



Appendix 2.6

California Environmental Protection Agency
Department of Toxic Substances Control



Fact Sheet

The Public's Role During the Permit Process

October 2001

The Department of Toxic Substances Control (DTSC) encourages public involvement in its permitting process. This fact sheet is designed to provide information and guidance on how community members can become involved, and most effectively provide input.

I. Who Needs a Hazardous Waste Facility Permit?

Under California and federal law, anyone who stores, treats or disposes of hazardous waste as described in the Hazardous Waste Control Law (Health and Safety Code, Division 20, Chapter 6.5) must obtain a permit or a grant of authorization from the Department of Toxic Substances Control (DTSC). Please Note: Health and Safety Code (HSC) section 25143.2 relating to recycling activities.

II. What is RCRA?

Resource Conservation and Recovery Act (RCRA). Federal statute which regulates facilities that treat, store or dispose of hazardous waste. All RCRA hazardous wastes are identified in Part 261 of Title 40 of the Code of Federal Regulations and appendices.

III. What is non-RCRA Hazardous Waste?

All hazardous waste regulated in the State, other than RCRA hazardous waste.

IV. What is Tiered Permitting?

California has a five-tier permitting program which matches the statutory/regulatory requirements imposed upon each category of hazardous waste facilities to the degree of risk posed by them. The five permitting tiers, in descending order of regulatory oversight, are:

(1) The Full Permit Tier - Includes all facilities requiring a RCRA permit, plus selected non-RCRA activities pursuant to Title 22 California Code of Regulations (22 CCR).

(2) The Standardized Permit Tier - A facility that manages waste not regulated under RCRA, but regulated as a hazardous waste by the State of California. These "off-site" facilities (facilities which do not generate the "California-only" waste but accept waste from other generators) include, but are not limited to recyclers, oil transfer stations, and precious metals recyclers. For more detailed information on Standardized Permits see DTSC's

Fact Sheet on the Standardized Permit Tier and HSC section 25201.6.

(3) The Permit by Rule Tier - A California-only (non-RCRA) onsite (wastes that are generated at the facility where they are treated) treatment permit for specific waste streams and treatment processes, such as concentrated metal-bearing wastes, concentrated acids or alkalis, wastes posing multiple hazards, and silver recovery. For more detailed information see DTSC's Tiered Permitting Fact Sheet 1772D, and 22 CCR sections 67450.1 through 67450.13.

(4) The Conditional Authorization Tier - A California-only (non-RCRA) onsite treatment authorization for specific waste streams such as metal-bearing rinse waters, and mostly single-hazard wastes, some neutralization, and oil/water separation. For more detailed information see DTSC's Tiered Permitting Fact Sheet 1772C and HSC section 25200.3.

(5) The Conditional Exemption Tier - A California-only (non-RCRA) onsite treatment authorization for small-quantity treatment including oil/water separation, container rinsing or destruction, gravity settling, and some neutralization. For more detailed information see DTSC's Tiered Permitting Fact Sheets 1772A, 1772B and HSC section 25201.5.

Please Note: The three lower tiers (onsite hazardous waste notifications), do not require any formal permit issuance and there is no public participation involved. For more information please contact DTSC's Headquarters Unified Program Section at (916) 324-2423.

V. Preapplication Public Meeting and Notice

An informal preapplication public meeting is required for all new applicants who apply for a RCRA permit. In addition, current applicants who apply to renew their RCRA permits, where the renewal application contains significant changes in the facility's operation (equal to a class 3 Permit Modification), must also hold an informal preapplication meeting. At least 30 days prior to the preapplication public meeting, the applicant

is required to advertise the meeting in the newspaper, through a broadcast announcement (e.g., by radio or television), and on a sign posted at or near the property. The meeting provides a chance for the community to interact with and provide input to a facility owner or operator before the owner or operator submits the permit application. In addition, soon after receipt of the application, DTSC must publish a public notice and notify appropriate State and local agencies that the application has been received. The notice must contain the name and telephone number of the applicant's contact; the name and telephone number of the DTSC contact and a mailing address for that contact person; an address to which community members can write to be placed on the mailing list; location of where copies of the application can be viewed and copied; a brief description of the facility and proposed operation, including the address or a map of the facility location on the front page of the notice; and the date the application was submitted.

VI. Permitting Process for Full and Standardized Permit Applications

The permitting process begins when an application is received by DTSC which then makes a determination if the application is administratively complete. Once this is done, DTSC evaluates the proposal for compliance with applicable technical standards, and for potential environmental impacts (see following section). During this phase, DTSC staff conducts a community assessment, which is a process that allows DTSC to evaluate the potential level of community interest as well as the information needs of the public. If there appears to be a high level of community interest, a more formal community assessment may be conducted. There are several methods of assessing community interest. These include:

- c Community survey
- c Community interviews
- c File search

A survey is usually sent to those who live near or may be interested in the facility. It contains a questionnaire which allows DTSC to determine issues, such as level of knowledge about the facility, informational requirements, and languages used within the community.

Community interviews involve asking many of the same questions, but within a one-on-one or small-group meeting with community members.

A file search is conducted to determine if letters or telephone calls concerning the facility have been received by any public agency, the existence of newspaper articles, or the existence of other written documentation of public interest.

A public participation plan, which usually utilizes all of the above assessment methods, is developed for projects where DTSC determines that there will be ongoing high interest from the community.

During the initial phase of the process, DTSC may determine there is sufficient interest in the project and may hold a community meeting, issue a fact sheet, set up an information repository where documents and other

pertinent materials are available for public review, or conduct other outreach activities. A mailing list is usually developed during this phase.

Once DTSC is satisfied that the application is complete, it prepares and issues a draft permit decision that is then circulated for public comment. This decision (to either accept or deny the permit) is public noticed in a newspaper or newspapers of general circulation, and on an appropriate radio station within the community. If a language other than English is necessary, DTSC will have the public notice placed in a newspaper written in that language (if one exists), and provide for translation of the fact sheet which is sent to a mailing list of all interested parties.

The public notice and fact sheet will announce the beginning of a 45-day public comment period, and the location where key documents pertaining to the draft permit decision may be reviewed by the public. A public hearing may be held during the 45-day period if there is community interest. DTSC may couple the hearing with a less formal community meeting where the public may ask questions of DTSC staff. At the hearing, the public can provide verbal or written comments pertaining to the proposed permit decision. Written comments are also accepted during the comment period. All comments are recorded by DTSC and responded to in a "Response to Comments" document, which is issued when the final permit decision is made. A copy of the response to comments is placed in the information repository.

After the close of the public comment period, DTSC issues a final permit decision accompanied by a written response to all comments received. The applicant and the public have 30 days to appeal DTSC's decision.

Throughout the permitting process, DTSC staff members are available to answer the community's questions. Facts sheets and public notices will provide you with the names and telephone numbers of DTSC contacts.

VII. The CEQA Process

One of the laws that must be complied with during the permit process is the California Environmental Quality Act (CEQA). Under this law, DTSC must disclose and consider the environmental implications of its decisions, and avoid or reduce the significant environmental impacts if any are identified.

The environmental analysis required by CEQA begins when the lead agency (the agency with the most regulatory authority in the decision-making process) conducts an "initial study". If the initial study concludes that any effects of the project, either individually or cumulatively, may cause a significant effect on the environment, an Environmental Impact Report (EIR) is prepared. If the initial study concludes that no aspects of the project present a significant effect on the environment, a draft Negative Declaration is issued. Prior to the development of an EIR, the lead agency usually conducts a public "scoping session" to help it determine issues which may have an environmental impact.

A public notice for either a draft Negative Declaration or a draft EIR, is usually circulated by DTSC at the same time DTSC public notices its draft permit decision. This allows the public to comment on both

documents at the same time. Similarly, a hearing for the EIR and the draft permit decision is held concurrently. A draft Negative Declaration may be the subject of a public hearing if there is public interest, and this hearing is usually conducted concurrently with the hearing on the draft permit decision. The comment period for these CEQA documents is 45 days.

For more information about the CEQA process, please contact DTSC's Planning and Environmental Analysis Section at (916) 322-8693.

VIII. Advantages of Community Involvement Activities

Public participation ensures there is two-way communication between the public and DTSC. It also ensures that public concern and input are considered in the final decision. Some of the key methods of participating, and their advantages, are:

c Community Meeting

A semi-formal meeting where community members share information and express their concern and needs, and ask questions pertaining to a proposed or existing hazardous waste facility. Also, these meetings can provide opportunities for DTSC staff and community members to get to know one another.

c Workshops

Workshops are less formal gatherings to assist the public to better understand complex or technical project-specific issues. These discussions are usually led by DTSC project staff and/or individuals from other regulatory agencies with technical expertise in specific areas. A key difference between a workshop and a community meeting is the workshop's emphasis on one-on-one interaction.

c Open Houses

An informal gathering, usually held over several hours convenient to most community members, where individuals can "drop in" at any time, and obtain information through one-on-one discussions with DTSC staff. Maps and other graphics pertaining to the permit decision are sometimes displayed around the room for easy viewing.

c Public Hearing

A formal gathering where the public may submit statements and data concerning a draft permit decision.

IX. Appeal of Permit Decisions

Once a final permit decision is issued by DTSC, any person who filed comments on the draft permit or participated in the public hearing for the permit has 30 days to petition DTSC to review any condition of the permit decision. In addition, any person who did not file comments or did not participate in the public hearing on the draft permit, may petition DTSC for review of the permit decision. However, the petition for review is limited by law to changes made to the draft permit that are reflected in

the final permit decision. (22 CCR section 66271.18).

Within a reasonable time following the filing of the petition for review, DTSC must issue an order either granting or denying the petition for review. If the petition for review is granted, DTSC will issue a public notice to the project mailing list and set forth a briefing schedule for the appeal. If the petition for review is denied, DTSC will send the notice to deny only to the person(s) requesting the review.

X. How Can DTSC Help Community Members with Hazardous Waste Facility Permitting Questions?

The following resources are available to assist the public regarding the hazardous waste facility permitting process:

- c Permit Assistance Centers: In order to locate the nearest Permit Assistance Center, please contact 1-800-468-1786.
- c DTSC Field Offices: See next page for telephone numbers and locations.
- c DTSC's Internet Home Page which displays Hazardous Waste Management Program notices and documents. Access at <http://www.calepa.ca.gov/dtsc.htm>.
- c Cal/EPA Environmental Recycling Hotline at 1-800-CLEANUP (1-800-253-2687).
- c U.S. Environmental Protection Agency, RCRA Hotline at 1-800-424-9346.

XI. What Other Sources of Information are Available?

- c Guidance Documents "Permit Writer Instructions for Storage and Treatment Facilities" and "Permit Writer Instructions for Closure of Storage and Treatment Facilities," DTSC. Copies can be obtained from DTSC's Headquarters Hazardous Waste Management Program at (916) 327-4493.
- c California Environmental Quality Act, Statutes and Guidelines, DTSC. More information can be obtained from DTSC's Headquarters Office of Planning and Environmental Analysis at (916) 324-8550.
- c DTSC Corrective Action Orientation Manual. Copies can be obtained from DTSC's Headquarters Hazardous Waste Management Program. For more information please contact (916) 324-2431.

- c DTSC Public Participation Policy and Procedures Manual Users. Copies can be obtained from DTSC's Headquarters, External Affairs, Public Participation. For more information please contact (916) 324-8295.
- c DTSC Onsite Tiered Permitting Flowcharts, Notification Forms, and Fact Sheets. Copies of above documents can be obtained from DTSC's State Regulatory Program Division. For more information please contact (916) 324-2423.
- c California Hazardous Waste Control Law, Health and Safety Code, Division 20, Chapter 6.5, section 25100 et seq. Copies can be obtained from the Department of General Services. For more information please contact (916) 574-2200.
- c California Hazardous Waste Control Regulations, Title 22, California Code of Regulations, Division 4.5, section 66260.1 et seq. Copies can be obtained from Barclays Law Publishers. For more information please contact (800) 888-3600.
- c Federal Resource Conservation and Recovery Act (RCRA) Regulations, Title 40, Code of Federal Regulations, Parts 260 through 270. Copies can be obtained at the U.S. Government Printing Office, Washington, D.C.

Where to Contact DTSC

Sacramento Headquarters (Joe Serna Jr. Cal/EPA Headquarters Building)

8800 Cal Center Drive
Sacramento, CA 95826-3268
(916) 255-3545

Berkeley Regional Office

700 Heinz Avenue Suite 200
Berkeley, CA 94710-2721
(510) 540-2122

Glendale Regional Office

1011 N. Grandview Avenue
Glendale, CA 91201-2205
(818) 551-2800

Cypress Regional Office

5796 Corporate Avenue
Cypress, CA 90630-4732
(714) 484-5300

Clovis Field Office

1515 Tollhouse Road
Clovis, CA 93611-0522
(559) 297-3901

San Diego Field Office

2878 Camino del Rio South, Suite 402
San Diego, CA 92108-3847
(619) 278-3734