

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

To: Office of Planning and Research
State Clearinghouse
P.O. Box 3044, 1400 Tenth Street, Room 212
Sacramento, CA 95812-3044

From: Department of Toxic Substances Control
Hazardous Waste Management Program
1001 I Street
Mail Stop: SPWP/MS 11A
Sacramento, CA 95814

Project Title: Criteria for the Issuance of a Hazardous Waste Facility Permit or Permit Modification (Permit Decision Criteria) (Regulation Reference Number R-2016-03)

Project Location: Statewide

County: All

Project Description:

Health and Safety Code section 25200.21 was enacted into law as part of Senate Bill 673 (Stats. 2015, chapter 611, section 1, effective January 1, 2016.) Section 25200.21 is part of the California Hazardous Waste Control Law (HWCL), Health and Safety Code section 25100 et seq. Section 25200.21 requires the Department of Toxic Substances Control (DTSC) to adopt regulations establishing criteria used for the issuance of a hazardous waste facility permit or a permit modification, which may include criteria for the denial, suspension, or revocation of a permit. Section 25200.21 further requires DTSC to consider a facility's past violations (compliance history,) cumulative impacts to the surrounding community (including vulnerable populations,) financial responsibility, facility personnel training, and completion of a health risk assessment in DTSC's permit decisions. The proposed regulations impose the following requirements on facilities: (1) new violations scoring procedure requirements; (2) new community involvement profile to enhance public participation requirements; (3) additional financial assurance requirements for corrective action; (4) additional training requirements; and (5) new health risk assessment requirements.

The benefits and purpose of the proposed project include DTSC's fulfillment of its legislative mandate to adopt these regulations and the enhanced transparency and consistency in DTSC's permit decisions. The enhanced transparency and consistency would, in turn, foster greater public confidence in DTSC's administering of its hazardous waste facility permitting program. The proposed project is also intended to have a deterrent effect on the hazardous waste facilities and to encourage them to comply with applicable law and regulations.

Background:

DTSC is the State agency charged with administering and enforcing the state hazardous waste management requirements in the HWCL and its implementing regulations in Division 4.5 of Title 22 of the California Code of Regulations. The HWCL provides a comprehensive "cradle to grave" statutory framework for the management (i.e., generation, handling, treatment, storage, transport, disposal) of hazardous waste in the State. The HWCL requires the owner or operator of a hazardous waste facility to hold a hazardous waste facility permit issued by DTSC in order to accept, treat, store, or dispose of hazardous waste at the facility. Since each application for a hazardous waste facility permit is a project subject to DTSC's discretionary decision, DTSC will comply with CEQA each time it makes a permit decision on a hazardous waste facility permit application.

Owners and operators of permitted hazardous waste facilities are subject to all permit conditions in addition to the statutory and regulatory requirements. The HWCL also requires the owner or operator of a hazardous waste facility to perform corrective action to address any releases of hazardous waste at or from the facility. The purpose of the hazardous waste facility permit is to detail how a facility must operate to ensure that hazardous waste management activities are conducted to prevent and address releases that could threaten public health and the environment. Each permit is facility-specific and establishes the technical and administrative standards to which a facility must adhere to in managing its hazardous waste.

Name of Public Agency Approving Project: Department of Toxic Substances Control

Name of Person or Agency Carrying Out Project: Department of Toxic Substances Control

Exemption Status¹: (check one)

- Ministerial [PRC, Sec. 21080(b)(1); CCR, Sec. 15268]
- Declared Emergency [PRC, Sec. 21080(b)(3); CCR, Sec.15269(a)]
- Emergency Project [PRC, Sec. 21080(b)(4); CCR, Sec.15269(b)(c)]
- Categorical Exemption: [CCR, Sec. 15308. Actions by Regulatory Agencies for Protection of the Environment]
- Statutory Exemptions: [State code section number]
- General Rule [CCR, Sec. 15061(b)(3)]

Exemption Title: Actions by Regulatory Agencies for Protection of the Environment

Class 8 consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

Reasons Why Project is Exempt:

The HWCL established DTSC's hazardous waste permitting program to protect public health and the environment. SB 673 directs reforms to DTSC's permitting program by requiring DTSC to adopt regulations to improve the protectiveness, timeliness, legal defensibility and enforceability of DTSC's permitting program. The proposed project is a statewide rulemaking project that consists of adding or amending sections 66260.10, 66264.16, 66264.101, 66264.141, 66264.143, 66264.144, 66264.145, 66264.146, 66264.147, 66264.151, 66265.16, 66265.141, 66265.143, 66265.144, 66265.145, 66265.146, 66265.147, 66270.14, 66271.50, 66271.51, 66271.52, 66271.53, 66271.54, 66271.55, 66271.56, 66271.57, and 66271.58 to Division 4.5 of Title 22 of the California Code of Regulations. DTSC has determined that the proposed regulations are actions taken by DTSC to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. No construction activities or relaxation of standards allowing environmental degradation are included in this rulemaking project.

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Project Manager Name	Project Manager Title	Phone #
		9/12/18
Acting Deputy Director Signature		Date
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TO BE COMPLETED BY OPR ONLY

Date Received For Filing and Posting at OPR:

Governor's Office of Planning & Research

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¹ <https://environs.law.ucdavis.edu/volumes/33/1/behles.pdf>