

**Brooks, Sheena@DTSC**

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**From:** Erich Nolan [REDACTED]  
**Sent:** Friday, March 3, 2023 3:24 PM  
**To:** Brooks, Sheena@DTSC  
**Subject:** Written Comments - Proposed Hazardous Waste Permit Appeal Process Regulation

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Date: May 3, 2023

Dear Members of the Board of Environmental Safety:

I respectfully submit the comments below related to the Draft Proposed Revisions to the Hazardous Waste Permit Appeals process, as proposed for Title 22 California Code of Regulations, Section 66271.18. I appreciate the work that the Board and the Department of Toxic Substances Control (DTSC) have done to move forward on this issue, including the level of transparency that has been provided in public meetings. I also appreciate your consideration of my comments.

As a concerned citizen, and as a Christian, I value all life, and pray for justice for the vulnerable in our society, many of whom have been unfairly impacted by careless operations by businesses dealing with hazardous materials. The negative externalities associated with hazardous waste also impact ecosystems and are outside of the design of Creation. It is right that we bring change in how hazardous wastes are managed, and give voice to all who are concerned.

My comments are presented below. References to the regulation refer to the proposed language for those sections:

- Regarding 22 CCR 66271.18(a)(1) – I am opposed to a blanket exclusion of Class 1 permit modifications from consideration for appeal. I recognize that typically Class 1 permit modifications are small in scope and involve routine changes to the permit. However, in some cases, such as a change in owner/operator, the modification could be significant, especially for members of the community who may be at risk of exposure. The new owner/operator may have a history of performance at other facilities that could raise concerns for the community. I recommend that at least change in owner/operator be open for review and appeal by the public.

- Regarding 22 CCR 66271.18(a)(2) and (3) – I agree that the timelines proposed are adequate.
- Regarding 22 CCR 66271.18(a)(4) – I am opposed to the language that limits appeals to issues that “appear for the first time in the final permit” or “were previously raised in comments or testimony provided to DTSC during public review of the draft permit or modification...” It seems to me that this restriction could prevent members of the community from commenting on issues that are of concern that may result from past practices and activities that impact the community.
- Regarding 22 CCR 66271.18(a)(5) and (6) – As in my comment on Paragraph (a)(4), I believe the language proposed places a possible barrier to comment for members of vulnerable communities. The concept of standing, and the restrictions allowing only previous commenters to provide input for appeal is potentially unfair and unjust, especially for persons with limited resources and representation.
- Regarding 22 CCR 66271.18(b) and (c) – In general, I understand and agree with the governance provided in the language. I would argue however that there is potential for abuse by the Board or DTSC, and that transparency will be critical to maintain trust and accountability, key elements to the Board’s vision for reform. I am also concerned about members of vulnerable communities with limited resources being able to meet the criteria.
- General Comment – The proposed language of the appeals review process regulation can, on its own, be cumbersome, and potentially confusing, especially for those with little or no experience in interpreting regulations. I recommend that the Board and/or the DTSC prepare and publish, in various media, communications with clear and common language that describe the process, including required documentation and timelines. This process must be readily available to all people to allow for democratic voice and just protections for communities impacted by hazardous waste facilities.

Thank you for the opportunity to comment on the proposed regulation for the hazardous waste permit appeals process. It is critical that all people have the opportunity to express their concerns about hazardous waste operations. Many have suffered from exposures and we must do better going forward. This regulation is one part of bringing positive change for our communities.

Sincerely,

Erich Nolan, CHMM

Environmental Consultant and Advocate