

Environmental Fee

What is the environmental fee?

Businesses/organizations in industry groups that use, generate, or store hazardous materials, or that conduct activities related to those materials must pay California's environmental fee. The fee is administered by the Department of Toxic Substances Control (DTSC) and provides revenue for site remediation, technology programs, administration, and implementation of cleanup programs.

The DTSC is responsible for:

- Tracking hazardous waste from the point of generation to its final destination.
- Inspecting hazardous waste cleanup sites.
- Providing regulatory control over generators of hazardous waste and facilities that treat, store, or dispose of hazardous waste.

Business and other organizations pay the environmental fee to the State Board of Equalization (BOE). The fee is then deposited into the state's Toxic Substances Control Account.

The fee was established by Senate Bill 475 (Stats. 1989, ch. 269), adding section 25205.6 to the Health and Safety Code.

How does the state determine which industry groups are subject to the environmental fee?

The DTSC uses the broad legal definition of hazardous materials in determining which industry groups

use, generate, store, or conduct activities related to those materials.

Each year, the DTSC prepares a list of the federal Standard Industrial Classification (SIC) codes or North American Industry Classification System (NAICS) codes for the industry groups that the DTSC has determined are engaged in activities subject to the environmental fee (SIC codes and NAICS codes classify industries by business activity). At this time, all industry groups and SIC codes or NAICS codes that are not specifically exempt are included in the list.

Which businesses/organizations must register and file returns?

Effective January 1, 2007, most businesses/organizations operating in California must register with the BOE and file environmental fee returns. These include:

- General partnerships
- Limited partnerships
- Limited liability partnerships
- Limited liability companies
- Sole proprietorships
- All corporate entity types
- Professional Employer Organizations (PEO's)

These businesses/organizations must file returns if:

- They have 50 or more employees,
- Each employed more than 500 hours in California during the prior calendar year.

Those with fewer than 50 qualifying employees are not required to

register or pay the fee. However, any business or organization that receives an environmental fee return from the BOE must file it by the due date.

Parent vs. subsidiary corporations/organizations

Parent corporations/organizations should contact their wholly-owned subsidiaries to find out if they are registered with the BOE. If not, the parent corporation/organization must include information for the subsidiary on the parent's return. A subsidiary corporation/organization that is registered under its own account number should file separately.

Which businesses/organizations are not subject to the fee?

As noted above, those with fewer than 50 qualifying employees are not subject to the environmental fee. The following are also exempt:

- Private households (SIC code 88).
- Nonprofit residential care facilities (SIC code 8361 or NAICS codes 623312, 62322, and 62399).
- Insurance companies that pay tax on gross premiums in lieu of all other California taxes and licenses.
- Banks that pay a tax on net income in lieu of all other California taxes and licenses.
- U.S. Government agencies and instrumentalities.
- Nonprofit credit unions, as defined in Financial Code section 14002.

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If your business or organization is registered for the fee and you believe it qualifies for one of the exemptions listed here, you must still file your environmental fee return, but also include a statement explaining why it qualifies for an exemption.

How do I register?

You can apply for an account, license, or permit at www.boe.ca.gov. Select New Registration to get started. If you have questions, please contact our Customer Service Center at 1-800-400-7115, Monday through Friday, 8:00 a.m. - 5:00 p.m., (Pacific time), excluding state holidays.

When is the fee due?

The annual fee is due to the BOE on or before the last day of February for the previous calendar year.

Exception: If you close or sell your business or organization during the calendar year, you must notify us at that time so we can update our records and send you a final return.

The final return is due and payable on the last day of the month following the end of the quarter in which the transfer or discontinuance takes place.

To avoid receiving a delinquency notice, you must file a return, even if you employ fewer than 50 qualifying employees or wish to claim one of the exemptions listed in this publication. Late payments are subject to a penalty of ten percent, plus interest at an adjusted annual rate, as specified in Revenue and Taxation Code section 43156.

How much is the fee?

The annual fee is graduated based on the number of people who were employed by you for more than 500 hours in California during the previous calendar year. The current

and prior Environmental Fee rates can be found on our website at www.boe.ca.gov/sptaxprog/tax_rates_stfd.htm.

The fees are adjusted each year based on the Consumer Price Index, issued by the California Department of Industrial Relations, according to Health and Safety Code section 25205.6.

How to determine the number of employees under the environmental fee

Once a person is hired as an employee, the employer has control over how that employee spends the hours of the workday, including whether or not the employee will be paid for time off taken during those workday hours for vacation, illness, and holidays and whether or not the employee must work his or her assigned hours on a particular workday. Therefore, for the purposes of the Environmental Fee statute and calculation of the number of employees employed in California for more than 500 hours, the term "employed" includes the hours for which an employee is paid, even when the employee is absent due to vacation, illness, or holidays, for the duration of his or her employment. If a person terminates employment, then, the employer does not control the former employee's work activities. Any hours included in the calculation of a terminated employee's severance pay, sick pay, or vacation time is not included when calculating the number of hours a person was employed during a calendar year for purposes of determining the environmental fee owed for that year.

Are Professional Employment Organizations (PEO) employers?

Both the DTSC and the Employment Development Department (EDD) recognize PEO's as employers. PEO's are responsible for paying the environmental fee as long as the PEO has a valid contract with its client. The PEO should include its clients' qualified employees in its total employee count in order to determine the correct fee due to the BOE.

If a PEO chooses to report each of its clients' employees separately using the client's own EDD number to establish that company's State Unemployment Insurance rate, that client will need to have its own BOE account number since it is now reporting those employees under its own EDD number.

For More Information

BOE website and Member contact information: www.boe.ca.gov

Customer Service Center:
1-800-400-7115
TTY: 711

Representatives are available to help you from 8:00 a.m. - 5:00 p.m. (Pacific time), M-F, except state holidays.

Write to us at:

Special Taxes and Fees
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0088
or by email:
www.boe.ca.gov/info/email.html

Taxpayers' Rights Advocate:

Call toll-free for help with problems you have been unable to resolve through normal channels (for example, by speaking to a supervisor): 1-888-324-2798.

DTSC website and phone number:

www.dtsc.ca.gov/IDManifest/fees.cfm
1-916-445-1664

Note: This publication summarizes the law and applicable regulations in effect when the publication was written. However, changes in the law or in regulations may have occurred since that time. If there is a conflict between the text in this publication and the law, decisions will be based on the law and not on this publication.