

INITIAL STATEMENT OF REASONS

Current federal law exempts household hazardous waste from the regulations applicable to other types of hazardous waste [See Title 40, Code of Federal Regulations (40 CFR), Section 261.4(b)]. Current state law does not exempt household hazardous waste from regulation, and requires any hazardous waste storage facility to obtain a permit or other grant of authorization from the Department of Toxic Substances Control. Therefore, in California, storage facilities which accept household hazardous waste are regulated, although the household hazardous waste producer is exempted from generator requirements.

The Department of Toxic Substances Control has a "tiered permitting" program which includes "standardized permit" and "permit by rule" (PBR) elements. A standardized permit requires the applicant to submit an operation plan for preapproval before operating the facility. The standardized permit is issued only after careful technical review and approval of all permit documentation. Under PBR, operators of specified hazardous waste facilities are deemed to have a permit if they meet certain criteria and comply with specified requirements.

Permanent household hazardous waste collection facilities (PHHWCF) are operated by a public agency or its contractor, and provide the public with opportunities for the proper disposal of household hazardous wastes. Wastes from conditionally exempt small quantity generators (CESQG) are also accepted at some of the PHHWCFs. These facilities are extremely beneficial in reducing the quantity of hazardous waste being disposed of improperly in municipal landfills or otherwise discarded in an environmentally unsound manner.

PHHWCFs operating before September 1992 were granted Interim Status authority to continue operating until a "standardized permit" could be approved and issued to them. PHHWCFs beginning operation after September 1992 were granted "variances" or issued "consent orders". Because of the large unexpected number of standardized permit applications submitted to the Department and insufficient staff resources available to review those applications, the Department has taken further steps to streamline the permitting and authorization process for PHHWCFs by establishing permit by rule regulations for PHHWCFs. Compliance with these regulations will ensure that human health and the environment are fully protected.

The Department is proposing to amend California Code of Regulations, (CCR), Title 22, Division 4.5, Chapter 10, Article 2, section 66260.10, Chapter 20, Article 6, section 66270.60, and Chapter 45, section 67450.9. Sections 67450.25 and 67450.30 will

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 10

be added to Chapter 45 to allow PHHWCFs to operate under PBR. The Department is also proposing to amend the corresponding provisions of Title 26, CCR, Division 22, i.e., sections 22-66260.10, 22-66270.60 and 22-67450.9 in the same manner, and to add sections 22-67450.25 and 22-67450.30 to Title 26, CCR. The regulations introduced by this rulemaking will further expedite the authorization process and streamline the permitting procedures for PHHWCFs operators.

No adverse economic impact to the regulated community is expected to result from implementing these proposed regulations since PHHWCFs operated by Public agencies are exempt from generator, facility, and disposal fees (Health and Safety Code, Section 25174.7).

Several additions have been made to the reference and authority citations given at the end of some regulation sections. These citations refer to statutes which authorize the Department to adopt regulations for PHHWCFs (authority citation) and statutes which are being implemented or clarified by a regulation (reference citation).

The following is a discussion of each individual proposed or amended section.

CHAPTER 10, ARTICLE 2. DEFINITIONS

Section 66260.10 Department

Section 66260.10 is amended to indicate that "Department" when used in Division 4.5 of Title 22 of the California Code of Regulations, means the Department of Toxic Substances Control instead of the State Department of Health Services. The Department of Toxic Substances Control transitioned from a program within the State Department of Health Services to become its own Department in 1991, but this was never reflected in Title 22 definitions. This amendment will clarify that the Department of Toxic Substances Control is the "Department" referred to in the hazardous waste management regulations.

Section 66260.10 Permanent Household Hazardous Waste Collection Facility

This rulemaking amends existing section 66260.10 to reference newly added section 67450.25 which makes specific reference to PHHWCFs operating under a PBR. "Contractor" was also added in the reference to "facility operated by a public agency or its contractor" to be consistent with Health and Safety Code section 25218.1(f) which defines a household hazardous waste collection facility as one operated by a public agency or its contractor.

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 11

CHAPTER 20, ARTICLE 6. PERMITS BY RULE

Section 66270.60(c)(2) is amended to indicate that operators of PHHWCFs granted interim status or other authorization are allowed to continue operation if they notify the Department in writing that they desire to cancel their previous grant of authorization and operate under a PBR. These facilities will not be required to submit a new notification if there will be no changes to their operation and they have already submitted the required notifications. The Department has granted variances and issued consent orders to facilities, some of whom have submitted necessary notifications and the Department does not want to burden local agencies by requiring them to resubmit the same information unless there will be changes in the operation of the PHHWCF. A facility may continue to operate under an existing authorization as long as the grants of authorization are viable.

Section 66270.60(d)(5) is amended to delete the requirement for the Department to send written acknowledgment and notice of authorization to agencies operating Temporary Household Hazardous Waste Collection Facilities. Operations of THHWCFs, however, are still required to submit the notification specified in this section. Notification must be sent by certified mail with return receipt requested; therefore, the public agency will continue to have proof that notification was submitted to the Department. Notifications will still be reviewed for completeness but local agencies will only be contacted by the Department if notifications are incomplete. These modifications streamline the permitting process and allow Department staff resources to be used more productively.

Section 66270.60(d)(5)(A) is amended to identify the correct Branch within the Department that notification forms are to be submitted to. Notification forms are presently processed by the State Regulatory Branch. The proper notification form date is also reflected in this amendment.

Section 66270(d)(5)(B) has been deleted to reflect that the Department will no longer send written acknowledgment or official written authorization to THHWCF operators.

Section 66270(d)(5)(C) is redesignated as section 66270(d)(5)(B) to accommodate the deletion of existing section 66270(d)(5)(B). There is no change to the requirements of this section.

Section 66270.60(d)(6) is a new subdivision which informs operators of PHHWCFs that their facilities may be operated under PBR provided the operator

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 12

complies with specific requirements in (d)(6)(A) and (d)(6)(C) (notification and operating requirements) and receives authorization from the Department pursuant to (d)(6)(B). This subdivision also allows a PHHWCF to be operated by a contractor having a written agreement with the public agency. This was added to clarify that the actual day to day operation may be handled by a contractor if there is a written agreement with the public agency.

Section 66270.60(d)(6)(A) is a new subdivision that requires the PHHWCF operator to submit a PHHWCF PBR Notification (DTSC Form 1094B), in person or by certified mail with return receipt requested, to the Department of Toxic Substances Control, State Regulatory Branch. The notification for a new facility must be submitted a minimum of 45 days in advance of the date the PHHWCF commences operation. This advance notice is intended to allow the Department sufficient time to review the notification for completeness and determine whether the operator meets all the requirements necessary to operate under a PBR or whether any cause exists for denial of authorization. This subdivision requires that each notification be signed according to the requirements of Title 22, section 66270.11, "Signatories to Permit Applications and Reports". This requirement ensures that a responsible official, will be held accountable for the accuracy and completeness of the information contained in the notification.

Section 66270.60(d)(6)(A)1. is a new subdivision which requires the operator name, mailing address and telephone number be included as part of the notification. This is necessary to enable the Department to contact the operator for more information or to coordinate any surveillance and enforcement operations and to clearly establish the identity of the legal operator of the PHHWCF.

Section 66270.60(d)(6)(A)2. is a new subdivision that requires the facility name, address, legal description of the facility location, and identification number be included as part of the notification. This information is necessary for tracking purposes and for surveillance and enforcement personnel to locate the facility for inspection purposes.

Section 66270.60(d)(6)(A)3. is a new subdivision that requires the contractor's name, address, telephone number and contact person be included in the notification if the PHHWCF is operated by a contractor. This information is necessary for tracking purposes.

Section 66270.60(d)(6)(A)4. is a new subdivision that requires a listing of all local permits required and obtained from local agencies for the operation of the facility be included with the notification (e.g., activity permits, land use permits, business permits). This ensures that local authorities have been notified of the operation and allows the

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 13

Department's regional offices to coordinate surveillance and enforcement activities with those local authorities.

Section 66270.60(d)(6)(A)5. is a new subdivision that requires a copy of an agreement between the property owner and facility operator allowing operation of the PHHWCF be submitted with the notification. This ensures that the property owner is informed and agrees to household hazardous waste handling and storage on the property.

Section 66270.60(d)(6)(A)6. was a subdivision included in the emergency regulations which required the facility operator to identify whether or not the facility was located on Indian lands. This subdivision was deleted in this version of the regulations because the Department decided this information could be obtained by other means and the information was not essential on the application. The remaining parts of this subdivision have been renumbered to reflect this omission.

Section 66270.60(d)(6)(A)6. [initially proposed as subdivision 66270.60(d)(6)(A)7] is a new subdivision which requires that the notification indicate whether or not the facility will accept wastes from CESQGs. This information is important for tracking purposes and to inform regional enforcement staff and local authorities of the status of the facility.

Section 66270.60(d)(6)(A)7. [initially proposed as subdivision 66270.60(d)(6)(A)8] is a new subdivision that requires the PHHWCF operator to identify the types of wastes, if any that will be consolidated at the facility. This information is needed to inform compliance personnel of facility activities so they may focus attention on specific aspects of the facility's operation.

Section 66270.60(d)(6)(A)8. [initially proposed as subdivision 66270.60(d)(6)(A)9] is a new subdivision which requires that the notification include an estimate of the total quantity of waste expected to be collected at the facility in an average month. This is necessary to ensure that the facility operator has planned and provided for sufficient storage capacity, and to facilitate closure cost estimating.

Section 66270.60(d)(6)(A)9. [initially proposed as subdivision 66270.60(d)(6)(A)10] is a new subdivision which requires that the notification state the designed capacity of the storage units at the facility. This information is necessary to ensure that a facility has sufficient storage capacity to handle the quantities of waste expected to be received at that facility.

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 14

Section 66270.60(d)(6)(A)10. [initially proposed as subdivision 66270.60(d)(6)(A)11] is a new subdivision which requires that an operating schedule be included as part of the notification. This information allows the Department and other interested authorities to clearly identify the periods of operation, which in turn allows the Department to better regulate and monitor the PHHWCF.

Section 66270.60(d)(6)(A)11. [initially proposed as subdivision 66270.60(d)(6)(A)12] is a new subdivision which requires a written description of the facility and its operation including the length of time waste will be stored at the facility. This information is necessary for inspection purposes and to ensure that only HHW and CESQG wastes are being collected at the facility. This information is also needed to ensure that wastes are properly managed and no waste is stored at the facility longer than one year.

Section 66270.60(d)(6)(A)12. [initially proposed as subdivision 66270.60(d)(6)(A)13] is a new subdivision which requires the submittal of a plot plan with the notification. This should show the general perimeters of the facility, the traffic patterns, waste management units and information specified in sections 66270.14(b)(18)(A), (F), (G), (H), (J), and (L) which include the map scale and date, the orientation of the map, the legal boundaries of the facility, fences and gates, buildings, roads, loading and unloading areas, and the location of the operational units within the facility where hazardous waste will be stored or transferred. This requirement is necessary to ensure that the Department is provided with pertinent information showing that the facility is able to operate safely. This information will also provide facility inspectors with data needed to thoroughly inspect the facility and ensure that the facility is operating in compliance with applicable requirements.

Section 66270.60(d)(6)(A)13. [initially proposed as subdivision 66270.60(d)(6)(A)14] is a new subdivision which requires a topographic map showing the location of the facility and its physical relationship to surrounding land, surface waters and drinking wells. This will provide an overall view of the location of the PHHWCF in relationship to topography of the area and also the surrounding use of land. This information will aid inspectors in their investigation of the facility and provide a physical overview of the facility and surrounding land.

Section 66270.60(d)(6)(B) is a new subdivision that explains the steps which the Department will take upon receipt of a notification. This subdivision is necessary because the PHHWCF operators need to know whether or not they have met the minimum requirements for authorization before commencing operation. This section explains that the Department will give written acknowledgment of the receipt of the

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 15

PHHWCF notification within 30 days. The Department will also 1) authorize the operation of the PHHWCF subject to compliance with the requirements and conditions of section 67450.25; 2) deny authorization to operate; or 3) or notify the operator that the notification is incomplete or inaccurate and, if so, will specify what additional information or correction is needed. The Department will reject any notification that fails to provide the information or correction requested within ten days of receipt of the acknowledgment. This ensures authorization within a specific timeframe, and allows the Department time to review the notification to ensure that the operator meets all the requirements necessary to operate under a PBR. The Department is proposing this action to avoid the creation of a backlog of incomplete or otherwise deficient notifications and to ensure that operators will know when to expect action by the Department.

Section 66270.60(d)(6)(C) is a new subdivision that requires each PHHWCF operator to comply with the operating requirements for PHHWCFs specified in section 67450.25 between the time the PHHWCF commences operation and the time the requirements of closure specified in section 66265.111 are met. The purpose of this subdivision is to clarify the required compliance time for the operating requirements for PHHWCFs.

Chapter 45. The chapter heading "Transportable Treatment Units and Fixed Treatment Units" is amended to read "Facilities and Treatment Units Deemed to have a Permit by Rule" to reflect the inclusion of regulations concerning THHWCFs and PHHWCFs operating under a PBR.

Section 67450.9 Termination and Denial of Authorization or Reauthorization, and Operating Restrictions for Units and Facilities Operating Under Permit by Rule.

Section 67450.9(c) is a new subdivision which states that (1) the authorization of a PBR facility is contingent upon the accuracy of information contained in the submitted notification and that (2) any misrepresentation will render the authorization null and void. This subdivision is amended to include THHWCFs and PHHWCFs operating under a PBR. This amendment is necessary to ensure that operators of THHWCFs and PHHWCFs understand that their authorization is contingent upon compliance with the regulations, and authorization of the facility may be revoked if any information submitted to the Department has been misrepresented.

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 16

Section 67450.25 Requirements Applicable to Permanent Household Hazardous Waste Collection Facilities Deemed to Have a Permit by Rule.

Section 67450.25(a) is a new subdivision that states the operator and contractor conducting the operation of the PHHWCF must follow the requirements set forth in subsequent subdivisions.

Section 67450.25(a)(1) is a new subdivision that incorporates the requirements from existing sections 66262.10 through 66262.57, pertaining to generators of hazardous waste, including the use of a manifest for transporting hazardous waste, record keeping and reporting requirements. This requirement is consistent with the Department's interpretation that, as the first point at which the waste becomes subject to regulation (having previously been exempt for householders per subsection 66262.10(h)), the PHHWCF becomes the identified generator of the waste. The subdivision also incorporates the requirements of existing section 66264.175, which requires a certified containment system for transfer and storage areas. [Note that Chapter 14, (Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities) storage containment standards are referenced in these regulations as there are no corresponding storage containment standards in Chapter 15 (Interim Status Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities)]. This subdivision also incorporates the requirements of existing section 66265.148, which requires the operator to notify the Department by certified mail of the commencement of voluntary or involuntary proceedings under Bankruptcy within 10 days after commencement of the proceeding. These requirements are necessary to ensure proper waste containment to protect the public and the environment and inform the Department if the facility is not financially solvent.

Section 67450.25(a)(1)(A) is a new subdivision that requires the engineering certification required by subsection 66264.175(c) (tanks) be provided by the manufacturer, an independent professional registered engineer, or a professional engineer who may be employed by the local government entity operating the PHHWCF and who is employed by a different division or agency than the operator. This section ensures that the containment systems will be adequate to protect the public health and safety and prevent potential release of hazardous waste to the environment. This section also provides that the government entity does not have to hire an independent engineer to certify the containment systems. This will help to prevent a financial burden on the local entity.

Section 67450.25(a)(2) is a new subdivision that incorporates the requirements from specific articles of existing Chapter 15 as follows:

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 17

Section 67450.25(a)(2)(A) is a new subdivision that incorporates existing requirements in Article 2 of Chapter 15 concerning general facility standards. The following are the provisions that are incorporated by this reference: *Section 66265.11* requires that the facility obtain an identification number from the Department. *Section 66265.12(a)* is not applicable to PHHWCFs because PHHWCFs will not receive any waste from a foreign source. *Section 66265.12(c)* requires the facility to notify the new owner or operator of the requirements of Chapter 15 and Chapter 20, if the facility transfers ownership. *Section 66265.14(a)* requires the operator to prevent unauthorized entry of persons or livestock into the active portion of the facility. *Section 66265.14(b)* requires a 24-hour surveillance system or barrier which surrounds the active portion of the facility. *Section 66265.14(c)* requires a sign with the legend "Danger Hazardous Waste Area - Unauthorized Personnel Keep Out," be posted at each entrance to the active portion of the facility and other locations, and that the signs be legible from 25 feet. The signs must be written in English, Spanish and in any other language predominant in the area surrounding the facility. *Section 66265.15(a)* requires the operator to inspect the facility for malfunctions and deterioration, operator errors, and discharges which may lead to a release of hazardous waste which may threaten human health or the environment. *Section 66265.15(b)* requires the operator to develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment. The schedule must be kept at the facility and must identify types of problems anticipated during the inspection. The inspection schedule must include, if applicable, the items and frequencies of inspections called for in section 66265.174, (container storage or transfer areas at least weekly); 66265.193 (above ground piping, welded flanges, joints and connections, sealless or magnetic coupling pumps and sealless valves, pressurized aboveground piping systems with automatic shut-off devices visually inspected for leaks on a daily basis); 66265.195 (spill control equipment, tank system, data gathered from monitoring equipment and leak-detection equipment, secondary containment structures, uncovered tanks, inspected at least once each operating day, cathodic protection systems confirmed within six months after initial installation and annually thereafter, and all sources of impressed current inspected bimonthly); 66265.1052 (pumps in light liquid service monitored monthly and visually inspected each calendar week); 66265.1053 (compressor barrier fluid system sensor inspected daily) and 66265.1058 (pumps and valves in heavy liquid service repairs made as soon as possible, but no later than 24 hours after a leak is detected). *Section 66265.16* requires facility personnel to successfully complete classroom instruction or on-the-job training in hazardous waste management within six months after hiring. Instruction must teach the employee hazardous waste management procedures relevant to the positions in which they are employed and ensure that the personnel are able to respond effectively to emergencies. *Section 66265.17* requires the operator to take precautions to prevent ignition or reaction of ignitable or

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 18

reactive waste. *Section 66265.18* requires that any facility located in a 100-year floodplain or within the maximum high tide be designed to prevent washout of any hazardous waste by a 100-year flood or high tide. *Section 66265.25* requires facility cover systems and drainage control systems be designed to function without failure when subjected to capacity, for both hydrostatic and hydrodynamic loads resulting from a 24-hour maximum precipitation storm. Compliance with these existing regulations is necessary to ensure that the PHHWCFs, operating pursuant to a PBR, are operated in a manner that adequately protects human health and the environment. The facility operator is not required to inform the off-site generator in writing that the operator has appropriate interim status for accepting the waste as required by *section 66265.12(b)*. The facility is also not required to obtain a detailed chemical and physical analysis of a waste prior to accepting it at the facility as required by *section 66265.13(a)*. Waste analysis will only be required for unidentified wastes and a field analysis may be used to identify the hazardous characteristics of the waste. This will ensure that the hazards of unidentified waste are quickly identified and wastes may be separated by hazard classes to ensure only compatible wastes are packaged and/or stored together.

Section 67450.25(a)(2)(B) is a new subdivision that incorporates the requirements from existing Chapter 15, Article 3 (Preparedness and Prevention). The sections that are incorporated by this new subdivision are as follows: *Section 66265.30* states that regulations in this article apply to operators of all hazardous waste facilities. *Section 66265.31* of this Article requires that the design, construction and operation of facilities minimize the possibility of fire, explosion or any unplanned sudden or non-sudden release of hazardous wastes or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment. *Section 66265.32* requires the facility to have an internal communication or alarm system, portable fire extinguishers, spill control equipment decontamination equipment, and water at the facility. *Section 66265.33* specifies that all required equipment be tested and maintained to assure proper operation in the event of an emergency. *Section 66265.34* specifies that persons handling hazardous wastes must have access to a communication device or an alarm system. *Section 66265.35* requires that aisle space be adequate and remain unobstructed. *Section 66265.37* requires the PHHWCF operator to make arrangements to familiarize local police and fire departments, emergency response teams, and the local Office of Emergency Services with the layout and operation of the facility. Compliance with these existing regulations is necessary to ensure adequate response in the event of an emergency.

Section 67450.25(a)(2)(C) is a new subdivision which incorporates the requirements from existing Chapter 15, Article 4 (Contingency Plan and Emergency Procedures). The sections that are incorporated by this new subdivision are as follows:

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 19

Section 66265.50 states that regulations in this article apply to operators of all hazardous waste facilities. *Section 66265.51* of this article requires operators to design and follow a plan to minimize hazards to human health or the environment in the event of fire, explosion, or release of hazardous waste or hazardous waste constituents to the environment. *Section 66265.52* requires the contingency plan to describe the actions facility personnel will take in response to any sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility. The plan must include a description of arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams. The plan must include a list of names of all persons qualified to act as an emergency coordinator and a list of all emergency equipment and where this equipment is required and located. The plan must also include an evacuation plan for personnel and the current telephone number of the State Office of Emergency Services. This regulation is required so that any emergency response will be swift and appropriate to prevent personal injury or loss of life. *Section 66265.53(a)* requires that a copy of the contingency plan and all revisions be maintained at the facility. Compliance with these requirements is necessary to ensure that the PHHWCF operator is prepared to take the necessary steps to protect human health and the environment in the event of an emergency. *Section 66265.53(b)* requires submittal of the contingency plan to local police, fire departments, hospitals and state and local emergency response teams. The Department is unable to determine if all the local entities specified in section 66265.53(b) require a copy of the contingency plan, and since the PHHWCF operator is making prior arrangements with all the local entities, the Department is leaving this requirement up to the individual local entities that the operator contacts. Thus, compliance with section 66265.53(b) is not required by these regulations. *Section 66265.54* requires that the contingency plan be amended when the facility has changes in such things as its design, operation, etc. or there are changes in the emergency coordinators or equipment, or the plan failed in an emergency. This requirement ensures that a workable and up to date contingency plan is always available on site in case of an emergency. *Section 66265.55* requires that the facility have an emergency coordinator available to respond to an emergency at all times. This requirement ensures that the PHHWCF operator is adequately prepared to take the appropriate steps to protect human health and the environment in the event of an emergency.

Section 67450.25(a)(2)(D) is a new subdivision which incorporates the requirements from existing Chapter 15, Article 5 (Manifest System, Recordkeeping and Reporting). The sections incorporated by this provision are as follows: *Section 66265.70* states that regulations in this article apply to operators of both on-site and off-site facilities. *Section 66265.71(a)* requires the operator to sign and date each manifest received and note any significant discrepancies. This section also requires the operator

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 20

to immediately give the transporter a signed copy, send a signed copy, within 30 days after delivery, to the generator and submit a signed copy to the Department within 30 days. The operator is also required to retain a copy of each manifest for at least 3 years. *Section 66265.71(b)* is not applicable to PHHWCFs as it concerns manifests for any bulk shipments from a rail or water transporter. These requirements are necessary, if any manifested waste is received, for tracking the hazardous waste and verifying that it is being properly managed and disposed of.

Section 67450.25(a)(2)(E) is a new subdivision which incorporates the requirements from existing Chapter 15, Article 7 (Closure and Post-Closure). The sections incorporated by this provision are as follows: *Section 66265.110* states that Sections 66265.111 through 66265.115 pertain to operators of all hazardous waste management facilities. Thus, PHHWCFs operators are required to comply with these sections. The remaining sections of this chapter concern post-closure for disposal facilities. Therefore, Sections 66265.116 through 66265.120 do not apply to PHHWCFs as all wastes and contamination will be removed from the site at closure. *Section 66265.111* requires the facility operator to minimize or eliminate any post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated rainfall or runoff, or waste decomposition products to the ground or surface waters or the atmosphere. *Section 66265.112* requires a written closure plan identifying the steps to be taken to perform final closure. This must include an estimate of the maximum inventory of hazardous wastes and a detailed description of methods of removing and transporting waste off-site, and a detailed description of steps needed to remove or decontaminate all hazardous waste residues and contaminated containment systems equipment, structures, and soils. This section also requires the closure plan to estimate the expected year of final closure and amend the closure plan whenever there are changes in the facility design that affect the closure plan or there is a change in the expected year of closure. This section requires submittal of the closure plan to the Department at least 180 days prior to the beginning date the operator expects to begin final closure. *Section 66265.113(a)* requires the removal of all hazardous waste in accordance with the approved closure plan within 90 days after approval of the closure plan or 90 days after receiving the final volume of hazardous wastes at the facility, whichever is later. *Section 66265.113(b)* requires the operator to complete the closure activities within 180 days unless the Department has approved an extension of the closure period. *Section 66265.114* requires that all contaminated equipment, structures and soil be properly disposed of, or decontaminated by removing all hazardous waste residues or hazardous constituents during closure. *Section 66265.115* requires the operator to certify that the hazardous waste facility has been closed in accordance with the specifications in the

approved closure plan within 60 days of completion of the closure of the facility. These requirements are necessary to ensure the PHHWCF is closed in a manner that minimizes any present or future hazard to human health or the environment.

Section 67450.25(a)(2)(F) is a new subdivision which incorporates the requirements from existing Chapter 15, Article 9 (Use and Management of Containers). The sections incorporated by this provision are as follows: *Section 66265.170* requires operators of all hazardous waste facilities that transfer or store containers to comply with the requirements of this article. *Section 66265.171* requires the operator to store waste in containers that are in good condition and transfer hazardous waste that is contained in any leaking container or in a container not in good condition to a container in good condition, or otherwise manage the waste appropriately. Compliance with this regulation ensures that waste will be contained in containers that will not leak to the environment. *Section 66265.172* requires that waste be transferred or stored in containers that are compatible with the waste and will not react with the waste. This ensures that the integrity of the container will not be impaired. *Section 66265.173* requires a container holding hazardous waste to always be closed, except when adding or removing waste. This section also requires the proper handling of a container when opening, transferring or storing to prevent rupture of the container or leakage of the wastes. Additionally, this section requires the operator to comply with U.S. Department of Transportation regulations for any containers used for transporting hazardous waste. Compliance with these existing regulations is necessary to ensure the safe handling, storage and transport of containers holding hazardous waste. *Section 66265.174* requires the weekly inspection of containers. Compliance with this regulation ensures that any deteriorating or corroded container that may lead to waste leaking from the container will be noticed and replaced with a good container before there is a harmful release or incident. *Section 66265.176* requires that any containers holding ignitable or reactive waste be located at least 50 feet from the facility's property line. This requirement provides a buffer zone to minimize the possibility of migration of contaminants to adjacent property should a spill occur. *Section 66265.177* requires that storage of containers in separate areas, dikes, berms or other devices be provided to separate containers holding a waste that is incompatible with another waste stored nearby in another container. Compliance with these requirements will help prevent explosion, fire or harmful chemical reactions and thus protect human health and the environment.

Section 67450.25(a)(2)(G) is a new subdivision which incorporates the requirements from existing Chapter 15, Article 10 (Tank Systems). The sections incorporated by this provision are as follows: *Section 66265.190* requires facility operators to comply with article 10 if their facility has tank systems. *Section 66265.191* requires secondary containment for any existing tank systems. *Section 66265.192* requires

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 22

specific design standards for new tank systems. *Section 66265.193* requires the secondary containment system meet specific requirements to prevent the migration of hazardous waste or hazardous constituents to the environment. *Section 66265.194* requires the use of spill and overflow prevention controls for tank systems. *Section 66265.195* requires daily inspections of the tank systems and overflow/spill control equipment, and documentation of the inspections in the operating record. *Section 66265.196* specifies response procedures to be followed in the event of a tank leak or spill. *Section 66265.197* requires removal of all hazardous wastes and waste residues upon closure. *Section 66265.198* imposes special requirements for reactive or ignitable wastes. *Section 66265.199* imposes special requirements for incompatible wastes. *Section 66265.200* requires waste analysis and trial tests to store a hazardous waste that is substantially different from waste previously stored in that tank system. These requirements are necessary to ensure that tanks containing hazardous waste are maintained and operated in a manner which adequately protects human health and the environment.

Section 67450.25(a)(3) is a new subdivision that requires an operation plan to include: (1) the notification submitted to the Department; (2) copies of the financial assurance documents required by 67450.30; (3) a copy of the acknowledgment from the Department as specified in 66270.60(d)(6)(B); (4) copies of documents required by subdivision (a)(2) (waste analysis plan, manifests, inspection plan, etc.); and (5) items specified by subparagraphs (A) and (B) (written plan in case the storage capacity is exceeded, name of the site supervisor, description of procedures to follow in the event of inclement weather, the procedures used when accepting CESQG waste, documentation of precautions to prevent accidental ignition or reaction of ignitable or reactive waste, written approved protocol to consolidate (bulk) solvents, etc., if applicable, copies of any local permits, a copy of the written agreement between the property owner and the operator of the PHHWCF, and a copy of the agreement between the contractor and the operator, if applicable). This information is necessary to ensure that inspectors have access to the information needed to monitor the facility's compliance with requirements applicable to PHHWCFs.

Section 67450.25(a)(3)(A) is a new subdivision that requires a written plan to be implemented whenever the PHHWCF meets or exceeds its maximum storage capacity. These requirements are necessary to ensure the facility is adequately prepared to take appropriate steps in the event the facility collects an amount of hazardous waste that exceeds the facility's maximum storage available.

Section 67450.25(a)(3)(B) is a new subdivision that incorporates the requirements of existing sections 67450.4(b)(6), (b)(8), (b)(9), (b)(13), (b)(14) if applicable, (b)(16), (b)(17), and (b)(18) (Requirements Applicable to Temporary Household Hazardous

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 23

Waste Collection Facilities Deemed to Have a Permit by Rule). The information required by these sections must be included in the operation plan. *Section 67450.4(b)(6)* requires the name of the site supervisor. *Section 67450.4(b)(8)* requires the description of the procedures to follow to ensure the facility will be managed in an environmentally safe manner in the event of inclement weather. *Section 67450.4(b)(9)* specifies limitations on waste acceptance procedures if a facility plans to accept wastes from CESQGs. The PHHWCF must accept CESQG waste separately from household waste. This is necessary because the PHHWCF must keep records of CESQG wastes. This also allows the PHHWCF to make appointments for CESQG waste and reduces the waiting time for the CESQG to have the waste accepted. *Sections 67450.4(b)(9)(A) and (b)(9)(B)* explain options for accepting CESQG waste. The facility may direct the CESQG to an area separate from the household hazardous waste receiving area or may accept the CESQG waste at hours different from the hours when the household waste is accepted. For example, a PHHWCF could accept CESQG wastes exclusively on Fridays and household wastes exclusively on Saturdays. *Section 67450.4(b)(13)* requires the operator to maintain documents which demonstrate that the facility is operating in compliance with handling requirements for ignitable, reactive or incompatible wastes. This requirement is consistent with those for all permitted and interim status facilities. This requirement ensures that the wastes are stored in a manner that minimizes the possibility of fire, explosion or any sudden or non-sudden release of hazardous wastes that may pose a threat to human health or the environment. *Section 67450.4(b)(14)* requires that a copy of the written protocol approved by the local fire and air pollution prevention agencies be followed if solvents, oil-based paints or gasoline are to be consolidated at the facility. This subdivision is required to ensure appropriate measures are taken to prevent potential releases of volatile fumes or chemicals which may pose a fire or explosion hazard. *Section 67450.4(b)(16)* requires copies of all local permits obtained for the operation of the facility be included as part of the operation plan. *Section 67450.4(b)(17)* requires a copy of the written agreement between the property owner and the operator be included in the operation plan. *Section 67450.4(b)(18)* requires that a copy of the written agreement between a facility operator and a contractor hired to manage the facility be included as part of the operation plan. This information is necessary for other agencies conducting inspections and who do not receive the PBR notification.

Section 67450.25(a)(3)(C) is a new subdivision that requires the operator or contractor to make the operation plan available upon request to specified authorities. This will provide inspectors with necessary information to ensure the facility is operating in compliance with the regulations. This section also requires that the operator to provide the Department with a copy of the operation plan either by certified mail or delivered in person when requested by the Department. This ensures that the

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 24

Department will have access to pertinent information should there be a question concerning the operator's compliance with the PHHWCF regulations.

Section 67450.25(a)(4) is a new subdivision that requires the operator to comply with existing sections 67450.4(d), (e), (g), (h)(3), and (i) except as modified in 67450.25(a)(4)(A), (B), (C), and (D). *Section 67450.4(d)* establishes the siting requirements and physical parameters for the collection facility. This section ensures the public agency proposing the PHHWCF will consider the proposed location's potential for specific negative impacts to the public and the environment and that the operator of the PHHWCF will be fully aware of the physical requirements necessary to operate the facility safely. *Section 67450.4(d)(1)* requires the PHHWCF to be located in an area that is clearly marked to control public access. This is necessary to help prevent unauthorized entry and protects the public from exposure to hazardous waste. *Section 67450.4(d)(2)* requires the PHHWCF to have a buffer zone approved by the appropriate local agencies. This section is necessary to ensure that, in the opinion of the appropriate local agency, the PHHWCF will be sited in a location far enough away from existing buildings or public areas to protect the public health and safety. *Section 67450.4(d)(3)* requires the facility to be located on a large enough area to accommodate the staff, equipment and anticipated number of vehicles at the PHHWCF. This ensures there will be enough space at the facility to conduct a collection in a safe manner to minimize potential harm to the facility personnel, the public and the environment. *Section 67450.4(d)(5)* requires the facility to have a physical barrier to clearly delineate the waste handling and storage areas. This requirement is necessary to help prevent untrained and unauthorized persons from entering the waste handling areas, and minimizes exposure risks to the public. The intent of this section is that the perimeters of the handling and storage areas be clearly marked so that persons do not enter those areas accidentally. *Section 67450.4(d)(6)* requires the facility to have a storage area for ignitable and/or reactive waste that has the written approval of the appropriate local agencies. This regulation is required to ensure safety to the public and facility workers. *Section 67450.4(e)* requires that consolidation be performed in a secured area away from the waste receiving area. Consolidation of solvents, oil-based paints or gasoline must not occur when wastes are being accepted. A written protocol approved by local fire and air pollution prevention agencies must be followed. All consolidated wastes must be shipped to an authorized facility and must be packaged and labeled properly. Personnel who sort, consolidate or package waste must be trained to perform their tasks in a safe manner. *Section 67450.4(g)* requires the operator to keep a separate record identifying the conditionally exempt small quantity generator, the waste type and amount and the fee paid to the facility for managing that waste. *Section 67450.4(h)(3)* requires the operator to maintain, for three years, records pertaining to conditionally exempt small quantity generators. *Section 67450.4(i)* requires the operator of a facility to submit a

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 25

written report to the regional Department office within 15 days of whenever there is an incidence of non-compliance. This report must include the name, address and telephone number of the operator and location of the facility, the days and hours of operation, a description of the incident and procedures to be implemented to prevent a recurrence of the incident. This regulation is necessary to ensure a consistent and adequate degree of protection to public health, facility workers and the environment.

Section 67450.25(a)(4)(A) is a new subdivision that explains how section 67450.4(d)(4) is modified for PHHWCFs. Because the facility is located at a permanent site, the waste handling and storage areas must have a containment system that meets the requirements of section 66264.175(b)(1) instead of a paved area covered with plastic sheeting which is allowed for THHWCFs. The PHHWCF containment system must include a continuous base free of cracks or gaps and be impervious to contain leaks, spills, and accumulated precipitation. This is necessary as the PHHWCF may be used many times during the year and the integrity of the surface must remain intact to ensure no releases to the environment.

Section 67450.25(a)(4)(B) is a new subdivision that indicates a PHHWCF operator does not need to comply with existing section 67450.4(d)(9)(E) which requires a separate storage area for wastes which are ready to be transported offsite. This provision is not necessary for PHHWCFs as the facility may store waste onsite for up to a year to allow for cost effective disposal. The waste is transported offsite when enough waste is accumulated to make a full shipment. Therefore, a separate storage area for waste ready to be transported offsite is not necessary for a PHHWCF.

Section 67450.25(a)(4)(C) is a new subdivision that explains the modification of section 67450.4(d)(10)(D) for PHHWCF operators. This section requires the PHHWCF operator to ensure that no unauthorized persons enter the waste handling or storage areas. Existing section 67450.4(d)(10)(D) requires the facility operator to ensure that participants delivering waste remain in their vehicles while in the waste acceptance area. The intent of this subdivision is to protect the public participant and ensure unauthorized persons do not have immediate contact with any hazardous waste. PHHWCF operators have discovered that it is impossible to physically prevent persons from getting out of their car if they insist on opening their own trunk themselves. Because the flow of participants is much more controlled at a PHHWCF this regulation was amended to reflect the purpose of the regulation. Compliance with this regulation will prevent entry of untrained and unauthorized persons into waste handling areas, prevent accidents and reduce exposure hazards to the public.

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 26

Section 67450.25(a)(4)(D) is a new subdivision that modifies existing section 67450.4(e)(2) for PHHWCF operators to also include the consolidation of waste photofinishing solutions and miscellaneous compatible solvent-containing wastes along with the consolidation and filtering of water-based paints, oil-based wastes identified in section 67450.4(e)(2) (paints, antifreeze, used oil, roofing tar, compatible solvents and gasoline). The consolidation of these additional wastes is encouraged because these wastes are all readily recyclable or reusable and consolidation provides a cost-effective means of transporting the wastes offsite.

Section 67450.25(a)(5) is a new subdivision that requires the compliance with existing Health and Safety Code section 25200.14 except as provided in the subsequent subdivisions. Section 25200.14 requires the operator of a facility to complete and file a phase I environmental assessment with the Department within one year from the date of the adoption of the phase I environmental checklist.

Section 67450.25(a)(5)(A) is a new subdivision that requires that a facility operator file a phase I environmental assessment with the Department within one year of commencing operation under a PBR or within one year from the date of the adoption of the phase I environmental assessment checklist whichever date is later. This subdivision does not require the operator to conduct a new phase I environmental assessment if the PHHWCF operator previously operating under a grant of authorization from the Department has already completed a phase I environmental assessment. This prevents a duplication of effort for existing PHHWCFs.

Section 67450.25(a)(5)(A)1. is a new subdivision that clarifies what area must be considered in the environmental assessment. The assessment should only include areas directly affected by the operation of the PHHWCF. This subdivision also clarifies that any corrective action taken pursuant to HSC section 25200.14(f) is to be limited to releases from regulated units at the PHHWCF.

Section 67450.25(a)(5)(A)2. is a new subdivision that states that the environmental assessment may be certified by any registered professional engineer, a registered geologist, or registered environmental assessor. This regulation clarifies that the government agency operating a PHHWCF may use persons employed by that government agency for this purpose. This regulation allows the local government entity to use existing qualified professional staff within the local government entity for certification of the environmental assessment, thus saving the local agency time and expense. This subdivision also clarifies that if the PHHWCF is owned by an entity other than the governmental agency (e.g., contractor) then the phase I environmental assessment certification must be signed by an engineer, geologist, or assessor who is not

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 27

employed by or not an agent of the facility owner. This is consistent with Health and Safety Code section 25201.6(I)(B). The intent of this regulation is to ensure that the governmental agency, who is the legal operator, has proper oversight of the facility and is knowledgeable of any environmental concerns.

Section 67450.25(a)(5)(A)3. is a new subdivision that requires submittal of a copy of the environmental assessment and certification to the Department, and that a copy also be included in the operation plan. This requirement ensures the assessment will be available for review by the Department's inspectors or by other agency personnel.

Section 67450.30 is a new section that addresses financial responsibility requirements for PHHWCFs. Financial assurance for closure of facilities operating under a PBR is required by HSC section 25245.

Section 67450.30(a) is a new subdivision which states that section 67450.30 applies to all PHHWCFs authorized under a PBR.

Section 67450.30(b) is a new subdivision that requires the PHHWCF operator to prepare and submit to the Department a written cost estimate for closure on or before October 1, 1996. The estimate must equal the costs of final closure when operating conditions cause projected closure to be most expensive. The closure cost estimate must consider closure at a time when the storage capacity of the facility is maximized, but the estimate may consider any cost savings due to salvage value realized by sale of wastes (e.g., latex paint), or the sale of any equipment, structures, land or other assets. Furthermore, this regulation enables the operator to offset any closure costs by taking into consideration the cost of using the facility's own available equipment or manpower instead of employing third party contractors. This regulation requires the operator to provide the Department with the most current cost estimate. These requirements ensure adequate funds are available for closure of the facility in the event the facility operator closes the facility when operating conditions maximize closure costs but also minimizes the actual cost of closure for the PHHWCF operator.

Section 67450.30(b)(1) is a new subdivision which requires the operator to adjust the closure cost estimate within 60 days prior to the anniversary date of the original establishment of the financial mechanism. This subdivision also clarifies how to determine the inflation factor. This ensures there will be monies available to close the facility at a point in time when the extent and manner of operation would make closure most expensive.

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 28

Section 67450.30(b)(1)(A) is a new subdivision that describes how to determine the first adjustment to the closure cost estimate. This ensures that the first annual adjustment to the closure cost will be properly computed to keep pace with inflation.

Section 67450.30(b)(1)(B) is a new subdivision that explains how to adjust the closure cost estimate. This is necessary to ensure that adjustments to the closure cost estimate will keep pace with inflation.

Section 67450.30(b)(2) is a new subdivision that requires the operator to revise the closure cost estimate within 30 days whenever a change in the closure plan increases the projected cost of closure. This is necessary to ensure the operator is prepared to cover any new closure costs.

Section 67450.30(b)(3) is a new subdivision that requires the operator to maintain a current cost estimate and closure plan at the PHHWCF during the operating life of the facility. This requirement is necessary to ensure that the closure plan and the closure cost estimate are available for review by the Department's inspectors and other agency personnel.

Section 67450.30(c) [initially proposed as 67450.30(b)(3)] is a new subdivision that identifies the mechanisms that may be used to establish financial assurance for closure. The original mechanism(s) must be submitted with the certification required in section 67450.30(b)(4). This requirement is consistent with existing regulations in Chapter 15, Article 8 which cover financial requirements for operators of hazardous waste facilities.

Section 67450.30(c)(1) is a new subdivision which states that a closure trust fund may be used to demonstrate financial assurance for closure for a PHHWCF and cites existing section 66265.143(a) which details the requirements for this mechanism.

Section 67450.30(c)(2) is a new subdivision which states that a surety bond guaranteeing payment into a closure trust fund may be used to demonstrate financial assurance for closure for a PHHWCF and cites existing section 66265.143(b) which details the requirements for this mechanism.

Section 67450.30(c)(3) is a new subdivision which states that a closure letter of credit may be used to demonstrate financial assurance for closure for a PHHWCF and cites existing section 66265.143(c) which details the requirements for this mechanism.

Section 67450.30(c)(4) is a new subdivision which states that closure insurance may be used to demonstrate financial assurance for closure for a PHHWCF and cites existing section 66265.143(d) which details the requirements for this mechanism.

Section 67450.30(c)(5) is a new subdivision which states that a financial test and corporate guarantee may be used to demonstrate financial assurance for closure for a PHHWCF and cites existing section 66265.143(e) which details the requirements for this mechanism.

Section 67450.30(c)(6) is a new subdivision which states that an alternate mechanism, as described in existing section 66265.143(f) may be used to demonstrate financial assurance for closure for a PHHWCF.

Section 67450.30(c)(7) is a new subdivision which states that multiple financial mechanisms for closure costs may be used to demonstrate financial assurance for closure for a PHHWCF and cites existing section 66165.143(g) which details the requirements for this option.

Section 67450.30(c)(8) is a new subdivision which states that public agencies may use self-insurance to demonstrate financial assurance for closure for a PHHWCF. Public agencies have self-insurance programs already in place. Public agencies have previously been able to use self-insurance to demonstrate financial assurance for closure of household hazardous waste collection facilities, but each had to be analyzed on a case-by-case basis as an alternative mechanism. This regulation allows self-insurance as a defined option and will provide public agencies with a quick and easily demonstrated financial responsibility mechanism.

Section 67450.30(c)(8)(A) is a new subdivision that requires the submittal of a certificate of self-insurance if the public agency intends to use self-insurance for closure. The certificate is Department Form 1176 and must have original signatures. This regulation is necessary to enable the Department to determine whether the financial assurance provided is adequate and also verify the availability of financial resources.

Section 67450.30(c)(8)(B) is a new subdivision that requires the public agency to guarantee that funds will be available and the agency will pay for the PHHWCF closure. This regulation ensures that closure funds are available and the public agency will be responsible for funding proper closure.

Section 67450.30(d) is a new subdivision that requires the operator of an existing PHHWCF to document compliance with the closure cost requirements of this section by

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 30

submitting a certification to the Department by October 1, 1996. This is consistent with HSC section 25245.4 effective January 1, 1996. A facility beginning operation after October 1, 1996 is required to submit the certification along with the initial PHHWCF notification. This information is necessary to verify closure assurance information.

Section 67450.30(d)(1) is a new subdivision that states what information is required in the certification. The certification must include a current closure cost estimate, the closure assurance mechanism(s), the name and location of the organization used to establish the closure assurance, and the effective date of the closure assurance. The certification is necessary to enable staff to verify closure assurance information. This certification must be signed according to the requirements of section 66270.11. *Section 66270.11* describes an authorized signatory as a ranking elected official or principal executive officer of the governmental agency. The signature of an individual specified in section 66270.11 is necessary so that a responsible official will be held accountable for the accuracy of information included in the certification.

Section 67450.30(e) is a new subdivision which is consistent with new law effective January 1, 1996, Health and Safety Code section 25245.4. This subdivision exempts any PHHWCF operator from closure cost assurance if the estimated closure cost is less than \$10,000 or the PHHWCF operates no more than 30 days in any year. A copy of the certification stating the reasons why the facility is exempt from closure cost assurance must be kept at the facility and also be submitted to the Department. All PHHWCFs must provide closure assurance unless they meet one of the requirements of this section. If the PHHWCF operation changes such that the facility becomes exempt from closure cost assurance the operator must submit to the Department a new certification with a statement of the reason why the facility is exempt. This certification must include an original signature of a chief executive officer or an elected official of the public agency and must be submitted to the Department 10 days prior to operating without closure assurance. Adjustments for inflation to the closure cost estimate must still be prepared annually to ensure the closing cost estimate does not exceed the \$10,000 limit in any year. This regulation provides relief to very small PHHWCFs or those that operate less than 30 days a year, and also provides the Department with documentation that the PHHWCF is in compliance with the regulations.

Section 67450.30(c) is deleted from this version of the regulations to conform the regulations with statute effective January 1, 1996 (HSC section 25245.4(a)(2)), which exempts PBR facilities from regulations requiring financial assurance for third-party liability.