

## TITLE 22

## PROPOSED REGULATIONS

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## DIVISION 4.5, TITLE 22, CALIFORNIA CODE OF REGULATIONS

CHAPTER 14. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE  
TRANSFER, TREATMENT, STORAGE, AND DISPOSAL FACILITIES

\*\*Underlined text reflects new text

\*\*~~Strikeout~~ text reflects deleted text

**Add Subsection 66264.90(i)** of title 22 of the California Code of Regulations, to read:

**§ 66264.90. Applicability.**

(i) The regulations in this article apply to all owners and operators subject to the requirements of section 66270.1(c)(7), when the Department issues either a postclosure permit or an enforceable document (as defined in Section 66270.1(c)(7) at the facility. When the Department issues an enforceable document, references in this article to “in the permit” mean “in the enforceable document.”

Note: Authority cited: Sections 25150, 25159, 25159.5, 25245, 25247 and 58012, Health and Safety Code. Reference: Sections 25150, 25159 and 25159.5, Health and Safety Code; and 40 CFR Section 264.90

**Add Subsection 66264.110(c)** of title 22 of the California Code of Regulations, to read:

**§ 66264.110. Applicability.**

(c) The regulations in this article apply to all owners and operators subject to the requirements of section 66270.1(c)(7), when the Department issues either a postclosure permit or an enforceable document (as defined in Section 66270.1(c)(7)) at the facility. When the Department issues an enforceable document, references in this article to “in the permit” mean “in the enforceable document.”

Note: Authority cited: Sections 25150, 25159, 25159.5, 25245, 25247 and 58012, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245, 25246 and 58012, Health and Safety Code; 40 CFR Section 264.110.

**Add Section 66264.121** of title 22 of the California Code of Regulations, to read:

**§ 66264.121. Postclosure Requirements for Facilities that Obtain Enforceable Documents in Lieu of Postclosure Permits**

(a) Owners and operators who are subject to the requirement to obtain a postclosure permit under Section 66270.1(c), but who obtain enforceable documents in lieu of postclosure

1 permits, as provided under Section 66270.1(c)(7), must comply with the following  
2 requirements:

- 3  
4 (1) The requirements to submit information about the facility in Section 66270.28;  
5  
6 (2) The requirements for facility-wide corrective action in Section 66264.101 of this  
7 chapter; and  
8  
9 (3) The requirements of Section 66264.91 through 66264.100.

10  
11 (b)(1) The Department, in issuing enforceable documents in lieu of permits under this  
12 Section, will assure a meaningful opportunity for public involvement which, at a minimum,  
13 includes public notice and opportunity for public comment:

- 14  
15 (A) When the Department becomes involved in a remediation at the facility as a  
16 regulatory or enforcement matter;  
17  
18 (B) On the proposed preferred remedy and the assumptions upon which the remedy  
19 is based, in particular those related to land use and site characterization; and  
20  
21 (C) At the time of a proposed decision that remedial action is complete at the facility.

22  
23 These requirements must be met before the Department may consider that the facility has  
24 met the requirements of Section 66270.1(c)(7), unless the facility qualifies for a modification  
25 to these public involvement procedures under paragraph (b)(2) or (3) of this section.

26  
27 (2) If the Department determines that even a short delay in the implementation of a  
28 remedy would adversely affect human health or the environment, the Department may  
29 delay compliance with the requirements of (b)(1) of this section and implement the remedy  
30 immediately. However, the Department must assure involvement of the public at the  
31 earliest opportunity, and, in all cases, upon making the decision that additional remedial  
32 action is not needed at the facility.

33  
34 (3) The Department may allow a remediation approved by the Department and  
35 initiated prior to **(date regulations enacted)** to substitute for corrective action required  
36 under a postclosure permit even if the public involvement requirements of paragraph (b)(1)  
37 of this section have not been met so long as the Department assures that notice and  
38 comment on the decision that no further remediation is necessary to protect human health  
39 and the environment takes place at the earliest reasonable opportunity after **(date**  
40 **regulations enacted)**.

41  
42 Note: Authority cited: Sections 25150, 25159, 25245, 25247, 25259.5, and 58012, Health and  
43 Safety Code. Reference: Sections 25159, 25159.5, 25245, 25246 and 58012, Health and  
44 Safety Code; and 40 Code of Federal Regulations Sections 2645.121.

1  
2                   **DIVISION 4.5, TITLE 22, CALIFORNIA CODE OF REGULATIONS**  
3       **CHAPTER 15. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF**  
4           **HAZARDOUS WASTE TRANSFER, TREATMENT, STORAGE, AND DISPOSAL**  
5                   **FACILITIES**

6  
7 **Add Subsection 66265.90(f)** of title 22 of the California Code of Regulations, to read:

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9       **§ 66265.90. Applicability.**

10       (f) The regulations in this article apply to all owners and operators subject to the  
11 requirements of section 66270.1(c)(7), when the Department issues either a postclosure permit  
12 or an enforceable document (as defined in Section 66270.1(c)(7) at the facility. When the  
13 Department issues an enforceable document, references in this article to “in the permit” mean  
14 “in the enforceable document.”

15  
16 Note: Authority cited: Sections 25150, 25159, 25259.5, 25245, 25247 and 58012, Health and  
17 Safety Code. Reference: Sections 25159, 25259.5, 25245, 25246 and 58012 Health and  
18 Safety Code; and 40 CFR Section 265.90.

19  
20 **Add Subsection 66265.110(c)** of title 22 of the California Code of Regulations, to read:

21  
22       **§ 66265.110. Applicability.**

23       (c) The regulations in this article apply to all owners and operators subject to the  
24 requirements of section 66270.1(c)(7), when the Department issues either a postclosure permit  
25 or an enforceable document (as defined in Section 66270.1(c)(7) at the facility. When the  
26 Department issues an enforceable document, references in this article to “in the permit” mean  
27 “in the enforceable document.”

28  
29 Note: Authority cited: Sections 25150, 25159, 25159.5, 25245, 25247 and 58012, Health and  
30 Safety Code. Reference: Sections 25159, 25159.5, 25245, 25246 and 58012, Health and  
31 Safety Code; 40 CFR Section 264.110.

32  
33 **Add Section 66265.121** of title 22 of the California Code of Regulations, to read:

34  
35       **§ 66265.121. Postclosure Requirements for Facilities that Obtain Enforceable**  
36 **Documents in Lieu of Postclosure Permits.**

37       (a) Owners and operators who are subject to the requirement to obtain a postclosure  
38 permit under Section 66270.1(c), but who obtain enforceable documents in lieu of postclosure  
39 permits, as provided under Section 66270.1(c)(7), must comply with the following  
40 requirements:

41  
42           (1)       The requirements to submit information about the facility in Section 66270.28;

43  
44           (2)       The requirements for facility-wide corrective action in Section 66264.101 of

1           Chapter 14; and

2  
3           (3)   The requirements of Section 66265.91 through 66265.99.

4  
5   (b)(1)       The Department, in issuing enforceable documents in lieu of permits under this  
6 Section, will assure a meaningful opportunity for public involvement which, at a minimum,  
7 includes public notice and opportunity for public comment:

8  
9           (A)   When the Department becomes involved in a remediation at the facility as a  
10 regulatory or enforcement matter;

11  
12          (B)   On the proposed preferred remedy and the assumptions upon which the remedy  
13 is based, in particular those related to land use and site characterization; and

14  
15          (C)   At the time of a proposed decision that remedial action is complete at the facility.

16  
17 These requirements must be met before the Department may consider that the facility has met  
18 the requirements of Section 66270.1(c)(7), unless the facility qualifies for a modification to  
19 these public involvement procedures under paragraph (b)(2) or (3) of this section.

20  
21       (2)       If the Department determines that even a short delay in the implementation of a  
22 remedy would adversely affect human health or the environment, the Department may  
23 delay compliance with the requirements of (b)(1) of this section and implement the  
24 remedy immediately. However, the Department must assure involvement of the public  
25 at the earliest opportunity, and, in all cases, upon making the decision that additional  
26 remedial action is not needed at the facility.

27  
28       (3)       The Department may allow a remediation approved by the Department and  
29 initiated prior to **(date regulations enacted)** to substitute for corrective action required  
30 under a postclosure permit even if the public involvement requirements of paragraph  
31 (b)(1) of this section have not been met so long as the Department assures that notice  
32 and comment on the decision that no further remediation is necessary to protect human  
33 health and the environment takes place at the earliest reasonable opportunity after  
34 **(date regulations enacted).**

35  
36 Note: Authority cited: Sections 25150, 25159, 25245, 25247, 25259.5, and 58012, Health and  
37 Safety Code. Reference: Sections 25159, 25159.5, 25245, 25246 and 58012 Health and  
38 Safety Code; and 40 Code of Federal Regulations Section 265.121.

39  
40                   **DIVISION 4.5, TITLE 22, CALIFORNIA CODE OF REGULATIONS**  
41                   **CHAPTER 20. THE HAZARDOUS WASTE PERMIT PROGRAM**

42  
43 **Amend Subsection 66270.1(c) and Add Subsection 66270.1 (c)(7) of title 22 of the**  
44 **California Code of Regulations, to read:**

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**§ 66270.1. Purpose and Scope of These Regulations.**

(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 ~~post-closure~~ 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 paragraph (c)(7) of this section. If a ~~post-closure~~ postclosure permit is required, the permit shall address applicable chapter 14 Water Quality Monitoring, Environmental Monitoring, Corrective Action, and ~~Post-closure~~ 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 ~~post-closure~~ postclosure permit under this section.

18

(7) Enforceable documents for 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 Sections 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.

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Note: Authority cited: Sections 25150, 25159, 25159.5, 25245, 25247 and 58012, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245, 25246 and 58012, Health and Safety Code; and 40 Code of Federal Regulations Section 270.1.

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**Amend Subsection 66270.14(a)** of title 22 of the California Code of Regulations, to read:

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**§ 66270.14. Contents of Part B: General Requirements.**

(a) Part B of the permit application consists of the general information requirements of this section, and the specific information requirements in sections 66270.14 through 66270.23 applicable to the facility. The Part B information requirements presented in sections 66270.14 through 66270.23 reflect the standards promulgated in chapter 14 of this division. These information requirements are necessary in order for the Department to determine compliance with the chapter 14 standards. If owners and operators of hazardous waste management facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the Department may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the Department and signed in accordance with requirements in section 66270.11. Certain technical data, such as

1 design drawings and specifications, and engineering studies shall be certified by an  
2 independent, qualified professional engineer registered in California. Geologic plans,  
3 specifications, reports or documents shall be prepared by or under the direction of, and shall  
4 be certified by, a geologist registered in California. Calculations and technical data supporting  
5 the certification need not be submitted with Part B but shall be retained by the owner or  
6 operator and be available for review by the Department. For postclosure permits, only the  
7 information specified in Section 66270.28 is required in Part B of the permit application.  
8

9 Note: Authority cited: Sections 25150, 25159, 25159.5, 25245, 25247 and 58012, Health and  
10 Safety Code. Reference: Sections 25159, 25159.5, 25245, 25246 and 58012, Health and  
11 Safety Code; and 40 CFR Section 270.14.

12

13 **Add Section 66270.28** of title 22 of the California Code of Regulations, to read:

14

15 **§ 66270.28. Part B Information Requirements for Postclosure Permits**

16 For postclosure permits, the owner or operator is required to submit only the information  
17 specified in Section 66270.14(b)(1), (4), (5), (6), (11), (14), (16), (18) and (19), (c), and (d),  
18 unless the Department determines that additional information from Sections 66270.14,  
19 66270.16, 66270.17, 66270.18, 66270.20, or 66270.21 is necessary. The owner or operator is  
20 required to submit the same information when an alternative authority is used in lieu of a  
21 postclosure permit as provided in Section 66270.1(c)(7).

22

23 Note: Authority cited: Sections 25150, 25159, 25159.5, 25245, 25247 and 58012, Health and  
24 Safety Code. Reference: Sections 25159, 25159.5, 25245, 25246 and 58012, Health and  
25 Safety Code; and 40 CFR Section 270.28.

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