



Department of Toxic Substances Control

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April 24, 2014

Ms. Pearl Boelter
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SUBJECT: CLARIFICATION OF OPERATIONAL REQUIREMENTS FOR CROSS-JURISDICTIONAL DOOR-TO-DOOR HOUSEHOLD HAZARDOUS WASTE PROGRAM OPERATING IN CONJUNCTION WITH A PERMANENT HOUSEHOLD HAZARDOUS WASTE COLLECTION FACILITY

Dear Ms. Boelter:

Thank you for your letter to Mr. Kevin Sanchez of the Department of Toxic Substances Control (DTSC) dated December 17, 2013, in which you posed questions about a permit by rule (PBR) application the Orange County Certified Unified Program Agency received from the City of Southgate (in coordination with WM Curbside) to operate a Permanent Household Hazardous Waste Collection facility (PHHWCF) in Placentia. In your letter, you raised a number of questions related to cross-jurisdictional issues pertaining to Door-to-Door Household Hazardous Waste Collection Programs (D2DPs). Your letter raised specific questions about the proposed operation of activities by the City of Southgate, which is located in Los Angeles County, and the PHHWCF, which would be accepting hazardous waste from various Door-to-Door HHW collection programs within at least three counties.

As you pointed out in your letter, among other things SB 456 (Chapter 602, Statutes of 2011) added D2DPs to the definition of a Household Hazardous Waste Collection Facility (HHWCF) under certain circumstances. (Health & Saf. Code, § 25218.1, subd. (f) and § 25218.5, subd. (g).) Below is a summary of the requirements that pertain to D2DPs that operate within or across multiple jurisdictions, specifically the necessary authorization requirements to operate such programs. You will find the answers to your questions following the summary.

Summary

Subdivision (g)(2) of section 25218.5 of the Health and Safety Code states the following:

A door-to-door household hazardous waste collection program ...under which household hazardous waste is collected from households in one jurisdiction and transported to an authorized household hazardous waste collection facility in another jurisdiction, shall be deemed a household hazardous waste collection facility for purposes of this chapter and shall submit the notification required in Section 25218.2 to each CUPA in whose jurisdiction the household hazardous waste is collected. (Emphasis added.)

Pursuant to this subdivision, a D2DP, as defined in section 25218.1 of the Health and Safety Code, that operates across CUPA jurisdictional lines is a HHWCF and therefore requires a permit to operate (Health & Saf. Code § 25218.8, subd. (a)(1)). As such, these D2DPs are considered separate and distinct facilities (a.k.a. D2DP facilities) when they operate (i.e., collect and transport HHW to an authorized HHWCF.)

Question #1 Pursuant to §25218.5 (g)(2), is a D2DP-facility that collects HHW within one CUPA's jurisdiction and transports the collected HHW to a PHHWCF located and operated in the jurisdiction of another (CUPA) required to obtain authorization for this activity. If yes, from which CUPA?

Response: Yes. Pursuant to subdivision (g)(2) of Health and Safety Code section 25218.5, a D2DP-facility which collects HHW in one CUPA's jurisdiction and brings it into another CUPA's jurisdiction is a HHWCF. As a HHWCF, the D2DP-facility must obtain authorization to operate.¹ Until such time as DTSC promulgates regulations for the implementation of authorizing a D2DP-facility as a HHWCF, a D2DP-facility can obtain authorization from the CUPA having jurisdiction over the D2DP-facility utilizing the process currently in place for permit-by-rule authorization of a PHHWCF as specified in subdivision (d)(6) of section 66270.60 of title 22 of the California Code of Regulations. The authorizing CUPA for a D2DP-facility would be the CUPA directly impacted by the receipt of waste shipments to a PHHWCF within the CUPA's jurisdiction (i.e., the CUPA that has jurisdiction over the authorized PHHWCF to which the D2DP-facility transports the household hazardous waste).

Question #2 Does a single permit or Permit –by – rule (or variance) authorize and govern the combined operation of the D2DP-facility and the PHHWCF to which the collected HHWs are delivered.

Response: No. The effect of deeming a cross-jurisdictional D2DP-facility to be a HHWCF (i.e., to be a hazardous waste facility), is that it is seen under the Hazardous Waste Control Law as a distinct "facility" requiring its own separate authorization to operate, independent of the authorization for the PHHWCF to which the collected hazardous waste is delivered.

For example, WM Curbside, Inc., under contract with the City of Southgate, operates a D2DP-facility, which collects HHW from residences in the City of Southgate. The City of Southgate is located within the jurisdiction of the Los Angeles County CUPA. This D2DP-facility collects the HHWs from the residences and transports them to a previously authorized PHHWCF in another jurisdiction, that of the Orange County CUPA. In this example, the

¹ Subdivision (a) of Health and Safety Code section 25218.8 states that ". . . a hazardous waste facilities permit shall be obtained for the operation of a household hazardous waste collection facility." (Emphasis added.)

D2DP-facility would obtain its authorization to operate (i.e., permit-by-rule) from the Orange County CUPA. Simultaneously, the Orange County CUPA would review the revised² PBR application of the PHHWCF seeking to change its existing operations by indicating that it will be receiving HHW from a cross-jurisdictional D2DP-facility. This simultaneous submittal and review would ensure that the CUPA (in this case the Orange County CUPA) having jurisdiction over both authorizations can exercise proper and coordinated oversight of the two "facilities" which are in essence operating in unison within that CUPA's jurisdiction.

Question #3 If it is determined by the DTSC that a single, PHHWCF PBR permit is applicable for the proposed multi-jurisdictional D2DP-facility bringing HHW to a single PHHWCF, then what, if any, authorization, documents, notifications, and/or other requirements are needed by/from the various jurisdictions whose HHW is being brought to the PHHWCF owned by the City of Southgate?

Response: As noted above, two distinct permit-by-rule authorizations are required pursuant to the changes to the statute made by SB 456. As depicted in the example above, until such time as regulations are promulgated by DTSC providing a process to authorize a D2DP-facility, the current permit-by-rule regulations and notification form for the authorization of PHHWCFs can be utilized to process a permit-by-rule request for authorization of a D2DP-facility. Additionally, pursuant to subdivision (g)(2) of Health and Safety Code section 25218.5, a D2DP-facility (cross-jurisdictional) will need to comply with the notification requirements in Health and Safety Code section 25218.2 to each CUPA in whose jurisdiction the HHW is collected.

Question #4 Is the above proposed cross-jurisdictional collection and transportation subject to §25160.8?

Response: No. A D2DP-facility that transports collected HHW to an authorized PHHWCF, is not subject to the consolidating manifesting procedures in section 25160.8 of the Health and Safety Code. (Health & Saf. Code, § 25218.5, subd. (e)(3)(A).)

A D2DP-facility transporting collected HHW to a DTSC-permitted Treatment, Storage, or Disposal Facility (TSDF) is subject to the consolidating manifesting procedures in section 25160.8 of the Health and Safety Code. (Health & Saf. Code, § 25218.5, subd. (e)(3)(B).)

² See Cal. Code Regs., tit. 22, § 66270.60, subds. (d)(3)(C) and (d)(3)(D).

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Question #5 If the answer to Question #4 is “no,” what documentation (manifest or receipt) will be required for the cross-jurisdictional collection and transportation of HHW brought to the PHHWCF as proposed above?

Response: A D2DP-facility that brings its HHW collected from residences to an authorized PHHWCF is exempt from the manifesting requirements specified in section 25160 of the Health and Safety Code if: (1) a receipt is issued for the HHW collected from each individual residence; and (2) a copy of the receipt is “retained by the public agency for a period of at least three years.” (Health & Saf. Code, § 25218.5, subd. (e)(3)(A)). In addition, all D2D programs must follow the additional conditions found in subdivisions (e)(1) and (e)(2) of Health and Safety Code section 25218.5.

While I agree that these provisions of statute are quite complex, I hope you find the information in this letter to be understandable and provide you with the information you need to make decisions about the operations proposed in your jurisdiction. If you have any additional questions or wish to discuss this matter further, please do not hesitate to contact me at (916) 322-2718, or you can contact Mr. Kevin Sanchez at (916) 322-8677.

Sincerely,



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