

|->

Title 22@ Social Security

|->

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

|->

Chapter 20@ The Hazardous Waste Permit Program

|->

Article 1@ General Information

|->

Section 66270.1@ Purpose and Scope of These Regulations

66270.1 Purpose and Scope of These Regulations

(a)

Coverage. (1) These permit regulations establish provisions for the issuance and administration of hazardous waste permits pursuant to chapter 6.5 of division 20 of the Health and Safety Code (commencing with section 25100). (2) The regulations in this chapter cover basic permitting requirements, such as application requirements, standard permit conditions, and monitoring and reporting requirements. These regulations are part of a regulatory scheme implementing chapter 6.5 (commencing with section 25100) of division 20 of the Health and Safety Code, set forth in different parts of Title 22, California Code of Regulations. (3) Technical regulations. The permit program has separate additional regulations that contain technical requirements. These separate regulations are used by the Department to determine what requirements shall be placed in permits if they are issued. These separate regulations are located in chapters 14 and 16 of this division.

(1)

These permit regulations establish provisions for the issuance and administration of hazardous waste permits pursuant to chapter 6.5 of division 20 of the Health and Safety Code (commencing with section 25100).

(2)

The regulations in this chapter cover basic permitting requirements, such as

application requirements, standard permit conditions, and monitoring and reporting requirements. These regulations are part of a regulatory scheme implementing chapter 6.5 (commencing with section 25100) of division 20 of the Health and Safety Code, set forth in different parts of Title 22, California Code of Regulations.

(3)

Technical regulations. The permit program has separate additional regulations that contain technical requirements. These separate regulations are used by the Department to determine what requirements shall be placed in permits if they are issued. These separate regulations are located in chapters 14 and 16 of this division.

(b)

Overview of the Permit Program. Not later than 90 days after the promulgation or revision of regulations in chapter 11 of this division, which result in a waste becoming subject to the requirements of this division, generators and transporters of that hazardous waste, and owners or operators of hazardous waste facilities that transfer, treat, store, or dispose of that waste shall file a notification of that activity under Health and Safety Code section 25153.6. After the promulgation of the chapter 11 regulations, transfer, treatment, storage or disposal of the newly regulated hazardous waste by any person who has not filed a notification with the Department and received a permit or grant of interim status is prohibited unless otherwise specifically authorized by the Department or another provision of this division. A permit application consists of two parts, Part A (see section 66270.13) and Part B (see section 66270.14 and applicable sections in sections 66270.15 through 66270.23). For "existing HWM facilities," the requirement to submit an application is satisfied by submitting only Part A of the permit application until the date the Department sets for submitting Part B of the application. (Part A consists of Forms 1 and 3 of the Consolidated Permit Application Forms.) Timely

submission of both notification under Health and Safety Code section 25153.6 and Part A qualifies owners and operators of existing HWM facilities (who are required to have a permit) for interim status under section 25200.5 of the Health and Safety Code. Facility owners and operators with interim status are treated as having been issued a permit until the Department makes a final determination on the permit application. Facility owners and operators with interim status shall comply with interim status standards set forth in chapter 15 of this division. For existing HWM facilities, the Department shall set a date, giving at least 60 days notice, for submission of Part B of the application. There is no form for Part B of the application; rather, Part B shall be submitted in narrative form and contain the information set forth in the applicable sections of sections 66270.14 through 66270.23. Owners or operators of new HWM facilities shall submit Parts A and B of the permit application at least 180 days before physical construction is expected to commence.

(c)

Scope of the Permit Requirements. A permit is required for the "transfer," "treatment," "storage," and "disposal" of any waste which is hazardous waste pursuant to section 66261.3. The terms "transfer," "treatment," "storage," "disposal," and "hazardous waste" are defined in section 66260.10. Owners and operators of hazardous waste management units shall have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to section 66265.115) after January 26, 1983, shall have postclosure permits, unless they demonstrate closure by removal as provided under subsections (c)(5) and (6) of this section, or obtain an enforceable document in lieu of a postclosure permit, as

provided under subsection (c)(7) of this section. If a postclosure permit is required, the permit shall address applicable chapter 14 Water Quality Monitoring, Environmental Monitoring, Corrective Action, and Postclosure Care Requirements of this division. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a postclosure permit under this section. (1) Specific inclusions. Owners and operators of certain facilities require hazardous waste facility permits as well as permits under other programs for certain aspects of the facility operation. Permits are required for: (A) injection wells that dispose of hazardous waste, and associated surface facilities that transfer, treat, store or dispose of hazardous waste; (B) transfer, treatment, storage, or disposal of hazardous waste at facilities requiring an NPDES permit. However, the owner or operator of a publicly owned treatment works receiving hazardous waste shall be deemed to have a permit for treatment of that waste if the owner or operator complies with the requirements of section 66270.60(d)(1). (C) barges or vessels that dispose of hazardous waste by ocean disposal. However, the owner or operator shall be deemed to have a permit for ocean disposal from the barge or vessel if the owner or operator complies with the requirements of section 66270.60(d)(2). (D) treatment of hazardous wastes using a Transportable Treatment Unit (TTU). However, the owner or operator of a transportable treatment unit (TTU) shall be deemed to have a permit to operate the TTU when the owner or operator submits completed TTU notifications as specified in Section 67450.2(a) and 67450.3(a)(3) and receives acknowledgements from the Department authorizing operation of the TTU pursuant to sections 67450.2(a)(3) and 67450.3(b). (E) treatment of hazardous wastes using a Fixed Treatment Unit (FTU). However, the owner or operator of a fixed treatment unit (FTU) shall be deemed to have a permit to operate the FTU

when the owner or operator submits a completed FTU facility-specific notification as specified in Section 67450.2(b) and receives an acknowledgement from CUPA or authorized agency authorizing operation of the FTU pursuant to section 67450.2(b)(5). (F) operation of a temporary household hazardous waste collection facility (THHWCF). However, the operator of a THHWCF shall be deemed to have a permit to operate the THHWCF when the operator submits a completed THHWCF notification as specified in Section 66270.60(d)(5)(A). (2) Specific exclusions. The following persons are among those who are not required to obtain a permit: (A) generators who accumulate hazardous waste on-site without meeting the definition of a storage facility set forth in Health and Safety Code Section 25123.3. (B) farmers who dispose of hazardous waste pesticides from their own use as provided in section 66262.70; (C) transporters storing manifested shipments of hazardous waste in containers at a transfer facility, and transfer facilities storing manifested shipments of hazardous waste in containers, for six days or less, or 10 days or less for transfer facilities in areas zoned industrial by the local planning authority, and meeting the requirements of sections 66262.30 and 66263.18; (D) persons adding absorbent material to waste in a container (as defined in section 66260.10 of this division) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and sections 66264.17(b), 66264.171, and 66264.172 of this division are complied with. (E) Persons who manage universal waste. These persons are subject to regulation under chapter 23 when managing universal wastes listed in section 66261.9 of this division. (3) Further exclusions. (A) A person is not required to obtain a permit for treatment or containment activities which are necessary to perform an immediate response to any of the following situations: 1. a discharge of a hazardous waste; 2. an

imminent and substantial threat of a discharge of hazardous waste; 3. a discharge of a material which, when discharged, becomes a hazardous waste. (B) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities. (C) In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition. For the purposes of this subsection, the term "military munitions" is as defined in 40 Code of Federal Regulations section 260.10. The requirements of this subsection apply only to military munitions that are regulated under the federal act, as defined in Health and Safety Code section 25115.1; (4) Permits for less than an entire facility. The Department may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility. (5) Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under the standards of chapter 15 of this division shall obtain a post-closure permit unless they can demonstrate to the Department that the closure met the standards for closure-by-removal or decontamination in sections 66264.228, 66264.280(e), or 66264.258, respectively. The demonstration may be made in the following ways:

(A) if the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that the closure-by-removal or decontamination

standards of chapter 14 of this division were met. If the Department believes that the chapter 14 standards were met, the Department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in paragraph (c)(6) of this section. (B) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the Department for a determination that a post-closure permit is not required because the closure met the applicable closure-by-removal or decontamination standards of chapter 14 of this division. 1.

The petition shall include data demonstrating that the applicable chapter 14 closure-by-removal or decontamination standards were met. 2. The Department shall approve or deny the petition according to the procedures outlined in subsection (c)(6) of this section. (6) Procedures for closure equivalency determination. (A) If a facility owner/operator seeks an equivalency demonstration under section 66270.1(c)(5), the Department shall provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The Department shall also, in response to a request or at the Department's own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the closure under chapter 15 of this division to a closure-by-removal or decontamination under chapter 14 of this division. The Department shall give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined. (B) The Department shall determine whether the closure under chapter 15 of this division met the closure-by-removal or decontamination requirements of chapter 14 of this division within 90 days of

receipt of a petition requesting a closure equivalency determination. If the Department finds that the closure did not meet the applicable chapter 14 standards, the Department shall provide the owner/operator with a written statement of the reasons why the closure failed to meet chapter 14 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Department shall review any additional information submitted and make a final determination within 60 days. (C) If the Department determines that the facility did not close in accordance with the closure-by-removal or decontamination standards of chapter 14 of this division, the facility is subject to post-closure permitting requirements. (7) Enforceable documents of postclosure care. At the discretion of the Department, an owner or operator may obtain, in lieu of a postclosure permit, an enforceable document imposing the requirements of section 66264.121 or 66265.121. "Enforceable document" means an order, a plan, or other document issued by the Department that meets the requirements of 40 CFR 271.16(e) including, but not limited to, a corrective action order issued by the Department under Health and Safety Code section 25187, a remedial action order issued by the Department under Health and Safety Code section 25355.5(a)(1)(B), or a closure or postclosure plan.

(1)

Specific inclusions. Owners and operators of certain facilities require hazardous waste facility permits as well as permits under other programs for certain aspects of the facility operation. Permits are required for: (A) injection wells that dispose of hazardous waste, and associated surface facilities that transfer, treat, store or dispose of hazardous waste; (B) transfer, treatment, storage, or disposal of hazardous waste at facilities requiring an NPDES permit. However, the owner or operator of a publicly

owned treatment works receiving hazardous waste shall be deemed to have a permit for treatment of that waste if the owner or operator complies with the requirements of section 66270.60(d)(1). (C) barges or vessels that dispose of hazardous waste by ocean disposal. However, the owner or operator shall be deemed to have a permit for ocean disposal from the barge or vessel if the owner or operator complies with the requirements of section 66270.60(d)(2). (D) treatment of hazardous wastes using a Transportable Treatment Unit (TTU). However, the owner or operator of a transportable treatment unit (TTU) shall be deemed to have a permit to operate the TTU when the owner or operator submits completed TTU notifications as specified in Section 67450.2(a) and 67450.3(a)(3) and receives acknowledgements from the Department authorizing operation of the TTU pursuant to sections 67450.2(a)(3) and 67450.3(b). (E) treatment of hazardous wastes using a Fixed Treatment Unit (FTU). However, the owner or operator of a fixed treatment unit (FTU) shall be deemed to have a permit to operate the FTU when the owner or operator submits a completed FTU facility-specific notification as specified in Section 67450.2(b) and receives an acknowledgement from CUPA or authorized agency authorizing operation of the FTU pursuant to section 67450.2(b)(5). (F) operation of a temporary household hazardous waste collection facility (THHWCF). However, the operator of a THHWCF shall be deemed to have a permit to operate the THHWCF when the operator submits a completed THHWCF notification as specified in Section 66270.60(d)(5)(A).

(A)

injection wells that dispose of hazardous waste, and associated surface facilities that transfer, treat, store or dispose of hazardous waste;

(B)

transfer, treatment, storage, or disposal of hazardous waste at facilities requiring an NPDES permit. However, the owner or operator of a publicly owned treatment works receiving

hazardous waste shall be deemed to have a permit for treatment of that waste if the owner or operator complies with the requirements of section 66270.60(d)(1).

(C)

barges or vessels that dispose of hazardous waste by ocean disposal. However, the owner or operator shall be deemed to have a permit for ocean disposal from the barge or vessel if the owner or operator complies with the requirements of section 66270.60(d)(2).

(D)

treatment of hazardous wastes using a Transportable Treatment Unit (TTU). However, the owner or operator of a transportable treatment unit (TTU) shall be deemed to have a permit to operate the TTU when the owner or operator submits completed TTU notifications as specified in Section 67450.2(a) and 67450.3(a)(3) and receives acknowledgements from the Department authorizing operation of the TTU pursuant to sections 67450.2(a)(3) and 67450.3(b).

(E)

treatment of hazardous wastes using a Fixed Treatment Unit (FTU). However, the owner or operator of a fixed treatment unit (FTU) shall be deemed to have a permit to operate the FTU when the owner or operator submits a completed FTU facility-specific notification as specified in Section 67450.2(b) and receives an acknowledgement from CUPA or authorized agency authorizing operation of the FTU pursuant to section 67450.2(b)(5).

(F)

operation of a temporary household hazardous waste collection facility (THHWCF). However, the operator of a THHWCF shall be deemed to have a permit to operate the THHWCF when the operator submits a completed THHWCF notification as specified in Section 66270.60(d)(5)(A).

(2)

Specific exclusions. The following persons are among those who are not required to

obtain a permit: (A) generators who accumulate hazardous waste on-site without meeting the definition of a storage facility set forth in Health and Safety Code Section 25123.3. (B) farmers who dispose of hazardous waste pesticides from their own use as provided in section 66262.70; (C) transporters storing manifested shipments of hazardous waste in containers at a transfer facility, and transfer facilities storing manifested shipments of hazardous waste in containers, for six days or less, or 10 days or less for transfer facilities in areas zoned industrial by the local planning authority, and meeting the requirements of sections 66262.30 and 66263.18; (D) persons adding absorbent material to waste in a container (as defined in section 66260.10 of this division) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and sections 66264.17(b), 66264.171, and 66264.172 of this division are complied with. (E) Persons who manage universal waste. These persons are subject to regulation under chapter 23 when managing universal wastes listed in section 66261.9 of this division.

(A)

generators who accumulate hazardous waste on-site without meeting the definition of a storage facility set forth in Health and Safety Code Section 25123.3.

(B)

farmers who dispose of hazardous waste pesticides from their own use as provided in section 66262.70;

(C)

transporters storing manifested shipments of hazardous waste in containers at a transfer facility, and transfer facilities storing manifested shipments of hazardous waste in containers, for six days or less, or 10 days or less for transfer facilities in areas zoned industrial by the local planning authority, and meeting the requirements of sections 66262.30 and 66263.18;

(D)

persons adding absorbent material to waste in a container (as defined in section 66260.10 of this division) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and sections 66264.17(b), 66264.171, and 66264.172 of this division are complied with.

(E)

Persons who manage universal waste. These persons are subject to regulation under chapter 23 when managing universal wastes listed in section 66261.9 of this division.

(3)

Further exclusions. (A) A person is not required to obtain a permit for treatment or containment activities which are necessary to perform an immediate response to any of the following situations: 1. a discharge of a hazardous waste; 2. an imminent and substantial threat of a discharge of hazardous waste; 3. a discharge of a material which, when discharged, becomes a hazardous waste. (B) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities. (C) In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition. For the purposes of this subsection, the term "military munitions" is as defined in 40 Code of Federal Regulations section 260.10. The requirements of this subsection apply only to military munitions that are regulated under the federal act, as defined in Health and Safety Code section 25115.1;

(A)

A person is not required to obtain a permit for treatment or containment activities which are

necessary to perform an immediate response to any of the following situations: 1. a discharge of a hazardous waste; 2. an imminent and substantial threat of a discharge of hazardous waste; 3. a discharge of a material which, when discharged, becomes a hazardous waste.

1.

a discharge of a hazardous waste;

2.

an imminent and substantial threat of a discharge of hazardous waste;

3.

a discharge of a material which, when discharged, becomes a hazardous waste.

(B)

Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(C)

In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition. For the purposes of this subsection, the term "military munitions" is as defined in 40 Code of Federal Regulations section 260.10. The requirements of this subsection apply only to military munitions that are regulated under the federal act, as defined in Health and Safety Code section 25115.1;

(4)

Permits for less than an entire facility. The Department may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not

been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

(5)

Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under the standards of chapter 15 of this division shall obtain a post-closure permit unless they can demonstrate to the Department that the closure met the standards for closure-by-removal or decontamination in sections 66264.228, 66264.280(e), or 66264.258, respectively. The demonstration may be made in the following ways: (A) if the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that the closure-by-removal or decontamination standards of chapter 14 of this division were met. If the Department believes that the chapter 14 standards were met, the Department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in paragraph (c)(6) of this section. (B) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the Department for a determination that a post-closure permit is not required because the closure met the applicable closure-by-removal or decontamination standards of chapter 14 of this division. 1. The petition shall include data demonstrating that the applicable chapter 14 closure-by-removal or decontamination standards were met. 2. The Department shall approve or deny the petition according to the procedures outlined in subsection (c)(6) of this section.

(A)

if the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the

application, that the closure-by-removal or decontamination standards of chapter 14 of this division were met. If the Department believes that the chapter 14 standards were met, the Department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in paragraph (c)(6) of this section.

(B)

If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the Department for a determination that a post-closure permit is not required because the closure met the applicable closure-by-removal or decontamination standards of chapter 14 of this division. 1. The petition shall include data demonstrating that the applicable chapter 14 closure-by-removal or decontamination standards were met. 2. The Department shall approve or deny the petition according to the procedures outlined in subsection (c)(6) of this section.

1.

The petition shall include data demonstrating that the applicable chapter 14 closure-by-removal or decontamination standards were met.

2.

The Department shall approve or deny the petition according to the procedures outlined in subsection (c)(6) of this section.

(6)

Procedures for closure equivalency determination. (A) If a facility owner/operator seeks an equivalency demonstration under section 66270.1(c)(5), the Department shall provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The Department shall also, in response to a request or at the Department's own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the closure under chapter 15

of this division to a closure-by-removal or decontamination under chapter 14 of this division. The Department shall give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined. (B) The Department shall determine whether the closure under chapter 15 of this division met the closure-by-removal or decontamination requirements of chapter 14 of this division within 90 days of receipt of a petition requesting a closure equivalency determination. If the Department finds that the closure did not meet the applicable chapter 14 standards, the Department shall provide the owner/operator with a written statement of the reasons why the closure failed to meet chapter 14 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Department shall review any additional information submitted and make a final determination within 60 days. (C) If the Department determines that the facility did not close in accordance with the closure-by-removal or decontamination standards of chapter 14 of this division, the facility is subject to post-closure permitting requirements.

(A)

If a facility owner/operator seeks an equivalency demonstration under section 66270.1(c)(5), the Department shall provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The Department shall also, in response to a request or at the Department's own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the closure under chapter 15 of this division to a closure-by-removal or decontamination under chapter 14 of this division. The Department shall give public notice of the hearing at least 30 days before it

occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.

(B)

The Department shall determine whether the closure under chapter 15 of this division met the closure-by-removal or decontamination requirements of chapter 14 of this division within 90 days of receipt of a petition requesting a closure equivalency determination. If the Department finds that the closure did not meet the applicable chapter 14 standards, the Department shall provide the owner/operator with a written statement of the reasons why the closure failed to meet chapter 14 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Department shall review any additional information submitted and make a final determination within 60 days.

(C)

If the Department determines that the facility did not close in accordance with the closure-by-removal or decontamination standards of chapter 14 of this division, the facility is subject to post-closure permitting requirements.

(7)

Enforceable documents of postclosure care. At the discretion of the Department, an owner or operator may obtain, in lieu of a postclosure permit, an enforceable document imposing the requirements of section 66264.121 or 66265.121. "Enforceable document" means an order, a plan, or other document issued by the Department that meets the requirements of 40 CFR 271.16(e) including, but not limited to, a corrective action order issued by the Department under Health and Safety Code section 25187, a remedial action order issued by the Department under Health and Safety Code section 25355.5(a)(1)(B), or a closure or postclosure plan.

(d)

Where waste discharge requirements are established pursuant to sections 13260 and 13263 of the Water Code, they shall be incorporated as a condition of the Hazardous Waste Facility Permit issued to the applicant pursuant to this chapter to the extent the Department determines the waste discharge requirements are not less stringent than this division or chapter 6.5 of division 20 of the Health and Safety Code. The Department may establish in the permit more stringent requirements which the Department determines are necessary or appropriate to carry out this division or chapter 6.5 of division 20 of the Health and Safety Code.