

Fact Sheet
May 2005

Fixed Treatment Unit Operating Under Conditionally Exempt-Limited



Hazardous Waste Management Program

*DTSC is one of six
Boards and
Departments within
the California
Environmental
Protection Agency.
The Department's
mission is to restore,
protect and enhance
the environment,
to ensure public health,
environmental
quality and
economic vitality,
by regulating
hazardous waste,
conducting and
overseeing
cleanups, and
developing
and promoting
pollution prevention.*

State of California



California
Environmental
Protection Agency



INTRODUCTION

The Department of Toxic Substances Control (DTSC) developed this fact sheet to assist owners and operators of fixed treatment units (FTUs) in complying with Conditionally Exempt-Limited (CEL) laws and regulations. CEL laws and regulations are part of a tiered permitting system for hazardous waste treatment in California. This fact sheet describes the requirements for owners or operators who would like to treat hazardous waste under the CEL tier.

This fact sheet applies to FTUs only, since Transportable Treatment Units (TTUs) are ineligible to operate under CEL. This fact sheet supersedes the 1996 CEL fact sheet and includes the revised definition of the term "treatment." Definitions of the terms used in this fact sheet are listed on pages six to eight.

This fact sheet will help you determine if you are eligible to operate an FTU under CEL. It will also help you understand the various administrative and technical operating requirements for conducting onsite treatment of hazardous waste. However, be advised that this fact sheet contains general information only and is not a substitute for the actual laws, the Health and Safety Code (Health & Saf. Code) division 20, chapter 6.5, and California Code of Regulations (Cal. Code Regs.), title 22, division 4.5.

You may contact your local Certified Unified Program Agency (CUPA) for additional information and instructions since the CUPA is responsible for reviewing notification forms from businesses located within its jurisdiction. A list of CUPA addresses and phone numbers is available on the California CUPA web site at www.calcupa.net/localagencylisting.pdf, and on the California Environmental Protection Agency (Cal/EPA) web site at www.calepa.ca.gov/CUPA/CUPAMail.htm.

Background on California's Tiered Permitting System

The Wright-Polanco-Lempert Hazardous Waste Treatment Permit Reform Act of 1992 established a five-tiered program for authorizing the treatment and storage of

hazardous waste at many businesses required to have State authorization, but not federal authorization (i.e., authorization under the federal Resource Conservation and Recovery Act (RCRA)). This five-tiered program matches the regulatory requirements to the degree of risk posed by the facility's activities.

The permitting tiers consist of the following: Full Permit, Standardized Permit, Permit by Rule (PBR), Conditionally Authorized (CA), and Conditionally Exempt (CE). They are arranged in descending order of regulatory oversight.

- **The Full Permit tier** allows treatment and storage of RCRA and California only (non-RCRA) hazardous waste pursuant to Title 40, Code of Federal Regulations (C.F.R.), parts 264 and 270, and California Code of Regulations, title 22, section 66264.1 et seq., and section 66270.1 et seq. It includes all facilities requiring a RCRA permit (such as incinerators and land disposal facilities), and selected non-RCRA activities.
- **The Standardized Permit tier** allows offsite treatment and storage of non-RCRA and RCRA-exempt hazardous waste (Health & Saf. Code §25201.6). It includes, but is not limited to, recyclers, oil transfer stations, and precious metals recyclers.
- **The PBR tier** allows onsite treatment of non-RCRA and RCRA-exempt hazardous waste (Cal. Code Regs., tit. 22, §67450.11). This tier

is for more hazardous and higher volume wastestreams and processes than the other two lower tiers.

- **The Conditionally Authorized tier** allows onsite treatment of non-RCRA and RCRA-exempt hazardous waste (Health & Saf. Code §25200.3). This tier is limited to single-hazard wastes and treatment in the unit cannot exceed 5,000 gallons or 45,000 pounds in a calendar month. However, there is no volume limit for treatment of specified dilute aqueous, acidic, alkaline, or oily wastes.
- **The Conditionally Exempt tier** allows onsite treatment of non-RCRA and RCRA-exempt hazardous waste (Health & Saf. Code §25201.5(a) and (c), §25201.14, and §25144.6(c)). This tier is for smaller quantities or less risky waste and treatment methods. It includes: Conditionally Exempt-Small Quantity Treatment, Conditionally Exempt-Specified Wastestreams, Conditionally Exempt-Commercial Laundries, and Conditionally Exempt-Limited.

Am I eligible to treat waste under CEL?

You are eligible to treat waste under CEL if your wastestreams and treatment processes are listed in Health and Safety Code section 25201.14. A list of those wastestreams and treatment processes are included in this fact sheet on page six. Additionally, to be eligible:

- You may only treat waste that is generated onsite;
- There is no volume limitation; and
- You may not treat waste that requires a federal hazardous waste treatment permit under RCRA.

Conditionally Exempt-Limited Tier Requirements

If you intend to operate under the CEL tier, you must comply with the following requirements:

Notification: You must complete and submit the following forms to your CUPA (or DTSC in a non-CUPA jurisdiction):

- Business Activities Page;
- Business Owner/Operator Identification Page;
- Onsite Hazardous Waste Treatment Notification-Facility Page; and
- Onsite Hazardous Waste Treatment Notification–Unit Page of the Unified Program Consolidated Form (revised 1999).

Note: Your CUPA may require that your completed notification include a plot plan, flow diagrams and detailed descriptions of waste streams and treatment processes. This may require adding supplemental pages to the notification forms.

Each treatment unit requires a unit specific notification form. You must submit the forms at least **60 days** before beginning the first waste treatment. If you demonstrate good cause, the time period between notification and treatment can be shortened. Forms are available from your local CUPA,

DTSC, or the Internet at www.calepa.ca.gov/Publications/Title27/. Forms may be submitted in person or sent by certified mail, with return receipt requested, to your CUPA. If you wish to submit the forms electronically, you should first contact your CUPA to determine if electronic submissions are possible.

If a change occurs to any information contained in your most recent notification, submit an amended notification package to your CUPA. Always keep a copy of the notifications that you submit and any CUPA acknowledgments that you receive.

Generator Operating Standards:

Generators conducting CEL treatment must comply with hazardous waste generator standards in California Code of Regulations, title 22, division 4.5, chapter 12. For an overview of these standards, see DTSC’s fact sheets titled “Hazardous Waste Generator Requirements Fact Sheet” (January 2002) and “Accumulating Hazardous Wastes at Generator Sites Fact Sheet” (January 2002). Copies of these fact sheets are available on DTSC’s Internet web site at http://www.dtsc.ca.gov/HazardousWaste/upload/HWM_FS_Generator_Requirements.pdf and http://www.dtsc.ca.gov/HazardousWaste/upload/HWM_FS_Accumulating_HazWaste_Generators.pdf, respectively.

Operating Records: Maintain all records required by the hazardous waste generator standards. In addition, you must maintain the following records onsite for three years (Health & Saf. Code §25201.5(d)):

- Written operating instructions for the treatment unit, and a record of the dates, amounts, and types of

waste treated, such as a treatment log book.

- Written inspection schedule and a log of the inspections you conducted of each treatment unit.
- If discharging your waste to the sewer, records to demonstrate that you are in compliance with all applicable requirements for pretreatment and discharge.

Financial Assurance: You are exempt from financial assurance requirements (e.g., having to provide third party liability coverage for environmental accidents and financial assurance for closure).

Fees: If you conduct treatment authorized under CEL, you will be billed a CEL fee by your CUPA. Your CUPA can provide you with more specific fee information, as CEL fees may vary with each county. *(Note: Each CUPA instituted a single fee system that allows for a single billing to cover the costs of oversight and inspection of your hazardous waste management activities (Cal. Code Regs., tit. 27, §15210).*

In non-CUPA counties, there is an initial notification fee of \$100 (which may be adjusted for inflation), payable to the State Board of Equalization, but there is no annual CEL fee (Health & Saf. Code §25205.14(c)).

Containers: If you treat hazardous waste in containers, you must comply with the standards for container storage and transfer activities specified in California Code of Regulations, title 22, division 4.5, chapter 14, section 66264.175, and chapter 15, article 9 (commencing with section 66265.170). Requirements include proper management for all container transfer and storage areas, proper management of the

containers to prevent leaks, and weekly inspections of the storage areas.

Tanks: If you treat hazardous waste in tanks (onground or aboveground) you must comply with the standards for storage and treatment of hazardous wastes in tanks applicable to generators.

Large Quantity Generators: If you generate 1,000 kilograms (approx. 2,200 pounds) or more of hazardous waste per month, you must comply with the standards for storage and treatment of hazardous wastes in tanks set forth in California Code of Regulations, title 22, division 4.5, chapter 15, article 10 (sections 66265.190-66265.199, except 66265.197)). Most new and existing tanks must undergo an integrity assessment and have secondary containment before being placed into service. The assessment must be in writing and certified by a qualified professional engineer (Cal. Code Regs., tit. 22, §66265.192(a)). Tanks must be reassessed every five years.

Several small categories of existing tanks may be temporarily exempt from secondary containment requirements (for details, see Cal. Code Regs., tit. 22, §66265.193). Those tanks must undergo an integrity assessment every year. The assessment must be in writing and certified by a professional engineer (see Cal. Code Regs., tit. 22, §66265.191).

Small Quantities Generators: If you generate less than 1,000 kilograms (approx. 2,200 lbs) of waste per month, and the total waste accumulated onsite never exceeds 6,000 kilograms, you must comply with the federal tanks standards incorporated into the California regulations by reference (see Cal. Code Regs., tit. 22, §66262.34(d)). The significant difference

is that you are not required to provide secondary containment and engineer certifications for your tank system.

Note: Generators treating hazardous waste in non-RCRA or RCRA-exempt *underground* tanks are subject to applicable standards in California Code of Regulations, title 23.

Ancillary Equipment: You are not required to have secondary containment for ancillary equipment for a tank or container treating hazardous waste, if the ancillary equipment has undergone an integrity assessment pursuant to California Code of Regulations, title 22, section 66265.191 every two years from that the date that retrofitting requirements would otherwise apply (Health & Saf. Code §25201.5(e)(1)).

Closure of Treatment Units: You are not required to prepare and maintain a written closure plan. However, you must comply with the all the requirements for proper closure specified in Health and Safety Code section 25201.5(d)(8). Remove and decontaminate all waste residues, containment system components, soils, and other structures or equipment contaminated with hazardous waste from the unit. Remove the unit from service in a manner that minimizes the need for further maintenance and eliminates the escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or waste decomposition products to the environment after treatment is ceased. If hazardous waste contamination of the site has occurred, you must notify your local CUPA and DTSC.

When you permanently cease operation of an unit, you must notify your local CUPA, in writing, that you have properly closed the unit, pursuant to Health and Safety

Code section 25201.5(d)(8). The closure notification should include the following information: company name, address, EPA ID number, unit number, tier of authorization, and date of closure.

Corrective Action: Corrective Action includes assessing the property for any previous release of hazardous wastes using a Tiered Permitting Phase I Environmental Assessment Checklist (DTSC Form 1151), and cleaning up any contamination that poses a risk to public health and the environment. You must submit a Checklist within one year of initial authorization (Health & Saf. Code §25200.14(b)(1)). Submit the checklist to DTSC and a copy to your CUPA by the applicable deadline. If further investigation is needed, submit a schedule for further investigating the potential problem within 90 days after you submitted the Checklist (Health & Saf. Code §25200.14(e)(1)). The Checklist is available on DTSC's Internet web site at <http://www.dtsc.ca.gov/HazardousWaste/index.html>.

Public Notice and Local Land Use: For purposes of local land use decisions, your facility is not considered a hazardous waste treatment facility if your facility is authorized under CEL. Also, you are not required to publish a public notice regarding your treatment operation.

Disclosure Requirement: You are exempt from the requirement to provide a disclosure statement regarding past environmental violations, compliance orders, convictions or judgments (Health & Saf. Code §25200.4).

Inspection Programs: Any authorized agency, including your local CUPA and DTSC may inspect your facility at any

time. At a minimum, your facility will be inspected within two years of your initial notification, and then every three years thereafter (Health & Saf. Code §25201.4(b)(2)).

Training Classes: California Compliance School offers training on Tiered Permitting. The class focuses on how to comply with hazardous waste management requirements. Call California Compliance School at (800)-337-1422, or access its web site at www.compliance.org for information regarding class times, locations, cost, and enrollment instructions. California Compliance School also offers four generator modules, with classes available at central locations statewide or at your worksite.

CEL Wastestreams: The following are the eligible wastestreams and treatment processes for fixed treatment units operating under CEL (Health & Saf. Code §25201.14). *Note that aerosol can treatment is no longer authorized under CEL, but is now authorized under DTSC's universal wastes regulations.*

1. The separation of used oil from water, provided that the wastestream is hazardous solely due to the oil and the used oil is properly transported to an authorized offsite oil recycler. You may treat using:
 - Gravity separation;
 - Centrifugation;
 - Membrane Technology;
 - Heating of water containing used oil to a temperature that is not more than 20 degrees Fahrenheit below the flashpoint of the used oil component of the mixture at atmospheric pressure; and

- Addition of demulsifiers to water containing used oil.

Note: The authorized separation of used oil from water may not include a method using any of the following:

- Contaminated groundwater.
- Water containing any measurable amounts of gasoline, or more than two percent (2%) of a combination of a Number 1 or Number 2 diesel fuels.
- Constituents that render the material hazardous under DTSC's regulations.

Definitions

Certified Unified Program Agency (CUPA): A CUPA is a local agency, such as a county, city, or Joint Powers Agency that is certified by the Secretary for Environmental Protection to implement the Unified Program within a jurisdiction as specified in Health and Safety Code division 20, chapter 6.11. The CUPAs are responsible for consolidating, coordinating, and making consistent many environmental programs.

Fixed Treatment Unit (FTU): An FTU is any equipment that performs hazardous waste treatment that is permanently stationed at a single facility regardless of the period or frequency of treatment.

Onground Tank: A device meeting the definition of "tank," situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected (see Cal. Code Regs., tit. 22, §66260.10).

Phase I Environmental Assessment: A preliminary site assessment based on reasonably available knowledge of the facility, including, but not limited to, historical use of the property, prior releases, visual and other surveys, records, consultant reports, and regulatory agency correspondence.

Transportable Treatment Unit (TTU): A TTU is any mobile equipment that performs treatment, is transported to a facility to perform a treatment, and is not permanently stationed at a single site.

Treatment: Any method, technique, or process which is not otherwise excluded, or which is designed to change the physical, chemical, or biological character or composition of the hazardous waste or material it contains, or which removes or reduces its harmful properties or characteristics for any purpose. If the activity that you are conducting is consistent with this definition, you are required to obtain a permit or a grant of authorization through your CUPA. However, if your activity is not considered regulated treatment, you do not need a permit or grant of authorization. The following activities do not require a permit or a grant of authorization (see Health & Saf. Code §25123.5):

- Sieving or filtering liquid hazardous waste to remove solid fractions, without added heat, chemicals, or pressure, as the waste is added to or removed from a storage or accumulation tank or container (sieving or filtering does not include adsorption, reverse osmosis, or ultra-filtration).

- Phase separation of hazardous waste during storage or accumulation in tanks or containers, if the separation is unaided by the addition of heat or chemicals. If the phase separation occurs at a commercial offsite permitted storage facility, all phases of the hazardous waste must be managed as hazardous waste after separation.
- Combining two or more wastestreams that are compatible into a single tank or container if both of the following conditions apply:
 - The wastestreams are being combined solely for the purpose of consolidated accumulation or storage or consolidated offsite shipment, and they are not being combined to meet a fuel specification or to otherwise be chemically or physically prepared to be treated, burned for energy value, or incinerated.
 - The combined wastestream is managed in compliance with the most stringent of the regulatory requirements applicable to each individual wastestream.
- Evaporating water from hazardous wastes in tanks or containers, such as breathing and evaporation through vents and floating roofs, without adding pressure, chemicals, or heat other than sunlight or ambient room lighting or heating.
- Combining glutaraldehyde or orthophthalaldehyde, used by

medical facilities to disinfect medical devices, with formulations containing glycine as the sole active chemical, if the process is carried out onsite. This activity is only allowed for medical facilities.

Unified Program: The Unified Hazardous Waste and Hazardous Materials Management Regulatory Program is commonly referred to as the Unified Program. The Unified Program consolidated several major environmental management and emergency management programs at the local government level to help businesses subject to waste management requirements comply with the legal requirements (Health & Saf. Code, div. 20, ch. 6.11).

Unit: A unit is a tank, a container, or a combination of tanks or tank systems and/or containers located together that are used in sequence to treat or accumulate one or more compatible hazardous wastestreams. The devices are either plumbed together or otherwise linked so as to form one treatment system (see Cal. Code Regs., tit. 22, §66260.10).

Disclaimer

This fact sheet does not replace or supersede relevant statutes and regulations. The information contained in this fact sheet is based upon the statutes and regulations in effect as of the date of the fact sheet. Interested parties should always review the most recent relevant statutes and regulations.

For assistance or additional information, contact your local CUPA. CUPA addresses

and phone numbers are available at www.calepa.ca.gov/CUPA/CUPAMail.htm. You can also contact the DTSC office nearest you and the DTSC Public and Business Liaisons at (800) 72TOXIC (1-800-728-6942), or visit DTSC's Internet web site, at www.dtsc.ca.gov.

For more information, contact the DTSC office nearest you, or call the regional Regulatory Assistance Officers at (800) 72-TOXIC (800-728-6942). From outside California, call (916) 255-3545.

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