



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	02/23/07	Bill No:	SB 817
Tax:	Hazardous Waste	Author:	Ducheny
Related Bills:			

BILL SUMMARY

This bill would provide an exemption from the hazardous waste facilities permit for a generator that treats and immobilizes, “encapsulates”, the silver in photoimaging solutions that are hazardous solely due to their silver content.

ANALYSIS

CURRENT LAW

Under existing law, the Health and Safety Code (HSC) imposes various hazardous waste fees on the generation, storage, treatment, and disposal of hazardous wastes. These fees are collected by either the Board, the Department of Toxic Substances Control (DTSC), or Certified Unified Program Agencies (CUPAs).

HSC Section 25201.5 provides that certain small generators are exempt from obtaining a hazardous waste facilities permit if the amount of hazardous waste treated in any calendar month does not exceed a total weight of 500 pounds or a total volume of 55 gallons, and both of the following conditions are met:

- As defined and/or approved in DTSC regulations: the hazardous waste is not an extremely hazardous waste; the waste is eligible for treatment under a permit-by-rule; and the treatment technology used is approved to treat that waste.
- The generator is not otherwise required to obtain a hazardous waste facilities permit or other grant of authorization for any other hazardous waste management activity at the facility.

Additionally, a hazardous waste facilities permit or other grant of authorization is not required if the generator treats the hazardous waste using the treatment technologies as provided in subdivision (c) of Section 25201.5.

Section 25143.13 provides an exemption from the regulation and other authorization requirements for generators that remove silver from photoimaging solutions and wastewaters that are hazardous wastes solely due to their silver content (“silver only” hazardous waste). In cases where the businesses are treating the “silver only” hazardous waste solutions onsite their treatment activity is exempt from the permit requirements.

HSC Section 25205.14 generally provides that in those cases where an area is not covered by a CUPA, and the facility owner or generator is operating under a permit-by-rule, grant of conditional authorization, or is conditionally exempted, then the applicable permit fee would be paid to the Board. The fee imposed by this section is paid to the

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Board in accordance with the Hazardous Substances Tax Law (Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code).

Among other things, Section 25404.5 requires a CUPA to institute a single fee system which replaces the fees assessed under Section 25205.14. If a person complies with the CUPAs "single fee system" then they are not required to pay the fee levied pursuant to Section 25205.14.

PROPOSED LAW

This bill would amend Section 25201.5 of the Health and Safety Code to provide an exemption from the hazardous waste facilities permit the treatment of spent photoimaging solutions that are hazardous solely due to their silver content, if the following conditions are met:

- No more than 27 gallons of photoimaging solution is treated per month.
- The photoimaging solution is treated by a sorbent or any other technology approved by the DTSC that immobilizes the silver so that the resulting non-liquid product no longer exhibits any characteristic of a hazardous waste.

If a sorbent is used to treat the photoimaging solution, then the sorbent is considered a nonbiodegradable sorbent as specified in DTSC regulations.

This bill would become effective January 1, 2008.

BACKGROUND

In 1993, SB 1082 (Ch. 418) was enacted to comprehensively reform California's state and local environmental programs. The most significant component of SB 1082 was the creation of a unified local hazardous waste and hazardous materials management program. This provision consolidated both the state regulations and the local implementation and enforcement of six state hazardous waste management and hazardous materials planning and reporting programs. One of the consolidated programs pertained to hazardous waste generators and hazardous waste treatment.

The Unified Program was implemented at the local government level by CUPAs. A CUPA is an agency that is certified by the Secretary of the California Environmental Protection Agency to implement the program consolidation. All counties were required to apply for certification by January 1, 1996. Qualified cities, and other local agencies, were required to apply within the same time frame.

SB 2111 (Ch. 309, Stats. 1998) added Section 25143.13 which basically provided that treatment of photoimaging solutions and wastewaters would no longer be subject to certain regulatory and permit requirements. The treatment process affected by this bill primarily applied to a machine that was placed onsite which separated the silver from the water, with the treated waste water being discharged to a sewer and the silver-rich treatment residue sent offsite for reclamation.

In 2004, AB 2969 (La Malfa) was sponsored by Waste & Compliance Management (WCM), Inc., the manufacturer of Chemgon, a product that treats and solidifies, "encapsulates," the "silver only" hazardous waste solution. The resulting solid would be placed with other office trash for final disposal in a landfill. AB 2969 would have amended Section 25143.13 to provide an exemption from certain regulatory and permit requirements for generators that perform onsite "encapsulation" of "silver only"

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hazardous waste solutions. The bill failed passage in the Assembly Committee on Environmental Safety and Toxic Materials.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by WCM, Inc., the manufacturer of Chemgon. The bill is intended to provide an exemption from the facilities permit for generators that treat their “silver only” hazardous waste solutions onsite. The sponsor contends that this bill will level the playing field between onsite water separation treatment of the photoimaging solutions and wastewaters and onsite “encapsulation” of that same hazardous waste.
2. **This bill may not impact the Board.** This bill appears to provide an exemption from the more expensive facilities permit, but subjects the generators of encapsulated “silver only” hazardous waste solutions to permit-by-rule, grant of conditional authorization, or CUPA requirements, if certain conditions are met.

In general, the small-quantity generators that would be affected by this bill include businesses that perform photo processing and printing and dental/medical clinical industries. These types of businesses are not primarily hazardous waste treatment facilities and would not normally be registered with the Board. It is more likely that the small-quantity generator would either have its photoimaging solutions and wastewaters picked up and treated offsite, or it would treat the material onsite through a water treatment process so as to be exempt from the regulatory and permit requirements as provided in Section 25143.13. Any businesses that “encapsulate” the silver onsite would register with the CUPA.

3. **CUPAs collect the fee.** Those businesses that perform the onsite “encapsulation” of the “silver only” hazardous waste solutions would register with the local CUPA and pay the required fee to the CUPA under the “single fee system” as provided in HSC Section 25404.5. A generator of “silver only” hazardous waste solutions not covered by a CUPA would pay the fee to the Board, upon notification to the Board by the DTSC of the generator’s liability, pursuant to HSC Section 25205.14.

COST ESTIMATE

It does not appear that the Board would incur any additional costs as a result of this bill. Currently, there is only one permit-by-rule or conditional authorization generator that is registered with the Board.

REVENUE ESTIMATE

This measure does not appear to affect the revenues collected by the Board.

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