Fee Structure

BACKGROUND

DTSC Governance and Fiscal Reform, Senate Bill 158 (SB 158, Ch. 73, St. 2021), addressed many of the fundamental problems with DTSC's prior fee structure. Concerns about the fee structure date back to 1999 when the State Auditor noted that it was complex and expensive to administer, and that statutory "generator fees [were] inequitable and [did] not pressure large generators of hazardous waste to reduce the amount of waste they produce." Specially, SB 158 restructured DTSC's two primary fund sources, the Hazardous Waste Control Account (HWCA) and Toxic Substances Control Account (TSCA), setting the new rates at levels that would produce sufficient revenues to address structural deficits and close the most critical gaps identified in DTSC's Workload Analyses, and authorized the Board of Environmental Safety (Board) to annually set and revise the Generation & Handling Fee, Facility Fee, and Environmental Fee (up to a statutory cap) to align with Legislative appropriations.

Generation & Handling Fee

The new Generation & Handling Fee replaced four fees (Generator, Disposal, Manifest User, and EPA Identification Number Verification (EPA ID) fees) and is used to cover the cost of regulating activities not associated with authorized (permitted) facilities. Additionally, SB 158 eliminated the tiered rate structure under the old Generator Fee and instead created a per-ton charge for hazardous waste generated for the Generation & Handling Fee. These changes were intended to equitably distribute the cost of managing hazardous waste under the "polluter pays" principle so that small and medium generators would no longer subsidize the largest generators of hazardous wastes.

Importantly, SB 158 changed the fee schedule, requiring payments in the same fiscal year that the fees are assessed. To avoid a complete gap in revenues to support DTSC's existing programs and new mandates, SB 158 implemented an 18-month transition period during which the old fees would sunset and the new fee structure would become effective. This caused some fee payers to become subject to both the old and new fees for waste generated in calendar year 2021 or disposed of in fiscal year 2021-22.

Rate setting

The current rate for the Generation & Handling Fee is statutorily set at $49.25 per ton and can be increased, decreased, or held constant to align with Legislative appropriations that result from changing mandates, budget change proposals, or exemption statuses. For instance, if the Legislature adds requirements to how DTSC manages hazardous waste, the Generation & Handling Fee may need to be increased to cover the cost of oversight and enforcement and the increase would be distributed across all hazardous waste generators. Alternatively, if an industry-specific exemption is established, the decrease in waste subject to the Generation & Handling Fee would need to be offset by increasing the rate for the remaining fee payers who would not benefit from the exemption. Additionally, the Generation & Handling Fee rate is sensitive to changes in hazardous waste management activities and the actual amount of hazardous waste generated each year, which often correlates with economic forecasts and California's policy goals. Beginning in 2023-24, the Board is responsible for promulgating regulations by October 1 of each year to set the annual rate based the amounts appropriated in the Budget Act.

Hazardous Waste Control Account (HWCA)

Prior Fee Structure	Current Fee Structure	Activities Funded
Generator Fee (SB 660, Ch. 870, St. 1997) • Set in 1998 and allows for an annual adjustment to the fee by the California Department of Tax and Fee Administration (CDTFA) to reflect changes in the Consumer Price Index (CPI). • Assessed on generators that produce five tons or more of hazardous waste per calendar year at each generator site. (Facilities permitted under a full or standardized permit that pay Facility Fees are not required to pay the Generator Fee.) • Collected by CDTFA for deposit into the HWCA. • For 2019, rates range from $239 for businesses that generate more than five tons but less than 25 tons per year and up to $95,660 for businesses that generate more than 2,000 tons per year. • Timing of fee payments correspond with calendar year (half due in February and half due in August).	**Generation & Handling Fee (SB 158)** • Set in 2021 and first in effect in 2022-23. • Collected by CDTFA and deposited into the HWCA. • Assessed on generators that produce five tons or more of hazardous waste per calendar year at each generator site. (Facilities permitted under a full or standardized permit that pay Facility Fees are not required to pay this fee.) • Maintained exemptions for hazardous waste less than 5 tons, household hazardous waste, DIY used oil, and certain government hazardous waste. *What changed?* • Eliminated and replaced the Generator, Disposal, Manifest User, EPA ID Fees. • Authorized to be used only for hazardous waste regulatory activities not associated with authorized (permitted) facilities, and specifically excludes DTSC's products related authorities. • Eliminated exemption for non-DIY used oil. • For 2022-23, sets a flat rate set at $49.25 per ton or fraction of a ton. • For 2023-24, caps the fee at $98.50. Beginning in 2024-25, annually adjusts the cap to reflect changes in the CPI. • Revises timing of fee payments to correspond with fiscal year when assessed (half due November 30 and half due February 28). • Authorizes the Board of Environmental Safety to realign fee rates annually to reflect to the amount the Legislature appropriates from HWCA (up to the specified cap).	• Transporter registrations • Laboratory support • Transporter Quarterly Reports • Data management (i.e., HWTS and EnviroStor) • Regulation adoption • Legislative bill analysis • Compliance assistance and public information • Certification of Appliance Recyclers • Mercury Thermostat Collection Act • In-house Legal support • Attorney General's Office litigation support • Fee collection by California Department of Taxation and Fee Administration • Grant administration • State's RCRA Grant Match (partial) • Administrative support of the program • Under the prior fee structure, the Generator, Disposal, EPA ID, and Manifest fees also paid for hazardous waste regulatory activities associated with authorized (permitted) facilities in addition to those above. • Board of Environmental Safety operations (50%)
Disposal Fee (SB 660) • Set in 1998 and allows for an annual adjustment to the fee by CDTFA to reflect changes in the federal CPI. • Assessed by an authorized hazardous waste disposal facility in California on individuals at the time of disposal of hazardous waste. • Collected by the CDTFA for deposit into the HWCA. • For 2019, rates range from $5.72 per ton to $59.92 per ton for hazardous wastes and up to $296.64 per ton for extremely hazardous waste and restricted hazardous waste. • Timing of fee payments correspond with calendar year (remitted monthly by landfill to CDTFA).		
Manifest User Fee (SB 660) • Set in 1998 and precludes DTSC from administratively adjusting the fee. • Assessed on manifests except for: (1) those manifests used for shipping recycled hazardous wastes and (2) the first four manifests used in the calendar year for businesses with fewer than 100 employees. • Collected by DTSC for deposit into the HWCA. • Rate is $7.50 for each manifest used, and $3.50 for manifests used solely for hazardous waste derived from air compliance solvents. • Timing of fee payments due within 30 days of receiving notice.		
EPA ID Fee (SB 1469, Ch. 852, St. 1992) • Set in 1992 and precludes DTSC from administratively adjusting the fee. • Assessed on businesses with 50 or more employees that require a federal or state identification number issued by DTSC. • Collected by DTSC for deposit into the HWCA. • Rate is set on a progressive schedule based on the number of employees, with an annual cap of $5,000 for each generator, transporter or facility subject to the fee. • Timing of fee payments due within 30 days of receiving notice.		

Hazardous Waste Facility Account (HWFA)

Prior Fee Structure	Current Fee Structure	Activities Funded
Facility Fee (SB 660) • Set in 1998 and precludes DTSC from administratively adjusting the fee except the fees for full permits, which are adjusted annually by CDTFA to reflect changes in the CPI. • Assessed on all facilities that treat, store, or dispose of hazardous waste in California that have received a permit from DTSC. • Collected by CDTFA for deposit into the HWCA. • Rates for each tier differ depending on the type of permit. For 2019, full facility permit (ranging from $8,595 for a mini storage facility, up to $343,810 for a disposal facility) or standardized permit (ranging from $2,308 for a small quantity Series C permit to $11,730 for a Series A permit). There is no fee assessed for permit-by-rule or conditional exemption. • Timing of fee payments correspond with calendar year (half due in February and half due in August).	**Facility Fee (SB 158)** Authorized to be used only for hazardous waste regulatory activities associated with authorized (permitted) facilities. *What changed?* • Revenues are deposited into the newly created HWFA. • All fee exemptions eliminated. • For 2022-23, sets the base rate at $94,910 and increases tiered rates depending on type of permit. • For 2023-24, caps the base rate at $189,820 and tiered rates at specified amounts. Beginning in 2024-25, annually adjusts the caps to reflect changes in the CPI. • Revises timing of fee payments to correspond to fiscal year when assessed (half due November 30 and half due February 28). • Authorizes the Board of Environmental Safety to realign fee rates annually to reflect to the amount the Legislature appropriates from HWFA (up to a specified cap).	• Permitting of hazardous waste treatment, storage and disposal facilities • Compliance inspections and enforcement activities: o Permitted facilities o Transporters o Transportable Treatment Units o Citizen complaints • Corrective action (cleanup at permitted or formerly permitted hazardous waste facilities) • Financial responsibility evaluations • Under the prior fee structure, the Facility Fee, Fee for Service, and Cost Recovery also paid for hazardous waste regulatory activities not associated with permitted facilities in addition to those above. • Fee collection by CDTFA and DTSC • Administrative support of the program • Attorney General's Office litigation support • Transportable Treatment Units Registration • State's RCRA Grant Match (partial)
Fee-for-Service (SB 839, Ch. 340, St. 2016) • In 2016, fee for service requirements replaced the Activity Fee (a flat fee paid by permit applicants for DTSC's costs to evaluate the permit application). Permit applicants requesting to renew a hazardous waste facility permit, or applying for a new hazardous waste facility permit, are required to enter an agreement with DTSC to pay DTSC's costs to issue the permit. At least 25% of DTSC's estimated costs are to be paid in advance.	**Fee-for-Service** • Unchanged from prior fee structure.	
Cost Recovery • Sites undergoing corrective action (investigation and cleanup of hazardous wastes and hazardous waste constituents released into the environment) are required to enter an agreement with DTSC to pay DTSC's costs to oversee their investigation and cleanup activities.	**Cost Recovery** • Unchanged from prior fee structure.	

Toxic Substances Control Account (TSCA)

Prior Fee Structure	Current Fee Structure	Activities Funded
Environmental Fee (SB 475, Ch. 269, St. 1989) • Established in 1989 and allows for an annual adjustment to the fee by the CDTFA to reflect changes in the Consumer Price Index (CPI), as reported by the federal Department of Industrial Relations. • Is collected annually by the CDTFA. • Assessed on most businesses operating in California with 50 or more employees. • Assessed one year in arrears. • Fee is tiered based on the number of employees who work more than 500 hours a year in California. • Rates for 2019 Environmental Fee ranges from $341 for a business with 50 to 74 employees to $16,177 for a business with 1,000 or more employees. • Generates approximately 87% of the total revenue in TSCA. • Timing of fee payments due February 28 each year.	**Environmental Fee (SB 158)** • Similar to prior fee structure. • No rate increases for businesses with 100 – 500 employees. *What changed?* • Exempts small businesses (those with less than 100 employees). • Increases the rates on businesses with more than 500 employees. • For 2022-23, sets tiered rates: o 100-249 employees: $1,261 o 250-499 employees: $2,706 o 500-999 employees: $16,000 o 1000+ employees: $54,100 • For 2022-23, caps the tiers: o 100-249 employees: $2,522 o 250-499 employees: $5,412 o 500-999 employees: $32,000 o 1000+ employees: $108,200 • Beginning in 2024-25, annually adjusts the cap to reflect changes in the CPI. • Authorizes the Board of Environmental Safety to realign fee rates annually to reflect to the amount the Legislature appropriates from HWFA (up to a specified cap).	• Remediation of hazardous substance release sites • Orphan site response actions • State's NPL Match: o 10% construction costs o 100% operation and maintenance • Safer Consumer Products Program • Human and Ecological Risk Assessment • Engineering and Geologic Support • Laboratory support • Data management (i.e., EnviroStor) • Regulation adoption • Legislation analysis • Administrative support of the program • California Environmental Contaminant Biomonitoring Program • In-house Legal support • Attorney General's Office litigation support • Fee collection by California Department of Taxation and Fee Administration • Grant administration • Administrative support of the program • Board of Environmental Safety operations (50%)
Cost Recovery • Sites undergoing remediation (investigation and cleanup of hazardous substances released into the environment) are required to enter an agreement with DTSC to pay DTSC's costs to oversee their investigation and cleanup activities. Cost recovery comprises approximately 13% of the total revenue in TSCA.	**Cost Recovery** • Unchanged from prior fee structure.	