



## Department of Toxic Substances Control

# INSTRUCTIONS FOR APPLYING FOR A WASTE QUANTITY REVIEW for *De Minimis* Contributors BKK CLASS I LANDFILL

Version dated April 27, 2022

Please carefully read these instructions to submit a Waste Quantity Review Application to the Department of Toxic Substances Control (“DTSC”) and the BKK Working Group (“BWG”). Waste Quantity Review Applications are due within thirty (30) calendar days of the date of the settlement offer. Your application will be reviewed by both DTSC and the BWG.

### CATEGORIES OF WASTE QUANTITY REVIEWS

DTSC and the BWG will conduct Waste Quantity Reviews based only on claims that your Manifest Summary Report includes one or more of the following errors:

- **Duplicate Entry**—You believe a shipment was counted more than once in your Manifest Summary Report.
- **Error in Amount**—You believe the numbers on a shipping record were interpreted or entered incorrectly. Examples include data entry errors, such as instances where decimals are missing or misplaced, the unit of measure is incorrectly entered or incorrectly converted to tons, and/or specific tonnage was captured on a manifest but was not captured on your Manifest Summary Report. Note: Any indication of container types on a shipping document assumes the containers are full unless specific information on the shipping document contains information to the contrary.
- **Not My Waste**—You believe a shipment included in your Manifest Summary Report is attributed to the incorrect generator. Examples include instances where the generator name on the manifest is missing, illegible or otherwise is not related to you and the generator address is also missing, illegible or otherwise not associated with you.
- **Not a BKK Shipment**—You believe a shipment included in your Manifest Summary Report was not ultimately disposed at the BKK Class I Landfill in West Covina, California. Examples include instances where the manifest is marked “void” or “rejected” by the BKK Class I Landfill, the manifest indicates the shipment was sent after the operational timeframe of the BKK Class I Landfill, and/or the manifest clearly indicates the waste could only have been sent to another Treatment, Storage or Disposal Facility (commonly referred to as “TSD” or “TSDF”).

DTSC and the BWG will not accept a Waste Quantity Review Application on any other grounds. Examples of grounds that will not be reviewed at this stage of the settlement process include claims based on the petroleum exclusion, that the waste is not a hazardous substance or any other challenge based on the type of waste, and issues concerning ownership arguments such as franchise and dealership liability and/or successor entity liability. DTSC and the BWG recognize that you may have legitimate concerns that do not fall into the four categories identified above. However, in the interest of reducing transactional costs of both *de minimis* parties and the government, it is not practical to resolve such issues at this stage of the *de minimis* settlement process. DTSC and the BWG are only able to offer *de minimis*

settlements to a large number of parties at this time because of the streamlined nature of such settlements, which precludes consideration of many parties' individual issues.

## **INSTRUCTIONS FOR APPLYING FOR A WASTE QUANTITY REVIEW**

Please follow these steps to submit a Waste Quantity Review Application:

1. Review the Waste Quantity Records Fact Sheet which explains how the quantity of waste was determined for individual waste shipments. The Fact Sheet is available [here](#).
2. Review your Manifest Summary Report, which provides information regarding each shipment of waste attributed to you.
3. Review the manifests, if provided, associated with your Manifest Summary Report, as well as any relevant records you have maintained.
4. If you believe the Manifest Summary Report includes one or more waste quantity errors, submit an Application for Waste Quantity Review [here](#).
  - You must submit a separate Waste Quantity Review Application for each shipment of waste being challenged (i.e., one application must be submitted for each record you would like reviewed). Single applications submitted for more than one record or shipment will not be reviewed.
  - The Challenge Explanation field must include your specific basis for contesting that shipment of waste. While we encourage you to provide documentation in support of your position, explanations simply directing DTSC or the BWG to review provided documentation (such as "see attachment") will not be reviewed. You must explain your position, and how the documentation you are providing (if any) supports your position, within the Challenge Explanation field.
  - If available, upload any documentation (e.g., copies of original documents including waste manifests, weigh tickets, bills of lading, or more legible waste manifests from your files) that you believe supports your claim that the contested shipment has one of the four errors described in the Categories of Waste Quantity Reviews section above. Combine all supporting documents for that individual application into a single PDF file.

*NOTE: DTSC and the BWG will not accept sworn statements or affidavits in the place of copies of original documents such as weigh tickets, bills of lading, or more legible manifests that support your request. DTSC and the BWG also reserve the right to review all entries contained in your Manifest Summary Report. This review may result in an increase or decrease of DTSC and the BWG's settlement offer to you (as a result of an adjustment to the total weight of waste assigned to you).*

## **DTSC AND THE BWG'S DETERMINATION OF YOUR REQUEST FOR A WASTE QUANTITY REVIEW & TOLLING OF THE ORIGINAL SETTLEMENT OFFER**

DTSC and the BWG will review complete applications that are timely submitted. Upon submitting a complete and timely application, your deadline to accept or reject the settlement offer will be tolled until DTSC and the BWG have completed their review. Upon completion of such review, DTSC and the BWG will provide you with a new deadline to respond to either the original *de minimis* settlement offer or a revised *de minimis* settlement offer, whichever is applicable based on the outcome of your Waste Quantity Review Application(s).

## **NOTICE TO PARTIES ALSO SUBMITTING A FINANCIAL REVIEW APPLICATION**

If you are also submitting an Application for Financial Review (a request that DTSC review your ability to pay the settlement amount), you should submit it to DTSC separately but simultaneously with your Waste Quantity Review Application. (Please note that while DTSC will be reviewing waste quantity reviews jointly with the BWG, only DTSC will

conduct financial reviews.) Importantly, do not wait for DTSC and the BWG's review or determination of your Waste Quantity Review Application to submit a financial review application (or vice versa), or you may be ineligible to submit the delayed application.