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Department of Toxic Substances Control

Laws, Regulations and Policies

FACT SHEET, January 2005

Permit Renewal Applications & Modifications, & AB 2251 Impacts

AB 2251 Impacts

Assembly Bill (AB) 2251 (Chapter 779, 2004), effective January 1, 2005, provides an optional permit renewal application schedule and optional permit modification classification, for specified hazardous waste management facilities and activities.

Permitting - Background

Each hazardous waste management facility that treats, stores, handles and/or disposes of hazardous waste is required to have a permit or other form of authorization from the Department of Toxic Substances Control (DTSC). The permit defines, in great detail, the requirements and restrictions under which the facility may operate, either by describing the conditions in the permit language itself, or by referencing the operation plan submitted by the facility as part of the permit application.

Because California regulates some wastes and some activities that are not regulated under the federal Resource Conservation and Recovery Act (RCRA), DTSC created a “tiered permitting” system to provide appropriate levels of authorization. There are five (5) tiers of permits available in California. The type of permit required depends on the wastes being managed and the activities being conducted.

- “Full permit tier, includes two types:
 - RCRA-equivalent permit: for wastes and activities regulated under RCRA;
 - California-only “full” permit: for wastes and activities that do not require a permit under RCRA, but that are not eligible for one of the lower tiers;
- Standardized permit: for wastes and activities not regulated under RCRA, and eligible for this tier under Health and Safety Code (HSC) section 25201.6;
- Permit by Rule (PBR): for generator treatment of specified wastes by specified methods;
- Conditional Authorization (CA): for generator treatment of specified wastes by specified methods; more limited than PBR;
- Conditional Exemption (CE): for generator treatment of specified wastes by specified methods; more limited than CA.

Applicability to Types of Permits

The permit renewal and permit modification procedure changes created by AB 2251, and addressed in this Fact Sheet, apply to RCRA, California-only full permits, and Standardized Permits. These procedures do not apply to the PBR, CA and CE tiers.

Permit Renewal Application Submittal

A facility permit is usually valid for a term of ten (10) years from the date of issuance. If the facility owner/operator intends to continue operating the facility after the expiration date of the permit, the owner/operator must request a permit renewal.

Historical & Current RCRA-Equivalent Procedure

The owner/operator must submit a permit renewal request consisting of a complete application package (a new “Part A” that provides the basic facility information, and a new “Part B” that provides the detailed operation plan) at least 180 days before the expiration date of the old permit.

Changes Resulting from AB 2251

Non-RCRA-regulated facilities: (*i.e., a California-only full permit or a Standardized Permit*): The owner/operator may initially submit only the Part A portion of a renewal application. This submittal has the effect of extending the validity of the old permit, pending completion of the permit renewal process. When DTSC processes the renewal application, the Part B portion of the permit renewal application will be called in.

RCRA-regulated facilities: Because each state’s requirements must be at least as stringent as the RCRA provisions, RCRA-regulated facilities must follow the permit renewal application procedure detailed in California Code of Regulations, Title 22 (Cal. Code Regs., tit. 22), sections 66270.10 and 66270.51.

Permit Modification Classifications

Historical Permit Modification Classifications

Whenever changes are to be made to a facility, the permit must be modified. There are different classifications of permit modifications, from Class 1 for minor, administrative changes, to Class 3 for major structural or operational changes. Options are Classes 1, 1*, 2 or 3 (a Class 1* modification requires DTSC approval). The permit modification classifications for RCRA-regulated activities are detailed in Cal. Code Regs., tit. 22, section 66270.42. The permit modification classifications for activities not regulated under RCRA are detailed in Cal. Code Regs., tit. 22, section 66270.42.5.

Changes Resulting from AB 2251

Non-RCRA-regulated activities: Some changes that would normally be a Class 2 or Class 3 permit modification may now be processed as a Class 1* modification, if DTSC makes the following determinations:

- the change is necessary to comply with requirements or the request of a State or federal agency or an air quality management or air pollution control district; and
- the change will decrease risks, and will not result in any increased risks, to human health and safety or the environment related to the management of hazardous wastes in the structure or equipment; and
- the facility has submitted sufficient information to comply with applicable requirements of the California Environmental Quality Act (CEQA).

The change to a facility structure or equipment may not result in an increase in the permitted capacity of the hazardous waste management unit affected by the change.

Non-RCRA-regulated activities: This provision applies only to **activities** not regulated under RCRA. A facility may have a RCRA permit, but that permit may authorize some non-RCRA-regulated activities. These activities, and any activities authorized under a non-RCRA permit, are potentially eligible for a lower class of modification, either under HSC section 25200.15 or Cal. Code Regs., tit. 22, section 66270.42.5.

RCRA-regulated activities: RCRA-regulated activities must be modified under the classifications of Cal. Code Regs., tit. 22, section 66270.42.

AB 2251 & Cal. Code Regs., tit. 22, section 66270.42.5. Some of the reduced classification options provided in AB 2251 are different than the existing classifications for non-RCRA-regulated activities in Cal. Code Regs., tit. 22, section 66270.42.5. The applicability of the statute and regulation will be applied based on the criteria set forth in the statute and regulation, and the facts presented in an individual case.

Existing Reclassification Request Provisions: Cal. Code Regs., tit. 22, sections 66270.42 and 66270.42.5 each provide that an owner/operator may request that DTSC concur that a permit modification be reclassified as a lower classification. This is independent of the reclassification provision provided by AB 2251, and is available for both RCRA and non-RCRA-regulated activities.

Class 1* Permit Modification Costs

Historical and Current Costs for Class 1* Modifications

No fee or cost reimbursement to DTSC is required for a Class 1* permit modification under Cal. Code Regs., tit. 22, section 66270.42 or 66270.42.5.

Changes Resulting from AB 2251

A Class 1* permit modification requested under HSC section 25200.15 requires the facility owner/operator to reimburse DTSC for DTSC's costs incurred in processing the modification. A cost reimbursement contract between the owner/operator and DTSC will be developed for each such request.

Comparison Table

For ease of comparison of the applicability of various portions of statutes and regulations relevant to AB 2251, a table comparing the applicable provisions follows this Fact Sheet. For details beyond the information in the table, please refer to the Fact Sheet, the statute and regulations.

FOR MORE INFORMATION

If you have questions about permit renewal application timeframes, or about the applicability of various types of permit modifications, please contact Jan Smith at (916) 324-0705.

APPLICABILITY OF VARIOUS STATUTES AND REGULATIONS TO PERMIT RENEWAL TIMEFRAMES AND PERMIT MODIFICATION CLASSIFICATIONS

(the following provisions are in effect beginning January 1, 2005)

	RENEWAL APPLICATION SUBMITTAL TIMEFRAME TO EXTEND AN EXPIRING PERMIT UNTIL THE RENEWAL APPLICATION IS APPROVED OR DENIED, AND THE OWNER/OPERATOR HAS EXHAUSTED ALL APPLICABLE RIGHTS OF APPEAL	CITATION
RCRA FACILITY	A complete application (Part A , Part B, and all required supporting documents) must be submitted at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by DTSC. Submittal cannot be later than the expiration date of the effective permit.	Cal. Code Regs. , tit. 22, 66270.10(h)
NON-RCRA FACILITY	<p>A complete application (Part A , Part B, and all required supporting documents) must be submitted at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by DTSC. Submittal cannot be later than the expiration date of the effective permit.</p> <p>OR</p> <p>At any time before the effective permit expires, only the Part A portion of the application must be submitted. The Part B portion and supporting documents will be submitted when requested by DTSC.</p>	<p>Cal. Code Regs. , tit. 22, 66270.10(h)</p> <p>OR</p> <p>HSC 25200(c)(1)(B)</p>

	PERMIT MODIFICATION CLASSIFICATIONS	CITATIONS	COST
RCRA-REGULATED ACTIVITIES	Classifications as defined in 66270.42 and Appendix I	Cal. Code Regs., tit. 22, 66270.42, and HSC 25205.7 or HSC 25206.1 through 25206.4	<p>Class 3 = 40 – 80% of activity fee, or cost reimbursement</p> <p>Class 2 = 20 – 40% of activity fee, or cost reimbursement</p> <p>Class 1* = 0</p> <p>Class 1 = 0</p>
NON- RCRA-REGULATED ACTIVITIES	<p>Classifications as defined in 66270.42.5</p> <p>OR</p> <p>For Class 3 and 2 classifications, as defined in 66270.42.5. For those that qualify by meeting the criteria defined in HSC 25200.15(b), Class 1*</p>	<p>Cal. Code Regs., tit. 22, 66270.42.5, and HSC 25205.7 or HSC 25206.1 through 25206.4</p> <p>OR</p> <p>HSC 25200.15(b), and HSC 25205.7 or HSC 25206.1 through 25206.4</p>	<p>Class 3 = 40 – 80% of activity fee, or cost reimbursement</p> <p>Class 2 = 20 – 40% of activity fee, or cost reimbursement</p> <p>Class 1* = 0</p> <p>Class 1 = 0</p> <p>-----</p> <p>Class 3 = 40 – 80% of activity fee, or cost reimbursement</p> <p>Class 2 = = 20 – 40% of activity fee, or cost reimbursement</p> <p>Class 1* = cost reimbursement</p> <p>Class 1 = 0</p>
BOTH RCRA AND NON-RCRA-REGULATED ACTIVITIES	Class 2 & 3 modification classifications may be appealed to DTSC to have the classification lowered to Class 1* or 1	Cal. Code Regs., tit. 22, 66270.42(d) or 66270.42.5(d)(8), and HSC 25200.15(c)	Cost will depend on the DTSC determination