word. Additionally, the phrase "subject to regulation under the RCRA program" is being changed to "subject to regulation under this division" (i.e. California hazardous waste regulations). This change is necessary because the scope of hazardous waste activities regulated in California is broader than those regulated under Resource Conservation and Recovery Act (RCRA).

Hazardous Waste Management facility (HWM facility): This definition is being modified to conform with the broader, more stringent H&SC, Section 25117.1 definition for the same term.

Injection well: This definition is being modified to conform to the more specific, and therefore more stringent, definitions of "injection well" found in H&SC, Section

25159.12(1) and "underground injection" found in 40 CFR, Section 260.10.

Major facility: The phrase "the Regional Administrator, or, in the case of approved State programs," is being deleted because it will not be applicable once California's permitting program is authorized by EPA. The term "State Director" is being changed to "Department" since the referenced function belongs to the Department rather than specifically to the Director of the Department.

Manifest: This definition is being modified to conform to the definition of "manifest" set forth in 40 CFR, Section 260.10, and to change the reference to EPA forms to the equivalent state forms.

Person: This definition is being modified to conform with the broader, more stringent H&SC, Section 25118 definition for the same term.

Regional Administrator: This definition is being modified to conform with the definition for "Regional Administrator" found in 40 CFR, Section 260.10.

Schedule of compliance: The word "Act" is being changed to "statutes". The word "Act" is generally used to mean the federal Solid Waste Disposal Act. In California compliance is required with both the federal and the state statutes. Use of the word "statutes" encompasses both bodies of law.

State: The reference to the 50 states and the U.S. territories is being replaced by "the State of California", since these regulations are only applicable in California.

State/EPA Agreement: The word "State" in the definition is being changed to "Department". This change is necessary for clarification, because the agreements referred to by this definition are with the Department rather than with the state in general.

Transfer facility: The words "and/or transferred" are being inserted following the word "held" to accurately reflect the full range of activities which typically occur at a transfer facility. This change is for clarification purposes only and does not materially alter the meaning of the definition contained in the federal regulations.

Underground injection: This definition is being modified to conform with the more specific definition of "underground injection" set forth in 40 CFR, Section 260.10.

The following definitions contained in 40 CFR, Section 270.2 are not being included in the proposed regulations because they refer to EPA administration of State RCRA programs and are not applicable in the context of the state regulations:

Approved program or approved State
Final authorization
Interim authorization
Phase I
Phase II

State Director: This definition found in the federal regulations is not being included in the proposed state regulations. The term "Director" is being used consistently in the proposed regulations in place of the term "State Director". Therefore, this definition is unnecessary.

Section 66270.1: This section, which is based on 40 CFR, Section 270.1, specifies the purpose and scope of the Chapter 20 regulations. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.1(a)(1): Nonsubstantive wording changes are being made in this section to accommodate the generic change involving substitution of state law citations for federal law citations. Additionally, the last sentence in the corresponding federal regulation is being deleted because this language is not applicable in the context of state regulations.

Section 66270.1(a)(2): References to RCRA and the Code of Federal Regulations (CFR) as well as a subsequent chart which cross-references these two documents are being deleted. These references to federal statutes and regulations will not be applicable in the state regulations when the state becomes authorized. For ease of use, the beginning section number 25100 of Chapter 6.5 is being added per Office of Administrative Law (OAL) comment.

Section 66270.1(a)(3): The phrase "permit issuing authorities" is being changed to "the Department". This change is necessary because the Department will be the only permit issuing authority in California once the state is authorized.

Section 66270.1(b): This section conforms with 40 CFR, Section 270.1(b) except for the following changes:

The phrase "(identifying and listing hazardous wastes)" is being replaced by the phrase "which result in a waste

becoming subject to the requirements of this division", and other minor wording changes are being made for clarification and to conform with existing H&SC, Section 25153.6.

The second sentence in this subsection is being revised to conform with existing H&SC, Section 25201, which is more stringent than the federal regulation. 40 CFR allows a six (6) month grace period during which facilities may continue managing newly regulated wastes without applying for a permit. Existing state law does not allow this grace period.

The phrase "EPA or a State with interim authorization for Phase II or final authorization under Part 271" is being changed to "the Department". This change is necessary because the Department will be the only permit issuing authority in California once the state is authorized.

The phrases "or with the analagous provisions of a state program which has received interim or final authorization under Part 271" and "Facility owners and operators with interim status are not relieved from complying with other state requirements" are being deleted. This language is not applicable in the state regulations once the state becomes authorized.

The minimum notice requirement for submission of Part B of the application by existing HWM facilities is being revised from "six (6) months" to "sixty (60) days". This change is necessary to comply with existing, more stringent state regulations (Title 22, Section 66388(a)(1)).

Section 66270.1(c): The opening sentence of this subsection has been modified to provide reference to Section 66261.3 to characterize a waste to be hazardous. Reference to Chapter 11 of this division for listed hazardous wastes has been deleted. This is because Section 66261.3 sets forth procedures for hazardous waste identification and this is a clearer reference than Chapter 11 of this division.

Section 66270.1(c)(1): The phrase "hazardous waste facility" is being added preceding "permits" in the first sentence. This language is being added for clarification purposes only and in no way alters the meaning of the regulations.

Section 66270.1(c)(1)(A): The last sentence which pertains to hazardous waste permits-by-rule for injection wells with Underground Injection Control Program (UIC) permits is being deleted in order to comply with existing, more stringent state law. H&SC, Section 25159.15 prohibits the operation of a hazardous waste injection well in California without a hazardous waste facility permit meeting requirements set

forth in the H&SC. Permits-by-rule are not allowed for hazardous waste injection wells under California law.

Section 66270.1(c)(2): Three paragraphs which are contained in 40 CFR, Section 270.1(c)(2) are not being included in the proposed regulations. These paragraphs, (iii), (iv), and (v), provide three additional categories for specific exclusions from the requirement to obtain a permit. Those specific exclusions are for small quantity generators, totally enclosed treatment facilities, and elementary neutralization units and wastewater treatment units. Current state regulations are more stringent and do not allow these three (3) types of exemptions. Therefore, these exemptions have not been included in the proposed state regulations.

Section 66270.1(c)(2)(C): This section conforms with 40 CFR, Section 270.1(c)(2)(vi) except for the following changes:

The phrase "and transfer facilities storing manifested shipments of hazardous waste in containers" is being added to clarify that both the transporter and the transfer facility are exempt from the requirement to obtain a permit, if certain conditions are met. This regulation conforms with existing H&SC, Section 25123.3.

The maximum holding requirement for storing manifested shipments of hazardous waste in containers at a transfer facility is being revised from "ten (10) days" to "144 hours". This change is necessary to comply with existing, more stringent state law (H&SC, Section 25123.3).

This paragraph has also been modified to clarify that transporters and transfer facilities must also comply with Section 66263.18 to qualify for this exemption. This is necessary to conform to existing Title 22, CCR, Section 66532 which is more stringent than the corresponding federal regulation. The sentence structure of this section is being modified to accommodate this and the other changes discussed above.

Sections 66270.1(c)(5)(A), (5)(B), (6)(A) and (6)(C): The phrase "closure-by-removal or decontamination" is being substituted for "closure-by-removal" in (5)(A) and (6)(C) and for "closure" in (5)(B) and (6)(A). This wording change is being made for clarification and to maintain consistency with the terminology used elsewhere in Sections 66270.1(c)(5) and (6).

Section 66270.1(c)(5)(B)(1.): This section conforms with 40 CFR, Section 270.1(c)(5)(ii)(A) except for the following changes:

The phrase "the applicable Chapter 14" is being added for clarification purposes only and in no way alters the meaning of the regulations.

The phrase "or it must demonstrate that the unit closed under state requirements that met or exceeded the applicable closure-by-removal standard" is being deleted. This language is not applicable in the state regulations, since Chapter 14 (when adopted) will contain the state closure requirements which will meet or exceed the federal closure requirements.

Section 66270.1(c)(6)(B): The phrase "its receipt" is being changed to "receipt of a petition requesting a closure equivalency determination" for clarification only. This change does not alter the meaning of the regulation. Additionally, the word "will" in the second sentence is being changed to "shall" for consistency with the terminology used throughout the proposed regulations.

Section 66270.1(d): This section, which requires that waste discharge requirements be incorporated as permit conditions into the hazardous waste facility permit to the extent they are not less stringent than the hazardous waste program regulations and statutes, is based on and is necessary to conform with existing H&SC, Section 25204.5. This section also specifies that the Department may establish more stringent requirements determined necessary to carry out the hazardous waste program regulations and statutes. Inclusion of this section in the regulations is necessary to retain existing state regulatory requirements. The corresponding federal regulations do not contain these requirements and, therefore, are less stringent.

Section 66270.3: This section, which is based on 40 CFR, Section 270.3, sets forth a list of federal acts which may apply to the issuance of permits. When applicable, their procedures and requirements shall be followed. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Sections 66270.3(a), (b), (c), (d), and (e): The phrase "and the Department" is being added following "Regional Administrator" whenever it appears in these sections. Under authorization, permits issued by the Department must be "RCRA-equivalent". Thus, any prohibitions and restrictions will extend to the Department's permitting actions. These additions are being made for clarification purposes and specificity and do not substantially alter the meaning of the regulation.

Sections 66270.3(a) and (b): The word "license" is being changed to "permit" in these two (2) sections for clarification and consistency with the terminology used throughout the proposed regulations.

Section 66270.3(b), (d) and (e): The various general references to any state programs or agencies in these sections are being amended to specify the actual name of the appropriate California state program or agency. These changes are being made for clarification purposes and do not in any way alter the meaning of the regulations.

Section 66270.4: This section, which is based on 40 CFR, Section 270.4, specifies the legal effect of the permit. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.4(a): This section replaces 40 CFR, Section 270.4(a). The federal language is being replaced by a provision which is consistent with the requirements of H&SC, Section 25202. Section 66270.4(a) requires owners and operators of permitted hazardous waste facilities to comply with all current regulations in addition to the permit. The corresponding federal regulation is less stringent because it only requires permitted facilities to comply with conditions and requirements specified in the permit.

Section 66270.4(b): This new subsection is being adopted to clarify that the issuance of a permit does not insulate a permitted facility from subsequent rule changes promulgated by the Department. This change implements H&SC, Section 25202 and is necessary to distinguish the State's program and authority from the federal permitting program.

Section 66270.5: This section, which is based on 40 CFR, section 270.5, specifies the various noncompliance and program reporting requirements. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

The first sentence in this section requires the Department to prepare the quarterly and annual reports described in this section. This sentence is being revised to clarify that these reporting requirements are only applicable to RCRA-regulated facilities and activities.

In the introductory paragraph, the phrase "When the state is the permit-issuing authority" in the second sentence and the entire third sentence are being deleted. These changes are

necessary because the department will be the only permit issuing authority in California once the state is authorized.

Section 66270.5(c): The phrase "on...day/date" in the first sentence and in the footnote to the chart is being changed to "no later than...day/date" for clarification. Additionally, the second sentence is being deleted because it contains reporting instructions which are directed towards the EPA Regional Administrator and does not concern responsibilities to be delegated to the Department under authorization. Thus, this language is not applicable in the context of the state regulations.

40 CFR, Section 270.6: This section of the federal regulations, which specifies certain publications which are incorporated by reference, is not being incorporated in Chapter 20 of the proposed state regulations. Instead, the provisions of 40 CFR, Section 270.6 are being included, with minor revisions, in proposed Section 66260.11. (See the SOR for Section 66260.11 for a discussion of these minor revisions.)

ARTICLE 2: PERMIT APPLICATION:

This article is based on Subpart B of 40 CFR, Part 270. It sets forth the general requirements pertaining to permit application submission, signatures and confidentiality. This article also specifies the specific content requirements for Part A and Part B of the permit application. The Part B content requirements include those requirements applicable to all facilities, as well as requirements unique to each type of facility.

Section 66270.10: This section, which is based on 40 CFR, Section 270.10, sets forth general permit application submission and procedural requirements. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.10(a): Per OAL comment the provision in the first sentence of this subsection is being modified to "... and submit a Part A and Part B permit application to the Department as specified in this Chapter." to conform with existing, more stringent Title 22, CCR, Section 66372(a).

Section 66270.10(c): The first sentence of this section, "The Department shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit", is based on and is necessary to conform to existing Title 22, CCR, Section 66372(c). The corresponding federal regulation does not contain this requirement and, therefore, is less stringent.

Section 66270.10(c): The third sentence in this section specifies when a permit application is considered to be complete. The phrase "and the Department notifies the applicant in writing that the application is complete" is being added at the end of this sentence. This added language is necessary to conform with existing H&SC, Section 25199.6, which is more stringent than the corresponding federal regulation.

Section 66270.10(c): Language from the corresponding federal regulation, which states that "an application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information" required under Section 66270.10(j), is not being included in the proposed regulation. The exposure information is part of the information required of facilities in California for compliance with CEQA (California Environmental Quality Act). If facilities were allowed to delay submitting this information until sometime after their application is accepted or deemed complete it would, in some cases, make it impossible for the Department to comply with permit

application processing deadlines (which are tied to the date an application is accepted or deemed as complete) mandated by state statutes (Government Code, Section 65943 and H&SC, Section 25199.6). Therefore, this federal language is not being included in the proposed state regulations to enable the Department to comply with existing, more stringent state law.

Section 66270.10(c): The last sentence of this section, "The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity", is based on and is necessary to conform to existing Title 22, CCR, Section 66372(c). The corresponding federal regulation does not contain this requirement and, therefore, is less stringent.

Section 66270.10(d): A new language "(Application for a Hazardous Waste Permit)" is being added to this subsection in order to specifically describe the 'application form' mentioned in this subsection.

40 CFR, Section 270.10(e)(1)(iii): This section of the federal regulation is not being included in the proposed state regulation to conform with existing, more stringent state law which does not contain any special requirements or allowances for onsite facilities generating 100-1000 kilograms per month. Under state law, these facilities are required to comply with the same requirements as all other hazardous waste facilities.

40 CFR, Sections 270.10(e)(2), (e)(3) and the Note following (e)(1)(iii): These sections of the federal regulation are not being included in the proposed state regulation because they provide conditions and mechanisms for allowing owners and operators of existing hazardous waste management facilities to delay submission of Part A of the permit application. Existing state statutes and regulations are more stringent and do not allow such delays.

Sections 66270.10(e)(1)(A) & (e)(2): The opening sentences of these subsections establish some compliance time-lines. Per its request, OAL is authorized to incorporate the exact dates upon approval of these regulations. These changes are being made for purposes of clarity only and do not change the provisions of these regulations.

Section 66270.10(e)(2): Per OAL comment, the language "on a case-by-case basis" is being eliminated and replaced with a new language "if the owner or operator demonstrates to the satisfaction of the Department that additional time is required to complete Part B of the application". This change is being made to establish criteria for the exercise of

departmental discretion to allow the owner/operator more time to submit a complete Part B permit application.

Section 66270.10(e)(2): This section of the proposed state regulations differs from the corresponding federal regulation (40 CFR, Section 270.10(e)(4)) as follows:

The phrase "the effective date of these regulations" is being substituted for "promulgation of Phase II". The term "Phase II" refers to a certain segment of RCRA regulations and is not relevant in the context of the state regulations.

The second sentence of the corresponding federal regulation, which begins "The State Director...", is not being included in the proposed state regulation. This sentence addresses differences between procedures in authorized states and unauthorized states, and, therefore, is not necessary or appropriate within the context of the state regulations. (The procedures relating to authorized States are being included in the proposed regulations.)

The federal regulation says the owner or operator shall be allowed at least six (6) months to submit the Part B application after being requested to do so by the Department. Existing Title 22, CCR, Section 66388 is more stringent in that it only allows the owner or operator sixty (60) days to submit the Part B, with the provision that the Department may allow more time on a case-by-case basis. The existing Title 22 regulation is also more specific, and thus more stringent, in that it requires a complete Part B application to be submitted by the specified deadline. The second and third sentences of Section 66270.10(e)(2) reflect the more stringent state standards.

The words "this Act" in the last sentence of this section are being changed to "RCRA or the H&SC". This change is necessary because in California facilities must comply with both RCRA and the H&SC. (The term "Act" refers to the Solid Waste Disposal Act as amended by RCRA.)

Section 66270.10(f)(1): This section is being revised to conform with existing H&SC, Section 25201(b), which is more specific than the corresponding federal regulation.

Section 66270.10(f)(2): The second sentence of this section has been modified to delete language which addresses differences between procedures in authorized states and unauthorized states. This language is not necessary or

appropriate within the context of the state regulations. (The procedures relating to authorized states are being included in the proposed regulations.)

40 CFR, Section 270.10(f)(3): This section of the federal regulations allows construction and operation of a PCB incinerator without a hazardous waste facility permit. Existing, more stringent state law does not exempt this type of facility from the requirement to obtain a permit. Therefore, this section and references to it in paragraphs (f)(1) and (f)(2) are not being included in the proposed state regulations.

Section 66270.10(g)(1): Paragraph (i) in the corresponding federal regulation is being deleted and paragraphs (A) and (B) ((ii) and (iii) in the federal regulation) are being modified to delete language which addresses differences between procedures in authorized states and unauthorized states. This language is not necessary or appropriate within the context of the state regulations. (The procedures relating to authorized states are being included in the proposed regulations.)

Section 66270.10(g)(2): The words "and approved" are being inserted after the word "filed" to conform to existing Title 22, CCR, Section 66389, which requires an ISD facility to submit and receive Department approval of a revised Part A application before the facility can begin to handle new wastes. The corresponding federal requirement is less stringent.

Section 66270.11: This section, which is based on 40 CFR, Section 270.11, sets forth the general signature and certification requirements pertaining to permit applications, reports and other information requested by the Department. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.11(a)(1): The phrase "is authorized to" is being inserted to qualify "perform" and the phrase "which govern the operation of the regulated facility" is being inserted to qualify the phrase "policy- or decisionmaking functions". Both changes are necessary to conform to existing Title 22, CCR, Section 66373(a)(1) which specifies corporation signature requirements more stringent than the corresponding federal requirements.

40 CFR, Section 270.11(a)(1)(ii) and the subsequent Note: These segments of the corresponding federal regulation are not being included in the proposed state regulation because they provide for an alternate signature authority and a

disclaimer which make the federal requirement less stringent than the existing Title 22 requirement.

Section 66270.12: This section, which is based on 40 CFR, Section 270.12, sets forth the limitations and procedural requirements pertaining to the confidentiality of information submitted by facilities to the Department. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR.

Section 66270.13: This section, which is based on 40 CFR, Section 270.13, sets forth the content requirements for Part A of the permit application. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.13 (introductory paragraph): This paragraph is being modified to conform with existing Title 22, CCR, Section 66390(b), which requires applicants to use the Part A permit application form provided by the Department. The corresponding federal regulation does not include this requirement (although it is stated elsewhere in the federal regulations). A new language "(Application for a Hazardous Waste Permit, Form EPA 8700.23, revised 1/90)" is being added following "application form" to specifically describe the application form. Other minor wording changes are also being made to this paragraph for clarification.

Section 66270.13(k): The phrase "or the H&SC" is being inserted in paragraph (k)(1) and the phrase "including State permits" is being deleted from paragraph (k)(9). These changes are being made to make it clear that, for California facilities, "State permits" means hazardous waste management permits issued under the H&SC. These changes do not alter the meaning of the regulation. In addition, for ease of use, the parallel citations to each programs' beginning section in the United States Code, and/or H&SC is being provided.

Section 66270.13(l): The portion of the corresponding federal regulation allowing submission of a non-topographic map is not being included in the proposed state regulation to conform with existing, more stringent Title 22, CCR, Section 66390(a)(7). Additionally, language is being added to this section to conform to existing Title 22, CCR, Section 66390(a)(7), which requires "each building and its use" to be depicted on the topographic map. This requirement is similar to, but more specific than, the corresponding federal requirement.

Section 66270.14: This section, which is based on 40 CFR, Section 270.14, specifies the Part B application content requirements applicable to all hazardous waste facilities. Additional Part B content requirements specific to each facility type are set forth in Sections 66270.15 through 66270.23. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.14(a): This section requires various documents to be certified by a "registered professional engineer". This is being changed to an "independent, qualified professional engineer registered in California". The words "independent, qualified" are being added to be consistent with the engineering certification requirements found throughout the federal regulations and these proposed state regulations. The word "registered" is being changed to "registered in California" to conform with the requirements of the Business and Professions Code, Sections 6704 and 6732, which are more stringent than the requirements found in the federal regulations.

Language is being added to require that geologic documents be prepared by, or under the direction of, and be certified by a geologist registered in California. This language is being added to conform with the requirements of Section 7835 of the Business and Professions Code. This requirement is not contained in the corresponding federal regulation.

The last sentence of Section 66270.14(a) is based on, and is necessary to conform with, existing Title 22, CCR, Section 66391, which requires certain calculations and technical data to be retained by the owner/operator and be available for Department review. This requirement is not included in the corresponding federal regulation.

Section 66270.14(b): Section 66270.14(b)(5): The reference to Section 66264.193(i) is being changed to Section 66264.193(j) to correct an erroneous citation in the federal regulation.

Section 66270.14(b)(11): The first paragraph in the corresponding federal regulation (40 CFR, Section 270.14(b)(11)(i)), the comment following the first paragraph, and the phrase "If the facility is proposed to be located in an area listed in Appendix VI of Part 264" in the second paragraph of the corresponding federal regulation (40 CFR, Section 270.14 (b)(11)(ii)) are being deleted. The deleted language addresses the distinction between geographic areas that are and are not required to comply with the seismic standard. Since the existing and proposed Title 22 regulations require compliance with the seismic standard

throughout California, this deleted language is not applicable in the state regulations.

Section 66270.14(b)(11)(A): The phrase "of a new facility or a facility undergoing substantial modification" is being added after the words "The owner or operator". This change is necessary to conform with existing Title 22, CCR, Section 66391(a)(11)(A). The corresponding federal regulation (40 CFR, Section 270.14(b)(11)(i)) is less stringent as it applies the seismic standard to new facilities only. Also, a new language "(a Class 3 modification specified in Section 66270.42(c) involving physical changes to the facility)" is being incorporated following the words "substantial modification" to define substantial modification.

Section 66270.14(b)(11)(F): This section is based on, and is necessary to conform with, existing Title 22, CCR, Section 66391(a)(11)(E), which requires owners/operators of certain types of facilities to include information relating to groundwater in their Part B application. The corresponding federal regulation does not include this requirement.

40 CFR, Section 270.14(b)(18): This section in the corresponding federal regulation is not being included in the proposed regulation, since it relates only to State financial mechanisms which are not allowed under the existing or proposed Title 22 regulations.

Section 66270.14(b)(18): The "1,000 feet" requirement is being changed to "2,000 feet" to conform to existing Title 22, CCR, Section 66391(a)(18), which is more stringent than the corresponding federal regulation.

Note following 40 CFR, Section 270.14(b)(19)(xii): This language is less stringent than existing Title 22 regulations in that it allows the use of alternate topographic map scales. Therefore, this language is not being included in the proposed regulations.

Section 66270.14(b)(19): This section requires the Part B to include any additional information required by the Department. The language is being revised to conform with existing Title 22, CCR, Section 66391(a)(19) requirements which are more comprehensive and, therefore, more stringent than the corresponding federal requirements.

Section 66270.14(b)(20): The words "for RCRA wastes", "by EPA" and "by the Department" are being inserted into the first sentence of this section to make it clear that for RCRA wastes the case-by-case extensions of the land ban restrictions must be approved by both EPA and the Department. Additionally, references in the first sentence

of this section to the petition process allowed under 40 CFR, Section 268.6 are being deleted because the state statute (H&SC, Section 25179.5, et. seq.) is more restrictive than the federal regulations and does not allow for this petition process. For non-RCRA wastes an extension of the land ban restrictions may be requested and approved through the variance process under Section 66260.210. The last sentence of this section is being added to require that a copy of the letter granting such a variance be included with the Part B application. This requirement is consistent with the Part B submittal requirements pertaining to extension approvals for RCRA wastes as set forth in the first sentence of this same section.

Section 66270.14(c): The Part B submittal requirements set forth in this section are intended to ensure that permit applicants meet the monitoring and response requirements of Chapter 14, Articles 6 (water quality) and 17 (air, soil and soil-pore gas). Therefore, most of the following changes being made in this section (in addition to the generic changes) parallel those changes being made in Chapter 14, Articles 6 and 17 (see SOR for these articles for detailed explanation):

Existing Title 22, Sections 66391(c) and 67180-67195) and Title 23 (Subchapter 15) of the state regulations together require monitoring and response to releases to groundwater, surface water, soil-pore liquid, soil-pore gas, and the air. The corresponding federal regulations only pertain to groundwater. Therefore, to retain the existing state requirements, all references in this section to "groundwater" are being deleted or replaced by one of the following terms (depending on the context): "environmental quality", "environmental", or "groundwater, surface water, air, soil-pore liquid, soil-pore gas (or soil)". In conjunction with this change, all references to the requirements of Chapter 14, Article 6 are being expanded to include the appropriate requirements of Chapter 14, Article 17.

Federal regulations only require the owner/operator to establish concentration limits and to monitor for and respond to releases of "hazardous constituents". Existing state regulations, however, require concentration limits to be established for "constituents of concern", which are defined in proposed Section 66264.93. Additionally, existing state regulations monitoring for and response to statistically significant increases in "monitoring parameters", which are defined in Section 66264.98 to include physical parameters and constituents of concern. Therefore, to retain the existing state requirements (Title 23, Subchapter 15), the terms "hazardous constituents" and "monitoring parameters"

are also stated in addition to the term "constituents of concern".

Section 66270.14(c): The introductory paragraph explains the applicability of Section 66270.14(c). The language in this paragraph is being revised to specify the applicability of this section as it pertains to the Chapter 14, Article 17 requirements. These changes are consistent with the changes being made in Chapter 14, Articles 6 and 17. The applicability of the proposed regulation differs from the corresponding federal regulation in the following respects:

The federal regulations only apply to surface impoundments, waste piles, land treatment units and landfills that receive hazardous wastes after July 26, 1982 (except as provided in 40 CFR, Section 264.90(b)). The existing and proposed state regulations apply to all surface impoundments, waste piles, land treatment units and landfills that receive or have received hazardous waste at any time.

The corresponding federal regulation (40 CFR, Section 270.14(c)) requires the Part B information listed in this section only as it pertains to ground water protection, since 40 CFR contains no general water quality or other environmental protection requirements comparable to Chapter 14, Articles 6 and 17 (and existing Title 22, CCR, Section 66391(c)). The proposed regulation, however, requires submittal of this information as it pertains to: (1) water quality for all regulated units, and (2) air, soil and soil-pore gas for regulated units that receive hazardous waste after February 2, 1985.

Refer to the SOR for Chapter 14, Articles 6 and 17 for further discussion of the applicability of the water quality and other environmental protection requirements contained in these regulations.

Section 66270.14(c)(2): This section requires identification of the uppermost aquifer and hydraulically-connected aquifers beneath the facility and the ground water flow direction and rate. Language is being added to require that this determination, at a minimum, be made "at the times of expected highest and lowest annual elevations of the ground water surface". This change is necessary to conform with existing Subchapter 15 regulations, which are more stringent than the federal regulations, and for consistency with proposed regulation Sections 66264.98(e) and 66264.99(e).

Section 66270.14(c)(3): The phrase "monitoring wells" (which is applicable only to ground water monitoring) is being

changed to "monitoring points" (which applies to all types of required environmental monitoring). This change is necessary for consistency with the requirements of Chapter 14, Articles 6 and 17.

Sections 66270.14(c)(4), (c)(7)(B) and (c)(8)(A): The word "contamination(ed)" is being replaced by the phrase "contamination(ed) or pollution(ed)". This change is necessary to conform with the requirements of existing state statute (the Porter-Cologne Water Quality Control Act) and existing Title 22 (Section 67183), and is consistent with the changes being made in Chapter 14, Article 6 and 17. The federal regulation is more limited in scope and, therefore, less stringent.

Sections 66270.14(c)(4) and (c)(6)(A): In paragraph (c)(4) the phrase "entered the ground water from a regulated unit" is being replaced by the phrase "migrated from a regulated unit". In paragraph (c)(6)(A) the phrase "indication of the presence of hazardous constituents in the ground water" is being replaced by the phrase "indication of a release from a regulated unit". These changes are being made for consistency with the language in Chapter 14, Articles 6 and 17, and are necessary to conform with existing state Title 22 and Title 23 regulations which require facilities to monitor and respond to releases from regulated units to any environmental component, not just released to groundwater.

Sections 66270.14(c)(5), (c)(7)(E) and (c)(8)(D): These sections require submission of detailed plans and engineering reports describing the proposed environmental monitoring programs required under Chapter 14, Articles 6 and 17. Language is being added to these sections to require that these documents be prepared and certified by a California registered geologist or civil engineer. This change is being made for consistency with Chapter 14, Articles 6 and 17 which require the environmental monitoring programs to be designed and certified by a California registered geologist or civil engineer. This requirement is not contained in the corresponding federal regulations.

Section 66270.14(c)(6): This section lists the Part B information which must be submitted when a detection monitoring program is required. The introductory phrase, "If the presence of hazardous constituents has not been detected in the ground water" is being replaced by the phrase "If a detection monitoring program is required under Section 66264.91 and/or Section 66264.701". This change is necessary to conform to existing and proposed state regulations which contain broader, more stringent, requirements than the federal regulations with respect to when a detection monitoring program is required.

Section 66270.14(c)(6)(B): The phrases "required under Section 66264.98" and "required under Section 66264.707" are being added for clarification only.

Section 66270.14(c)(7): This section lists the Part B information which must be submitted when an evaluation monitoring program is required. (The 40 CFR term "compliance monitoring" is being replaced by "evaluation monitoring" to conform to the same terminology change in Chapter 14, Article 6. Refer to the SOR for Chapter 14, Article 6 for more information.) The introductory phrase, "If the presence of hazardous constituents has been detected in the ground water at the point of compliance" is being replaced by the phrase "If an evaluation monitoring program is required under Section 66264.91 and/or Section 66264.701". This change is necessary to conform to existing and proposed state regulations which contain broader, more stringent, requirements than the federal regulations with respect to when an evaluation monitoring program is required.

Section 66270.14(c)(7): The phrase "Except as provided in 264.98(h)(5)," is being deleted. This language refers to an exemption from the requirement to submit an engineering feasibility study allowed under the federal regulations but not allowed under the more stringent existing and proposed state regulations. (Refer to the SOR for Section 66264.98(h)(5) for further information.)

Section 66270.14(c)(7): The word "plan" is being replaced by the word "study" for consistency. The federal regulations use both words interchangeably to refer to the same report.

Section 66270.14(c)(7): The words "in advance" are being replaced by the phrase "prior to submittal of the permit application". This change is being made to clarify this particular requirement, and is consistent with the language in Section 66270.14(c)(8)(F) which addresses the same requirement.

Section 66270.14(c)(7)(C): The word "proposed" is being inserted in this section to make it clear that the list of monitoring parameters submitted by the facility as part of the Part B application is not final until approved by the Department and specified in the final permit.

Section 66270.14(c)(7)(D): The phrase "proposed concentration limits" is being replaced by the phrase "background values, and any proposed concentration limits greater than background". This change is necessary to conform with the changes being made in Section 66264.98. Additionally, the word "alternate" is being changed to "such" since existing and proposed state regulations do not allow

alternate concentration limits. (Refer to the SOR for Chapter 14, Articles 6 and 17 for further information.)

Section 66270.14(c)(8): This section lists the Part B information which must be submitted when a corrective action program is required. The introductory phrase, "If hazardous constituents have been measured in the ground water which exceed the concentration limits established under 264.94 Table 1, or if ground water monitoring conducted at the time of permit application under 265.90 through 265.94 at the waste boundary indicates the presence of hazardous constituents from the facility in ground water over background concentrations" is being replaced by the phrase "If a corrective action program is required under Section 66264.91 and/or Section 66264.701 at the time of permit application". This change is necessary to conform to existing and proposed state regulations which contain broader, more stringent, requirements than the federal regulations with respect to when a corrective action program is required.

Section 66270.14(c)(8): The second and third sentences in the corresponding federal regulation are being deleted. These two sentences pertain to the use of alternate concentration limits to obtain an exemption from the requirement to establish a corrective action program. Existing and proposed state regulations are more stringent than the federal regulations, as they do not allow the use of alternate concentration limits. (Refer to the SOR for Chapter 14, Articles 6 and 17 for further information.)

Section 66270.14(c)(8)(B): This section, which requires the submittal of a proposed list of constituents of concern, is being added for consistency with Sections 66264.100(b) and 66264.709(a).

Section 66270.14(c)(8)(C): The word "proposed" is being inserted in this section to make it clear that the list of concentration limits submitted by the facility as part of the Part B application is not final until approved by the Department and specified in the final permit.

Section 66270.14(c)(8)(D): The phrase "and proposed environmental monitoring programs,..." is being added. This change is being made for consistency with Sections 66264.100 and 66264.709.

Section 66270.14(c)(8)(F): The word "proposed" is being inserted prior to "permit schedule" for consistency with Section 66270.14(c)(7) which addresses the same requirement. Also, adding the word "proposed" makes it clear that the permit schedule is not final until it is approved by the

Department and incorporated into the final permit. The phrase "may contain a" is being deleted to correct the sentence structure of the regulation as it is contained in 40 CFR.

Section 66270.14(d): Section 66270.14(d)(1)(F): This new section is added to be consistent with the permit content requirements of Article 19 of Chapter 14. This added section does not alter the submittal requirements for solid waste management units, but it provides a complete listing of these requirements in Section 66270.14(d) for clarity.

Section 66270.14(e): This is a new section which requires the Part B permit application to include information needed by the Department to prepare an Initial Study in accordance with the requirements of Title 14, CCR, Section 15063. This regulation is necessary to enable the Department to comply with the requirements of existing state law as set forth in the CEQA.

Section 66270.15: This section, which is based on 40 CFR, Section 270.15, specifies the Part B content requirements specific to facilities that manage hazardous waste in containers. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

40 CFR, Section 270.15(b): This section of the corresponding federal regulation is not being included in the proposed regulations. This deletion is necessary because the demonstration required by this section is for an exemption allowed by 40 CFR, Section 264.175(c), which is not being included in these proposed regulations because it is less stringent than existing Title 22, CCR, Section 67245.

Section 66270.16: This section, which is based on 40 CFR, Section 270.16, specifies the Part B content requirements specific to facilities that manage hazardous waste in tank systems. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Language is being added to the introductory paragraph of this section to require owners and operators of tank facilities to include in their Part B application "a description of design and operation procedures which demonstrate compliance with the requirements of Sections 66264.192, 66264.194, 66264.198, and 66264.199". This language is based on, and is necessary to conform with, existing Title 22, CCR, Section 66391(b)(2). The corresponding federal requirement is more limited in scope and, therefore, is less stringent. The federal

regulation only requires certain specific pieces of information to be provided, which would not necessarily constitute full compliance with the corresponding Title 22 requirement.

Section 66270.16(a): This section requires an assessment by an "independent, qualified, registered professional engineer". This is being revised to require that the engineer be registered in California, to conform with the requirements of the Business and Professions Code, Sections 6704 and 6732, which are more stringent than the requirements found in the federal regulations. Additionally, language is being added to require that the assessment of the tank system include the containment system. This change is being made for clarity and to conform with existing Title 22, CCR, Section 66251(c).

Section 66270.16(b): "Shell thickness" is being added to the information requirements of this section to conform with existing Title 22, CCR, Section 66391(b)(2)(B). The corresponding federal regulation is less stringent as it does not include this requirement.

Sections 66270.16(k) and (l): These two sections are based on, and are necessary to conform with, existing Title 22, CCR, Sections 66391(b)(2)(A) and (B). The corresponding federal regulations are less stringent as they do not include these requirements.

Section 66270.17: This section, which is based on 40 CFR, Section 270.17, specifies the Part B content requirements specific to facilities that manage hazardous waste in surface impoundments. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.17(b)(3): The information requirements pertaining to dikes are being expanded to conform with existing Title 22, CCR, Section 66391(b)(3)(B). The corresponding federal requirement is more limited and less stringent.

Section 66270.17(c): This section is based on, and is necessary to conform with, existing Title 22, CCR, Section 66391(b)(3)(C). The corresponding federal regulation is less stringent as it does not include this requirement.

Sections 66270.17(d), (f) and (g): The word "should" is being replaced by the word "shall". The use of the word "should" in the context of these sections is ambiguous and

nonregulatory in nature. The word "shall" more clearly reflects the intent of these regulations.

Section 66270.17(e): The phrase "qualified engineer" is being changed to "independent, qualified, professional engineer, registered in California". This change is being made for consistency with the engineering certification requirements found elsewhere throughout these proposed regulations and the federal regulations.

Section 66270.18: This section, which is based on 40 CFR, Section 270.18, specifies the Part B content requirements specific to facilities that manage hazardous waste in waste piles. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 270.18(b): References to an exemption allowed under 40 CFR, Section 264.90(b) are not being included in this section. This change is necessary because the 40 CFR, Section 264.90(b) exemption is not being included in these regulations.

Sections 66270.18(c)(1) and (f): The word "waste" is being inserted prior to the word "pile" for clarification. Additionally, the reference to Section 66264.252 in subsection (c) is being changed to Section 66264.251. This change is necessary to correct an erroneous citation in 40 CFR.

Section 66270.18(d): This section is based on, and is necessary to conform with, existing Title 22, CCR, Section 66391(b)(4)(D). The corresponding federal regulation is less stringent as it does not include this requirement.

Sections 66270.18(e) and (i): The word "should" is being replaced by the word "shall". The use of the word "should" in the context of these sections is ambiguous and nonregulatory in nature. The word "shall" more clearly reflects the intent of these regulations.

Section 66270.18(e): The last sentence of this section, pertaining to inspection requirements for waste piles with double liners and leak detection systems, is based on, and is necessary to conform with, existing Title 22, CCR, Section 66391(b)(4)(E). The corresponding federal regulation is less stringent as it does not include this requirement.

Section 66270.18(j): The federal regulations, pertaining to the management in waste piles of the wastes listed in this regulation, require a waste management plan only if the waste

pile is not enclosed. Existing state regulations, however, are more stringent and require a waste management plan for any waste pile in which the waste types are managed. Proposed state regulation Sections 66270.18(j) and 66264.259 are being revised to reflect the more stringent state standard.

Section 66270.19: This section, which is based on 40 CFR, Section 270.19, specifies the Part B content requirements specific to facilities that manage hazardous waste in incinerators. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.19(c)(3): The word "should" is being replaced by the word "shall". The use of the word "should" in the context of this section is ambiguous and nonregulatory in nature. The word "shall" more clearly reflects the intent of this regulation.

Section 66270.19(c)(5)(C): This section is based on, and is necessary to conform with, existing Title 22, CCR, Section 66391(b)(5)(C). The corresponding federal regulation is less stringent as it does not include this requirement.

Section 66270.19(c)(6)(A): This section is being revised to require that oxygen concentrations in the stack exhaust gas be reported in addition to reporting carbon monoxide concentrations to conform with existing Title 22, CCR, Section 66391(b)(5)(C)(6.). The corresponding federal regulation is less stringent as it does not include this requirement. Additionally, the word "level" is being replaced by the more specific term "concentrations", which is consistent with the corresponding existing Title 22 regulation.

Section 66270.20: This section, which is based on 40 CFR, Section 270.20, specifies the Part B content requirements specific to facilities that manage hazardous waste in land treatment units. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.20(b)(3)(G): The term "hazardous constituents" is being changed to "constituents of concern" to conform to the change being made in Section 66264.278 where the requirements for monitoring will refer to monitoring for the latter term.

Sections 66270.20(c)(5) and (d): The word "should" is being replaced by the word "shall". The use of the word "should" in the context of these sections is ambiguous and nonregulatory in nature. The word "shall" more clearly reflects the intent of these regulations.

40 CFR, Sections 270.20(d) and (e): These two sections of the corresponding federal regulation are not being included in the proposed regulations, because they pertain to the federal provision which allows the growth of food chain crops in land treatment zones. Existing Title 22, CCR, Section 67363(f) is more stringent than the federal regulations, as it does not allow for the growth of food chain crops in land treatment zones.

Section 66270.21: This section, which is based on 40 CFR, Section 270.21, specifies the Part B content requirements specific to facilities that manage hazardous waste in landfills. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.21(c): The lead-in phrase to this section is being revised to conform with existing Title 22 requirements which are more stringent than the corresponding federal requirements. Specifically, existing Title 22 does not allow the federal exemption provided by 40 CFR, Section 264.302(a). However, existing Title 22, CCR, Section 66391(b)(7)(C) does require submission of the Part B information described in Section 66270.21(c) for those landfills which require a double liner and leak detection system.

Sections 66270.21(d) and (e): The word "should" is being replaced by the word "shall". The use of the word "should" in the context of these sections is ambiguous and nonregulatory in nature. The word "shall" more clearly reflects the intent of these regulations.

40 CFR, Section 270.21(h): This section of the corresponding federal regulation was only applicable prior to May 8, 1985. Since it is no longer applicable it is not being included in the proposed regulations.

Section 66270.23: This section, which is based on 40 CFR, Section 270.23, specifies the Part B content requirements specific to facilities that manage hazardous waste in miscellaneous units. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.23(c): The phrase "hazardous waste or hazardous constituents" is being replaced by "waste constituents, hazardous constituents and reaction products". This change is being made for consistency with language changes being made in Chapter 14, Article 6 to conform to existing Title 23, CCR, Subchapter 15, Article 5. Subchapter 15 requires corrective action for any detected release from a regulated unit whether or not the released constituents are hazardous constituents. This is more stringent than the corresponding federal requirements found in Subpart G of 40 CFR, Part 264. (Refer to the SOR for Chapter 14, Article 6 for further information.)

Section 66270.29: This section, which is based on 40 CFR, Section 270.29, allows the Department to deny a permit in its entirety or only with respect to the active life of the facility or unit. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR.

ARTICLE 3: PERMIT CONDITIONS

This article is based on Subpart C of 40 CFR, Part 270. It sets forth conditions applicable to all hazardous waste permits as well as requirements for recording and reporting monitoring results, establishing specific permit conditions, and specifying schedules of compliance.

Section 66270.30: This section, which is based on 40 CFR, Section 270.30, specifies conditions which are applicable to all hazardous waste permits. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

In the introductory paragraph, the phrase "all conditions applicable to permits" is being inserted. This additional language is necessary to conform to existing Title 22, CCR, Section 66376(c), which is more stringent than the corresponding federal regulation.

In the introductory paragraph, the word "these" is being changed to "the appropriate" and the phrase "(or the corresponding approved state regulations)" is being deleted. The first change is necessary to conform to the requirements of existing Title 22, CCR, Section 66374, which are more specific and, thus, more stringent than the corresponding federal requirement. The second change is necessary because this language is not applicable in the context of state regulations.

Section 66270.30(a): The word "Act" is being changed to "statute or regulation". This change is necessary to conform to existing Title 22, CCR, Section 66374(a) which is broader and, thus, more stringent than the corresponding federal requirement. Under 40 CFR, permits and enforcement actions are based solely on the Solid Waste Disposal Act. However, existing state statutes and regulations require permits and enforcement actions to encompass a broader body of law.

Section 66270.30(d): The phrase "or correct" is being added, the word "such" is being changed to "all", the word "significant" is being deleted, and the phrase "and correct" is being added. These changes are necessary to comply with existing, more stringent state regulations (Title 22, CCR, Section 66374).

Section 66270.30(h): The phrase "not to exceed thirty (30) calendar days unless a time extension is approved by the Department" is being inserted. This additional language is necessary to define the term "reasonable time", which by itself is ambiguous and, therefore, makes this regulation

difficult for facilities to comply with and for the Department to enforce.

Thirty (30) calendar days should provide sufficient time for facilities to respond to most information requests from the Department. In those cases requiring additional time, the revised regulation allows the facility to request Department approval of an extension to the thirty (30) days.

Section 66270.30(i): The phrase "the Director or" is being deleted and the phrase "of the Department, the State Water Resources Control Board or a Regional Water Quality Control Board" is being added. These changes are necessary to comply with existing state regulations (Title 22, CCR, Section 66374(i)), which are more specific than the corresponding federal regulation.

Section 66270.30(i)(4): The acronym "RCRA" is being replaced by the word "law". The existing and proposed state regulations are based on the authority of both RCRA and state statutes. Therefore, the the more general term "law" is being used to establish a universal authority.

Section 66270.30(1)(1): The phrase "and at least thirty (30) days in advance" is being added. This change is necessary to comply with existing, more stringent state regulations (Title 22, Section 66374(1)(1)).

Section 66270.30(1)(2): The words "may not" are being replaced by the words "shall not". This change is being made for consistency with the terminology being used throughout these regulations. (Refer to the SOR for the generic change of "must" to "shall".)

Section 66270.30(1)(2)(A): This section requires a letter signed by a registered engineer. The word "registered" is being replaced by the phrase "registered in California" to conform with the requirements of Business and Professions Code, Sections 6704 and 6732, which are more stringent than the requirements found in the federal regulations.

Section 66270.30(1)(3): The phrase "under RCRA" is being deleted. The reference to the federal statutes will not be applicable in the state regulations once the State becomes authorized.

Section 66270.30(1)(8): The word "hazardous" is being added preceding the phrase "waste report". This addition is being made for clarification purposes only and in no way alters the meaning of the regulations.

Section 66270.30(1)(9): This section conforms with 40 CFR, Section 270.30(1)(9) except for the following changes:

The word "Biennial" in the heading is being replaced by the word "Annual" and the phrases "A biennial" and "odd numbered calendar years" are being replaced respectively by the phrases "An annual" and "the previous calendar year" in the first sentence. These changes are necessary to comply with existing, more stringent state regulations (Title 22, Section 66374(o)(3)).

The phrase "to the Department" is being added following the word "submitted". This addition is being made for clarification purposes only and in no way alters the meaning of the regulations.

Section 66270.31: This section, which is based on 40 CFR, Section 270.31, sets forth requirements for recording and reporting monitoring results. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR.

Section 66270.32: This section, which is based on 40 CFR, Section 270.32, specifies the requirements for establishing specific permit conditions. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.32(a): The phrase "and for EPA issued permits only," is being deleted because the regulatory sections preceded by this limiting phrase will apply to the "RCRA-equivalent" permits to be issued by the Department once the state becomes authorized.

Section 66270.32(b)(1): The word "Act" is being replaced by the word "statutes". This change is necessary because federal regulations use the word "Act" to refer to the Solid Waste Disposal Act. However, existing state statutes and regulations require permits to be in compliance with state law as well as federal law. The word "statutes" encompasses both.

Section 66270.32(b)(2): This section conforms with 40 CFR, Section 270.32(b)(2) except for the following changes:

The phrase "In addition to conditions required in all permits," is being added to the beginning of the first sentence. This introductory phrase is being added for clarification purposes only and in no way alters the meaning of the regulations.

The phrase "under section 3005 of this act" is being deleted because this reference is not applicable in the context of state regulations.

Section 66270.32(c): This section conforms with 40 CFR, Section 270.32(c) except for the following changes:

The phrase "for a State issued permit" and the word "State" in the first sentence and the entire second sentence in the federal regulation, beginning with "For a permit issued by EPA...", are being deleted because this language is not applicable in the context of state regulations.

The last sentence of the corresponding federal regulation is being merged with the first sentence in the proposed regulation. This is only a change to the paragraph structure, to make it easier to follow, and does not alter the meaning of the regulation.

Section 66270.33: This section, which is based on 40 CFR, Section 270.33, sets forth the requirements for specifying schedules of compliance. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.33(a): The word "Act" is being replaced by the word "statutes". This change is necessary because federal regulations use the word "Act" to refer to the Solid Waste Disposal Act. However, existing state statutes and regulations require permits to be in compliance with state law as well as federal law. The word "statutes" encompasses both.

ARTICLE 4: PERMIT CHANGES AND DENIALS:

This article is based on Subpart D of 40 CFR, Part 270. It sets forth the requirements for the transfer, major modification, revocation and reissuance, minor modification, denial, and termination of hazardous waste permits. The article title is being changed from "Changes to Permits" to "Permit Changes and Denials" to more completely reflect the contents of this article.

Section 66270.40: This section, which is based on 40 CFR, Section 270.40, specifies the requirements for the transfer of a permit. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.40(a): The word "Act" is being changed to "statute or regulation". This change is necessary because federal regulations use the word "Act" to refer to the Solid Waste Disposal Act. However, existing state statutes and regulations require permits to be in compliance with state law as well as federal law. The phrase "statutes and regulations" encompasses both.

Section 66270.40(b): The words "coverage, and liability" are being added following the phrase "transfer of permit responsibility". This change is necessary to comply with existing, more stringent state regulations (Title 22, CCR, Section 66385(d)).

Section 66270.40(b): The phrase "to the satisfaction of the Department" is being added after "has demonstrated", and the words "in writing" are being added "notify the old owner or operator". These changes are necessary to conform with existing, more stringent Title 22, CCR, Section 67013.

Section 66270.41: This section, which is based on 40 CFR, Section 270.41, specifies the requirements for making modifications or revocations and reissuances of hazardous waste permits. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

In the introductory paragraph, the parenthetical phrase "or procedures of an authorized State program" is being deleted. This language is not applicable in the state regulations once the state becomes authorized. Additionally, the words "shall be" are being inserted in the last sentence of this paragraph for clarification.

Section 66270.41(a)(5): 1) The language "for a land disposal facility" has been deleted. This deletion is necessary because DHS authority is not limited to land disposal facilities. 2) The existing language "continues to comply" has been changed to "is in compliance". Change in syntax necessary to acknowledge that some facilities are currently not in compliance, and; 3) A new language "and as necessary to protect human health and the environment" has been added at the end of this subsection. This addition is necessary to be consistent with Department authority in H&SC, Sections 25200(a) and 25202(a).

Section 66270.42: This section, which is based on 40 CFR, Section 270.42, specifies the requirements and procedures for making permittee-requested modifications to hazardous waste permits. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.42(a)(1)(A): 40 CFR, Section 270.42(a)(1)(i) requires permittees to notify the Department within seven (7) days after a Class 1 modification is put into effect. This provision is being modified in the proposed regulations to require that the permittee notify the Department at least thirty (30) days before a Class 1 modification is put into effect. Language is also being added to this section to allow the permittee, with written authorization from the Department, to put a Class 1 modification into effect sooner than thirty (30) days after notifying the Department of the modification.

Section 66270.42(a)(1)(B): 40 CFR, Section 270.42(a)(1)(ii) requires permittee to send a notice of the modification to all persons on the facility mailing list, maintained by the Department, and appropriate units of state and local government. Federal law also requires that for the Class 1 modifications that require prior approval from the regulatory agency, the notification shall be made within ninety (90) calendar days after the agency approves the request. This provision is being modified to require such a notification to be made within seven (7) days after the permittee notifies the Department and shall be published in a major local newspaper of general circulation. This change is necessary to allow public, at a minimum, to have some advance notice of Class 1 modifications requiring prior Departmental approval, since there is no provision for public inclusion in the decision-making.

Section 66270.42(a)(1)(D): This is a new section, which lists causes for rejection of a Class 1 permit modification. This section is being added for clarification, since the

federal regulation does not identify causes for rejection of a Class 1 permit modification. Section 66270.42(a)(1)(D)(1) states that a Class 1 modification may be rejected if it does not qualify as a Class 1 modification; this is consistent with the overall intent of the federal regulation. Section 66270.42(a)(1)(D)(2) allows a modification request to be rejected if it does not contain sufficient information for the Department to determine the appropriate modification classification or the actions necessary to comply with the CEQA, or if the request is otherwise incomplete. This rejection cause is warranted because without this information the Department cannot ensure compliance with the requirements of Section 66270.42 and CEQA. Sections 66270.42(a)(1)(D)(3) and (4) allow a modification to be rejected if modification does not comply with the appropriate Chapter 14 requirements or the modification fails to protect human health and the environment. These three (3) causes for rejection are consistent with the causes for rejecting a Class 2 modification which are listed in the federal regulation (40 CFR, Section 270.42(b)(7)) and the proposed regulation (Section 66270.42(b)(7)).

Section 66270.42(a)(2): This section is being revised to require that the permittee obtain prior written approval from the Department for Class 1 modifications not exempt from CEQA. (Class 1 modifications exempt from CEQA and not flagged by an asterisk in Appendix I may be implemented, without Department approval, thirty (30) days after the permittee notifies the Department concerning the modification.) This revision is necessary to enable the Department to comply with the requirements of existing state law as set forth in CEQA.

Sections 66270.42(b)(5) and (c)(5): The words "will" and "should" in these two (2) sections are being changed to "shall". These changes are being made to conform with the terminology used throughout these regulations. (See the SOR for the generic change of the word "must" to "shall" for more information.)

Section 66270.42(b)(6)(A): This section specifies the actions which the Department must take in response to a Class 2 permit modification request. The federal regulation (40 CFR, Section 270.42(b)(6)(i)) requires the Department to act within "no later than ninety (90) days after receipt of the notification request". In the proposed state regulations this section is being revised to require the Department to act "after the conclusion of the sixty (60) day comment period", without specifying a final deadline by which the Department must act. This change is necessary to enable the Department to comply with existing state law contained in CEQA. Under the requirements of CEQA, many Class 2

modification requests will require the Department to go through either a negative declaration or an environmental impact report process. Both of these processes typically require much longer than ninety (90) days (or 120 days which is allowed under 40 CFR, Section 270.42(b)(6)(i)(E)) to complete. (The time required to complete these CEQA processes varies depending on the complexity of the modification, the amount of public controversy, and how quickly and adequately the facility responds to Departmental requests for information needed to complete the CEQA process.)

Section 66270.42(b)(6)(A): The phrase "take one of the following actions" is being added for clarification only.

Sections 66270.42(b)(6)(A)(1) and (4): The phrase "after the applicable requirements of CEQA have been satisfied" is being added as a condition which must be met before the Department can approve a Class 2 modification request. This language is being added to make it clear that the Department will not approve a modification until the applicable CEQA requirements are met.

Section 66270.42(b)(6)(A)(3.): The words "one of" are being inserted before the words "the following reasons" for clarification only.

40 CFR, Sections 270.42(b)(6)(i)(E), (ii) and (iii): These sections in the federal regulations pertain to a thirty (30) day extension to the ninety (90) day time limit specified under 40 CFR for Department action on a Class 2 modification request, and specify that a Class 2 modification is automatically authorized if the Department fails to act with the 120-day (ninety (90) days plus thirty (30) days) time limit. As discussed above (under Section 66270.42(b)(6)(A)), no time limit for Departmental action is being included in the proposed regulations. For this reason, is not necessary or appropriate to include a time limit extension in the proposed regulations. Additionally, the automatic authorization provision contained in the federal regulations could, if included in the proposed state regulations, prevent the Department from being able to comply with existing state law set forth in CEQA. Therefore, 40 CFR, Sections 270.42(b)(6)(i)(E), (ii) and (iii) are not being included in these regulations.

Sections 66270.42(b)(6)(B) and (c)(6): These sections include new language, which specifies that, for purposes of CEQA, Class 2 and 3 modification requests are not considered to be complete until after the close of the sixty (60) day comment period and receipt by the Department from the permittee of the information needed to address the comments,

as well as all other information required by Section 66270.42. This language is being added for clarification, and to ensure that the Department has adequate time (after receiving all information necessary to act on the modification request) to meet CEQA specified deadlines.

Section 66270.42(b)(6)(C) and 40 CFR Section 270.42(b)(6)(v): Federal regulatory language in these sections pertaining to the automatic authorization provision is not being included in the proposed state regulations for the reasons discussed above. (See the discussion addressing 40 CFR, Section (b)(6)(iii).) Also not being included in the proposed regulations is federal language contained in these two sections, which allows a temporarily authorized Class 2 modification to become permanent if the Department fails to take final action on the modification request by the time the temporary authorization expires. Instead, Section 66270.42(b)(6)(C) is being modified to require the permittee to comply with the original permit conditions, if the Department has not taken final action by the time the temporary authorization expires.

40 CFR, Section 270.42(b)(vii): This section of the federal regulations allows the time limits for final Department action on a Class 2 modification request to be extended with the written consent of the permittee. This 40 CFR section is not being included in the proposed regulations since the proposed regulations do not contain time limits for final Department action on Class 2 modifications.

40 CFR, Section 270.42(b)(8): This section of the federal regulations allows permittees to begin construction associated with a Class 2 modification sixty (60) days after submitting the request, unless the Department establishes a later date. This section is being modified to conform to existing, more stringent state law, H&SC, Section 25201(b), which does not allow construction for a new hazardous waste management unit to begin until the Department approves the permit modification.

Section 66270.42(e)(2)(c): This section is being modified to also require the permittee to publish the notice about the temporary authorization in a major local newspaper of general circulation. This requirement is necessary to allow public, at a minimum, to have some advance notice of temporary authorization, since there is no provision for public inclusion in the decision-making.

Sections 66270.42(e)(3)(B) and (4)(B): These sections are being added to the regulations to make it clear that the Department will not approve or renew a temporary

authorization of a permit modification unless the applicable CEQA (existing state law) requirements have been met.

Section 66270.42(f): The addition of the new language "and temporary authorization" is necessary because of the changes made in subsection (e)(2)(C) of this section.

Section 66270.42(f)(1) and 40 CFR, Section 270.42(f)(3): Federal regulatory language in these two sections pertaining to automatic authorization of Class 2 modifications is not being included in the proposed regulations for conformity with the changes being made in Section 66270.42(b). A new language "This notice shall ... or temporary authorization." is being included at the end of Section 66270.42(f)(1) to clarify that temporary authorization and Class 2 or 3 permit modifications may be appealed and that notice by the Department of any decision shall include reference to the appeal process.

Sections 66270.42(f)(1) and (2): The addition of new language "or temporary authorization" is necessary because of the change made in subsection (f) of this section.

Section 66270.42(g)(1)(B): The corresponding federal regulation (40 CFR, Section (g)(1)) allows permitted facilities to continue managing newly listed or identified hazardous wastes if they submit a Class 1 modification request on or before the date the waste becomes subject to regulation (and meet certain other requirements). When this section was added to the federal regulations the intent was to provide permitted facilities with procedures for continuing to manage newly listed or identified wastes comparable to the procedures already provided under 40 CFR for interim status facilities. 40 CFR, Section 270.72(a)(1) allows interim status facilities to continue to manage newly listed or identified wastes if they submit a revised Part A permit application on or before the date the waste becomes subject to regulation (and meet certain other requirements). Existing (Section 66389(b)(1)) and proposed (Section 66270.72(a)(1)) Title 22, CCR regulations pertaining to interim status facilities differ from the 40 CFR regulations in that interim status facilities must submit and receive Department approval of a revised Part A application before continuing to manage newly listed or identified hazardous wastes. To be consistent with the intent of the corresponding 40 CFR regulation and with Title 22, CCR requirements for interim status facilities, Section 66270.42(g)(1)(B) is being revised to require permitted facilities to receive Department approval of the Class 1 modification in order to continue managing a newly listed or identified waste.

Section 66270.42(h): The corresponding 40 CFR regulation requires the Department to annually publish a notice regarding the availability of an updated modification listing "in a State-wide newspaper". If at some point there was no statewide newspaper in California, the Department would be unable to comply with this requirement. Therefore, this section is being modified in the proposed regulation to require the Department to publish "a newspaper notice statewide". This revised language is consistent with the intent of the federal regulation, but recognizes that publication in more than one newspaper may be necessary to provide statewide notification.

Section 66270.43: This section, which is based on 40 CFR, Section 270.43 and Title 22, CCR, Section 66383(c), specifies causes for terminating or denying a hazardous waste permit. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

The section heading has been changed from "Termination of Permits" to "Termination and Denial of Permits". This change is being made to reflect the inclusion of a section pertaining to denials from existing state regulations (Title 22, CCR, Section 66383(c)).

Section 66270.43(b): This section is based on and is necessary to conform to existing H&SC, Section 25186. The corresponding federal regulations do not include this provision and, therefore, are less stringent.

Section 66270.43(c): The phrase "or State procedures" is being deleted because this language is not applicable in the context of state regulations. Additionally, the words "or denying" are being inserted after the word "terminating" for completeness and clarity.

ARTICLE 5: EXPIRATION AND CONTINUATION OF PERMITS:

This article is based on Subpart E of 40 CFR, Part 270. It sets forth the requirements concerning the duration of hazardous waste permits and the continuation of expiring permits.

Section 66270.50: This section, which is based on 40 CFR, Section 270.50, specifies the requirements regarding the duration of permits. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.50(c): The language of this subsection has been modified to include "When necessary to protect human health and safety or the environment, the Department shall issue a permit ..." This change has been made to address a concern raised by the OAL that the proposed regulation does not specify a standard or criteria for the Department to issue a permit for a duration which is less than the full allowable term under this section." The modified language addresses OAL's concern.

Section 66270.51: This section, which is based on 40 CFR, Section 270.51, specifies the requirements regarding the continuation of expiring permits. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.51(a): The section title, "EPA permits.", and the phrase "when EPA is the permit-issuing authority" are being deleted because they are not applicable in the context of the state regulations.

The heading "State continuation" and the introductory phrase "In a State with an hazardous waste program authorized under 40 CFR, Part 271" are being deleted. This language is not applicable in the state regulations.

The phrase "EPA-issued RCRA" is being added preceding the word "permit". This language is being added for clarification purposes only and in no way alters the meaning of the regulations.

The word "State's" is being changed to "Department's". This change is for clarification purposes because the Department will be the only permit issuing authority in California once the state is authorized.

ARTICLE 6: SPECIAL FORMS OF PERMITS:

This article is based on Subpart F of 40 CFR, Part 270. It sets forth conditions necessary for permits by rule, issuance of emergency permits, incinerator trial burn permits, permits for land treatment demonstrations, and research, development, and demonstration permits.

Section 66270.60: This section, which is based on 40 CFR, Section 270.60, specifies the conditions necessary for permits by rule. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

One subsection which is contained in 40 CFR, Section 270.60 is not being included. This subsection, (b), sets forth conditions under which an injection well disposing of hazardous waste could be considered to have a permit by rule. Existing state law is more stringent. H&SC, Section 25159.15 prohibits the operation of a hazardous waste injection well in California without a hazardous waste facility permit meeting requirements set forth in the H&SC. Permits-by-rule are not allowed for hazardous waste injection wells under California law.

Sections 66270.60(a)(3)(E) and (b)(3)(E): The word "Biennial" is being changed to "Annual". This change is necessary to comply with existing, more stringent state regulations (Title 22, Section 66392(a)(3)(E)).

Section 66270.60(b)(1): The phrase "and has received waste discharge requirements issued by a Regional Water Quality Control Board" is being added. This change is necessary to comply with existing, more stringent state regulations (Title 22, Section 66392(a)(1)).

Section 66270.60(b)(2): The phrase "or discharge requirements" is being added. This change is necessary to comply with existing, more stringent state regulations (Title 22, Section 66392(a)(2)).

Section 66270.60(b)(5): This section, which states that hazardous wastes generated by POTWs are not exempted from the regulations, is being added for clarification and to maintain consistency with existing state regulations (Title 22, Section 66392(a)(5)). Although this requirement is not specifically stated in the federal regulations, it is consistent with the the federal regulations since they do not exempt hazardous wastes generated by POTWs. Thus, this change does not alter the meaning of the regulations.

Section 270.61: This section, which is based on 40 CFR, Section 270.61, specifies the requirements concerning emergency permits. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.61(a)(1): The language of this subsection has been modified to clarify the term "non-permitted facility". This change, however, does not change the intent of the corresponding federal regulation.

Section 66270.61(b)(4): The word "and" is being changed to "or". This change is necessary to comply with existing, more stringent state regulations (Title 22, Section 66393(a)(4)).

Section 66270.62: This section, which is based on 40 CFR, Section 270.62, specifies the requirements for hazardous waste incinerator trial burn permits. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Sections 66270.62(a)(1) & (c)(1): In these subsections the word "should" has been replaced with the word "must". This change has been made per OAL comment to avoid the ambiguity to determine whether, or under what conditions, the listed items are required.

Section 66270.62(d): The word "will" is being changed to "shall". This change is being made for consistency with the terminology being used throughout these regulations. (See the SOR for the generic change of "must" to "shall".)

Section 66270.63: This section, which is based on 40 CFR, Section 270.63, specifies the requirements for permits for land treatment demonstrations using field test or laboratory analyses. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.63(a)(2): The words "to attempt" have been deleted from the regulation for purposes of clarity only. This change does not change the provision of the regulation.

Section 66270.63(d)(1): The word "will" is being changed to "shall". This change is being made for consistency with the terminology being used throughout these regulations. (See the SOR for the generic change of "must" to "shall".)

40 CFR, Section 270.64: This section is not being included in the proposed state regulations. The provisions of this section concern interim permits for UIC wells in states without an approved UIC program. These regulations are not applicable in California because the H&SC prohibits the placement of hazardous waste in underground injection wells without a hazardous waste facility permit meeting the requirements of H&SC, Sections 25159.10-25159.25. These requirements are more stringent than the combined requirements of the RCRA and UIC programs.

Section 66270.65: This section, which is based on 40 CFR, Section 270.65, specifies the requirements for research, development, and demonstration permits. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

The phrase "human health and the environment" wherever it appears in Section 66270.65 is being replaced by "human health and safety, livestock, wildlife and the environment". This change is necessary to conform with existing Title 22, CCR, Section 66393(d), which is more stringent than the corresponding federal regulation.

Section 66270.65(b): The language of this section has been modified to address OAL's concern that the use of "may" in this subsection makes it unclear whether the Department must modify or waive requirements for certain permit application and permit issuance or whether the Department may consider other, unspecified criteria. The revised language establishes criteria for such waivers. The modified language, however, does not change the intent of the regulation.

ARTICLE 7: INTERIM STATUS:

This article is based on Subpart G of 40 CFR, Part 270. It sets forth conditions necessary for qualifying for interim status, operation and changes during interim status, and termination of interim status.

Section 66270.70: This section, which is based on 40 CFR, Section 270.70 and Title 22, CCR, Section 66389(a)(2), specifies the conditions under which a HWM facility qualifies for interim status. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.70(b): The corresponding section of the federal regulation (40 CFR, Section 270.70(b)) is being replaced by a new section (66270.70(b)). This new section is based on and is necessary to conform to existing Title 22, CCR, Section 66389(a)(2). This change is necessary because the corresponding federal regulation is less stringent in that it requires the Department to wait thirty (30) days after issuing the notice of deficiency before taking enforcement action. The language of the existing Title 22 regulation is being modified to incorporate the more stringent portion of 40 CFR, Section 270.70(b), which requires the Department to issue a written deficiency notice and to specify the grounds for the notice whenever a Part A application is found to be deficient.

Section 66270.71: This section, which is based on 40 CFR, Section 270.71, specifies the requirements for operation of a facility during interim status. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR.

Section 66270.72: This section, which is based on 40 CFR, Section 270.72, specifies conditions for making changes in facility operations during interim status. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Section 66270.72(a)(1): The phrase "and receives Department approval of" is being added following the word "submits". This change is necessary to comply with existing, more stringent state regulations (Title 22, CCR, Section 66389(b)(1)).

Section 66270.72(a)(4): The words "ownership or" are being inserted before the words "operational control" in the second

sentence. This change is being made for consistency with the rest of the paragraph and existing Title 22, CCR, Section 66389(b)(4).

Sections 66270.72(a)(5) and (b)(5): The phrase "an authorized State" is being changed to "the Department", and the phrase "comparable State authority" is being replaced by the citation to the appropriate section of the H&SC. The revised language is more appropriate within the context of the state regulations.

For ease of use, the beginning section number "Section 25180," is being incorporated before "Article 8". This change has been made per OAL comment.

Section 66270.72(b): The words "may not" are being changed to "shall not". This change is being made for consistency with the terminology being used elsewhere in these regulations.

Section 66270.73: This section, which is based on 40 CFR, Section 270.73, specifies conditions for termination of interim status. This section conforms to the corresponding federal regulation except for the generic changes specified in the introduction to this SOR and as follows:

Sections 66270.73(c),(d),(e),(f) and (g): These sections specify the deadlines by which interim status terminates for various types of RCRA facilities, which have not met certain conditions (including submittal of the Part B permit application by specified dates) set forth in these sections. These interim status termination deadlines are not applicable under state law (H&SC, Section 25200.5 and 25200.7) to facilities handling only non-RCRA hazardous wastes. Therefore, language is being added to these sections to exempt non-RCRA facilities from the interim status termination deadlines. Minor wording changes are also being made to these sections to accommodate this added language.

Appendix I: This appendix, which is based on the appendix to 40 CFR, Section 270.42, provides a listing of permit modification types and indicates the modification classification (Class 1, 2, or 3) of each type. This appendix conforms to the corresponding federal appendix except for the generic changes specified in the introduction to this SOR and as follows:

Sections C, k.12, and k13: All changes in these sections (other than the generic changes) are being made to conform with the changes being made in Articles 6 and 17 of Chapter 14. Refer to the SOR for Articles 6 and 17 of Chapter 14 for more information.

Section G.5.b.: The word "below" is being added for clarification only.

Section K: Paragraph 8 of section K in the 40 CFR appendix is not being included in the proposed regulations, because it pertains to growing food chain crops on land treatment units. Existing Title 22, CCR, Section 67363 prohibits the growth of food chain crops on land treatment units, and is, therefore, more stringent than 40 CFR.