

From: Rohlfes, Larry@DTSC
To: [Gideon Kracov \(gideon.kracov@dtsc.ca.gov\)](mailto:gideon.kracov@dtsc.ca.gov); [Mike Vizzier \(Mike.Vizzier@dtsc.ca.gov\)](mailto:Mike.Vizzier@dtsc.ca.gov); [Arezo Campbell \(acampbell@westernu.edu\)](mailto:Acampbell@westernu.edu); [Arezo Campbell \(Arezo.Campbell@dtsc.ca.gov\)](mailto:Arezo.Campbell@dtsc.ca.gov)
Cc: [Singh, Mike@DTSC](mailto:Singh.Mike@DTSC)
Subject: DTSC's Internal Mechanism for Hazardous Waste Facility Permit Decision Appeals
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Hello Members of the DTSC Independent Review Panel:

This message is in response to Chair Kracov's request at the August 10 IRP meeting to research statutes pertaining to the DTSC internal mechanism for hazardous waste facility permit decision appeals.

The department's regulations for appealing a permit determination can be found in the California Code of Regulations, Title 22, Division 4.5, Chapter 21, Section 66271.18.

Basically, any person who submitted comments during the public comment period or participated in the public hearing on the draft permit has 30 days to petition DTSC to review any condition of the permit decision. Persons who did not submit comments or participate in the hearing also may petition the department for review, although they can only address changes to the draft permit. The petition must include a statement of the reasons, including a demonstration that any issues raised were raised during the public comment period and, when appropriate, a showing that the condition in question is based on a finding of fact or conclusion of law that is clearly erroneous or an exercise of discretion or an important policy consideration that DTSC should review. DTSC must grant or deny the petition within a reasonable time. If the department grants the petition, it must issue a public notice and set forth a briefing period and schedule for filing arguments. DTSC ultimately issues the final order of decision.

To appeal that final order, a person would have to petition for judicial review no later than 90 days after the date that the notice of the final decision was served, according to Health and Safety Code section 25186.1(b)(2).

The DTSC website has a Permit Appeals page with quite a lot of information on this subject, including pending appeals, completed appeals, frequently asked questions, and contact information: https://www.dtsc.ca.gov/HazardousWaste/Appeal_Facilities.cfm .

Note: Health and Safety Code section 25199 addresses the appeal of land use decisions involving hazardous waste facilities, but those decisions would be outside of DTSC's "internal mechanism."

LARRY

Larry Rohlfes
DTSC Independent Review Panel
CalEPA Headquarters
1001 I Street
Sacramento, CA 95814-2828
(916) 327-4493
Legislation/MS 22C

