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 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.

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.
### PERMIT MODIFICATION CLASSIFICATIONS

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<th>Classifications</th>
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| **RCRA-REGULATED ACTIVITIES** | Classifications as defined in 66270.42 and Appendix I | Class 3 = 40 – 80% of activity fee, or cost reimbursement  
Class 2 = 20 – 40% of activity fee, or cost reimbursement  
Class 1* = 0  
Class 1 = 0 |
| **NON-RCRA-REGULATED ACTIVITIES** | Classifications as defined in 66270.42.5 | Class 3 = 40 – 80% of activity fee, or cost reimbursement  
Class 2 = 20 – 40% of activity fee, or cost reimbursement  
Class 1* = 0  
Class 1 = 0 |
| **OR** | 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* | Class 3 = 40 – 80% of activity fee, or cost reimbursement  
Class 2 = 20 – 40% of activity fee, or cost reimbursement  
Class 1* = cost reimbursement  
Class 1 = 0 |
| **OR** | HSC 25200.15(b), and HSC 25205.7 or HSC 25206.1 through 25206.4 | Cost will depend on the DTSC determination |
| **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 | Cost will depend on the DTSC determination |