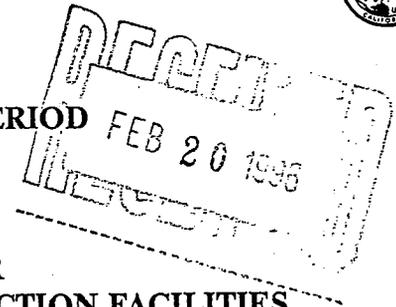


DEPARTMENT OF TOXIC SUBSTANCES CONTROL400 P STREET, 4TH FLOOR
P.O. BOX 806
SACRAMENTO, CA 95812-0806**45-DAY PUBLIC NOTICE AND COMMENT PERIOD****PROPOSED REGULATIONS****PERMIT BY RULE REGULATIONS FOR
PERMANENT HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITIES**

Department Reference Number: R-95-03

**NOTICE IS HEREBY GIVEN:**

The Department of Toxic Substances Control (Department) proposes to amend Title 22, Division 4.5 of the California Code of Regulation (CCR), sections 66260.10, 66270.60, Chapter 45 (heading), 67450.9 and to add sections 67450.25 and 67450.30 and corresponding sections of Title 26, CCR are similarly affected.

DTSC will hold a public hearing at 10:00 a.m. on April 4, 1996, in the auditorium at 744 P street, (Room 102), Sacramento, California, at which time any person may present statements or arguments orally or in writing, relevant to the proposed regulations. Written comments submitted prior to 5:00 p.m. on April 4, 1996 will be considered.

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

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

Federal regulations exempt household hazardous waste and conditionally exempt small quantity generators (CESQG) hazardous waste from regulation. PHHWCF operators are not regulated under the Resource Conservation and Recovery Act of 1976 (RCRA), as amended (42 U.S.C. Section 6901 et seq.).

The Hazardous Waste Control Act (Health and Safety Code, Division 20, Chapter 6.5, Section 25100 et seq.) provides the Department broad authority to regulate generators and transporters of hazardous waste and facilities that treat, store, recycle, or dispose of hazardous waste. Health and Safety Code section 25250 directs the Department to adopt and revise when appropriate, standards and regulations for the handling, processing, use, storage, and disposal of hazardous wastes to protect against hazards to the public health, to domestic livestock, to wildlife, or to the environment.



Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 2

Health and Safety Code section 25218.3 requires the Department to adopt and revise regulations for household hazardous waste collection facilities.

Health and Safety Code section 25218.11, effective January 1, 1996, requires the Department to develop a separate regulatory structure for permitting of PHHWCFs that simplifies the permitting process without being more burdensome than is necessary to protect the public health and safety.

The Department's current PHHWCF regulations in Title 22, CCR, Division 4.5 sections 66270.60, 67450.25, and 67450.30 were adopted on an emergency basis August 30, 1995. The regulations simplify the PHHWCF operator requirements and the Department's administration of the PHHWCF permitting process. PHHWCFs are operated by public agencies or their contractors. All public agency-sponsored household hazardous waste programs are exempt from facility, generator, variance, and all other fees imposed by Article 9.1 of Chapter 6.5, Division 20 of the Health and Safety Code pursuant to section 25205.3 of the Health and Safety Code. PHHWCFs operating prior to September 1992 received "Interim Status" authorization to continue operating until obtaining a permit or until October 1, 1998, whichever occurs first. The PHHWCFs authorized under Interim Status are required to operate according to their operation plan of September 1992 or they may now submit a completed Permit by Rule (PBR) notification 45 days prior to any change in operation and obtain authorization to operate under a PBR. Public agencies wanting to operate a new PHHWCF must submit a completed PBR notification form 45 days prior to operation and obtain authorization from the Department. The notifications are reviewed for completeness only. There is no technical review of the operation plan prior to authorizing the PHHWCF to operate. The turn around time for authorizing these facilities is less than 45 days. The Department's emphasis has changed from permit application review to documenting compliance through facility inspections. Facility operating requirements that protect the public health and safety are not compromised in the emergency regulations now in effect, but the administration of the permitting process is streamlined to expedite authorization to operate a PHHWCF, prevent unnecessary interruption in this important service, and allow more efficient use of the Department's resources.

Both existing and proposed regulations specify that a PHHWCF must be in compliance with all local regulations. The PHHWCF operator must certify that the facility will operate according to all local laws and regulations and comply with all local permit requirements.

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 3

EFFECTS OF PROPOSED REGULATIONS

The proposed regulation package includes amendments to the emergency regulations that are consistent with Health and Safety Code sections 25245.4 and 25218.11 effective January 1, 1996. The proposed regulations enable public agencies interested in operating PHHWCFs to commence operations within a short and predictable period or continue operation without a lapse in authorization, and operate in accordance with standards designed to protect the public health and safety and promote safe and proper disposal of hazardous waste. The proposed regulations simplify the permitting of PHHWCFs and are not more burdensome than is necessary to protect the public health and safety. The proposed regulations make minor changes in the operating requirements of PHHWCFs now imposed and also modify the Department's administration of the permitting process. The proposed regulations modify the existing definition of "Department" and "Permanent household hazardous waste collection Facility", simplify temporary household hazardous waste collection facility permitting authorization, amend closure cost requirements and delete financial assurance requirements for third-party liability for PHHWCFs operating pursuant to a PBR, consistent with newly adopted Health and Safety Code section 25245.4.

The PBR concept is based on a determination that the hazardous waste operations subject to the PBR pose minimal hazard to the public health and safety and the environment when conducted in accordance with prescribed standards. Temporary household hazardous waste collection facilities (THHWCFs) operated by public agencies began operating under the PBR authorization in program in October 1993. The Department has authorized over 500 THHWCF events since 1993 and there have been no known adverse effects to the public health or safety, or the environment as a result of these collections. The sole purpose of a PHHWCF is to ensure that hazardous waste is properly managed and disposed of. Household hazardous waste collection events sponsored by public agencies diverted nearly 20 million tons of hazardous waste from improper disposal in fiscal year 1993-94. This rulemaking is being proposed to ensure the continued operation of PHHWCFs in their efforts to provide convenient, safe and economical means for households and CESQG to properly manage their hazardous wastes.

The proposed regulations will expedite the authorization of facilities and promote the availability of a safe and effective means for proper management of household and CESQG hazardous waste.

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 4

AUTHORITY

Section 25150 Health and Safety Code: This statute authorizes the Department to adopt or revise regulations to govern the management of hazardous waste.

Section 25218.3(d) Health and Safety Code: This statute authorizes the Department to adopt and revise regulations for household hazardous waste collection facilities.

Section 25245 Health and Safety Code: This statute authorizes the Department to adopt and revise regulations specifying the financial assurances to be provided by the owner or operator of a hazardous waste facility.

Section 58004 Health and Safety Code: This statute authorizes the Department to succeed to the powers of the Department of Health Services' Toxic Substances Control Program, which includes the power to adopt regulations.

Section 58012 Health and Safety Code: This statute is the general authority for the Department to execute its duties.

REFERENCE

Sections 25150 Health and Safety Code: This statute authorizes the Department to adopt regulations to govern the management of hazardous waste.

Section 25159.5 Health and Safety Code: This statute directs the Department to adopt regulations which conform to the Federal hazardous waste control regulations and grants liberty to adopt regulations which are more stringent or broader in scope than those Federal regulations.

Section 25185.6 Health and Safety Code: This statute authorizes the Department to require owners and operators of hazardous waste facilities to furnish information pertaining to hazardous wastes to the Department.

Section 25186 Health and Safety Code: This statute allows the Department to deny, suspend, or revoke any permit to any facility in violation of, or noncompliance with State or Federal hazardous waste requirements.

Section 25200 Health and Safety Code: This statute authorizes the Department to issue hazardous waste facility permits.

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 5

Section 25200.14 Health and Safety Code: This statute authorizes the Department to require a phase I environmental assessment for facilities operating pursuant to a PBR authorization.

Section 25202.9 Health and Safety Code: This statute authorizes the Department to require permitted facilities to certify that they have a waste reduction program and are using the best practicable method of treatment, storage or disposal currently available.

Section 25218.1(f) Health and Safety Code: This statute defines "household hazardous waste collection facility".

Section 25218.2 Health and Safety Code: This statute requires household hazardous waste collection facilities to submit specific information to the Department.

Section 25218.3 Health and Safety Code: This statute authorizes the Department to adopt and revise regulations for household hazardous waste collection facilities.

Section 25245 Health and Safety Code: This statute directs the Department to adopt and revise regulations to require financial assurance for damage claims and financial assurance for closure for hazardous waste facility operators.

Section 25245.4 Health and Safety Code: This statute exempts facilities operating pursuant to a PBR from financial assurances for third-party liability requirements.

**LOCAL MANDATE DETERMINATION (GOVERNMENT CODE SECTION
11346.5(a)(5))**

The Department has determined that adoption of these regulations creates no new local mandates.

FISCAL IMPACT ESTIMATE (GOVERNMENT CODE SECTION 11346.5(a)(5))

Impact on Cost to Local Agencies and School Districts

The Department anticipates that these regulations will have no costs or savings to local agencies and school districts. The requirement to obtain a permit or other grant of authorization already exists for PHHWCFs.

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 6

Impact on State Agencies and State/Federal Funds

The Department has determined the proposed regulations will not cause any negative fiscal impacts for any State agency.

Impact on Private Persons or Entities

The Department has determined that the proposed regulations will not have any significant economic impact or impose any additional regulatory restrictions on private persons or entities.

Impact on Ability to Compete with Businesses in Other States

The proposed regulations will not affect the ability of businesses in California to compete with similar businesses in other states and will have no adverse economic impact on businesses in California.

Impact on Small Business

The Department has determined these regulations will have no impact on small business. The requirement to obtain a permit or other grant of authorization already exists for PHHWCFs.

ALTERNATIVES CONSIDERED

Alternatives to these permit by rule regulations for PHHWCFs operators include the requirement of: (1) a full facility permit, (2) a standardized permit, (3) issuance of variances on a case-by-case basis and (4) exemptions from permitting requirements. Requiring that operators of PHHWCFs obtain full permits or standardized permits has been determined to be an unnecessarily high degree of regulation for the local agencies and requires extensive review and work on each application by the Department. The issuance of variances on a case-by-case basis would not be feasible because it would place a tremendous burden on the Department and would not meet the needs of the regulated community since the Department would not be able to respond to the applications in a timely fashion. An exemption from permitting requirements would reduce the regulatory impacts on public agencies but would not ensure safe facility operation and proper hazardous waste management.

The Department has been mandated to develop a separate and distinct regulatory structure for the permitting of PHHWCFs pursuant to the Health and Safety Code

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 7

section 25218.11 which was added to the Health and Safety Code effective January 1, 1996. Health and Safety Code section 25218.11 also requires the Department to simplify the permitting of PHHWCFs and not impose regulations that are more burdensome than is necessary to protect the public health and safety. The Department adopted emergency regulations on August 30, 1995 to provide a simplified permitting process that would still protect the public health and safety. The Department must determine that no alternative considered would be more effective in carrying out the purpose of this rulemaking or be as effective and less burdensome to affected public agencies than the proposed regulations.

ASSESSMENT REGARDING THE CREATION OR ELIMINATION OF JOBS IN CALIFORNIA

The Department has determined that the adoption of these regulations will not create or eliminate jobs within California, create new business or eliminate existing businesses within California, or affect the expansion of businesses currently doing business within California.

EFFECT ON HOUSING COSTS

The Department has determined that the proposed regulations will have no effect on housing costs.

CONTACT PERSONS

Statement, arguments or contentions must be submitted in writing or during the public hearing in order for them to be considered before these regulations are adopted, amended or repealed. For more information regarding this regulations package, contact the Department of Toxic Substances Control as follows:

- * To be included in this regulations package's mailing list, **AND TO RECEIVE UPDATES OF THIS RULEMAKING**, please contact the Department of Toxic Substances Control Regulations phone line at (916) 324-9933.
- * Please direct all written comments, procedural inquiries and requests for documents to:

Subject: Permanent Household Hazardous
Waste Collection Facilities
Department Reference Number: R-95-03
Page 8

Ms. Joan Ferber
Department of Toxic Substances Control
Environmental Analysis and Regulations Section
400 P Street, 4th Floor
P. O. Box 806
Sacramento, California 95812-0806

- * Inquiries regarding the technical aspects of the proposed regulations may be directed to Ms. Denise Hume of the Department of Toxic Substances Control's Hazardous Waste Management Program at (916) 324-1816.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

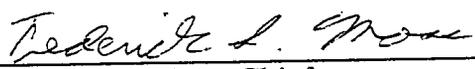
Copies of the Initial Statement of Reasons and text of the proposed regulations may be obtained from Ms. Joan Ferber of the Department of Toxic Substances Control's Environmental Analysis and Regulations Section as specified above. The information upon which DTSC relied is available at the above address.

POST-HEARING CHANGES

After the close of the comment period, the Department may adopt the proposed regulations. If substantial changes are made, the modified text will be made available for comment for at least 15 days prior to adoption. All persons who request the proposed regulations or who provide written comments will also be sent a copy of the modified text if substantive changes are made.

The Department has determined that it is not feasible to draft the regulations in plain English due to the technical nature of the regulations; however, a noncontrolling plain English summary of the regulations is available from the agency contact person named in this notice.

Dated: 2/7/96



Frederick S. Moss, Chief
Office of Program Audits and
Environmental Analysis