

Hazardous Waste Transportation Variances



It is DTSC's mission 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



BACKGROUND

A hazardous waste transportation variance is a waiver from specific regulatory or statutory requirements. In California, there are two major categories of transportation variances that the Department of Toxic Substances Control (DTSC) may grant to hazardous waste transporters if specific requirements are met. The two categories of transportation variances are Regulatory Exemptions for Certain Transportation Operations (referred to as "TRE"), and Statutory Transportation Variances.

TRE variances are issued on a non-discretionary basis. All applicants must meet preset regulatory standards. In applying those standards, DTSC verifies only specific facts regarding eligibility and may not add case-specific conditions. TRE variances are considered ministerial (non-discretionary) and qualify for a California Environmental Quality Act (CEQA) exemption under Section 21080(b)(1) of the Public Resources Code.

Statutory Transportation Variances may be pursued on a cost reimbursement basis for additional hazardous waste transportation operations not specified or allowed in regulation. Statutory Transportation Variances are discretionary and must comply with the requirements of CEQA. An applicant must meet statutory requirements, and DTSC may impose case-specific conditions.

TRE variance requirements are contained in Article 4 of Title 22, California Code of Regulations (22 CCR), and Statutory Transportation Variance requirements are contained in the California Health and Safety Code (HSC), Section 25143. The HSC, 22 CCR, and other information pertaining to the management and transportation of hazardous waste are available on the Internet at <http://www.dtsc.ca.gov>.

This fact sheet provides general information about the laws and regulations governing hazardous waste transportation variances. The actual laws and regulations should be consulted prior to making any decision that may impact regulatory compliance.

TRANSPORTER REGULATORY EXEMPTION VARIANCES

The regulations in 22 CCR, Division 4.5, Chapter 13, Article 4, establish four categories of regulatory exemption variances for generators and transporters for specific types of transportation operations. The following requirements apply to all four categories of TRE variances, *except where specifically exempted*:

- Must be a registered hazardous waste transporter.
- Must comply with all applicable United States Department of Transportation (DOT), California Highway Patrol (CHP), and United States Environmental Protection Agency regulations.
- A transporter shall apply to DTSC for a TRE variance by submitting a Transportation Regulatory Exemption Application/Variance form (DTSC Form 1294), which is provided by DTSC.
- DTSC shall review the TRE application for completeness and applicability. If the application is incomplete or not applicable, DTSC will notify the applicant.
- DTSC issues the approved TRE variance to the applicant (approximately a two-week process).
- There is no fee to review or issue TRE variances.
- A TRE variance is valid for the time period indicated on the TRE variance.
- A transporter issued a TRE variance by DTSC shall provide a copy of the variance to all applicable generators prior to operating under the variance.
- An accident report shall be submitted to DTSC by the transporter within 10 days of an incident that results in a spill or release to the environment.

- Failure to comply with any applicable TRE variance requirement shall automatically nullify the variance exemption.

Note: Transporters operating pursuant to these exemptions are assumed to have a thorough understanding of governing statutes and regulations. A transporter may not operate pursuant to these regulatory exemptions until DTSC has issued a variance. A transporter may request a TRE variance application, and additional information regarding the TRE variance process by contacting DTSC at (916) 255-3624.

1. Specific Requirements for Emergency Response Incident Operations (22 CCR, Section 66263.43)

Emergency Response Incident Transporter variances are issued only to State, local, or county governmental agencies. This type of variance allows these agencies to clean up small spills after traffic accidents or pick up abandoned hazardous waste on a routine basis. There is no restriction on the type of waste that can be transported, but the total quantity shall not exceed five 85-gallon drums of waste transported from any incident site to the transporter's designated central collection facility. Instead of a manifest, the transporter may use a shipping paper that contains all information required by Title 49, Code of Federal Regulations (49 CFR), Part 172, Subpart C. The shipping paper must accompany the waste to the transporter's designated central collection facility, and the waste may not be stored at that facility longer than 90 days. A registered hazardous waste transporter must transport the waste from the central collection facility to an authorized hazardous waste facility and the waste must be properly manifested.

The transporter shall keep records of the types and quantities of hazardous waste handled under a variance issued pursuant to this section at the central collection facility for at least three years.

2. Specific Requirements for PCB Waste Operations (22 CCR, Section 66263.44)

Polychlorinated Biphenyl (PCB) Waste Transporter variances are issued to any governmental agency or public utility that transports PCB wastes generated within the transporter's service area. The transporter becomes the generator of the PCB waste. This section allows the transporter to use a shipping paper pursuant to 49 CFR, Part 172, Subpart C to transport transformers that may contain PCBs to a designated central collection facility where the transformers are tested for PCBs. A registered hazardous waste transporter must transport the waste from the central collection facility to an authorized hazardous waste facility and the waste must be properly manifested. The transporter shall keep records of the total quantity of PCB waste handled under a variance issued pursuant to this section at the central collection facility for at least three years.

3. Specific Requirements for Consolidation Operations (22 CCR, Section 66263.45)

This type of variance allows generators who operate at several locations to transport hazardous waste to a designated temporary hazardous waste facility for consolidation purposes. The transporter must also be the generator of the waste. Instead of a manifest, the transporter may use a shipping paper, as specified in 49 CFR, Part 172, Subpart C, to transport the waste to the designated temporary hazardous waste facility. This variance only applies to generators that generate less than 100 kilograms per calendar month of non-RCRA waste or less than 100

kilograms per calendar month of RCRA waste [40 CFR Sections 261.5(a) and 261.5(g)]. The total quantity of each load of hazardous waste transported from the original generation location(s) to the temporary storage facility cannot exceed 100 kilograms. A registered hazardous waste transporter must transport the waste from the temporary storage facility to an authorized hazardous waste facility and the waste must be properly manifested.

4. Specific Requirements for Small Load Operations (22 CCR, Section 66263.46)

A transporter operating pursuant to this variance may only transport hazardous wastes in amounts no greater than 100 kilograms per load and no greater than 1,000 kilograms per calendar month. This section applies only to hazardous waste that is collected from generators who generate:

- less than 100 kilograms per calendar month of non-RCRA waste or;
- less than 100 kilograms per calendar month of RCRA waste [40 CFR Sections 261.5(a) and 261.5(g)] or;
- 100 to 1,000 kilograms per calendar month of RCRA waste with a reclamation agreement [40 CFR Sections 262.20(e) and 263.20(h)].

Operation pursuant to this section does not require the transporter to provide proof of ability to provide adequate responses to damages pursuant to 22 CCR, Section 66263.11(a)(2). Instead of a manifest the transporter may use a shipping paper, as specified in 49 CFR, Part 172, Subpart C, to transport the waste to a permitted hazardous waste facility. The shipping paper must also include the name, address and Identification Number of the designated hazardous waste facility.

STATUTORY TRANSPORTATION VARIANCES

DTSC may also grant a Statutory Transportation Variance for additional transportation operations not specified or allowed in regulation on a cost reimbursement basis, if the requirements of HSC, Section 25143 are met. A person wishing to pursue this type of variance may contact DTSC for an application. Once the applicant submits a completed application, DTSC may enter into an agreement with the applicant to review and process the variance request. The agreement shall require the applicant to reimburse the DTSC for costs resulting from the variance request. The agreement shall specifically indicate what services DTSC will perform. Entering into this type of agreement does not guarantee that DTSC will approve or issue the requested variance. Statutory Variances must comply with CEQA requirements. Statutory variances are subject to review at the discretion of DTSC and may be revoked or modified at any time. A transporter may obtain a Statutory Variance application and additional information regarding the Statutory Variance process by contacting DTSC at (916) 322-0584.

COMMUNICATING WITH THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL

All communications with DTSC concerning hazardous waste transportation requirements, transportation variances, or transporter registration issues should be directed to the attention of the Transportation Unit at:

Department of Toxic Substances Control
Statewide Compliance Division
Attention: Transportation Unit
8800 Cal Center Drive, Floor 3
Sacramento, CA 95826-3200

Transportation Issues

(916) 255-2796

Transportation Regulatory Exemption Variance Issues

(916) 255-3624

Statutory Transportation Variance Issues

(916) 322-0584

Registration Issues

(916) 255-4368

Related Fact Sheets

- Hazardous Waste Transporter Requirements
- Consolidated Manifesting Hazardous Waste Generator Requirements
- Consolidated Transporters

These fact sheets are available online at <http://www.dtsc.ca.gov/HazardousWaste/Transporters.html> or you may obtain a copy by contacting the DTSC Public and Business Liaison in your area as specified below.

If you have general questions or need additional information about hazardous waste transporter, generator, or treatment, storage and disposal facilities requirements, please call 1-800-72-TOXIC (800-728-6942) to speak to the DTSC Public and Business Liaison in your area. If calling from outside California, call the DTSC Public and Business Liaison in your area at the telephone number listed below.

Sacramento Office

Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, CA 95826-3200
(916) 255-3618

Berkeley Office

Department of Toxic Substances Control
700 Heinz Avenue, 2nd Floor
Berkeley, CA 94710
(510) 540-3739

Glendale Office

Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, CA 91201
(818) 551-2830

Cypress Office

Department of Toxic Substances Control
5796 Corporate Avenue
Cypress, CA 90630
(714) 484-5400