

Frequently Asked Questions

DTSC Issues Draft Decision on Kettleman Facility and Announces Initiative to Reduce Landfill Waste by 50 percent

Q: Chemical Waste Management applied for a Class 3 Permit Modification so that it can expand its hazardous waste landfill in Kettleman Hills. What is the Department of Toxic Substances Control's response?

A: Based on the most comprehensive review of a permit application in California history, DTSC has released a draft decision that would allow owners to expand the facility. The draft permit modification includes the most extensive set of conditions and requirements ever issued by the Department.

Q: How much can the landfill expand and why is it necessary?

A: CWM can increase capacity by up to 5 million cubic yards to a total of 15.7 million cubic yards. The landfill is nearing capacity.

Q: What kind of waste does CWM accept at Kettleman Hills?

A: CWM is permitted to dispose of or treat and store hazardous waste from all over California. The facility accepts most all solid, semi-solid, and liquid hazardous waste. It is not permitted to accept biological agents or infectious wastes, regulated radioactive materials, or compressed gases and explosives.

Q: Does this permit modification change the type of waste CWM can accept?

A: No, it does not.

Q: Does the permit modification address health and safety concerns raised by the community?

A: Yes, this proposed modification contains the most comprehensive set of conditions and requirements that DTSC has ever issued. It requires:

- Construction of improved containment systems to control spills. The new system will be built at the sample rack, where incoming hazardous waste loads are dropped off;
- Annual aerial or land surveys of the landfill to determine how much capacity remains. DTSC will also track how much capacity is filled monthly through CWM generated reports;
- Increased air sampling that allows for the detection of very low concentrations of PCBs. Samples will now be taken for 28 consecutive days once each quarter instead of during a 24-hour period every 12 days;
- Enhanced air monitoring. CWM must build a fourth ambient monitoring station to provide early indication of contaminant migration when winds are blowing from the facility toward Kettleman City;

- Increased sampling and analysis of leachate – the liquid that accumulates at the bottom of a landfill and is considered hazardous waste. Sampling will be done quarterly for one year and annually after that to determine how best and most safely to treat that waste;
- Enhanced public outreach. The facility is now required to meet with the community at least once a year to discuss monitoring results from the facility and DTSC will participate in all meetings.

Q: Does the permit modification include any other protections for the community?

A: For the first time in California, a draft hazardous waste permit requires that only low-emission trucks be allowed to dispose of hazardous waste at a landfill. Under this condition, trucks using the facility must meet 2007 model year emissions standards, when more restrictive air emission standards went into effect in California. In 2018, we will lower the age of those trucks, allowing only those meeting 2010 model year emissions standards. This will result in a significant drop in diesel emissions from trucks associated with the facility.

Q: Will DTSC change its oversight of the facility?

A: DTSC has increased both the number of inspections at the facility and collaboration with USEPA inspectors.

Q: What input did the community have on the draft decision?

A: DTSC took extraordinary steps to involve the Kettleman community in the decision. Executives and managers from DTSC, including the director, met at least 20 times with community members in the Central Valley and in Sacramento; since 2009, DTSC has participated in 10 public workshops in Kettleman City on health and water issues, the status of the permit modification and enforcement issues.

Q: Did DTSC make any efforts to reach community members outside of meetings?

A: In 2012, DTSC conducted an extensive community outreach effort. The department distributed 664 community surveys to Kettleman City residents and businesses to gauge concerns regarding the CWM facility. In addition, eight DTSC staff went door-to-door in the community, interviewing residents in both Spanish and English. They spoke with 47 people.

Q: What did the community tell DTSC during the outreach?

A: While the majority of community members were interested in the CWM facility, they were less concerned about the impact of the landfill than they were with other issues. Those include drinking water quality, air quality, access to services and health care, education quality, pesticide drift and birth defects and cancer rates.

Q: Will DTSC maintain this higher level of community outreach while the draft permit decision is being considered?

A: Yes. And as a result of what the community shared with DTSC staff during the outreach, the department has enhanced its public participation. In addition to our existing outreach efforts, we now post community notices at frequently visited places in the community such as the post office, local markets and schools (when in session): we reach out to community members and stakeholders through social media and text messages; we work with Kettleman City community members to provide project briefings as requested. We continue to speak to community members in a language they understand.

Q: CWM applied for the permit modification in December 2008. Why did it take DTSC so long to respond?

A: This was the most comprehensive permit review DTSC ever has done. We took the time needed to ensure we heard community concerns, to review the complete enforcement record and to develop enhancements to the permit requirements that raise the level of protection. We looked into health issues and worked closely with other agencies including the California Department of Public Health, the Office of Environmental Health Hazard Assessment, US EPA, the California State Water Board, the Air Resources Board and local agencies to ensure they had the opportunity to look at data and give us their feedback. With their assistance, we analyzed data on air emissions groundwater, pesticide use, drinking water quality, risk assessment and community health issues.

Q: How did DTSC assess the community's health concerns?

A: DTSC's review took into account the findings of multiple health studies including the 2010 report "Cal EPA Kettleman City Community Exposure Assessment," the "California Department of Public Health Birth Defect Study" and results of a US EPA examination of the risks of exposure to polychlorinated biphenyls (PCBs), none of which pointed to significant health risk connected to the facility. DTSC also meets monthly with representatives of the California Department of Public Health to discuss any new issues and to address them.

Q: Was there a health risk assessment?

A: US EPA reviewed four separate health exposure or risk assessments for toxic air pollutants emitted from CWM – one from 1997 and three from 2007-11. Each concluded that the estimated risks and hazards from facility emissions were well below the nationally accepted levels of concern for the nearest residential locations.

Q: Would biomonitoring be an effective tool to assess the Kettleman community's exposure to chemicals?

A: While biomonitoring is a useful tool, it cannot answer health questions raised by people in Kettleman City. Biomonitoring could not determine whether chemicals measured in the blood or urine of residents came from the Kettleman

Hills facility because it cannot generally distinguish the sources of environmental chemicals. It cannot determine a cause for health issues that concern the community such as birth defects and cancer.

Q: Did DTSC look at the cumulative impact its permit decision would have on the community?

A: Beyond the required California Environmental Quality Act review, DTSC took a holistic look at the community and the facility to understand the environmental and social impacts of our permit modification decision. The department used the databases of the California Communities Environmental Health Screening Tools (CalEnviroScreen), which identifies communities where there are multiple sources of pollution and where residents may be more vulnerable to the effects of pollution. DTSC's broad-ranging review also included the department's first Environmental Justice analysis.

Q: What did DTSC's Environmental Justice review of the facility conclude?

A: DTSC performed an Environmental Justice review to better understand the needs, concerns and vulnerabilities of the community. It showed that the community near this facility is impacted with more pollution burdens than other cities in the state and that they may be more susceptible to pollution burdens. DTSC recognizes that this community needs more assistance from the government and is working with other state agencies to bring clean drinking water to Kettleman City. DTSC also is requiring the facility to reduce local air pollution impacts by limiting access to the facility to cleaner trucks.

Q: Did DTSC perform a California Environmental Quality Act (CEQA) review of the CWM's proposed expansion?

A: Kings County performed the original CEQA review to identify impacts the proposed expansion might have on various environmental indicators. That review determined that there were no significant impacts that could not be somehow mitigated, except for air quality, transportation and traffic issues, and greenhouse gas emissions, and global climate change, which remained significant and unavoidable. When CWM later indicated it wanted to build its expansion in phases, DTSC prepared an addendum to the original CEQA review. That addendum also did not identify any new or significantly more severe environmental impacts.

Q: What about the Title VI complaint from 1994?

A: In 2012, US EPA's Office of Civil Rights dismissed and closed a Title VI complaint filed in 1994, alleging that DTSC and other agencies discriminated against Latinos in regards to the siting of landfills, public participation processes and permitting and hazardous impacts of three hazardous waste disposal facilities, including this one in Kettleman Hills. US EPA also concluded that DTSC is taking the necessary steps to ensure meaningful public participation.

Q: Was CWM's enforcement record taken into account in the draft permit modification decision?

A: Yes. DTSC carefully reviewed the facility's entire enforcement record, dating back to 1983 and concluded that none of the violations threatened public health or the environment. That review includes a \$311,000 fine in March of 2013 for CWM's failure to report 72 small spills. CWM has corrected all violations, and its response to enforcement issues indicates it is able and willing to take steps to ensure the facility operates in full compliance with DTSC's permit conditions.

Q: Other than the increase in size of the landfill, what else does this draft decision on the proposed permit modification allow?

A: The maximum waste elevation in the landfill increases from 965 feet to 1,018 feet above average sea level. The facility will add a second surface water run-off containment basin (so storm water can be collected); it will extend lining below the landfill to protect the groundwater.

Q: How does this draft decision on the proposed permit modification affect CWM's overall operational permit?

A: This permit modification does not affect the status of CWM's overall operational permit. That 10-year permit expired on June 16, 2013 and the facility has submitted a renewal application, which extends the current permit while the renewal is considered. Therefore, CWM can continue to operate past the expiration date while DTSC reviews the renewal application.

Q: Now that DTSC has made this draft decision, what happens?

A: This draft decision starts a 60-day public comment period that will include several public meetings and a public hearing in Kettleman City. The comment period is typically 45 days but DTSC promised this community that extra time.

Q: When and where are the public meetings?

A: DTSC will host a community open house on Wednesday July 31 at the Kettleman City Elementary School, a community "drop-in" session on August 1 at the Kettleman City Community Center; and a public hearing on August 27 at the Kettleman City Elementary School. Translation services will be provided.

Q: When does the public comment period for the draft decision close?

A: September 4, 2013.

Q: What are the details of DTSC's plan to reduce landfill waste?

A: DTSC has set a very bold but attainable goal of reducing the amount of hazardous waste disposed of in California by 50 percent before 2025.

Q: Isn't the 50 percent reduction goal an attempt to divert attention from the unpopular expansion of the hazardous waste landfill in Kettleman Hills?

A: The 50 percent goal and the draft decision are closely related. During the past two years of discussion with stakeholders, including community members from Kettleman City, we've heard over and over again that no matter how safe we consider the landfills, they feel they bear the end result of California's hazardous waste system. They have asked for a more equitable system. Disposing hazardous waste in a landfill is not a sustainable practice. If nothing is done, the next generation and each generation after that will be right back here debating the merits of a landfill expansion. We are at a moment of time, when a great deal of attention will be focused on this issue, to commit ourselves to finding a better way to deal with our hazardous waste. We consider this goal a condition we're placing on ourselves at the state level.

Q: How much hazardous waste is there in California?

A: California generates about 1.7 million tons of hazardous waste each year on average, requiring a system that provides safe and effective methods for treating, transporting and disposing of the waste.

Q: Where does the waste go?

A: California annually disposes of about 600,000 tons of hazardous waste in landfills within California. Another 333,000 tons is shipped out to landfills in other states that do not have California's more strict requirements.

Q: How many hazardous waste landfills are in California?

A: California permits three hazardous waste landfills, but only two currently are accepting waste. Wastes are accepted at the Chemical Waste Management facility in Kettleman Hills and at a Clean Harbors facility in Buttonwillow near Bakersfield. A Clean Harbors landfill at Westmoreland in Imperial County has not accepted hazardous waste since 2006.

Q: Is there enough room in those facilities for California's hazardous waste?

A: The capacity is not sufficient to sustain disposal for generations. Permitting hazardous waste facilities is not a long-term and sustainable way to protect the public and our environment.

Q: What other benefits are achieved from reducing the amount of hazardous waste sent to landfills?

A: Besides addressing the lack of long-term capacity, there are other problems with putting hazardous waste in landfills. Disposing of hazardous waste – both within California and in other states - creates greenhouse gases. Shipping the wastes out of state creates even more greenhouse gases. Reducing hazardous waste disposal will reduce greenhouse gases.

Q: Why solve the problem with such a large, broad-reaching initiative?

A: Setting a goal for reducing hazardous waste disposal creates incentives that can lead to innovations in science and technology and establishes an infrastructure for further reductions that ultimately protect future generations.

Q: How will DTSC begin to accomplish this goal?

A: The initiative will start with conversations, and DTSC is asking all stakeholders, including the public, public interest groups, local government and elected officials to join talks with us about how to lower generation of hazardous waste and reduce the amount of waste going into landfills.

Q: What kinds of hazardous waste does California put in landfills?

A: About 50 percent of the hazardous waste disposed in landfills each year is contaminated soil from cleanup sites.

Q: If contaminated soil makes up most of the hazardous waste disposed of in the state, does the 50 percent reduction mean the state has to clean up fewer sites?

A: No, California will continue to clean up sites contaminated with hazardous soil.

Q: Has DTSC already identified ways to reduce the hazardous waste taken to landfills?

A: There are alternative ways to handle contaminated soil including increasingly innovative ways to treat the soil where it is (called in situ) instead of hauling it to a landfill. More wastes can be safely consolidated, capped and left in place; contaminated soil can be better characterized so that only hazardous material is being taken from a large cleanup site instead of a large volume of soil that is not contaminated.

Q: What about incentives to discourage generation of hazardous waste?

A: Restructuring the fees that hazardous waste generators pay would make a significant difference. Currently, generators pay incremental amounts based on how much they generate but only up to a certain point. Once they hit 2,000 tons per year, they pay a flat rate, no matter how much they generate. Paying more for generating more would create a disincentive to generate hazardous waste.

Q: Did DTSC's review of the Kettleman facility's permit modification reveal any other long-range issues, and is there a plan to address them?

A: DTSC's Brownfield and Environmental Restoration will be implementing a new Clean Truck Initiative. At sites where DTSC takes the lead in cleanup, we will direct contractors and subcontractors to use low-emission diesel equipment on site and trucks from 2007 or newer for moving material offsite. DTSC staff will also work closely with responsible parties at private cleanups to reduce emissions. The program will be fully implemented by Fall 2014.

Q: What are the next steps on reducing hazardous waste disposal?

A: DTSC's announcement sets in motion a dialogue among industry, public interest groups, local governments, elected officials and the public. The department will conduct six workshops throughout the state beginning this fall.