



Department of Toxic Substances Control



Winston H. Hickox
Agency Secretary
California Environmental
Protection Agency

Edwin F. Lowry, Director
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

Gray Davis
Governor

October 23, 2000

Mr. Stan Martinsen, Chief
Division of Water Quality
State Water Resources Control Board
1001 I Street
Sacramento, California 95814

VARIANCE AUTHORIZING THE STATE WATER RESOURCES CONTROL BOARD WITH OTHER FEDERAL, STATE, AND LOCAL AGENCIES TO COLLECT ELEMENTAL MERCURY - HHWVAR000801R

Dear Mr. Martinsen:

This letter is to transmit a variance to the State Water Resources Control Board, as lead, authorizing the collection of elemental mercury waste recovered and accumulated by recreational miners and other qualifying persons. These collections will take place predominately in the Sierra Nevada, the foothills, and other areas downstream from historic and contemporary gold mining areas. Additionally other elemental mercury privately held may be collected.

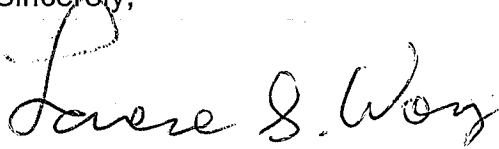
The Department of Toxic Substances Control (DTSC) has completed it's review for variance issuance and is granting this variance to the State Water Resources Control Board (lead) and the other participating agencies for this collection of elemental mercury subject to the conditions and limitations set forth in the attached document.

Pursuant to Health and Safety Code (HSC), section 25205.3, household hazardous waste and conditionally exempt small quantity generator collections operated by government agencies are exempt from all fees imposed by HSC Article 9.1. Therefore, no fees will be assessed for the operation of these collection activities.

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If you have any questions concerning this variance, please contact Mr. Lee Halverson of my staff at (510) 540-3894.

Sincerely,



Lawrence S. Wong, Section Chief
Northern California Branch
State Regulatory Programs Division

Enclosure

cc: Mr. Tracy Gidel
Supervising Hazardous Materials Coordinator
Nevada County Environmental Health
950 Maidu Avenue
Nevada City, California 95959

Mr. Richard Swenson, Director
Placer County Environmental Health
11454 B Avenue
Auburn, California 95603

Mr. Klaus Ludwig, Director
Sierra County Human Services Department
202 front Street
Loyalton, California 96118

Ms. Mary Locke, Chief (HQ-11)
Office of Criminal Investigations
Department of Toxic Substances Control
P. O. Box 806
Sacramento, California 95812-0806

Mr. Joel Arbuckle
Commercial Vehicle Section
Department of the California Highway Patrol
P. O. Box 942898
Sacramento, California 94298-0001

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cc: Mr. Jim Pappas, Chief
Northern California Branch
Permitting Division (R1-2)
10151 Croydon Way, Suite 3
Sacramento, California 95827-2106

Mr. Gary Murchison (HQ-10)
Hazardous Waste Management Program
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

Mr. Richard Humphreys
State Water Resources Control Board
Division of Water Quality
901 P Street
Sacramento, California 95814

Mr. Richard Weaver
U.S. Forest Service, Tahoe National Forest
631 Coyote Street
Nevada City, California 95959

Mr. David Lawler
Federal Bureau of Land Management
2135 Butano Drive
Sacramento, California 95285

Mr. Steve Reynolds, CEG
Department of Conservation
Office of Mine Reclamation
801 K Street, MS 09-06
Sacramento, California 95814-3528

Mr. David Jones
U.S. Environmental Protection Agency
75 Hawthorne Street, SPE-1
San Francisco, California 94105

VARIANCE - HHWVAR000801R

Pursuant to Health and Safety Code (HSC), Division 20, Chapter 6.5, section 25143, the Department of Toxic Substances Control (DTSC) grants a variance to the applicant(s) specified below:

I. IDENTIFYING INFORMATION

Applicant Lead: State Water Resources Control Board
Division of Water Quality
Address: 901 P Street
Sacramento, California 95814
Contact: Mr. Richard Humphreys
Phone #: (916) 657-0759
Fax #: (916) 657-2388

Other Agencies: **U.S. Forest Service, Tahoe National Forest**
631 Coyote Street
Nevada City, California 95959
Contact: Mr. Richard Weaver
Fax #: (530) 478-6109

Federal Bureau of Land Management
2135 Butano Drive
Sacramento, California 95285
Contact: Mr. David Lawler
Phone #: (916) 978-4365
Fax #: (916) 978-4389

U.S. Environmental Protection Agency
75 Hawthorne Street, SPE-1
San Francisco California 94105
Contact: Mr. David Jones
Phone #: (415) 744-2266
Fax #: (415) 744-1916

Collection Location: Throughout and downstream of mining regions of the state

Collection Description: The State Water Resources Control Board (SWRCB) (lead agency) in partnership with the U.S. Forest Service, the Federal Bureau of Land Management, the Department of Conservation, the U.S. EPA, and local agencies as part of their abandoned mine waste management strategies, are continuing the collection of elemental mercury accumulated primarily by recreational miners and removing this significant threat to human health and the environment.

Accumulated elemental mercury from recreational gold mining and dredging operations, and other sources will be collected by qualified state, federal, and local staff using approved mercury containers and transported in government vehicles. The collected mercury will be taken to coincidentally operated local household hazardous waste (HHW) collections for recycling or temporarily stored in hazardous waste (HW) storage by government staff. It is anticipated that amounts collected from individuals will vary from as little as a few ounces to up to 100 pounds or more.

Type of Variance: () New (XX) Renewal (XX) Revised #. **HHWVAR000801**

Effective Date: October 23, 2000 **Expiration Date:** October 22, 2003

Applicable Statutes and Regulation: HSC, sections 25143, 25201, 25160, and 25163, and Title 22, California Code of Regulations (Cal. Code Regs.), Division 4.5, Chapter 20, and section 66266.120.

II. FINDINGS AND DETERMINATIONS

FINDINGS. The collection of elemental mercury derived primarily from mining operations is not presently subject to regulation by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, (42 U.S.C., section 6901, et seq.). Title 40, Code of Federal Regulations (40 CFR), section 261.4(a), exempts secondary materials generated within the primary mineral processing industry provided the secondary material is recovered by mineral processing or by beneficiation and the secondary material is recycled.

Recreational miners and others will be contacted and provided with handling and collection information. On an appointment basis the collecting agency will travel to, and pick up, the accumulated mercury at remote sites in the collection area and transport, in government vehicles, to either a concurrently operated local HHW collection facility or temporarily stored by government staff in HW storage lockers.

The applicant will be the operator of the collection program. The applicant and other agencies will collect, package, and transport the collected mercury to either local HHW collection facilities or temporarily store for future consolidation and shipment.

Authority for granting the variance is contained in HSC, section 25143: The hazardous material is solely a non-RCRA hazardous waste, or the hazardous waste management activity is subject to RCRA but has been granted a waiver or variance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or is not otherwise regulated pursuant to RCRA.

DETERMINATIONS. The hazardous waste management activity is insignificant as a potential hazard to human health and safety, and the environment. Issuing this variance will not have a significant effect on the environment within the meaning of subsection Title 14, of Cal. Code Regs, section 15061(b) (3). DTSC has determined that the applicant meets the requirements, as outlined in HSC, section 25143, for waiver of the requirements specified in HSC, sections 25201(a) and Title 22, Cal. Code Regs. Division 4.5, Chapter 20.

Based on the review of the evidence provided by the applicant, DTSC finds the hazardous material or the hazardous waste management activity is insignificant or unimportant as a potential hazard to human health and safety and the environment.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) EXCLUSION. Based on its review of the same evidence, DTSC finds that it can be seen with certainty that there is no possibility that the granting of this variance may have a significant effect on the environment, within the meaning of Title 14, Cal. Code Regs., section 15061(b)(3).

III. SPECIFIC WAIVER. At this time, DTSC is waiving the requirements that the applicant obtain a hazardous waste facility permit requirements, transportation requirements, and manifesting requirements for collection of the elemental mercury collected, and is waiving the limitation for elemental mercury transportation contained in Title 22, Cal. Code Regs., section 66266.120 and the requirements in Title 22, Cal. Code Regs., Chapter 20 for permitted facilities, except as specified in section IV.

IV. TERMS AND CONDITIONS

Conditions for revocation: This variance is subject to review at the discretion of DTSC and may be revoked at any time. DTSC shall revoke this variance if DTSC finds that the provisions as outlined in HSC, section 25143 (c) for variance revocation have been met or on the basis of changes in DTSC policy.

Specific terms and conditions of this variance: The applicant shall be subject to the following conditions:

1. This variance is issued, on the basis of information received by DTSC.
2. This variance applies to the collection areas specified in section I of this document.

3. These collections shall be conducted in accordance with the information and requirements set forth in this variance, the scope of operations, and all applicable State, Federal and Local regulations. Failure to comply may result in denial for future operations or lead to enforcement actions.
4. Receiving and handling personnel shall be trained in the hazards and management of elemental mercury.
5. All collected mercury shall be packaged, transported, and stored in appropriate mercury containers and secured to prevent unauthorized access or release.
6. All mercury shall be appropriately packaged, labeled, and transported per Federal Department of Transportation (DOT) requirements to the designated receiving contractor for further management and recycling.
7. DTSC shall be notified in writing within 10 days upon discovery of any situation not addressed within the conditions of this variance.
8. The applicant shall immediately notify DTSC of any noncompliance with the terms of this variance.
9. A copy of this variance shall be maintained with each collection team/vehicle conducting collections under this variance.

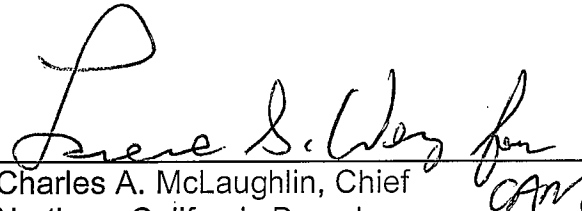
Correspondence: Correspondence regarding this variance is to be forwarded to:

Department of Toxic Substances Control
Household Hazardous Waste Unit
State Regulatory Programs Division
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721
Telephone: (510) 540-3894

Limitations of the variance: This variance only applies to elemental mercury collections identified in this variance. All other wastes not specified in this variance are fully regulated under the HSC and Title 22, Cal. Code Regs.

Liability: The issuance of this variance does not release the applicant from any liability associated with the handling of hazardous waste except as provided above.

CERTIFICATION. DTSC hereby grants this variance from the requirements imposed pursuant to HSC, section 25201, 25160, 25163 and Title 22, Cal. Code Regs., section 66266.120 and Division 4.5, Chapter 20 subject to the conditions and limitations presented above.


Charles A. McLaughlin, Chief
Northern California Branch
State Regulatory Programs Division

10/23/00
Date