

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
9211 Oakdale Ave
Chatsworth, CA 91311

Project Title: Amendments to the Non-Admitted Carrier Requirements for Excess and Surplus Line Insurance

Project Location: Statewide

County: Countywide

Project Applicant: Department of Toxic Substances Control

Approval Action Under Consideration by DTSC: Regulations

Statutory Authority: California Health and Safety Code, Chapter 6.5

Project Description: The California Department of Toxic Substances Control (DTSC), pursuant to authority granted under California 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 and requires 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. The proposed regulations amend the requirements of hazardous waste facilities that elect to use insurance as a financial mechanism in order to cover their closure, post-closure, corrective action, and third-party liability obligations.

The proposed amendments change the requirement by permitting a non-admitted carrier licensed as an insurer in its domiciliary jurisdiction to issue excess or surplus line insurance not placed by and through a surplus lines broker that is currently licensed by the California Department of Insurance (CDI) if the carrier is listed on either the List of Approved Surplus Line Insurers (LASLI), the National Association of Insurance Commissioners' (NAIC), International Insurers Department Quarterly Listing of Alien Insurers (IID List), and is a licensed insurer in their domiciliary jurisdiction. Furthermore, excess or surplus line insurance placed with a non-admitted carrier would no longer have to be placed by and through an excess or surplus line broker currently licensed by CDI.

The proposed amendments would resolve the inconsistency by expanding the eligibility requirements and making non-admitted insurance carriers eligible to provide excess or surplus line insurance to hazardous waste facilities if the carriers are listed on either the LASLI or the IID List and are licensed in their domiciliary jurisdiction. Furthermore, DTSC believes the standards of LASLI and those of IID are fundamentally the same and that either standard would continue to ensure the environment and taxpayer liability is sufficiently protected.

The proposed amendments to the regulations include amending Division 4.5 of Title 22 CCR sections 66264.143(e)(1)(B); 66264.145(e)(1)(B); 66264.147(a)(1)(A)2.; 66264.147(b)(1)(A)2.; the wording of instruments in sections 66264.151(e), 66264.151(i) and 66264.151(j); 66265.143(d)(1)(B); 66265.145(d)(1)(B); 66265.147(a)(1)(A)2.; and 66265.147(b)(1)2.

Background:

DTSC is the State agency charged with administering and enforcing the state hazardous waste management requirements under the Hazardous Waste Control Law (HWCL) and its implementing regulations in Division 4.5 of Title 22 of the California Code of Regulations (CCR). 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 maintain a hazardous waste facility permit issued by DTSC in order to accept, treat, store or dispose of hazardous waste at the facility.

The State hazardous waste program requires owners or operators of hazardous waste facilities to provide evidence of financial assurance to DTSC. Owners or operators of a hazardous waste facility may elect to use insurance as a financial assurance mechanism to satisfy the facility’s closure, post-closure, corrective action, or third-party liability requirements. Insurance coverage can either be obtained from an admitted carrier, licensed to transact the business of insurance in California, or a non-admitted carrier. For a non-admitted carrier to be eligible, it must be listed on the LASLI as being eligible to cover risks in California. Further, the owner or operator must place excess or surplus line insurance through a broker currently licensed by CDI.

Project Activities:

. . The proposed project is part of a statewide rulemaking project that consists of adding or amending sections 66264.143(e)(1)(B); 66264.145(e)(1)(B); 66264.147(a)(1)(A)2.; 66264.147(b)(1)(A) 2; 66265.143(d)(1)(B); 66265.145(d)(1)(B); 66265.147(a)(1)(A)2.; 66265.147(b)(1)2, and the wording of instruments in sections 66264.151 (e), 66264.151(i) and 66264.151(j) to Division 4.5 of Title 22 of the CCR.

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

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

Exempt Status: Categorical Exemption: [CCR Title 14 Sec. 15308].

Reasons Why Project is Exempt:

DTSC has determined none of the exceptions to the categorical exemptions apply to this project, as described in Public Resources Code Section 21084(c), (d), and (e), and 14 CCR Section 15300.2. DTSC has determined that the proposed regulatory amendments 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.

The administrative record for this project is available to the public by appointment at the following location:

Department of Toxic Substances Control
 Hazardous Waste Management Program
 9211 Oakdale Ave
 Chatsworth, CA 91311

Contact Person	Contact Title	Phone Number
Kevin Montevideo	Senior Environmental Scientist (Specialist)	(818) 717-6671

Approver’s Signature:

Date:

Michael Robertson

December 11, 2023

Approver’s Name	Approver’s Title	Approver’s Phone Number
Michael Robertson	Senior Environmental Scientist (Supervisor)	(213) 407-1879

TO BE COMPLETED BY OPR ONLY

Date Received for Filing and Posting at OPR: