

Date of Hearing: March 25, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Damon Connolly, Chair

AB 599 (Connolly) – As Introduced February 13, 2025

SUBJECT: Hazardous waste: classification and alternative management standards: notice of change

SUMMARY: Requires the Department of Toxic Substances Control (DTSC), if it proposes to reclassify wastes or adopt alternative management standards for regulated waste, to incorporate local community input regarding the proposed changes to the classification of wastes or alternative management standards.

EXISTING LAW:

- 1) Establishes the Resource Conservation and Recovery Act (RCRA) to authorize the United State Environmental Protection Agency to manage hazardous and non-hazardous waste throughout its life-cycle. (42 United State Code § 6901 et. seq.)
- 2) Creates the Hazardous Waste Control Law (HWCL), which authorizes DTSC to regulate the management of hazardous waste in California. (Health and Safety Code (HSC) § 25100 et. seq.)
- 3) Establishes the Board of Environmental Safety (BES) within DTSC with five voting members as follows: three members appointed by the Governor; one member appointed by the Senate Committee on Rules; and, one member appointed by the Speaker of the Assembly. (HSC § 25125).
- 4) Requires the BES, beginning January 1, 2022, to conduct no fewer than six public meetings per year, at least three of which shall be held outside the greater Sacramento area. (HSC § 25125.2)
- 5) Requires the director of DTSC, or a designee to present and respond to the BES, if requested by the BES, on any issue or item brought forward by a member of the public, the BES ombudsperson, or a BES member. (HSC § 25125.6)
- 6) Requires DTSC to, by March 1, 2023, and every three years thereafter, prepare and post on its internet website a hazardous waste management report (Report) that includes an analysis of available data related to hazardous waste. (HSC § 25135)
- 7) Requires DTSC to, by March 1, 2025, and every three years thereafter, prepare a state hazardous waste management plan (Plan) and submit it to the BES. (HSC § 25135)
- 8) Requires the BES, before approving the final Plan to hold at least three public hearings in various parts of the state to receive comments from the public on the draft Plan. Requires the BES and DTSC, in finalizing the Plan to consider public comments and revise the draft Plan as they deem appropriate. (HSC 25135 (e))

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author, "AB 599 requires DTSC, if it proposes to reclassify wastes or adopt alternative management standards for hazardous waste, to enable local community input regarding the proposed changes to the classification of hazardous wastes or alternative management standards. If the Board of Environmental Safety adopts a Hazardous Waste Management Plan that adopts alternative management standards for hazardous waste, it's important that the communities, living near the facilities where the waste will be taken, are informed."

California Hazardous Waste Control Law (HWCL): The HWCL is the state's program to implement and enforce federal hazardous waste law in California and to direct DTSC to oversee and implement the state's HWCL. Any person who stores, treats, or disposes of hazardous waste must obtain a permit, to do so, from DTSC. The HWCL covers the entire management of hazardous waste, from the point that hazardous waste is generated to management, transportation, and ultimately disposal of that waste into a state or federally authorized facility.

Board of Environmental Safety (BES): Senate Bill 158 (Senate Committee on Budget, Chapter 73, Statutes of 2021) created the BES to improve DTSC's transparency, accountability, and fiscal stability. The BES is comprised of 4 part-time members and one full-time member. Three of the BES members are appointed by the Governor, including the full-time BES Chair, and subject to confirmation by the Senate. The Senate and Assembly each appoint one additional member.

The BES's duties and authorities include developing a multi-year schedule to develop long-term goals for DTSC's programs; reviewing and approving the Director's priorities and adopting performance metrics; adjusting fee rates based upon changes made in the annual Budget Act; hearing and deciding hazardous waste facility permit appeals; providing opportunities for public hearings on permitted and remediation sites; conducting an analysis of DTSC's fee structure; conducting an analysis of DTSC's programs and their relationship with related programs in other agencies; and, forming advisory subcommittees on any topic, including fees and environmental justice. SB 158 also established an Office of the Ombudsperson within the BES and requires the DTSC Director and the BES Chair to appear annually before Legislative policy committees.

SB 158 required DTSC to adopt a draft hazardous waste management report by March 1, 2023, and then adopt a draft hazardous waste management plan by March 1, 2025 and submit that draft Plan to the BES. Additionally, SB 158 requires the BES, before approving the final Plan to hold at least three public hearings in various parts of the state to receive comments from the public on the draft Plan.

Hazardous Waste Management Report (Report): In July 2023, as part of its programmatic reforms, DTSC released the first Report, which presents data on the types and amounts of hazardous waste generated, transported, and disposed of in the state.

The main objectives of the first Report were to establish a baseline understanding of the management of hazardous waste in California, identify data gaps and items that require additional research, and develop plans to fill data gaps.

Below are some of the key findings from the Report:

- The majority (81%) of hazardous waste generated since 2010 meets California's criteria for hazardous waste (non-RCRA) but not by federal criteria (RCRA);
- RCRA hazardous waste has decreased, and preliminary investigation shows a decreasing trend since at least 2000;
- Non-RCRA hazardous waste fluctuates, but preliminarily shows a decrease since 2000;
- Contaminated soil, waste, and mixed oil, and other inorganic solid waste are the top three hazardous waste streams consistently year over year and comprise about 65% of the waste generated since 2010;
- California's criteria for identification of hazardous waste, which were created in the 1970s, may be outdated given today's landfill regulations; and,
- Data gaps and limitations include impacts from hazardous waste generators, total capacity, onsite treatment and recycling, and full incorporation of hazardous waste data prior to 2010 for analysis.

The final Report was issued by DTSC in the fall of 2023.

Hazardous Waste Management Plan (Plan): On March 14, 2025, DTSC released the draft Plan. The Plan is organized into 10 goals, each with specific recommendations intended to address the challenges of California's hazardous waste management system and strive towards the development of a circular economy. The 10 goals and a summary of the recommendations of the Plan are:

- Goal 1: Reduce environmental health impacts by promoting environmental justice initiatives.

Recommendations include incorporating the Community Considerate Cleanups (C3) Initiative, continuing the Cleanup in Vulnerable Communities Initiative, implementing DTSC's Enforcement Strategic Plan, and conducting an analysis of generators and surrounding areas.

- Goal 2: Improve access to information.

Recommendations focus on providing technical and informational content and enhancing public participation by providing tools to diverse audiences.

- Goal 3: Identify opportunities for reduction by analyzing current waste generation and utilizing the waste management hierarchy.

Recommendations include prioritizing reduction of negative impacts to communities when evaluating options to remediate sites and analysis of incinerable and lithium-ion battery waste streams.

- Goal 4: Establish a modern waste reduction program.

Recommendations include establishing a hazardous waste reduction program administered by DTSC, researching a potential waste reduction grant program, and

considering a pollution prevention program administered by the California Environmental Protection Agency.

- Goal 5: Apply financial instruments to encourage reduction in hazardous waste generation.

Recommendations support studying the possible impact of fee increases and exploring other sustainable funding frameworks for DTSC.

- Goal 6: Remain at forefront of environmental and public health protection by ensuring proper identification of hazardous waste.

Recommendations relate to adopting updated standards and evaluating existing test methods as well as evaluating non-RCRA metals and contaminants of emerging concern.

- Goal 7: Identify alternative management standards for certain non-RCRA hazardous wastes while ensuring protection of public health and the environment.

Recommendations center on evaluating non-RCRA waste streams, including evaluation and identification of alternative management standards for specific non-RCRA soil, and preparing for waste streams from lithium brine extraction.

- Goal 8: Expand research for future Hazardous Waste Management Reports and recommend ways to improve data reporting of hazardous waste.

Recommendations include revisions to waste identification and reporting requirements, plus a study of household hazardous waste.

- Goal 9: Ensure California's generators are able to utilize all aspects of the hazardous waste management hierarchy in support of a circular economy.

Recommendations are to develop a capacity workgroup, to analyze ways to progress towards a circular economy, to review extended producer responsibility statutes, and to consider amending California's lower tier permits for onsite treatment.

- Goal 10: Expand forecast capabilities to better anticipate the state's capacity needs.

Recommendations include evaluating California's ability to forecast capacity and developing solutions to any insufficiency.

Alternative management standards for certain non-RCRA wastes: Contained within Goal 7 is for DTSC to identify alternative management standards for certain non-RCRA hazardous wastes, including contaminated soil, while ensuring protection of public health and the environment. According to the Plan:

"Alternative management standards allow for the handling of certain non-RCRA hazardous wastes under different requirements than those typically mandated for hazardous waste management. For example, California allows treated wood waste (TWW) to be disposed of at

certain authorized municipal landfills in addition to Class I hazardous waste landfills. These standards can provide a protective and more sustainable approach to managing certain other wastes. In accordance with HSC Section 25135 (d)(11)(A), DTSC will assess and make recommendations for non-RCRA wastes currently identified as hazardous in California that can be managed under alternative standards that differ from the traditional hazardous waste management requirements, while still ensuring the protection of public health and the environment. Implementation of alternative management can result in more waste being managed safely within the state.

Next Steps and Estimated Timeline for implementing Goal 7: Several steps must occur for specific non-RCRA soil to be disposed of in specific non-hazardous waste landfills. The first of these steps would include an allowance for the specific non-RCRA soil waste to be disposed of in specific types of landfills (e.g. composite lined portions of non-hazardous waste landfills). Currently, DTSC is working to identify the regulatory or statutory mechanism for the first step.

The next step is outside of DTSC's authority. The State Water Resources Control Board (State Water Board) and the Department of Resources, Recycling and Recovery (CalRecycle) have authority over non-hazardous waste landfills and these entities would go through their own processes to allow the disposal of these wastes in non-hazardous waste landfills.

Lastly, [solid waste] facilities would need to opt in and decide to accept these wastes. DTSC estimates that the development of at least the first step of the alternative management standard process may be completed within the next two years.

The amount of time needed for the State Water Board and CalRecycle to go through their processes is unknown at this time and may rely on specific case-by-case considerations. In addition, it is unknown how many facilities may decide to accept these wastes over time."

BES public review and adoption of the Hazardous Waste Management Plan (Plan): Existing law, requires the BES to hold three public hearings before adopting the final Plan. As of the writing of this analysis, the BES's three hearings on the Plan are scheduled for: March 20 in Fresno, April 24 in Berkeley, and May 15 and 16 in Los Angeles. The BES is estimating a vote to adopt the Plan during its meetings in Sacramento on July 15 and 16.

This bill: AB 599 requires DTSC, if it proposes to reclassify wastes or adopt alternative management standards for hazardous waste, to enable local community input regarding the proposed changes to the classification of hazardous wastes or alternative management standards.

Related legislation:

SB 158 (Senate Budget, Chapter 73, Statutes of 2021). Mandated several policy reforms to DTSC, stabilized funding, and created the BES. Enacted fee reform by eliminating and modifying some fees, including repealing the generator fee and establishing a new generation and handling fee. Appropriated \$500 million for the cleanup of contaminated sites, including giving priority for cleanup to sites where there are high environmental burdens and sensitive populations.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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