

The Permit-by-Rule Battle

by Jerry Murray, West Coast Editor

Permit by Rule is a regulation that has been encroaching quietly on our industry. Depending on your point of view, it could make matters simpler for California PCB shops, or it could put a whole lot of shops out of business.

Some years ago, the State of California established more stringent regulations on hazardous materials than any other state. They were contained in a lengthy document called Title 22. The Department of Health Services (DOHS) was responsible for the permits, inspections, fees, and fines that went with the laws.

Writing Title 22 was a complex affair. To simplify matters, its authors lumped about every company that handled hazardous wastes into one category. Then they allowed the hazardous material generators, pretreater, disposers, and treaters to segregate themselves by applying for variances. Once variances were obtained, such businesses as neighborhood dry cleaning outfits and PCB shops did not have to comply with the same paperwork, insurance, and inspection requirements that were applicable to the big toxic substance disposal facilities (TSDFs). While sifting through the variances, the DOHS relied on local agencies such as sanitation and fire departments to make periodic inspections.

Scores of variances were sent in, so many that the DOHS couldn't handle them all. To expedite the process, the DOHS began writing Permit by Rule, which is the issuing of permanent permits to all applicants so they could continue to deal with the wastes

they'd been dealing with for the past several years. And once Permit by Rule went into effect, the DOHS could dispense with the variances.

IMPLICATIONS OF PERMIT BY RULE

Debi Emery, director of environmental affairs at Trend Circuits (Fremont, CA), realized the portent of Permit by Rule. She wrote an article about it, pointing out that ending variances would automatically enforce existing laws, thus making the dry cleaning shops, the PCB shops, and all companies handling hazardous materials subject to the same regulations, fees, financial assurance responsibilities, and inspections that are applicable to the big TSDFs. Her article stated that the cost of complying with Permit by Rule could exceed \$100,000 each year. After reading Emery's article, Mike Avery was ready to act.

In his youth, Avery was quite an activist. He joined Young Americans for Freedom in junior high school and became chapter chair in high school. He was a media coordinator for the stridently antinuclear Alliance for Survival, and he was on Tom Hayden's campaign staff when the anti-Vietnam War activist and current environmental opportunist ran for the U.S. Senate. Halfway through college, he started thinking about what kind of jobs would be waiting for him and his friends if all the causes they had so righteously backed had been turned into law.

He found a job in the PCB business, got absorbed in it, and liked working.

Avery learned to make circuit boards, designed a good waste-treatment system for his employer, became manager of Multilayer Prototypes Inc. (Newberry Park, CA), and found that he liked the responsibility of managing people and passing out paychecks. Then, after 14 years of working in the industry, Avery read Debi Emery's article about Permit by Rule, and the old activist came to life in him once again.

Avery delved deeply into Permit by Rule. He got in touch with several associations, including the Metal Finishers, the California Water Pollution, the California Circuits, the Semiconductor Industry associations, and the American Electroplates Society. They were all upset about the financial and documentation burdens that Permit by Rule would impose on California's manufacturers—without benefiting the environment in any way. Together, Avery and the association members devised a sensible strategy and put it down on paper. Avery asked me to edit his anti-Permit-by-Rule bulletins. He called his peers, buttonholed vendors, and presented his message at CCA meetings. He telephoned numerous legislators and met with a few in the Los Angeles area.

In the meantime, I made some calls to the DOHS. Five officials wouldn't comment on Permit by Rule; a sixth talked so circumspectly for 45 minutes that I learned nothing. The seventh official, who had authored Permit by Rule, said it would have "little effect on the waste generator who is in compliance." The trouble is if Permit

by Rule goes into effect, no waste generator or rinse water pretreater would be in compliance.

TAKING ACTION

Avery was busy. He took off work, drove all night to Sacramento, CA, met with legislators' staffers, and talked to members of the state's Environmental Safety and Toxic Substances committee. He went to protest the additional burden imposed on small manufacturers in these tough times and to offer the simple suggestion of inserting a true definition of "wastewater pretreater" in Title 22. A definition would differentiate the manufacturers who concentrate rinse water from the TSDFs that do nothing but dispose of toxic wastes generated elsewhere.

The American Electroplates Society has a political action committee to work on matters like this. The Metal Finishers Association has a full-time lobbying outfit, and semiconductor manufacturers kick in to support the Semiconductor Industry Association. The PCB industry has Mike Avery.

Avery's taken on quite a job. But he'll make it with support from his peers in the industry. There are still a few months to go before Permit by Rule goes into effect. If you California PCB makers want to help, call your state legislators. Make a stir. Ask them about Permit by Rule. Find out if its passage will help the environment or only add to the financial and documentation burdens already on the backs of employers in California. Follow your calls with brief letters reaffirming your position. And, you might give Avery a call (818/991-4188, fax 805/498-8551) to thank him. I'm going to send him a couple of bucks to defray some of his out-of-pocket expenses and perhaps seed a nationwide fund to draw from for future crusades. ■