

|-&gt;

Title 22@ Social Security

|-&gt;

Division 4.5@ Environmental Health Standards for the Management of Hazardous Waste

|-&gt;

Chapter 18@ Land Disposal Restrictions

|-&gt;

Article 1@ General

|-&gt;

Section 66268.5@ Procedures for Case-By-Case Extensions to an Effective Date

## **66268.5 Procedures for Case-By-Case Extensions to an Effective Date**

### **(a)**

Any person who generates, treats, stores, or disposes of a hazardous waste may submit an application to the Department, for non-RCRA hazardous wastes, or the U.S. EPA Administrator, for RCRA hazardous wastes, for an extension to the effective date of any applicable restriction established under article 3 of this chapter.

### **(b)**

For hazardous waste subject to RCRA land disposal restrictions set forth in article 4 of this chapter, the applicant shall petition the U.S. EPA Administrator for a case-by-case extension pursuant to 40 CFR section 268.5. Within 30 days after the applicant has received from the U.S. EPA Administrator an approved petition for a case-by-case extension, the applicant shall submit to the Department a copy of the approved case-by-case extension.

### **(c)**

For hazardous waste listed in section 66268.29 of this chapter subject to non-RCRA land disposal restrictions set forth in article 11 of this chapter, the applicant shall petition the Department for a case-by-case extension pursuant to this section. Each applicant for an extension shall demonstrate that all of the following conditions apply to the waste. (1) The hazardous waste cannot be

recycled, reused, or treated to meet the standards adopted by the Department pursuant to section 25179.6, California Health and Safety Code, at a commercial off-site hazardous waste facility in the state. (2) Recycling or treatment alternatives cannot be provided at the site of generation. (3) Measures have been, or will be, taken to reduce the generation of the hazardous waste. (4) Land disposal of the hazardous waste is in compliance with all existing statutes and regulations. (5) Circumstances beyond the control of the applicant, such as delays in the issuance of a permit, have prevented the development of the needed capacity by the date established under this chapter.

**(1)**

The hazardous waste cannot be recycled, reused, or treated to meet the standards adopted by the Department pursuant to section 25179.6, California Health and Safety Code, at a commercial off-site hazardous waste facility in the state.

**(2)**

Recycling or treatment alternatives cannot be provided at the site of generation.

**(3)**

Measures have been, or will be, taken to reduce the generation of the hazardous waste.

**(4)**

Land disposal of the hazardous waste is in compliance with all existing statutes and regulations.

**(5)**

Circumstances beyond the control of the applicant, such as delays in the issuance of a permit, have prevented the development of the needed capacity by the date established under this chapter.

**(d)**

An extension will apply only to the waste generated at the individual facility covered by the application and will not apply to restricted waste from any other facility.

**(e)**

On the basis of the information referred to in subsections (a), (b), and (c) of this section, the Department may grant an extension of up to 1 year from the effective date. The Department may renew this extension for up to 1 additional year upon the request of the applicant if the demonstration required in subsections (a), (b), and (c) of this section can still be made. In no event will an extension extend beyond 24 months from the applicable effective date specified in article 3 of chapter 18. The length of any extension authorized will be determined by the Department based on the time required to construct or obtain the type of capacity needed by the applicant.

**(f)**

Any person granted an extension under this section shall immediately notify the Department as soon as the person has knowledge of any change in the conditions certified to in the application.

**(g)**

Any person granted an extension under this section shall submit written progress reports to the Department at intervals designated by the Department. Such reports shall describe the overall progress made toward constructing or otherwise providing alternative treatment, recovery or disposal capacity, shall identify any event which may cause or has caused a delay in the development of the capacity, and shall summarize the steps taken to mitigate the delay. The Department can revoke the extension at any time if the applicant does not demonstrate a good-faith effort to meet the schedule for completion, if the Department denies or

revokes any required permit, if conditions certified in the application change, or for any violation of this division.

**(h)**

Whenever the Department establishes an extension to an effective date under this section, during the period for which such extension is in effect: (1) the storage restrictions under section 66268.50(a) do not apply; and (2) such hazardous waste may be disposed in a landfill or surface impoundment only if such unit is in compliance with the technical requirements of the following provisions regardless of whether such unit is existing, new or a replacement or lateral expansion: (A) the landfill, if in interim status, is in compliance with the requirements of article 6 of chapter 15 and section 66265.301(a), (c), and (d) of this division; or, (B) the landfill, if permitted, is in compliance with the requirements of article 6 of chapter 14 and section 66264.301(c), (d) and (e) of this division; (C) the surface impoundment, if in interim status, is in compliance with the requirements of article 6 of chapter 15, section 66265.221(a), (c), and (d) of this division, and RCRA section 3005(j)(1); or (D) the surface impoundment, if permitted, is in compliance with the requirements of article 6 of chapter 14 and section 66264.221(c), (d) and (e) of this division and California Health and Safety Code, division 20, chapter 6.5 article 9.5; (E) as consistent with state law, the surface impoundment, if newly subject to RCRA section 3005(j)(1) (42 U.S.C. section 6925(j)(1)) due to the promulgation of additional listings or characteristics for the identification of hazardous waste, is in compliance with the requirements of article 6 of chapter 15 within 12 months after the promulgation of additional listings or characteristics of hazardous waste, and the requirements of section 66265.221(a), (c) and (d) of this division within 48 months after the promulgation of additional listings or characteristics of hazardous waste. If a national capacity variance is

granted, during the period the variance is in effect, the surface impoundment, if newly subject to RCRA section 3005(j)(1) (42 U.S.C. section 6925(j)(1)) due to the promulgation of additional listings or characteristics of hazardous waste, is in compliance with the requirements of article 6 of chapter 15 within 12 months after the promulgation of additional listings or characteristics of hazardous waste, and with the requirements of section 66265.221(a), (c) and (d) of this division within 48 months after the promulgation of additional listings or characteristics of hazardous waste; or (F) the landfill, if disposing of containerized liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm but less than 500 ppm, is also in compliance with the requirements of 40 CFR section 761.75 and chapters 14 and 15 of this division.

**(1)**

the storage restrictions under section 66268.50(a) do not apply; and

**(2)**

such hazardous waste may be disposed in a landfill or surface impoundment only if such unit is in compliance with the technical requirements of the following provisions regardless of whether such unit is existing, new or a replacement or lateral expansion:

(A) the landfill, if in interim status, is in compliance with the requirements of article 6 of chapter 15 and section 66265.301(a), (c), and (d) of this division; or, (B) the landfill, if permitted, is in compliance with the requirements of article 6 of chapter 14 and section 66264.301(c), (d) and (e) of this division; (C) the surface impoundment, if in interim status, is in compliance with the requirements of article 6 of chapter 15, section 66265.221(a), (c), and (d) of this division, and RCRA section 3005(j)(1); or (D) the surface impoundment, if permitted, is in compliance with the requirements of article 6 of chapter 14 and section 66264.221(c), (d) and (e) of this division and California Health and Safety Code, division 20, chapter 6.5 article 9.5; (E) as consistent with state

law, the surface impoundment, if newly subject to RCRA section 3005(j)(1) (42 U.S.C. section 6925(j)(1)) due to the promulgation of additional listings or characteristics for the identification of hazardous waste, is in compliance with the requirements of article 6 of chapter 15 within 12 months after the promulgation of additional listings or characteristics of hazardous waste, and the requirements of section 66265.221(a), (c) and (d) of this division within 48 months after the promulgation of additional listings or characteristics of hazardous waste. If a national capacity variance is granted, during the period the variance is in effect, the surface impoundment, if newly subject to RCRA section 3005(j)(1) (42 U.S.C. section 6925(j)(1)) due to the promulgation of additional listings or characteristics of hazardous waste, is in compliance with the requirements of article 6 of chapter 15 within 12 months after the promulgation of additional listings or characteristics of hazardous waste, and with the requirements of section 66265.221(a), (c) and (d) of this division within 48 months after the promulgation of additional listings or characteristics of hazardous waste; or (F) the landfill, if disposing of containerized liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm but less than 500 ppm, is also in compliance with the requirements of 40 CFR section 761.75 and chapters 14 and 15 of this division.

**(A)**

the landfill, if in interim status, is in compliance with the requirements of article 6 of chapter 15 and section 66265.301(a), (c), and (d) of this division; or,

**(B)**

the landfill, if permitted, is in compliance with the requirements of article 6 of chapter 14 and section 66264.301(c), (d) and (e) of this division;

**(C)**

the surface impoundment, if in interim status, is in compliance with the requirements of

article 6 of chapter 15, section 66265.221(a), (c), and (d) of this division, and RCRA section 3005(j)(1); or

**(D)**

the surface impoundment, if permitted, is in compliance with the requirements of article 6 of chapter 14 and section 66264.221(c), (d) and (e) of this division and California Health and Safety Code, division 20, chapter 6.5 article 9.5;

**(E)**

as consistent with state law, the surface impoundment, if newly subject to RCRA section 3005(j)(1) (42 U.S.C. section 6925(j)(1)) due to the promulgation of additional listings or characteristics for the identification of hazardous waste, is in compliance with the requirements of article 6 of chapter 15 within 12 months after the promulgation of additional listings or characteristics of hazardous waste, and the requirements of section 66265.221(a), (c) and (d) of this division within 48 months after the promulgation of additional listings or characteristics of hazardous waste. If a national capacity variance is granted, during the period the variance is in effect, the surface impoundment, if newly subject to RCRA section 3005(j)(1) (42 U.S.C. section 6925(j)(1)) due to the promulgation of additional listings or characteristics of hazardous waste, is in compliance with the requirements of article 6 of chapter 15 within 12 months after the promulgation of additional listings or characteristics of hazardous waste, and with the requirements of section 66265.221(a), (c) and (d) of this division within 48 months after the promulgation of additional listings or characteristics of hazardous waste; or

**(F)**

the landfill, if disposing of containerized liquid hazardous wastes containing PCBs at concentrations greater than or equal to 50 ppm but less than 500 ppm, is also in compliance with the requirements of 40 CFR section 761.75 and chapters 14 and 15 of this division.

**(i)**

Pending a decision on the application, the applicant is required to comply with all restrictions on land disposal under this chapter once the effective date for the waste has been reached.

**(j)**

After receiving an application for an extension, the Department may request any additional information which it deems necessary to evaluate the application.

Within 45 days of the receipt of the application, the Department shall inform the applicant, in writing, that the application is complete and accepted for filing, or that the application is deficient and what specific information is required.

**(k)**

The Department shall make a decision on an application for an extension within 120 days of the filing of a completed application.