



Department of
Toxic Substances
Control



G&H Fee Regulations Workshop

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Feedback Form



SCAN ME



Fee Regulations Webpage

<https://dtsc.ca.gov/fee-regulations/>



Form for submitting comments and feedback



Handouts and Information



Regulation Timeline

- Public Workshop: Thursday, October 17, 2024
- Comment period through Nov 1, 2024
- Public Notice: January 8, 2025
- Effective Date: January 27, 2025

Generation and Handling Fee Background

- Established through SB 158 (2021), combined multiple fees into one flat per-ton rate to create an equitable fee framework
- Fee is assessed on generators who produced 5 or more tons of waste in the prior calendar year
- Fee rate is annually set by the Board of Environmental Safety
- Administered and collected by the California Department of Tax and Fee Administration (CDTFA)

Fee Collection Challenges

- Since the enactment of the single fee, DTSC encountered three major issues with fee collection:
 - Incomplete Data
 - Generator Non-Compliance
 - Inconsistent Application of Statutory Exemptions by Generators

Corrective Steps to Address Fee Issues

- Emergency Regulation Authority
- Concepts for Regulatory Changes
 - Annual Hazardous Waste Verification – Josephine Lee
 - Exemption Criteria Clarification – Taylor Grose
 - Exemption Review Process – Spencer Eberhard
 - Penalty Assessment Framework for Non-Compliance with Reporting Requirements – Kaytherine Grant
- Input from Community Partners

Annual Hazardous Waste Verification Questionnaire (eVQ)



JOSEPHINE LEE
STAFF SERVICES ANALYST



Annual Verification Questionnaire

Statute

California Health and Safety Code (HSC) 25205.16

Purpose

- Verify the accuracy of the information associated with the ID number.
- Required filers must complete the questionnaire related to hazardous waste activities.

"Handler" Definition

For the purposes of eVQ, "handler" means any person that generates, transports, offers for transport, treats, stores, or disposes of hazardous waste.



Scope

Any person who was a hazardous waste handler* in the prior calendar year that meets any of the following criteria:

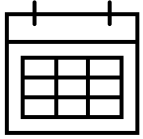
- Had an ID number in California that was active at any time in the previous calendar year.
- Generated, transported, treated, stored, or disposed of hazardous waste in California in the previous calendar year.



Scope

Exceptions for reporting:

- ID numbers for sites on federally recognized tribal land
- An occupant of a household who generates household hazardous waste



Reporting Timeline

- HSC 25205.16 states this report is used to annually verify the information relating to handlers.
- Handlers that meet the reporting requirements shall submit their report by the proposed deadlines of each year:
 - 2025 – April 15th
 - 2026 onward – March 15th



Clarifying Reporting Requirements

Bold: proposing to make specific in regulation

- Handler information
 - Business name
 - Federal Employer Identification Number
 - California Department of Tax and Fee Administration G&H Fee Account number
 - Number of employees
 - North American Industry Classification System Code
 - **Operator type**
 - **Business structure**
- Owner information
- Contact information
- ID number information
 - Site address
 - **Active/inactive status of ID number**



Clarifying Reporting Requirements

"...An identification of any of the following hazardous waste activities in which the firm or organization is engaged:

(A) Generation.

(B) Transportation.

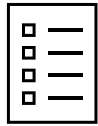
(C) Onsite treatment, storage, or disposal."



Generation

Generators shall report or verify the following for each site in relation to the handling of their hazardous waste in the prior calendar year:

- Total quantity of hazardous waste manifested
- Total quantity of unmanifested wastes (Treated Wood Waste and applicable variances)
- Total quantity of hazardous waste managed using consolidated manifesting procedures, and ID number(s) of transporter used
- G&H Fee exemptions and deductions



Transportation

Transporters shall report or verify the following for each site in relation to the handling of their hazardous waste in the prior calendar year:

- Total quantity of hazardous waste manifested
- The manifest tracking number(s), generator ID number(s), and total quantity of hazardous waste (per manifest) managed using consolidated manifesting procedures



Onsite Treatment, Storage, or Disposal

Onsite treatment, storage, or disposal facilities shall report or verify the following for each site in relation to the handling of their hazardous waste in the prior calendar year:

- Total quantity of hazardous waste manifested
- Total quantity of unmanifested wastes (Treated Wood Waste and applicable variances)
- G&H Fee exemptions and deductions

? Questions/Public Feedback

- What are some ways DTSC can help stakeholders with reporting compliance?
 - eVQ currently pulls in Hazardous Waste Tracking System (HWTS) data for all filers and Transporter Quarterly Report (TQR) data for transporters to make the reporting process more efficient.
- What feedback is there regarding a March 15th due date?
- Other questions/open feedback



Exemption Criteria Clarification

TAYLOR GROSE

SENIOR HAZARDOUS SUBSTANCES ENGINEER



Exemption Criteria Background

10 exemptions and 1 deduction from the G&H Fee:

- Governmental response
- Household hazardous waste
- Load checking program
- Household do-it-yourselfer used oil
- Waste recycled and used onsite
- Waste generated and treated onsite
- Universal waste
- Banned, unregistered, or outdated agricultural wastes
- Reusable soiled textile materials
- Disaster victim waste
- Pass through waste deduction

Waste subject to the fee: statutory overview

- HSC section 25205.5 requires that every **generator** of hazardous waste which generates more than 5 tons at any individual site must pay the G&H Fee for each ton of waste.
- **HSC section 25205.1.** For purposes of this article, the following definitions apply:
 - (e) “Generator” means a person who generates hazardous waste at an individual site commencing on or after July 1, 1988. A generator includes, but is not limited to, a person who is identified on a manifest as the generator and whose identification number is listed on that manifest, if that identifying information was provided by that person or by an agent or employee of that person.

Waste subject to the fee: regulatory concept

- Clarify the definition of generator in HSC 25205.1 (e)
- Only the original generator of the waste is subject to the fee
- If new waste is generated (e.g. through treatment), then that is a new point of generation and the waste is subject to the fee

Governmental response exemption: statutory overview

HSC section 25174.8.1(a) The fee provided for in Section 25205.5 does not apply to any of the following:

(1) (A) Hazardous waste that results when a governmental agency takes a **removal, remedial**, or corrective action to address a release of a hazardous substance caused by a person other than the governmental agency that takes the action if both of the following conditions are met:

(i) The governmental agency took **immediate action necessary** to remove or remedy an **imminent and substantial threat of a release** of a hazardous substance.

Governmental response exemption: regulatory concept

- Define “removal action” to have the same meaning as HSC section 78135
- Define “remedial action” to have the same meaning as HSC section 78125
- Clarify “immediate action necessary”
- Clarify “imminent and substantial threat of a release”

Definitions—“Contractor”

HSC section 25174.8.1(d). For purposes of this section, [. . .]

“Governmental agency” includes a **contractor** authorized to act on behalf of a governmental agency who uses the governmental agency’s United States Environmental Protection Agency or state identification number on a hazardous waste manifest.

- DTSC proposes clarifying the definition of “contractor” in regulations

Household Hazardous Waste Collection Facility exemption: statutory overview

HSC section 25174.8.1(a) The fee provided for in Section 25205.5 does not apply to any of the following:

(2) Hazardous waste generated or disposed of by a public agency **resulting from the operation of a household hazardous waste collection facility in the state pursuant to Article 10.8** (commencing with Section 25218), including, but not limited to, hazardous waste received from conditionally exempt small quantity commercial generators authorized pursuant to Section 25218.3.

Household Hazardous Waste Collection Facility exemption: regulatory concept

- Clarify the phrase “resulting from the operation of a household hazardous waste collection facility” to mean that the exemption only applies to the wastes that a household hazardous waste facility collects from the public in compliance with their authorization.
 - Excludes waste generated by the household hazardous waste collection facility outside its permit by rule authorization

Load checking program exemption: statutory overview

HSC section 25174.8.1(a) The fee provided for in Section 25205.5 does not apply to any of the following:

(3) Hazardous waste disposed of, or submitted for disposal or treatment, that is generated by any person and that is discovered and separated from solid waste as part of a **load checking program**.

Load checking program exemption: regulatory concept

- Clarifying the term “load checking program” to mean a process for separating hazardous waste at a solid waste handling facility due to a permitted or regulatory requirement on the process
- To be eligible for the exemption, the generator must be implementing operational procedures to minimize the amount of hazardous waste it receives alongside solid waste

Pass through waste deduction: statutory overview

HSC section 25205.5(a)

(4) For purposes of calculating the amount of the fee imposed pursuant to paragraph (1), a generator of hazardous waste that is issued a hazardous waste facilities permit from the department and that pays the annual facility fee, as specified in Section 25205.2, may deduct, from the amount of hazardous waste otherwise subject to this subdivision that is generated per calendar year, the amount of hazardous waste that is **stored, bulked, and transferred** solely through the location of the permitted hazardous waste facility and that is in route to another facility [. . .]

Pass through waste deduction: regulatory concept

- Clarify that the deduction applies to situations where the generator stored/bulked and transferred the waste with **no treatment** or recovery onsite, or disposal onsite
- Residuals from a treatment process are not eligible for the deduction

? Questions/Public Feedback

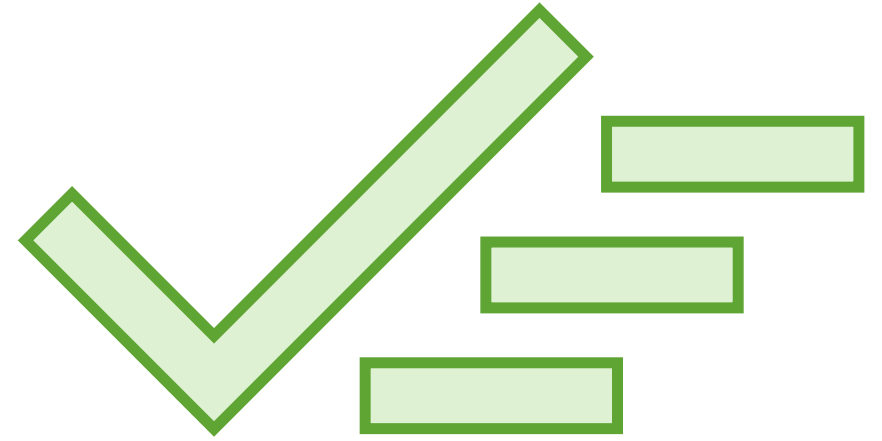
- For governmental agencies responding to releases, what factors influence response time? What factors determine whether a release requires immediate action?
- What operational procedures currently exist to limit the amount of incoming hazardous waste into a solid waste collection program?
- Are there any other regulatory considerations for pass through waste?
- Other questions/open feedback



Exemption Review Process

SPENCER EBERHARD

ENVIRONMENTAL SCIENTIST



Authority

Health and Safety Code 25205.5.3 (a)

(2) The regulations adopted pursuant to this section shall establish both of the following:

(A) The criteria and process for evaluating exemption claims.

(B) The information a claimant is required to submit to the department. [...]

Regulation Sections Proposed:

Section 1 - Review Process

- Department Notification of Generators
- Generator Deadlines

Section 2 - Recordkeeping

- Baseline Information Required for All Exemptions
- Information Required for Specific Exemptions

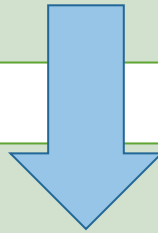
Section 1 – Exemption Review Process

- Department Notification of Generators
- Generator Deadlines



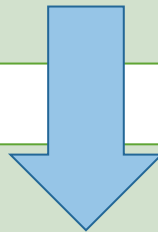
DTSC requests information from generator

1



DTSC reviews information from generator

2



DTSC sends evaluation to generator and CDTFA

3

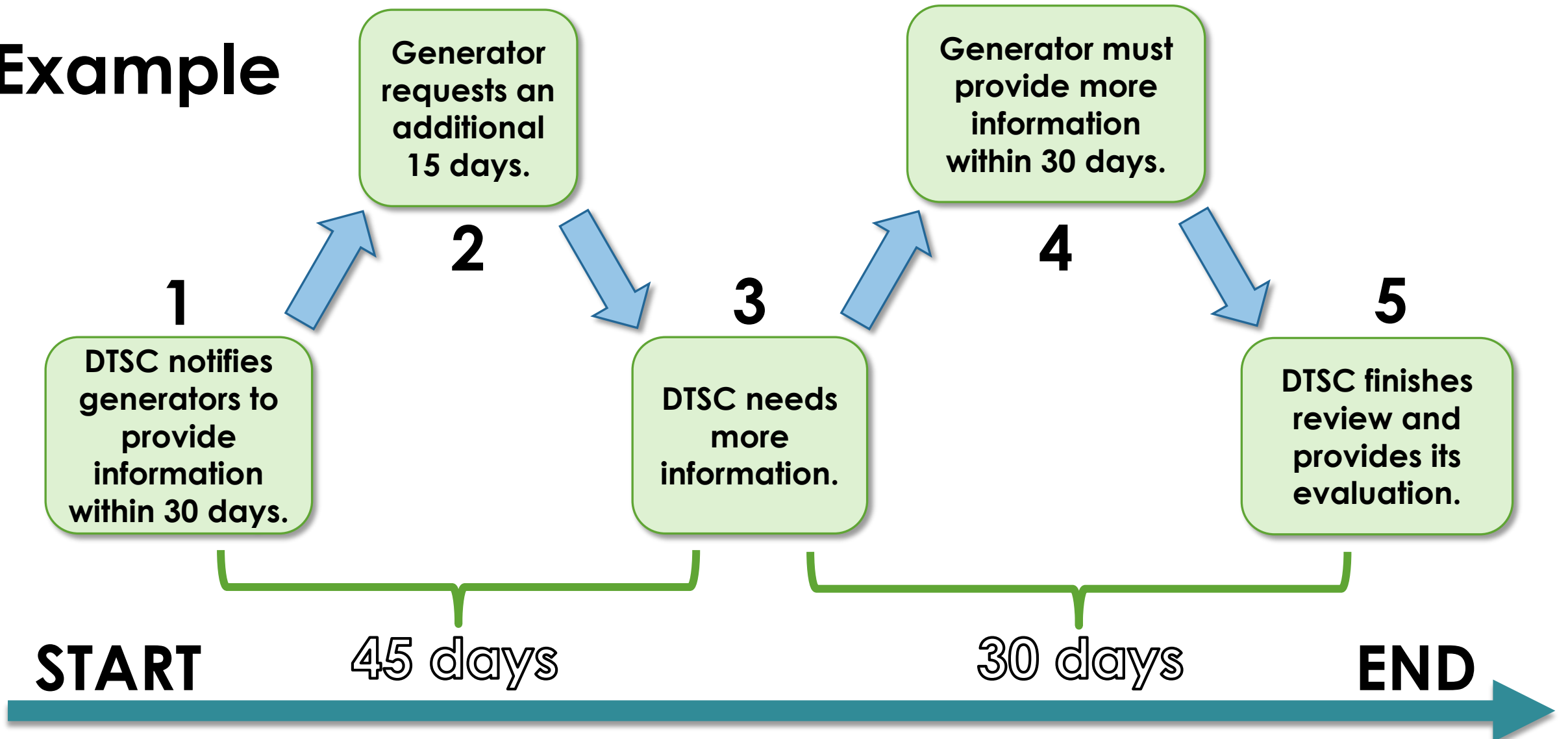
Department Notification of Generators

1. When DTSC requests information pursuant to Section 2.
2. Upon DTSC receiving information pursuant to Section 2 OR a generator's request for additional time.
3. If DTSC needs additional information from the generator.
4. After DTSC concludes exemption review with a final evaluation on the validity of the exemption.

Generator Deadlines

1. The generator has 30 calendar days to provide information when notified.
2. The generator may request in writing a **one-time** extension of 15 calendar days at any point in the review process.
3. If DTSC needs additional information, the generator has 30 calendar days to provide that information.

Example



Section 2 – Recordkeeping Requirements

- Baseline Information Required for All Exemptions
- Information Required for Specific Exemptions

Baseline Information Required for All Exemptions

1. Explanation of the information provided and the circumstances leading to the generation of the exempted waste
2. Documentation pursuant to 66262.40 - Recordkeeping
3. Relevant shipping documentation including but not limited to manifest numbers, bills of lading, logs, invoices, and movement documents associated with the waste
4. Any other documentation the generator believes supports the claim of the exemption.

Information Required for Specific Exemptions

- DTSC proposes specifying recordkeeping requirements for **10** exemptions and **1** deduction
 - For 3 years from end of year of generation
- **3** exemptions to focus on today:
 1. Governmental Response
 2. Load Checking Program
 3. Household do-it-yourselfer used oil

Exemption Criteria Background

10 exemptions and 1 deduction from the G&H Fee:

- Governmental response
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- Banned, unregistered, or outdated agricultural wastes
- Reusable soiled textile materials
- Disaster victim waste
- Pass through waste deduction

Example: Governmental Response

1. Supporting documentation demonstrating the governmental agency or its contractor did not cause the release of the hazardous substance
2. Evidence immediate action was necessary, such as call logs from emergency response centers or photos of the situation
3. Any other documentation that supports the claim of the exemption

Example: Load Checking Program

1. Records such as a log or inventory documenting that the waste was generated as part of the load checking program
2. Any other documentation that supports the claim of the exemption

Example: Household do-it-yourselfer used oil

1. Records of the amount of “household do-it-yourselfer used oil” that was collected during the calendar year, as required by Health and Safety Code 25174.8.1 (a)(4)(B)
2. Certification as a used oil collection center pursuant to Public Resources Code 48660
3. Any other documentation that supports the claim of the exemption

Areas Requesting Feedback

- What sort of information is currently maintained or could be reasonably obtained by generators?
 - Including but not limited to:
 1. Governmental response
 2. Load checking program
 3. Household do-it-yourselfer used oil
- Any other feedback



Penalty Assessment Framework for Non-Compliance with Reporting Requirements

KAYTHERINE GRANT

FISCAL POLICY AND PROCESS IMPROVEMENT MANAGER



Reporting Penalty

- Authority HSC 25196.1 (a)
- Assessed **per EPA ID** for **each violation**:
 - Failed to Report On-Time
 - Failed to Report
 - Inaccurate Reporting
 - Fraud or Knowingly Reporting False or Inaccurate Information
- Penalties increase for repeated violations, up to cap **per EPA ID**



Penalty Funds

Pursuant to HSC 25173.6, penalty revenues are deposited into Toxic Substances Control Account (TSCA), which supports:

- Site Mitigation and Restoration Program
- Safer Consumer Products program
- Site Remediation Account for NPL and orphan site cleanup



Penalty Matrix

- Proposed regulation to assess penalties by either a Tiered Flat Rate based on tonnage generated or Violation Base Rate plus a Per-Ton Rate

Tiered Flat Rate based on Tonnage Generated

FLAT RATE by Tonnage Generated

less than 5 tons

5 tons but less than 500 tons

500 tons but less than 1,000 tons

1,000 or more tons

OR

Violation Base Rate + Per-Ton Rate

BASE RATE + PER-TON (\$/ton)

Examples:

5 tons generated

500 tons generated

1000 tons generated

Penalty Matrix for Failure to Report On-time

Penalties would be assessed after the reporting deadline

- Penalties would be capped at \$5,000
 - Example: For eVQ, failure to report by March 15th would result in failure to report on-time penalties

Penalty Matrix for Failure to Report

Penalties would be assessed after the final reporting deadline

- Penalties would be capped at \$25,000
 - Example: For eVQ, failure to report by the time the system closes would result in failure to report penalties
 - Example: For TQR, failure to report in the first quarter but only reported in the second or third, penalties would be assessed for failure to report in the first period

Penalty Matrix for Failure to Report On-time and for Failure to Report

Tiered Flat Rate based on Tonnage Generated	Failed to Report On-time			Failed to Report		
	1-30 days late	31-60 days late	61+ days	1st Violation	2nd Violation	3rd+ Violation
less than 5 tons	\$250	\$500	\$1,000	\$2,500	\$5,000	\$10,000
5 tons but less than 500 tons	\$500	\$750	\$1,500	\$5,000	\$10,000	\$15,000
500 tons but less than 1,000 tons	\$750	\$1,500	\$3,000	\$10,000	\$15,000	\$20,000
1,000 or more tons	\$1,500	\$3,000	\$5,000	\$15,000	\$20,000	\$25,000

OR

Violation Base Rate + Per-Ton Rate	Failed to Report On-time			Failed to Report		
	Base Rate 250 + Flat Rate			Base Rate \$1,500 + Flat Rate		
	1-30 days late	31-60 days late	61+ days	1st Violation	2nd Violation	3rd+ Violation
FLAT RATE + PER TON (\$/ton)	\$1.50	\$3.00	\$5.00	\$15.00	\$20.00	\$30.00
Examples:						
5 tons generated	\$258	\$265	\$275	\$1,575	\$1,600	\$1,650
500 tons generated	\$1,000	\$1,750	\$2,750	\$9,000	\$11,500	\$16,500
1000 tons generated	\$1,750	\$3,250	\$5,000	\$16,500	\$21,500	\$25,000

Penalty Matrix for Inaccurate Reporting

Inaccurate reporting of hazardous waste information to DTSC will result in penalties

- Penalties are capped at \$15,000
- Penalties would apply to various reporting activities such as:
 - Reporting systems (e.g. eVQ, TQR and TWW)
 - Information requested by deadline (ex. exemption review process)

Penalty Matrix for Inaccurate Reporting

Tiered Flat Rate based on Tonnage Generated	Inaccurate Reporting		
	1st Violation	2nd Violation	3rd+ Violation
less than 5 tons	\$1,500	\$2,500	\$5,000
5 tons but less than 500 tons	\$2,500	\$5,000	\$7,500
500 tons but less than 1,000 tons	\$5,000	\$7,500	\$10,000
1,000 or more tons	\$7,500	\$10,000	\$15,000

OR

Violation Base Rate + Per-Ton Rate	Inaccurate Reporting		
	Base Rate \$1,000 + Flat Rate		
	1st Violation	2nd Violation	3rd+ Violation
BASE RATE + PER TON (\$/ton)	\$7.50	\$10.00	\$15.00
Examples:			
5 tons generated	\$1,038	\$1,050	\$1,075
500 tons generated	\$4,750	\$6,000	\$8,500
1000 tons generated	\$8,500	\$11,000	\$15,000

Penalty Matrix for Fraud or Knowingly Reporting False/Inaccurate Information

Fraudulently reporting or knowingly reporting false and/or inaccurate information will result in penalties

- Fraud penalties are capped at \$70,000
- Base Rate + Flat Rate Based option will result in \$70,000 penalty regardless of the total generated waste tonnage

Penalty Matrix for Fraud or Knowingly Reporting False/Inaccurate Information

- Penalties for fraud or knowingly/willingly providing inaccurate information would result in \$70,000 penalty per violation

Tiered Flat Rate based on Tonnage Generated	Fraud or Knowingly Reporting False/Inaccurate Information
less than 5 tons	\$25,000
5 tons but less than 500 tons	\$40,000
500 tons but less than 1,000 tons	\$50,000
1,000 or more tons	\$70,000

OR

Violation Base Rate + Per-Ton Rate	Fraud or Knowingly Reporting False/Inaccurate Information
Examples:	
5 tons generated	
500 tons generated	
1000 tons generated	\$70,000

Areas Requesting Feedback

- Preference on the penalty matrix framework
- Feedback on the penalty caps on each type of violation
- Feedback on the timeline for when "failure to report" violations apply
- Are there extenuating circumstances in which penalties should be waived or adjusted?
- Other questions/open feedback



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