

[Assembly Bill 2794](#) (Santiago)

Date: 03/17/16

Program: Hazardous Waste Application Fee

Sponsor: Author

Health and Safety Code Section 25205.7

Effective January 1, 2017

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This analysis only addresses the provisions that impact the Board of Equalization (BOE).

Summary: Eliminates the flat-rate hazardous waste application fee option¹ for persons that apply with the Department of Toxic Substances Control (DTSC) for a new permit, a postclosure permit, a permit renewal, a class 2 or class 3 permit modification, a variance, or a waste classification determination.

Purpose: To provide full cost recovery to DTSC for hazardous waste facility permit decisions.

Fiscal Impact Summary: Flat-rate application fees over the last three fiscal years (FY) averaged \$333,333.

Existing Law: The BOE administers six hazardous waste fee programs in cooperation with the DTSC, pursuant to the requirements of the California Hazardous Substances Tax Law. Five of the fees are: (1) the environmental fee on certain types of organizations based on their use, storage, generation, or activities connected to hazardous materials,² (2) the facility fee imposed on the storage, treatment, or disposal of hazardous waste,³ (3) the generator fee based on the generation of hazardous waste at a specific site,⁴ (4) the transportable treatment unit (TTU) fee imposed on a per treatment unit, not per facility,⁵ and (5) the disposal fee assessed on hazardous waste disposed of by depositing on, or into, land.⁶

The sixth fee (activity fee) is essentially an application processing fee imposed on any person that applies for, or requests, a new hazardous waste facilities permit, a hazardous waste facilities permit for postclosure, a renewal of an existing hazardous waste facilities permit, including a standardized permit or postclosure permit, a class 2 or class 3 permit modification of an existing hazardous waste facilities permit, a variance, or a waste classification determination. The applicant pays the fee either by entering into a reimbursement agreement with DTSC, or paying a one-time, flat-rate fee to the BOE.⁷

The BOE collects the optional flat-rate application processing fee according to the Hazardous Substances Tax Law.⁸ The fees are billed by BOE upon notification from DTSC. The fee is non-refundable, even if the application is withdrawn or the permit or the modification is denied. The fee is tiered based on the permitted level of the facility and the type of permit activity. The fees are as follows:

¹ The fee rate varies according to the activity requested, and called the "activity fee."

² Health and Safety Code (HSC) Section 25205.6.

³ HSC Sections 25205.2, 25205.3, and 25205.4.

⁴ HSC Sections 25205.5, 25205.22, and 25174.7.

⁵ HSC Section 25205.14.

⁶ HSC Sections 25174.1, 25174.2, 25174.6, and 25174.7.

⁷ HSC Section 25205.7.

⁸ Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code (RTC).

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the BOE's formal position.

Permit Application	Type of Applicant/Activity	Applicant Size/Type	1997 Base Rates	2016 Rates
Hazardous Waste Facilities Permit Application	Land Disposal Facility	Small Facility	\$104,187	\$166,596
		Medium Facility	\$222,183	\$355,272
		Large Facility	\$381,602	\$610,183
	Incinerator	Small Facility	\$62,762	\$100,357
		Medium Facility	\$133,060	\$212,762
		Large Facility	\$228,458	\$365,310
	Storage Facility, Treatment Facility, or Storage and Treatment Facility	Small Facility	\$21,340	\$34,123
		Medium Facility	\$38,913	\$62,225
		Large Facility	\$75,317	\$120,431
	Transportable Treatment Unit	Small Unit	\$16,320	\$26,095
		Medium Unit	\$37,657	\$60,214
		Large Unit	\$75,317	\$120,431
	Postclosure Permit	Small Facility	\$10,040	\$16,055
		Medium Facility	\$22,596	\$36,131
		Large Facility	\$37,657	\$62,214
Standardized Permit Application	Storage Facility Treatment Facility Storage and Treatment Facility	Series A	\$32,052	\$51,254
		Series B	\$20,011	\$31,999
		Series C	\$5,332	\$8,526
Permit Modification Application		Class 2 Class 3	Variable percentage of the fee for a new permit for that facility.	
Renewal of Existing Permit			An amount equal to a comparable permit modification application, but not less than one-half a new permit fee.	

The BOE adjusts the flat-rate activity fees annually to reflect changes in the cost of living.

Proposed Law: This bill amends HSC Section 25205.7 to delete the optional flat-rate hazardous waste activity fee for persons that apply for a new permit, a postclosure permit, a renewal of an existing permit, a class 2 or class 3 permit modification, a variance, or a waste classification determination.

Background: An Independent Review Panel (IRP) recently issued recommendations to the governor, Legislature, and DTSC to address various DTSC administrative issues. Among other things, the IRP specifically recommends DTSC recover full reimbursement in order to improve permitting functions.⁹

⁹ <http://www.dtsc.ca.gov/GetInvolved/ReviewPanel/upload/SignedFinal.pdf>, see p.8.

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In General: By statute, the BOE collects the optional one-time, flat-rate hazardous waste application fee for DTSC. If an applicant chooses to enter into a reimbursement agreement with DTSC, they handle all aspects of that payment option.

Commentary:

1. **BOE staff does not foresee any administrative problems with the elimination of the optional flat-rate fee.** The January 1, 2017 effective date provides adequate time to revise publications and answer questions from the public. BOE staff reports that there has been an average of nine, one-time, flat-rate application billings in each of the last three fiscal years, with average revenues of \$333,333.
2. **DTSC handles all aspects of the applicant’s reimbursement agreement.** As discussed, the BOE has no administrative involvement when the DTSC-applicant requests a reimbursement agreement. This bill does not alter DTSC’s responsibility for administering reimbursement agreements.

Administrative Costs: This bill decreases BOE administrative costs. These cost savings appear to be insignificant (under \$10,000), but will be evaluated further as this bill progresses.

Revenue Impact: This bill is intended to provide full cost recovery to DTSC for hazardous waste activity permit decisions. The bill deletes the optional flat-rate fee that the BOE collects, therefore, the previous flat-rate applicants will have to enter into a reimbursement agreement with DTSC. The BOE does not have information regarding DTSC costs related to their hazardous waste facility permit decisions, but, as a point of reference, the flat-rate fee revenues from FY 2013-14 to FY 2015-16 are as follows:

Fiscal Year	Flat-rate fees (in millions)
2015-16 ¹⁰	\$0.2
2014-15	\$0.6
2013-14	\$0.2

¹⁰To date, as of 03/30/16.

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