



## 2.0 PREAPPLICATION ACTIVITIES

### 2.1 Preapplication Meeting with Facility

A facility seeking a new hazardous waste facility permit (or even a permit modification) should be encouraged to meet with permitting staff before beginning preparation of a permit application. Such meetings are generally helpful to both the applicant and the permit writer. The applicant can be given a first-hand explanation of such things as how the permitting program works, how long the permitting process will take, what key questions DTSC will need to have answered during the application process, what the application fees are for obtaining a permit from DTSC and how to initiate a Fee for Service agreement for permitting activities, if desired ([see Chapter 5, Fees](#)). Permit writers, in turn, can get a first-hand overview of the proposed project. This will aid in planning how much time and effort will be needed to process the application, and will aid in estimating Fee for Service costs prior to application submittal, if necessary. The preapplication meeting should be viewed as an opportunity to avoid having a facility submit a poor quality application, resulting in an extensive deficiency notice and extra work for the permit writer and applicant. At a minimum, the following topics should be included in the meeting agenda:

- c Hazardous Waste Permit Program: Overview of the permit program, basic permitting requirements, specific inclusions from other programs, and permit exclusions.
- c The facility permit process and time limit.
- c The Governor's Office of Permit Assistance Notice of Intent (NOI) Process for the new offsite facility or expansion of offsite facility.
- c Applicant-provided Preapplication Meeting and Notice.
- c Preferred format for Part A and Operation Plan (Part B) permit application submittals; information and location of the proposed operating units requirements and the hazardous waste fees.
- c DTSC procedures and criteria for confidential information.
- c Public Record Act - DTSC policy on public access to department records.
- c DTSC's instruction to permit applicant and fact sheet regarding the Hazardous Waste Facility Permit.
- c California Environmental Quality Act (CEQA) requirements.
- c Tentative schedule for site visit inspection.
- c Correction Action Program.
- c Public Involvement: DTSC policy and procedures, the Public Role during the Permit Process Fact Sheet, and Community Assessment and Profile.
- c Bill of Rights of the Applicant.
- c Fee-For-Service application process.

The applicant should be given the opportunity to add items to the agenda. It is always helpful to mail or FAX a copy of the proposed agenda to the applicant several working days before the meeting to allow time for agenda revisions.

The applicant should be given a copy of EPA Form 8700-23, October 1996 or most current one, Application for a Hazardous Waste Permit - Part A ([see Appendix 2-1](#)). In addition, an applicant may also need to submit the Notification of Regulation Waste Activity, EPA Form 8700-12 ([see Appendix 2-2](#)), for a new permit or permit modification application.

A copy of [Appendix 2.3](#), DTSC Record of Meeting Attendance, should be used to record who actually attended the preapplication meeting. Following the meeting the permit writer should prepare a memo to the file briefly reporting the topics discussed at the meeting, carefully noting any agreements or

decisions reached and specific facility details discussed. Alternatively, a letter memorializing this same information may be sent to the applicant as a record of the meeting. A copy of the attendance record, agenda, and meeting record should be placed in the project file.

## 2.2 Applicant Provided Preapplication Public Meeting and Notice

An informal applicant provided preapplication public meeting is required for all new “Full RCRA Permit” and Full RCRA Permit Renewals where the renewal application contains significant changes in the facility’s operation (equal to a class 3 Permit Modification). The preapplication 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. The preapplication meeting is held to solicit questions and inform the community of the proposed new hazardous waste facility (Title 22, Cal. Code of Regs., section 66271.31). Public notice must be provided at least 30 days prior to the preapplication public meeting. (Title 22, Cal. Code of Regs., section 66271.31(d)).

Following the preapplication, meeting the applicant must submit to DTSC a summary of the meeting along with the list of attendees and their addresses, and copies of any written comments (Title 22, Cal. Code of Regs., section 66271.1(c)). The applicant must also establish an information repository if deemed necessary by the Director of DTSC (Title 22, Cal. Code of Regs., section 66271.1(c)).

## 2.3 Notice of Permit Application by DTSC

Within a reasonable time after receipt of the application, DTSC must publish a public notice and notify appropriate State and local agencies that the RCRA Part B application has been received. The notice, which is placed in a newspaper of general circulation within the community where the facility is or would be located, must contain the following information:

- c name and telephone number of the applicant’s contact person;
- c the name and telephone number of the DTSC office charged with issuance of the permit and a mailing address for the contact person;
- c an address to which community members can write to be placed on the facility mailing list;
- c location where copies of the application may be viewed and copied;
- c a brief description of the facility and proposed operations, including the address or a map of the facility location on the front page of the notice; and
- c the date the application was submitted. (Title 22, Cal. Code of Regs., section 66271.32).

[NOTE: For more information regarding Preapplication Public Meeting and Notice, [see Section VII of the Permitting Fact Sheet “Hazardous Waste Facility Permits” Appendix 2.7](#), “Permitting Advisory number PA97-3, RCRA Expand Public Participation Rule. Also see “EO-94-002-PP, February 1997 et seq.”]

## 2.4 Permit Process Time Limits

Pursuant to Title 22, Cal. Code of Regs., Cal. H&S Code section 25199.6, Public Resources Code section 211002.2, Government Code section 65950, and Title 27 Cal. Code of Regs. section 10300, the following time limits apply to specific steps in the processing of Full and Standardized Permit applications ([see Appendix 2.4](#) for copies of above sections of laws and regulations and a chart on the Full and Standardized Permit Process Timeline):

- c An Administrative Completeness Review must be completed by DTSC within 30 days of receipt of all applications (H&S Code, section 25199.6(a)).
- c When DTSC is acting as the Lead Agency under CEQA and a Negative Declaration is prepared, the Negative Declaration must be completed within 105 days from the date DTSC accepted the application as technically complete. The Negative Declaration may be approved at a later time when the permit or other entitlement is approved (Title 27, Cal. Code of Regs. section 10300(g)). The permit determination must be completed within 60 days of the date of adoption of the Negative Declaration (Government Code, section 65950).
- c When DTSC is acting as the Lead Agency under CEQA and an Environmental Impact Report (EIR) is prepared, the EIR must be completed within one year from the date DTSC accepted the application as technically complete (Public Resources Code, section 211002.2). The permit determination must be completed within 180 days of the approval of the EIR (Government Code, section 65950).
- c When DTSC is acting as a responsible agency under CEQA and the hazardous waste project is not a land disposal facility, a permit determination must be made within 180 days of the date the Lead Agency approved or disapproved the project, or within 180 days of the date the application was accepted as technically complete, whichever is later (Title 27, Cal. Code of Regs., section 10300(c)).
- c When DTSC is acting as a responsible agency under CEQA and the hazardous waste project is a land disposal facility, a permit determination must be made within one year of the date the Lead Agency approved or disapproved the project; or within one year of the date the application was accepted as technically complete, whichever is later (Title 27, Cal. Code of Regs., section 10300(b)).

## 2.5 Permit Renewal Time Limits

Title 22, Cal. Code of Regs., section 66270.10(h) requires “Any hazardous waste management facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Department. (The Department shall not grant permission for applications to be submitted later than the expiration date of the existing permit.” To insure completion of the permit renewal application at least 180 days before the expiration date of the effective permit, it is recommended that the renewal application be submitted at least one year before the expiration date of the permit.

## 2.6 Bill of Rights for Environmental Permit Applicants

The California Environmental Protection Agency has developed a Bill of Rights for Environmental Permit Applicants. The purpose of the Bill of Rights is to ensure that permit applicants are fully aware of their rights provided by law, regulation and policy. DTSC endorses the following principles that form the basis of a permit applicant's Bill of Rights:

- (1) Permit applicants have the right to be assisted in understanding regulatory and permit requirements.
- (2) Permit applicants have the right to know the projected fees for review of applications.
- (3) Permit applicants have the right of access to complete and clearly written guidance documents that explain the regulatory requirements.
- (4) Permit applicants have the right of timely completeness determinations for their application.
- (5) Permit applicants have the right to know exactly how their applications are deficient and what further information is needed to make their application complete.
- (6) Permit applicants have the right to a timely decision on their permit application.
- (7) Permit applicants have the right to appeal permit review time limits set by statute or administratively that have been violated without good cause.
- (8) Where multiple environmental approvals are needed, permit applicants have the right to work with a single Lead Agency.
- (9) Permit applicants have the right to know who will be reviewing their application and the time required to complete the full review process.

#### PERMIT APPLICANT'S BILL OF RIGHTS CHECK LIST

To make sure that permit applicants are fully aware of their rights provided by law, regulation and policy, the Permit Writers should use the following checklist after the preapplication meeting with permit applicants:

- c The applicant was notified of the primary contact person for their permit application processing.
- c The applicant was notified of the projected time required for review of the application for completeness.
- c The applicant was notified of the projected time required for permit determination of their permit application.
- c The applicant was notified of the projected fee for review of the permit application.
- c The applicant was notified of how permit fees were assessed.
- c The applicant was notified of permit billing and payment criteria and procedures for resolving permit fee disputes.
- c The applicant was given clearly written guidance documents that explain regulatory requirements pertaining to the permit application.
- c The applicant was notified of the criteria that will be used to determine if the submitted permit application is complete and adequate.

- c The permit applicant was notified as to how the applicant will be notified of the application's deficiencies and the process and criteria for the applicant to make the application complete.
- c The permit applicant was notified of specific permit processing time frames as presented in Title 27, Division 1, Subdivision 1, Chapter 3, Article 1, section 10300 of the Cal. Code of Regs.
- c The permit applicant was notified of his appeal rights for permit review time limits if those time limits have been violated.
- c The permit applicant was notified of that he may work with a single Lead Agency for projects requiring multiple environmental permits.

## KEY QUESTIONS

Questions to be considered during preapplication activities are:

Did the preapplication meeting between DTSC and the facility result in DTSC work or follow-up commitments? If so, what plan or schedule must be followed to meet each commitment?

Did the meeting result in applicant commitments? If so, what follow-up actions are needed to ensure the applicant meets these commitments?

## REQUIRED OUTPUTS

Expected outputs from this chapter are:

- c Meeting agenda
- c Modified preapplication meeting handout
- c Completed Record of Meeting Attendance
- c Memo to file and letter of record to applicant briefly reporting the general topics and facility specific details discussed at the meeting.
- c Workplan for meeting any work or follow-up DTSC commitments made during the meeting.
- c Obtain PCA and Site Code for project.

## APPLICABLE REGULATIONS AND STATUTES

State Laws and Regulations:

Government Code  
6250 et seq. California Public Records Act

Cal. H&S Code, Division Chapter 6.5  
section 25173 Requires DTSC to establish procedures to ensure trade secrets are used only as authorized  
Chapter 6.5 Procedures for the Approval of New Facilities (section. 25199 et seq.) (Tanner process for new facilities)  
article 8.7

- section 25199.2 Requires agencies to complete processing of permits within time limits specified.
- section 25199.4 Requires Governor's Office of Permit Assistance (OPA) to provide specified assistance in getting a hazardous waste facility permitted.
- section 25199.6 Requires DTSC to make final permit decisions within the time periods specified.
- section 25199.7 Requires an applicant of a hazardous waste facility to file a notice of intent with OPA, and requires OPA to provide public notice and hold a public meeting.
- section 25199.8 et seq. Establishes procedures for appeals of land use decisions for hazardous waste facilities.

Cal. H&S Code, Chapter 6.5

- section 25135.4 Finding of consistency with Local Hazardous Waste Management Plan.

Title 22, Cal. Code of Regs.

- section 66260.2 Availability of Information; Confidentiality of Information.
- section 66270.12 Confidentiality of Information.

sections 66271-66271.19

Covers required public involvement and appeals processes.

Cal. Pub. Res. Code

- section 21000 et seq. CEQA

Title 14, Cal. Code of Regs.

- Section 15000 et seq. State CEQA Guidelines

Federal Laws and Regulations:

Title 40, Code of Fed. Regs.

- 2.203(b) Procedures for asserting a claim of confidentiality.

Other Laws and Regulations:

## POLICIES

DTSC Management Memo entitled *Meetings and Consultation Pursuant to the California Environmental Quality Act* (#EO-93-035-MM).

DTSC Guidance document entitled *Definition of Lead And Responsible Agency Under the California Environmental Quality Act* (Guidance Document dated January 11, 1995).

DTSC Guidance document entitled *Preparation of Environmental Impact Reports Using a Third Party Memorandum of Understanding* (#EO-97-001-PP).

DTSC Management Memo entitled *Department Compliance with CEQA and Compliance With The Requirements of the California Environmental Quality Act* (#EO-93-001-PP and Memorandum dated January 16, 1996).

DTSC Policies:

Public Records Policy & Procedures - DTSC Document #: EO-95-001-PP (Appendix 2.3).

DTSC Management Memo #EO-93-033-MM entitled *In-House Preparation of Initial Studies Pursuant*

to the California Environmental Quality Act. (see Appendix 2.4)

DTSC Management Memo #93-HWMP 01, *Permit Assistance and Fee for Service Program (FSP)* (Appendix 2.5). This Management Memo establishes a new industry assistance program for permitting. The program includes pre-application assistance at no cost to the applicant, and optional consultation and permit processing functions to be paid for by applicants wishing to expedite the processing of their permit. AB 3541, codified at H&S Code Section 25201.9, gives DTSC authority to provide technical consultation over and above DTSC's routine functions and allows reimbursement for consultative services at an established hourly rate.

DTSC EO-94-002-PP, Public Participation Policy and Procedures Manual, February 1997 et seq.

EPA Policies:

Other Policies:

## INSTRUCTIONS TO APPLICANTS

Handouts to be Given to Applicants:

- c *Workbook for Conducting Initial Studies Under the California Environmental Quality Act*, DTSC, October 1996.
- c EPA Form 8700-23, January 1990, Application for a Hazardous Waste Permit - Part A.
- c Latest Part B checklist.
- c Latest "Instructions to Applicants."
- c CEQA Environmental Information Form.
- c DTSC Initial Study Checklist.
- c Fact Sheet entitled *Hazardous Waste Facility Permits*. This Fact Sheet is designed to provide information and guidance to permit applicants during the hazardous waste facility permit determination process (see Appendix 2.7).
- c Fact Sheet entitled *The Public's Role During the Permit Process*. This Fact Sheet is designed to provide information and guidance on how community members can participate and provide input during the permit process (see Appendix 2.6). (Applicant should also be informed that Public Participation requirements are outlined within DTSC's Public Participation Policy and Procedures Manual, EO-94-002-PP. The cost of the Manual is \$20.00 and can be obtained from the Public Participation Branch at (916) 324-8295.)

The Initial Study Checklist and the Environmental Information Form are updated periodically and a new version is forthcoming. The latest forms and guidance materials can be obtained from the Office of Program Audits and Environmental Analysis, P.O. Box 806, Sacramento, California 95812-0806, (916) 322-8162 or CALNET 8-492-8162.

## CEQA CONSIDERATIONS

The issuance of a hazardous waste facility permit is considered a "project" under CEQA. Accordingly, DTSC must conduct an Initial Study before the permit can be approved. Much of the information necessary for conducting the Initial Study is available in the permit application, studies, or other information available to the permit writer during the application submittal and review period. The permit writer should inform the applicant that DTSC will coordinate data gathering activities to meet the schedules of both the permit and CEQA processes in order to avoid delays in project implementation.

If the project needs a local land use permit, the local land use agency will likely be the CEQA Lead Agency. If a local land use permit is not required, DTSC will be the CEQA Lead Agency. Both the permit writer and the applicant must fully understand the CEQA process. The applicant must understand the role (lead or responsible agency) DTSC will assume for the project.

The permit writer should be familiar with the requirements for conducting Initial Studies under CEQA and accompanying State CEQA Guidelines. Guidance can be found in the DTSC publication *Workbook for Conducting Initial Studies Under the California Environmental Quality Act, October 1996* (Workbook).

Copies of the CEQA Workbook can be given to the applicant as a means of demonstrating the level of information and analysis DTSC will use in conducting an environmental impact assessment (Initial Study) for the project as required by CEQA. The permit writer should, however, inform the applicant that the publication is only informational, and that Initial Studies are conducted in-house by DTSC and not by the project applicant. Copies of the Workbook can be obtained by contacting the Office of Program Audits & Environmental Analysis (OPAEA).

Copies of the State CEQA Guidelines are available by contacting the California Department of General Services, Publications Section, P.O. Box 105, North Highlands, CA 95660, (916) 574-2200. When ordering, provide the title (*CEQA: Statutes and Guidelines, 1997*), stock number (7540-931-100-0) and enclose a check, money order or purchase order for \$18.00 (which includes postage and handling) payable to the *State of California*. Allow four to six weeks for delivery. The Department of General Services cannot accept phone orders for this publication.

[Note: "Lead Agency" means the public agency which has the principal responsibility for carrying out or approving the project. Criteria for determining which agency will be the Lead Agency for a project is contained in Title 14, CCR, Section 15051.]

## PRELIMINARY ENVIRONMENTAL ASSESSMENT

The permit writer should inform the applicant of DTSC CEQA obligations (refer to [Chapter 8.0 CEQA](#)). The permit writer should also provide the applicant with a copy of DTSC's INITIAL STUDY CHECKLIST to allow the applicant the opportunity to view the types of impacts to be considered. However, it is the policy of DTSC that all Initial Studies be conducted in-house in order to ensure that DTSC conducts an independent analysis of potential project impacts. Initial Studies are not to be prepared by outside consultants or contractors. For a copy of the latest version of DTSC's Initial Study Checklist, contact OPAEA at (916) 322-8162 CALNET 8-492-8162.

The permit writer should be aware that in certain circumstances the local planning agency may assume the role of Lead Agency under CEQA, particularly if it is making a land use determination. In such cases, the Lead Agency may have prepared an Initial Study and accompanying environmental document that could be used by the DTSC to meet its CEQA obligations. To avoid duplication of effort and avoid project delays, the permit writer should contact the local planning agency to determine Lead Agency status and the availability of previously prepared CEQA documents.

If the local agency is the Lead Agency for CEQA purposes, it is important that the permit writer be

involved in early consultations with the Lead Agency to ensure that the impacts from the DTSC's approval action are included in the local agency's CEQA package. The project applicant should be informed of the identities of the Lead and Responsible Agencies.

Additional guidance on Lead and Responsible Agencies is provided in the guidance document entitled *Definition of Lead And Responsible Agency Under the California Environmental Quality Act* (Guidance Document dated January 11, 1995).

## DETERMINATION OF EIR APPLICABILITY:

Cal. Pub. Res. Code §21151.1 requires the mandatory preparation of an EIR for certain types of hazardous waste facility projects. The permit writer should check to see whether or not the project being proposed fits one of these types of projects. The permit writer should inform the applicant of this requirement during the pre-application meeting. In addition, the applicant should be informed of the EIR preparation policy and procedures used by DTSC, as contained in the document entitled *Preparation of Environmental Impact Reports Using a Third Party Memorandum of Understanding* (#EO-97-001-PP).

## DETERMINATION OF LEAD AGENCY

The permit writer should inform the applicant that the project may require the issuance of a land use permit by the city or county jurisdiction in which the project is to be located. In such an instance, the local entity may assume the role of the Lead Agency and would be responsible for conducting the environmental assessment required under CEQA. If the local entity assumes such a role, DTSC would be considered a Responsible Agency under CEQA. The permit writer would be responsible for the review of the CEQA document. ([see discussion in Chapter 8, CEQA](#))

Technical References should be updated to include current sources. The publication mentioned earlier, "*CEQA, Environmental Quality Act Statutes and Guidelines*," has been revised in a 1997 edition.

The applicant should be informed that the permit writer will follow procedures established for CEQA compliance in DTSC Management Memos, Policy and Procedure Memos, the Training Manual, and two Initial Study Workbooks. Two internal resources have been developed recently and should be referenced as follows:

Workbook and Appendices for Conducting Initial Studies Under the California Environmental Quality Act (CEQA) prepared by: Department of Toxic Substances Control, Office of Policy and Environmental Analysis, October 1996. This workbook provides detailed instructions as to preparation of, and the mandatory elements required in an Initial Study. Each Section provides a list of potential references and data sources to assist the permit writer in preparing an Initial Study. The Appendices are a separate document that provides a blank Initial Study Checklist, a listing of State agencies and local planning agencies, and detailed examples of Initial Study Analyses.

Office of Program Audits and Environmental Analysis, Official Department Policy/Procedure Documents related to the California Environmental Quality Act as of 7/5/95. This document is a compendium of ten (10) policies approved by the Director for DTSC-wide CEQA compliance and implementation.

## LEGAL CONSIDERATIONS

## INTERAGENCY AGREEMENTS & MOUS

Procedures for preparation of mandatory EIRs are found in the document entitled *Preparation of Environmental Impact Reports Using a Third Party Memorandum of Understanding* (#EO-97-001-PP).

## COORDINATION WITH OTHERS

The permit writer should establish early consultation with OPAEA concerning CEQA aspects of the project pursuant to the policy contained in the documents entitled *Department Compliance with CEQA* and *Compliance With The requirements of the California Environmental Quality Act* (#EO-93-001-PP and Memorandum dated January 16, 1996). OPAEA is available upon request for meetings, site visits and teleconference calls.

The permit writer should establish contact with other agencies having jurisdiction over the project to define roles and responsibilities as they relate to CEQA compliance and convey this information to the applicant during the pre-application meeting.

Other DTSC Units:

Environmental/Legislative/Industry Groups:

Other Agencies:

Special Requests:

## STEP-BY-STEP PROCEDURES

Procedures for conducting a CEQA Initial Study are found in the document entitled *Workbook for Conducting Initial Studies Under the California Environmental Quality Act*, DTSC, October 1996.

Flow Charts:

Checklists:

## TECHNICAL REFERENCES

CEQA, Environmental Quality Act, *Statutes and Guidelines*, 1995. This is the official CEQA reference manual for the State of California. It contains a reproduction of the Act (Public Resources Code section 21000 et seq. and the guidelines drafted by the Governor's Office of Planning and Research and promulgated by the Secretary of Resources. The discussion paragraph after each section of the guidelines provides additional information and background, explanations, and interpretive material. The Appendices are reproductions of the forms contained in the 1986 CEQA Guidelines that were previously reviewed and approved by the Office of Administrative Law. The Supplemental Information section contains pertinent information relative to compliance timelines, suggested forms and procedures, a discussion of the relationship between the National Environmental Policy Act (NEPA) and CEQA, and a reference guide to significant court cases that have interpreted either the statutes or the guidelines. Note that DTSC uses its own forms, not the ones included in

these guidelines.

\* *Workbook for Conducting Initial Studies Under the California Environmental Quality Act*, DTSC, October 1996

\* *CEQA: Statutes and Guidelines*, Governor's Office of Planning & Research 1997

\* *Official Department Policy/ Procedure Documents Related to the California Environmental Quality Act*, DTSC October 1997

## EXAMPLES OF COMPLETED WORK PRODUCTS

### TIMELINE AND PLANNING

Permit Processing Chart: Permit Process Timeline in Attachment 2.4

The permit writer should inform the permit applicant of the need for DTSC to comply with the provisions of CEQA and the need to coordinate information and data gathering activities early in the planning stages of the project.

Workload Standards:

Statutory & Other Deadlines:

List of Examples:

List of Appendices:

- [2.1 Permitting Advisory number PA97-3 RCRA, Expanded Public Participation Rule.](#)
- [2.2 Full and Standardized Permit Process Timeline.](#)
- [2.3 Public Records Policy & Procedures - DTSC Document #: EO-95-001-PP.](#)
- [2.4 DTSC Management Memo #EO-93-033-MM entitled \*In-House Preparation of Initial Studies Pursuant to the California Environmental Quality Act.\*](#)
- [2.5 DTSC Management Memo #93-HWMP 01, \*Permit Assistance and Fee for Service Program.\*](#)
- [2.6 Fact Sheet entitled \*The Public's Role During the Permit Process.\*](#)
- [2.7 Fact Sheet entitled \*Hazardous Waste Facility Permits.\*](#)
- [2.8 Part "A" Application.](#)

List of References: