

**State of California
Office of Administrative Law**

In re:
Board of Environmental Safety

Regulatory Action:

Title 22, California Code of Regulations

Adopt sections: 66269.3, 66269.4, 66269.5

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2023-0920-02

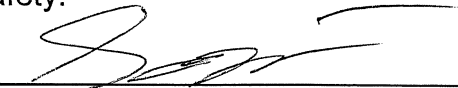
OAL Matter Type: Emergency (E)

In this rulemaking the Board of Environmental Safety (BES) within the Department of Toxic Substances Control (DTSC) promulgates fees for facilities which process hazardous waste, the generation of hazardous waste, and entities which generate hazardous waste based on their size. These fees apply for the 2023-24 fiscal year.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code and sections 25205.2.1, 25205.5.01, and 25205.6.1 of the Health and Safety Code.

This emergency regulatory action is effective on 10/1/2023. Pursuant to Health and Safety Code sections 25205.2.1, 25205.5.01, and 25205.6.1, "A regulation adopted pursuant to this section may be adopted as an emergency regulation ... and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, and safety, and general welfare. Notwithstanding Chapter 3.5 ... an emergency regulation adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law. A regulation adopted pursuant to this section shall remain in effect until repealed by the Board of Environmental Safety."

Date: September 28, 2023



Sam Micon
Attorney

For: Kenneth J. Pogue
Director

Original: Swati Sharma, Executive
Director

Copy: Gregory Forest

EMERGENCY

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2023	EMERGENCY NUMBER -0920-02E
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For use by Office of Administrative Law (OAL) only

OFFICE OF ADMIN. LAW
2023 SEP 20 AM 11:15

NOTICE	REGULATIONS
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ENDORSED - FILED
in the office of the Secretary of State
of the State of California

SEP 28 2023

1:42 PM

AGENCY WITH RULEMAKING AUTHORITY
Board of Environmental Safety, Department of Toxic Substances Control

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Fee Rates for FY 2023-24	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 66269.3, 66269.4, and 66269.5
	AMEND
	REPEAL
TITLE(S) 22	

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) October 1, 2023
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Gregory Forest	TELEPHONE NUMBER (279) 895-5154	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Gregory.Forest@dtsc.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Swati Sharma</i>	DATE September 20, 2023
TYPED NAME AND TITLE OF SIGNATORY Swati Sharma, Executive Officer	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

SEP 28 2023

Office of Administrative Law

PROPOSED REGULATORY TEXT (REVISED 9-27-2023)

Note: Proposed changes are illustrated with additions in underlining to show where the new text is being added. Proposed text for deletion (repeal) is shown in strikethrough.

Add Title 22, division 4.5, chapter 19, section 66269.3 to read:

66269.3. Facility Fee Rates for the 2023-24 Fiscal Year.

- (a) The annual fee amounts for the 2023-24 fiscal year are as follows.
- (b) The base fee is ninety-four thousand nine hundred ten dollars (\$94,910). Except as provided in subsection (c), in computing the facility fees, all of the following shall apply:
 - (1) The fee to be paid by a ministorage facility shall equal 25 percent of the base facility rate.
 - (2) The fee to be paid by a small storage facility shall equal the base facility rate.
 - (3) The fee to be paid by a large storage facility shall equal twice the base facility rate.
 - (4) The fee to be paid by a minitreatment facility shall equal 50 percent of the base facility rate.
 - (5) The fee to be paid by a small treatment facility shall equal twice the base facility rate.
 - (6) The fee to be paid by a large onsite treatment facility shall equal three times the base facility rate.
 - (7) The fee to be paid by a large offsite treatment facility shall be three times the base facility rate.
 - (8) The fee to be paid by a disposal facility shall equal 10 times the base facility rate.
- (c) The fee to be paid by a facility with a postclosure permit during the first five years of the postclosure period shall be:
 - (1) Twenty-six thousand nine hundred eighty dollars (\$26,980) annually for a small facility.
 - (2) Fifty-three thousand nine hundred sixty dollars (\$53,960) annually for a medium facility.
 - (3) Eighty thousand nine hundred forty dollars (\$80,940) annually for a large facility.
- (d) The fee to be paid by a facility with a postclosure permit after the first five years of the postclosure care period shall be:
 - (1) Fourteen thousand three hundred seventy-five dollars (\$14,375) annually for a small facility.
 - (2) Twenty-eight thousand seven hundred fifty dollars (\$28,750) annually for a medium facility.
 - (3) Forty-eight thousand five hundred fifty dollars (\$48,550) annually for a large facility.
- (e) Notwithstanding subsection (b), the fee for a facility that has been issued a standardized permit shall be as follows:

- (1) The fee to be paid for a facility that has been issued a Series A standardized permit shall be fifty-five thousand two hundred eighty dollars (\$55,280).
- (2) The fee to be paid for a facility that has been issued a Series B standardized permit shall be twenty-five thousand nine hundred ten dollars (\$25,910).
- (3) Except as specified in paragraph (4), the fee to be paid for a facility that has been issued a Series C standardized permit shall be twenty-one thousand seven hundred sixty dollars (\$21,760).
- (4) The fee for a facility that has been issued a Series C standardized permit is ten thousand eight hundred eighty dollars (\$10,880) if the facility meets all of the following conditions:
 - A. The facility treats not more than 1,500 gallons of liquid hazardous waste and not more than 3,000 pounds of solid hazardous waste in any calendar month.
 - B. The total facility storage capacity does not exceed 15,000 gallons of liquid hazardous waste and 30,000 pounds of solid hazardous waste.
 - C. If the facility both treats and stores hazardous waste, the facility does not exceed the volume limitations specified in subparagraphs (A) and (B) for each individual activity.

Authority: Health and Safety Code sections 25125.2, 25125.4, and 25205.2.1.

Reference: Health and Safety Code section 25205.2.

Add Title 22, division 4.5, chapter 19, section 66269.4 to read:

66269.4. Generation & Handling Fee Rate for Fiscal Year 2023-24.

The annual fee amount for the 2023-24 fiscal year shall be forty-nine dollars and twenty-five cents (\$49.25) for each ton or fraction of a ton of hazardous waste generated in calendar year 2022.

Authority: Health and Safety Code sections 25125.2, 25125.4, and 25205.5.01.

Reference: Health and Safety Code section 25205.5.

Add Title 22, division 4.5, chapter 19, section 66269.5 to read:

66269.5. Environmental Fee Rates for Fiscal Year 2023-24.

(a) The annual fee amounts for the 2023-24 fiscal year are as follows:

- (1) One thousand two hundred sixty-one dollars (\$1,261) for those organizations with 100 or more employees, but fewer than 250 employees.
- (2) Two thousand seven hundred six dollars (\$2,706) for those organizations with 250 or more employees, but fewer than 500 employees.
- (3) Sixteen thousand dollars (\$16,000) for those organizations with 500 or more employees, but fewer than 1,000 employees.
- (4) Fifty-four thousand one hundred dollars (\$54,100) for those organizations with 1,000 or more employees.

Authority: Health and Safety Code sections 25125.2, 25125.4, and 25205.6.1.

Reference: Health and Safety Code sections 25205.6.