

PLAINTIFF'S EXHIBIT

CAP-1155



A/C Pipe
Producers Association
Executive Committee

Internal Correspondence

J. F. Welch
J. F. Welch, Vice President

June 15, 1982

DATE

FROM

State of California - Hazardous Waste Regulations

SUBJECT

REF: JFW correspondence, same title, April 21, 1982

ACTION REQUIRED: Review for information

Enclosed is an Assembly bill recently enacted into law by the State of California. A comparison of existing law and the new law appears in the section entitled "Legislative Counsel's Digest."

If you have any questions, please do not hesitate to call.

JFW/ajb

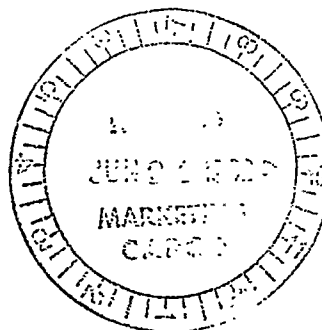
Enclosure

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CALIFORNIA

LAW

Assembly Bill No. 2160

CHAPTER 165

An act to amend Sections 25221, 25222, and 25230 of, and to add Section 25241 to, the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor April 24, 1982. Filed with Secretary of State April 26, 1982.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2160, Filante. Hazardous waste property.

Existing provisions of the hazardous waste control law require the State Department of Health Services to regulate hazardous waste facilities, which are required to have a permit to operate from the department, through the imposition of restrictive covenants upon present and future uses of all or part of the land, except that, for land which has previously had a determination made on whether or not it should be designated or which is hazardous waste property regulated under a permit, if a significant new disposal of hazardous waste has occurred on, under, or into the land or significant new information about past disposal of hazardous waste on, or within 2,000 feet of, the land becomes known to the owner, lessor, or lessee of such land, the State Director of Health Services is required to conduct hearings in order to determine whether that land should be designated as hazardous waste property or border zone property.

Existing law permits the department, as a condition for a hazardous waste facilities permit, to require a restrictive covenant on the land subject to the permit or on adjacent land of the same owners. The department is required to regulate certain hazardous waste property which has a hazardous waste permit, or an application therefor, by the restrictive covenant procedure.

Existing law also requires the director to issue orders, for land designated as hazardous waste property or border zone property, requiring the execution and recordation of a written instrument that imposes an easement on present and future uses of the land and the execution and service of a specified written instrument to accompany all lease or rental agreements relating to the land so designated.

This bill would eliminate the above exception for redetermination of a designation of certain hazardous waste property which has a hazardous waste permit or an application therefor from the redesignation requirement for land where a significant disposal occurs or within 2,000 feet of that land.

The bill would make other conforming amendments and would delete an erroneous cross-reference.

The bill would take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 25221 of the Health and Safety Code is amended to read:

25221. (a) Any person as owner, lessor, or lessee who (1) knows or has probable cause to believe that a significant disposal of hazardous waste has occurred on, under, or into the land which he or she owns or leases or that the land is within 2,000 feet of a significant disposal of hazardous waste; and (2) intends to construct or allow the construction on such land of a building or structure to be used for a purpose which is described in subdivision (b) of Section 25232 within the next calendar year; shall apply to the department prior to such construction for a determination as to whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(b) Any person who, as owner, lessor, or lessee knows or has probable cause to believe that land which he or she owns or leases is a hazardous waste property or a border zone property, may apply to the department for a determination whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(c) If a city or county knows or has probable cause to believe that any land within its jurisdiction is a hazardous waste property or a border zone property, the city or county may apply to the department for a determination whether that land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(d) Subdivisions (a), (b), and (c) shall not be applicable to any land on which a determination has previously been made pursuant to Section 25229 unless either of the following has occurred since such determination:

(1) A significant new disposal of hazardous waste has occurred on, under, or into the land.

(2) Significant new information about past disposal of hazardous waste on, or within 2,000 feet of, the land becomes known to the owner, lessor, or lessee of such land.

SEC. 2. Section 25222 of the Health and Safety Code is amended to read:

25222. Whenever the department considers designating land as a hazardous waste property or a border zone property, it shall issue and cause to be served upon the owner of the land and the legislative body of the city or county in whose jurisdiction the land is located a notice of a hearing. The notice shall contain (1) a statement that the land is under consideration for designation as a hazardous waste property or a border zone property; (2) a summary of the reasons for such designation and what significant existing or potential health hazards are believed to exist; and (3) notice of the time, date, and place of the hearing, and any policy regarding continuance of the

hearing.

SEC. 3. Section 25230 of the Health and Safety Code is amended to read:

25230. Upon designation of land as hazardous waste property or border zone property pursuant to Section 25229, the director shall issue and cause to be served on the owner of the property and shall give notice to the legislative body of the city or county in whose jurisdiction the land is located and any other persons who were permitted to intervene in the proceeding, orders requiring all of the following:

(a) The execution and recordation of a written instrument which imposes an easement upon the present and future uses of all or part of the land which has been designated a hazardous waste property or a border zone property. Such easement shall permit the department or its representatives to enter the land, subject to Section 25185.5, to monitor problems regarding hazardous wastes. The easement shall be executed by all the owners of such land and by the director, shall particularly describe the real property affected by the instrument, and, if applicable, the location of the easement on the real property. The easement shall be recorded with the recorder of the county in which the land is located within 10 days of the date of execution and shall be indexed by the county recorder in the grantor index in the name of the record title owner of the real property and in the grantee index in the name of the department. The easement shall state that the land described in the instrument is subject to a hazardous waste easement. Notwithstanding any other provision of law, an easement executed pursuant to this section shall run with the land from the date of recordation and shall be binding upon all of the owners of the land, their heirs, successors, and assignees, and the agents, employees, or lessees of such owners, heirs, successors, and assignees. The easement shall be enforceable by the department pursuant to Article 8 (commencing with Section 25180). Notwithstanding any other provision of law, any easement held by the department shall not be sold or otherwise transferred to another person.

(b) The execution and service of a written instrument to accompany all lease or rental agreements relating to the land which has been designated a hazardous waste property or a border zone property. The instrument shall be prepared by the owner or lessor of the land and shall contain the following statement:

"The land described herein contains hazardous waste or is within 2,000 feet of land that contains hazardous waste. Such condition renders the land and the owner, lessee, or other possessor of the land subject to requirements, restrictions, provisions, and liabilities contained in Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. This statement is not a declaration that a hazard exists."

SEC. 4. Section 25241 is added to the Health and Safety Code, to

read:

25241. The provisions of this article shall not apply to hazardous waste property as defined in paragraph (1) of subdivision (a) of Section 25117.3. Such property shall be regulated by the department pursuant to Section 25202.5 in order to protect the present and future public health and safety from hazardous waste.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that certain clarifying amendments to Chapter 1161 of the Statutes of 1980 may take effect as soon as possible, it is necessary for this act to take effect immediately.