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SENATE ENVIRONMENTAL QUALITY COMMITTEE AND ASSEMBLY ENVIRONMENTAL SAFETY AND TOXIC MATERIALS COMMITTEE

SENATOR BLAKESPEAR
ASSEMBLY MEMBER CONNOLLY
CHAIRS

August 20, 2025, 9:00 a.m.
1021 O Street, Room 1200

JOINT OVERSIGHT HEARING

Department of Toxic Substances Control's Reform Updates and Community Perspectives

BACKGROUND INFORMATION

Introduction

The Department of Toxic Substances Control (DTSC) was established to protect Californians against the public health threats of hazardous waste and restore land impacted by environmental contamination. Through the Hazardous Waste Control Law (HWCL), DTSC implements and enforces federal hazardous waste laws (Resource Conservation and Recovery Act, RCRA) and state hazardous waste programs to ensure hazardous waste is managed responsibly from generation to disposal; and, to administer permits to facilities that treat, store, or dispose of hazardous waste. Aside from the management of hazardous waste, DTSC oversees the state's management and response to spills, releases, and disposal sites of hazardous substances through the Carpenter-Presley-Tanner Hazardous Substances Account Act (HSAA). In remediating contamination, DTSC has the authority to conduct cleanup activities, issue remedial orders to responsible parties, and impose penalties for any noncompliance. DTSC also administers programs promoting source reduction, use of safer chemicals in products, and biomonitoring.

Within the last few decades, DTSC has faced challenges in properly administering its permitting program for hazardous waste facilities, conducting effective enforcement, managing and recovering costs associated with cleanup efforts, expending more than received in fee revenue, and remediating contaminated sites in a timely manner. These shortcomings eroded confidence and public trust in the institution. After years of legislative hearings and policy changes, in 2021, the Legislature enacted SB 158 (Committee on Budget and Fiscal Review, Chapter 73, Statutes of 2021) which mandated several policy reforms to DTSC. The reforms created the Board of Environmental Safety (BES), mandated hazardous waste management reports and plans, restructured hazardous waste fees, and appropriated funds for contamination remediation.

The role of BES is to represent the general public interest and act to protect public health, with a particular focus on disproportionately burdened and vulnerable communities, with respect to the programming and responsibilities of DTSC. By statute, BES is required to set and analyze hazardous waste fees, decide permit decision appeals, review and analyze DTSC's programming through performance metrics and priorities, and conduct public hearings for permitted or remediation sites. Through these actions, BES acts to improve transparency, accountability, and fiscal stability of DTSC.

Additionally, SB 158 required the leadership of DTSC and BES to appear before the Legislature annually to provide an update on DTSC's performance and progress in implementing the reform measures. This hearing will be the third annual update on the progress of DTSC. Through testimony from the Board, the Director of DTSC, and representatives of involved parties, this hearing will provide updates on reform efforts, and present perspectives on the topics of hazardous waste management, source reduction, and toxics in consumer products. This document will provide background and insights on the Hazardous Waste Management Plan (page 3), permitting (page 6), fee structure (page 11), source reduction regulatory frameworks and Safer Consumer Products (page 15), and community engagement and cleanup efforts (page 19).

Managing Hazardous Waste

California seeks to manage its hazardous waste in a manner that protects public health and the environment, while ensuring that there is capacity in-state to responsibly manage it. Since the 1970's, California has developed hazardous waste laws and regulations (HWCL) that have been broader and more stringent compared to federal laws (RCRA), with the intent of protecting public health. As a result, California identifies waste beyond the scope of RCRA waste as hazardous (non-RCRA hazardous waste), such as some types of contaminated soil. Identifying larger volumes of waste as hazardous presents a challenge when it comes to in-state capacity. It has been a long-standing policy to ensure that there is sufficient in-state capacity to manage hazardous waste and that the in-state facilities providing that capacity manage the waste in accordance with laws and regulations. California must also assure the availability of treatment or

disposal facilities with adequate capacity in-state or through agreements with other states to access federal funding for remedial activities through the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Although it is important to have the capacity to treat and dispose of hazardous waste, source reduction and recycling are preferred waste management strategies. Ideally, source reduction should be prioritized as a management strategy where possible to reserve capacity for hazardous waste that cannot be reduced. The state has adopted many policies and programs intended to drive source reduction of hazardous waste as opposed to land disposal. However, DTSC has faced various regulatory and fiscal challenges in meeting its goals over the years. There have been concerns raised by interested parties that with increased fees and a higher regulatory standard in California, there could be a tipping point in which in-state facilities stop operating.

These challenges, along with the emergence of new waste streams associated with the energy transition, illustrate the need to understand the current landscape of hazardous waste management in California, identify information gaps and unmet management needs, and develop strategies to effectively reduce and manage hazardous waste within state lines while ensuring the safety of communities.

The Hazardous Waste Management Report and Plan

SB 158 required DTSC to prepare a hazardous waste management report (Report) every three years starting March 1, 2023. The report presents data on the types and amounts of hazardous waste generated, transported, and disposed of in the state. It also establishes an understanding of hazardous waste management in California and identifies research and data gaps. Below are some key findings from the 2023 Report:

- The number of hazardous waste generators has increased from approximately 55,000 to 94,500 from 2010 to 2021.
- The number of permitted hazardous waste management facilities has decreased from over 400 to less than 100 from 1983 to 2021.
- The majority (81%) of hazardous waste generated in California is only considered hazardous under state law (non-RCRA hazardous waste).
- Contaminated soil, waste and mixed oil, and other inorganic solid waste are the top three hazardous waste streams generated in California.

Based on the Report, DTSC is then required to develop a state hazardous waste management plan (Plan) every three years beginning March 1, 2025. The first draft Plan was published in March 2025, and is currently undergoing review by BES and the public. The draft Plan features ten goals with recommendations that promote a vision to support a circular economy, foster sustainable practices, and invest in research and innovation.

Below are the 10 goals of the draft Plan (abbreviated):

1. Reduce environmental health impacts by promoting environmental justice initiatives;
2. Improve access to information;
3. Identify opportunities for reduction by analyzing current waste generation;
4. Establish a modern waste reduction program;
5. Apply financial instruments to encourage reduction in hazardous waste generation;
6. Ensure the proper identification of hazardous waste;
7. Identify alternative management standards for non-RCRA waste;
8. Expand research for reporting and improve data reporting of hazardous waste;
9. Support a circular economy; and,
10. Expand forecast capabilities to anticipate capacity needs.

The goals are intended to focus on waste reduction, capacity planning, assessing the criteria of waste, and instilling environmental justice within management practices. The recommendations within each goal details programmatic actions or initiatives DTSC plans to pursue within a specified timeline to advance towards each goal. The recommendations centering environmental justice are primarily a continuation of existing programming and efforts to promote public participation and awareness (Goals 1 and 2). The recommendations to support waste reduction focus on fee structures and the reduction or recycling of high-volume or emerging waste streams, such as contaminated soil, incinerable waste, and lithium-ion batteries (Goals 3, 4, 5, 7, and 9). Lastly, the recommendations to assess the criteria of waste and the state's capacity seek to fill information gaps, evaluate and update methods, improve reporting, and expand forecasting (Goals 6, 8, and 10).

There have been questions of whether DTSC will have the capacity to broadly achieve these goals or if existing resources should be allocated towards certain goals. The draft Plan indicates that additional resources will be necessary for nearly half of the recommendations, which yields uncertainty in whether these goals will be met within the timeframes specified in the draft Plan.

Public Response and Recommendations from BES

BES is required by SB 158 to consider public comments on the draft Plan and adopt a final Plan. BES has also provided feedback on the draft Plan and made recommendations to DTSC to modify or exclude recommendations within each goal. Generally, BES has called for the goals to be more data-driven and measurable, which would allow for more accountability. Critiques from both members of the public and BES have noted that the recommendations lack specificity and focus. Some recommendations were favorable amongst the members of BES and the public, such as evaluating the feasibility of soil treatment at orphan sites (Goal 3), addressing the emerging waste stream of lithium-ion batteries (Goal 3), or establishing a hazardous waste reduction program (Goal 4). Other recommendations, on the other hand, received more critical feedback.

Some of the recommendations under scrutiny are part of ongoing and necessary programs, therefore if left at the status quo, some groups will feel that their concerns will not be addressed. Examples of this include the recommendations under Goal 1 to reduce environmental health impacts by promoting environmental justice initiatives. While Goal 1 includes recommendations continuing important programs, such as the Cleanup in Vulnerable Communities Initiative, Goal 1 lacks meaningful recommendations to reduce the immediate environmental health impacts that have been raised by communities proximal to permitted facilities. Recommendation 1.3 promotes effective and equitable enforcement approaches to reduce the negative impacts to communities, but it is unclear how DTSC will strengthen its enforcement actions and the related actions are focused on knowledge sharing and relationship building.

Some recommendations were considered redundant or regressive. Multiple recommendations under Goal 6 require resources to evaluate various scientific methods in determining toxicity or exposure to toxics, as some of the methods were developed over 40 years ago. Members of the BES have recommended the majority of these recommendations be excluded because DTSC is already required to use the best available science. Recommendation 7.2 to identify alternative management standards for non-RCRA contaminated soil and evaluate the potential to dispose of it in non-hazardous waste landfills was voted to be removed by BES in response to public outcry regarding potentially negative public health impacts. Although the recommendation was based on claims of outdated science and is intended to encourage more in-state management of non-RCRA contaminated soil, impacted communities found it to be regressive and not protective of public health and the environment. Similarly, Recommendation 9.2 seeks to modify or remove statutory requirements to advance the development of recycling facilities that will promote a circular economy, however, removing some of these requirements would impact processes that allow for community input.

DTSC intends to incorporate feedback and recommendations from BES and the public into a draft revision of the Plan. A draft revision of the Plan is anticipated to be released in September 2025 and BES intends to vote on a final Plan in November 2025. While many of the recommendations were prescriptively required by statute (SB 158, HSC § 25135(d)), there is concern that these recommendations may not meaningfully address long-standing issues within DTSC. This hearing will highlight key programs and challenges DTSC currently faces, including topics covered within the scope of the draft Plan and outside of it.

Questions to Consider:

- *Are there particular goals or recommendations that DTSC will consider prioritizing based on feedback from BES and the public? Would these goals be completed in the near-term or long term?*
- *Are there goals or recommendations of the Plan that require legislative action to support or accelerate implementation?*

Hazardous Waste Facility Permitting

Any person who treats, stores, or disposes of hazardous waste must obtain a permit or authorization from DTSC. Permits outline activities hazardous waste facilities are authorized to conduct as well as conditions and requirements for compliance with federal and state laws and regulations and to ensure the safe management of hazardous waste. There are five permit tiers and DTSC exclusively oversees facilities operating under two of the five permit tiers: 1) The Full Permit tier for all facilities that require RCRA permits and some facilities that conduct certain non-RCRA activities; and, 2) The Standardized Permit for facilities that require a non-RCRA permit, but not a RCRA permit. Both of these permits are typically valid for 10 years. The remaining permit tiers authorize the generation and on-site treatment of non-RCRA or RCRA-exempt hazardous waste and are overseen by DTSC and local Certified Unified Program Agencies (CUPAs).

Renewed permits or permit modifications allow for facilities to update technological systems, comply with new environmental standards, or improve their hazardous waste management practices. Because the permitting process can take years, permitted facilities are authorized to continue operating under these expired permits (continued permits), as long as they have submitted a complete permit application at least 2 years before the effective permit expires and the permit application has been administratively approved by DTSC. It is important that permit applications are processed in a timely manner because new permits can allow for operational practices that are more protective of public health and the environment. For facilities with prolonged continued permits (3 or more years after expiration), SB 158 required DTSC to submit a report to BES that includes the proposed permit schedule to promote transparency. BES is authorized to modify or accept the proposed schedule at a public meeting. BES is also required to hear and decide appeals for hazardous waste facility permit decisions and may either grant, modify, or deny permits.

Permit Backlog and Controversial Facilities

Funding constraints and staff reductions in the late 2000's led to a backlog of permit decisions, and many of the continued permits that remained belonged to facilities with highly complex operations. During the 2010's, investments in the Permitting Division led to an increase in permit decisions, addressing some of the permits with expirations over 5+ years, and DTSC continues to address the backlog. There are currently 94 facilities in California operating under the Full and Standardized Permit tiers (operating and post-closure). Of those facilities, 15 have continued permits, including 7 facilities with permits that expired over 10 years ago.

Some of the ongoing permit renewals are controversial due to prolonged histories of violations and negative community impacts. In February 2025, DTSC issued a final permit for Phibro-Tech, Inc., whose permit expired in 1996. Phibro-Tech is a chemical manufacturing and hazardous waste treatment/recycling facility located in Santa Fe Springs of LA County. Because

of their extensive history of significant violations, the renewed permit has a shorter duration of 5 years and more stringent requirements. In response, the permittee submitted a petition to appeal the final permit decision to BES because of the permit conditions. Community organizations also submitted a petition to appeal the decision, as they believe the permit should have been denied. Decisions to accept the issues raised in both petitions are currently pending with BES. This process has been delayed due to a request from DTSC to allow for additional time to prepare an administrative record for BES's review.

Ecobat Resources California, Inc., formerly known as Quemetco and located in the City of Industry in LA County, recovers lead from lead-acid batteries and is pending a final permit decision. The facility's permit expired in 2015 and is authorized to operate under a continued permit, though the facility also has a history of significant violations. Ecobat's operations resulted in the dispersion of lead from the facility, contaminating the soil in the surrounding residential areas. The facility has faced ongoing corrective action and reached settlements to support cleanup efforts. Despite these events and community demands for facility closure, the final permit decision for Ecobat is anticipated to be issued in October 2025. Similar to Phibro-Tech, the draft permit for Ecobat has a shorter duration of 5 years with more stringent requirements.

There are only two operating hazardous waste landfills in California, Clean Harbors Buttonwillow (Buttonwillow) and Chemical Waste Management, Inc. Kettleman Hills Facility (Kettleman Hills). Both facilities are operating on continued permits and are currently undergoing permit renewal. Both facilities are proximal to communities that have a higher pollution burden than 80% of California, according to CalEnviroScreen. Buttonwillow is a hazardous waste treatment, storage, and disposal facility located in Kern County and its permit expired in 2006. In the two decades since the facility submitted its permit application, various factors have contributed to delays including four notices of deficiencies in the permit application and subsequent revisions, evaluation under the California Environmental Quality Act (CEQA), and the implementation of environmental monitoring programs. While the facility operated on its continued permit, several significant violations have been uncovered by DTSC since 2017. Buttonwillow has initiated corrective actions and remediation efforts. A draft permit for Buttonwillow was issued in July 2025, with dozens of new conditions including improvements to treatment and storage operations and extensive environmental monitoring. The final permit is expected to be issued in March 2026.

Kettleman Hills is a hazardous waste transfer, treatment, storage, and disposal facility located in Kettleman City of Kings County and its permit expired in 2013. In 2014, DTSC approved a permit modification to expand capacity at the landfill. Community organizations filed a Petition for Review in response, as the proximal community faces poor air quality, impaired water quality, and high rates in birth defects, respiratory diseases, and cancer. There were also

significant violations at the facility, including releases of hazardous waste and failure to report, in the years leading up to the permit decision. DTSC denied the petition, which led to a Title VI Complaint with the U.S. EPA Office of Civil Rights filed by the community organizations. Title VI prohibits discrimination and the complaint claimed the permit decision had an unlawful and disparate impact on Latinos and Spanish-speaking individuals in the community. This action resulted in a settlement agreement in 2016 that required DTSC to undertake various efforts, including improving air quality controls and environmental monitoring, ensuring compliance with civil rights laws, and considering community vulnerability in the permit decision. While many of these efforts have taken place, community vulnerability could not be fully considered in the permit decision as the regulations are still being developed. In the years since, DTSC inspections of Kettleman Hills have cited either no violations or minor violations regarding recordkeeping and labeling. Despite ongoing community concern, a draft permit for Kettleman Hills was released in April 2024, which includes new conditions that would enhance worker safety, environmental monitoring, and financial assurance. The final permit is expected to be issued in January 2026.

SB 673 (Lara, Chapter 611, Statutes of 2015)

DTSC has faced a history of criticism towards the performance of its permitting program. The permitting process was thought to be long and costly, and the concerns of communities proximal to permitted facilities went unaddressed. Concerns included that some permits were approved without significant environmental review and that serial violators of hazardous waste laws were allowed to continue operating, despite repeated violations. These issues led to the passage of SB 673 in 2015, which created an opportunity for DTSC to improve the permit process for hazardous waste facilities and address long-standing environmental justice concerns. The provisions of the bill provided for stronger permit criteria to further protect communities and consider "the vulnerability of, and existing health risks, to nearby populations," when issuing new or modified permits and permit renewals.

There are seven permit criteria that have been divided into two tracks for implementation. In 2019, Track 1 was implemented with five of the seven permit criteria:

- **Past Violations**: Development of a violation scoring procedure (VSP)
- **Financial Assurance & Responsibility**: Ensuring facilities pay to clean up any contamination at the site
- **Personnel Training**: Requirements to ensure personnel were trained in safety, emergency plans, and maintenance of operations
- **Health Risk Assessment**: Requirements to assess and report health risks posed to surrounding workers and communities

DTSC has begun developing the draft language for the regulations of the last two permit criteria that fall within Track 2, which include:

- **Community Vulnerability and Health Risks**: Requirements to assess local cumulative health impacts to nearby communities
- **Setback Distances**: Evaluating the distance between facilities and vulnerable populations (sensitive receptors) in determining permit conditions and decisions

In 2018, DTSC developed a Draft Regulatory Concept for Track 2 and revised the regulatory framework in 2021 following public feedback and collaboration with external partners. The revised framework considered community screening tools, facility plans and actions to address cumulative impacts on communities, and criteria for permit revocation or denial. After another round of public comment and input from Legislators, DTSC issued another revision of the proposed regulatory framework in the form of three information sheets in 2024 and 2025. Draft language for these regulations are anticipated to be completed by the end of the year.

Although DTSC worked to ensure the participation of concerned groups in the making of these draft regulations, SB 673 required the regulations for all permit criteria to be completed by January 2018. In the seven years since, DTSC has issued or renewed over 50 permits without some of the desired permit criteria included in the anticipated regulations. While SB 673 regulations continue to be developed, there have been ongoing concerns regarding implementation from communities.

Past Violations Regulations and VSP Scores

The Past Violations regulations became effective January 1, 2019. This set of permit criteria is intended to evaluate the compliance history of hazardous waste operating facilities through a scoring system (VSP scores). This evaluation is conducted annually, and facilities are issued VSP scores by September 30th. The VSP scores are intended to incentivize facilities to improve compliance performance and reduce the number of violations, which over time is intended to result in better protection of the environment and public health.

Currently, the VSP score is calculated by summing the scores for all Class I violations for compliance inspections over a rolling 10-year period, and then dividing by the number of compliance inspections. A facility is then assigned to one of three compliance tiers based on the VSP score: acceptable, conditionally acceptable, and unacceptable. A facility with an acceptable score is not subject to additional regulatory requirements. However, a facility with a conditionally acceptable score is subject to additional requirements. For a facility with an unacceptable score, DTSC is required to initiate permit denial, suspension, or revocation proceedings. Facilities have an opportunity to challenge an unacceptable score, and DTSC may still grant a permit or a permit modification to these facilities if DTSC determines the operation of the facility will not pose a threat to public health, safety, or the environment. In such cases,

DTSC is required to impose mandatory permit restrictions, which include limiting the length of the permit, conducting additional audits, and requiring the correction for all potential harm associated with facility operations. Despite these actions, there remains concern that the harm imposed on workers and proximal communities by facilities with conditionally acceptable or unacceptable scores may be inadequately assessed and DTSC may continue to issue permits that should be otherwise denied or revoked.

The original method of calculating VSP was challenged by SB 575 (Durazo, 2021) after various concerns were brought to the Legislature on how the score obscured the harmful impacts of facilities on communities. Though SB 575 was held on suspense, DTSC acknowledged the efficacy of the bill's proposed calculation that summed the scores for all Class I violations over a 10-year period and restructured the compliance tiers. DTSC began drafting proposed revisions in 2021. The regulation revisions, which reflect the proposed calculation of SB 575 and make other substantial changes, were subjected to a public comment period during spring 2025.

Health Risk Assessment and Community Vulnerability

Once all SB 673 regulations (including the revised VSP and Track 2) are finalized and in effect, permit applicants will be required to conduct a community vulnerability assessment in addition to the human health risk assessments (HHRA) to determine the facility's risk of imposing additional exposure to toxic chemicals on workers and nearby communities. Facilities have been expected to fund third-party assessments to characterize the extent of pollution emitted from the facility. These assessments will then inform permit conditions and decisions with the intent to protect public health.

There have been concerns whether the data collected for the HHRAs are sufficiently comprehensive. Some assessments may only depend on data collected at the source of emissions or very close to the facility, as opposed to further away from the facility, where contamination may still be found. The assessments may be informed by dispersion models, but may not be validated by observations that reflect lived-experiences. The HHRAs will also inform community vulnerability assessments and setback distances, so it is important that HHRAs are fully comprehensive to be the most protective of public health.

The community vulnerability assessment considers the extent of public health impacts due to cumulative exposure to local pollutants outside of the permitted facility and other environmental and socioeconomic conditions as suggested through CalEnviroScreen. This may include emissions from other industrial facilities and regional air quality, as well as population indicators such as certain health risks and poverty. While HHRAs may inform the community vulnerability assessment, the cumulative impacts evaluated in the community vulnerability assessment may not inform HHRAs. Although HHRAs are intended to focus on facility-specific impacts, there has been criticism that only focusing on these sole impacts may lead to a partial assessment of

the compounding health risks to communities. Some of these concerns have been expressed by BES as well as the public, and DTSC continues to solicit for public feedback as they begin to draft the regulations for Track 2.

Balancing Public Health and Hazardous Waste Management

While establishing permit criteria protective of public health intends to address long-standing issues of environmental injustice, some permitted facilities will face increasing pressures and additional costs in meeting permit conditions. Some groups have raised that along with the recent increases in hazardous waste fees, the State runs the risk of pushing permittees past fiscal limits and it may not be feasible for some facilities to operate in California. Policies come with trade-offs, and it's important to find a balance that prioritizes the public health of communities and ensures the responsible and safe management of hazardous waste.

Questions to Consider:

- *What are the driving factors that result in renewed permits for facilities with unacceptable scores, a long history of violations, or considerable community impacts? Will the finalized SB 673 regulations alter how those factors influence permit decisions?*
- *Given that SB 673 was passed in 2015, when will DTSC propose regulations for Track 2? Additionally, when will DTSC adopt the revised VSP regulations?*
- *When issuing shorter-term permits for controversial facilities with complex operations, how will DTSC prevent delays in future permit decisions?*
- *What steps are being taken to ensure human health risk assessments are fully comprehensive and will lead to permit decisions that are more protective of public health?*

The Costs of Managing Hazardous Waste

Historically, hazardous waste management has been funded through the collection of taxes and fees. While the use of taxes demonstrated that hazardous waste management was a public good, fees are intended to incentivize generators to reduce the amount of hazardous waste generated. The revenue generated from taxes and fees funds the Hazardous Waste Control Account (HWCA) and the Toxic Substances Control Account (TSCA). HWCA funds DTSC's activities to oversee the safe management of hazardous waste, which includes investigations, enforcement activities, and administrative efforts. TSCA funds other administrative and programmatic efforts of DTSC, including site remediation and Safer Consumer Products.

Established in the 1990's, the former fee structure that funded HWCA was a tiered approach that allowed larger generators of hazardous waste to pay less per ton of waste generated. This system proved complex, expensive to administer, and inequitable between large and small generators. Furthermore, it provided little incentive for large generators to reduce the amount of waste generated. Additionally, DTSC experienced a structural deficit in the HWCA and TSCA for

decades. Various statutory requirements, new programs, operational costs, and cleanup responsibilities led to a growth in expenditures that outpaced revenues, despite adjustments in fees.

Reforming the Fee Framework

In part to address the structural deficit, SB 158 reformed the tiered fee framework by consolidating four fees associated with generation, transport, and disposal into a single flat per-ton rate known as the generation and handling fee (G&H Fee). The flat-rate fee promoted the "polluter pays" model, which more equitably distributed the costs of managing hazardous waste amongst generators and shifted the responsibility to the largest generators: the more waste a generator produces, the more a generator pays. The G&H Fee is paid by generators of hazardous waste and deposited into the HWCA. The facility fees are paid by permitted facilities and are deposited into a newly established subaccount within HWCA, the Hazardous Waste Facility Account (HWFA). HWFA funds permitting activities, inspections, and enforcement, and other administrative efforts. The environmental fees, paid by businesses with 100 employees or more, are deposited into TSCA.

To avoid future structural deficits and allow for flexibility, BES is annually required to set rates for the G&H Fee, facility fee and environmental fee. These fees must generate sufficient revenue to meet DTSC's costs and generate a reserve that does not exceed 10% of the expenditures. BES must provide fee rates to the Department of Tax and Fee Administration (CDTFA) no later than October 1st, and the rates are retroactive to July 1st. DTSC, together with the BES Fees Subcommittee, informs BES of the final budget and fund conditions and makes recommendations to BES. BES then holds a public process and adjusts fees as necessary based on input, and must hold a vote to set rates.

Digging out of the Deficit

At the time of SB 158's enactment in 2022, the G&H Fee, statutorily set at a rate of $49.25 per ton, was estimated to generate $81 million. The actual G&H Fee revenues were $43 million in 2022-2023, and approximately $48 million in 2023-2024. BES found that this shortfall was due to incomplete accounting of waste by CDTFA; fee payer negligence of fee due dates; legislatively-approved exemptions and accidental self-exemptions; technical oversights; and inadequate penalties and enforcement. In response, DTSC engaged with fee payers in individual meetings and public workshops, enhanced the administrative contract and system with CDTFA, and made technical adjustments to account for salary increases and cost-of-living.

The 2023-2024 Budget Act sought to address this deficit from both years by providing $55 million in loans from the Beverage Container Recycling Fund ($40 million) and TSCA ($15 million) with a loan repayment date set in June 2026. Additionally, the 2024 Governor's May Revision included trailer bill language and a Budget Change Proposal (BCP) to support the

increased collection of the G&H Fee by clarifying fee exemptions, establishing an exemption review and reporting process, escalating penalties with CDTFA, increasing audits and oversight for CDTFA, and applying loan forgiveness for TSCA. DTSC developed emergency regulations after the passage of this budget trailer bill, and the regulatory package was approved in January 2025. To ensure the recently established regulations could be implemented, DTSC submitted a BCP in May 2025 to request $837,000 for HWCA and $1.7 million for TSCA. These requests were approved and while they are expected to reduce the shortfall, DTSC and BES do not anticipate that these efforts will eliminate it.

While the above provisions from the budget are intended to address the deficit administratively, BES sought to address the deficit by increasing the G&H Fee, facility fee, and environmental fee to create a 5% reserve in the HWCA and TSCA. The loans provided for FY 2023/2024 allowed BES to maintain the G&H Fee at $49.25 per ton for FY 2023/2024. But in August 2024, BES voted to increase the G&H Fee from $49.25 per ton to $60.05 per ton for FY 2024/2025. This generated a revenue of $66.7 million. DTSC intends to commit $32 million in loan repayment to the Beverage Container Recycling Fund in FY 2025/2026 and the 2025-2026 Budget Act extends loan repayment by one year. If the current G&H Fee is maintained, then the anticipated reserve for FY 2025/2026 is 8.1%. If the facility and environmental fees are maintained for FY 2025/2026, then both reserves would exceed 10%. As a result, BES will be required to decrease the facility and environmental fees for FY 2025/2026.

More broadly, the Governor ordered all departments to greatly reduce the number of vacancies of each department and to cut all spending by 8% in the fall of 2024. As of the release of the Governor's budget, it was unclear the specific savings to the HWCA or TSCA, as well as the number of vacancies reduced. These savings could help stabilize DTSC's funding for the short-term or longer.

Generator and Facility Fiscal Pressures

The decrease in some fees in the upcoming fiscal year will provide relief for some permitted facilities. However there is an open question of whether varying fees will have a negative impact on businesses that may prefer stability. Additionally, concerned groups have noted that some facilities may face increased cost pressures if undergoing a permit renewal, especially if the facility is authorized to continue operating on an expired permit. The fee-for-service is required by permit applicants to pay DTSC's costs to issue the permit, and if the application process is prolonged, permit applicants will continue to pay this fee.

Generators of hazardous waste may face pressure from an increasing G&H Fee. In recent years, there has been legislation promoting exemptions or fee caps for some generators. SB 819 (Padilla, 2025) and AB 1031 (Gonzalez, 2025) sought to apply or study fee caps and exemptions for generators of geothermal waste. Both bills were held on the suspense file. AB 2686 (Grayson,

2024) and SB 328 (Grayson, 2025) seek fee caps for hazardous waste generated from development projects. While AB 2686 was held in committee, SB 328 will be heard in Assembly Appropriations later this month. Such exemptions will lead to an increase in the G&H Fee and shift the fee burden to other businesses. There have been cases where it is more economically viable for generators to ship hazardous waste out-of-state. In-state facilities may charge higher fees to accept hazardous waste because of regulatory fees and other costs associated with doing business in California. DTSC has also shipped non-RCRA waste out-of-state, such as some types of contaminated soil, because of costs. This conflicts with California's long-standing policy objective to manage its own hazardous waste within the state rather than depend on out-of-state facilities. Sending non-RCRA waste out-of-state also shifts the burden of pollution to communities nearby facilities with less stringent management requirements.

It is important that DTSC's administrative and oversight activities are well-funded to ensure the safe management of hazardous waste, however, it's important to keep in mind that as the fees on generators and permitted facilities increase, there could be unintended consequences such as illegal dumping or facility closures. In order to acknowledge the overall cost pressures faced by businesses that generate and manage hazardous waste, the Legislature may wish to consider off-setting some of these costs through the General Fund where it aligns with state goals.

Source reduction would be most protective of the environment and public health and would alleviate costs imposed on generators. Fees were intended to incentivize the reduction of hazardous waste generation, but it is uncertain the extent the former or current fee structure encourages source reduction. Aside from fees, other policy frameworks and strategies could be considered to achieve source reduction where possible. DTSC has a long history of attempting source reduction through various programmatic efforts discussed in the following section, and there is an opportunity to envision a different approach.

Questions to Consider:

- *How has the new fee structure and increased oversight of CDTFA and fee payers helped to address the structural deficit and loan repayment?*
- *Which departmental activities drive increases in the generation and handling fee and facility fees? To what extent are increases in fees related to departmental activities or addressing the deficit?*
- *Given the reductions in state funding, how many vacant positions were swept within the department?*
- *Approximately how much funding did the department save with the 8% reduction in spending from HWCA and TSCA?*

Source Reduction and Toxics in Consumer Products

Source Reduction under Pollution Prevention

Throughout the decades, DTSC has remained committed to reducing the potential harm to the public and environment from hazardous chemical use, although the focus and scope of its programs have evolved. In the 1980's, DTSC developed the Pollution Prevention program (P2) which mainly focused on source reduction of hazardous waste within businesses voluntarily through guidance and grants to develop waste reducing technologies. Some of the more successful activities under P2 included reducing the generation of incinerable waste and treating contaminated soil. The program had a limited impact because it was voluntary and only certain industries would participate.

Even though the expansion of P2 was one of six policy recommendations from the Green Chemistry Initiative initiated by CalEPA in 2007, it was not adopted. Instead, the Legislature adopted two other policy recommendations which led to a shift in focus. The passage of AB 1879 (Feuer and Huffman, Chapter 559, Statutes of 2008) and SB 509 (Simitian, Chapter 560, Statutes of 2008) required the state to establish a regulatory process to evaluate hazardous chemicals and potential alternatives in consumer products and establish an online database of chemical hazard traits. These statutes formed the foundation for the Safer Consumer Products program (SCP). When the regulations for SCP were finalized in 2013, DTSC redirected resources and staff away from P2 and towards the implementation of SCP.

The Safer Consumer Products Program

The mission of SCP is to advance the design, development, and use of products that are chemically safer for people and the environment and the program intends to reduce the use of toxic chemicals and provide transparency to the public. There are hundreds of chemicals used in various types of products that are linked to cancer, reproductive toxicity, neurotoxicity and other negative health outcomes. The "four-step continuous, science-based, and iterative" regulatory process of SCP is detailed below:

1. **List Candidate Chemicals:** DTSC maintains a list of hazardous chemicals based on other authoritative organizations and its own evaluations.
2. **Identify Priority Products:** DTSC evaluates and prioritizes product/candidate chemical combinations for which alternatives analyses must be conducted.
3. **Conduct Alternatives Analyses:** Responsible entities, such as manufacturers, are required to conduct an alternatives analysis for a Priority Product to determine how to limit chemical exposure, find safer chemical alternatives, or otherwise remove the Candidate Chemical from their product.
4. **Issue Regulatory Responses:** DTSC issues a regulatory response, informed by the alternative analyses, to reduce or eliminate negative impacts caused by the product.

To ensure responsible entities comply with SCP Regulations, DTSC provides compliance assistance to responsible entities, such as informational workshops and training support in conducting the alternative analyses. DTSC also engages in enforcement activities, such as market surveillance, product testing, and issuing penalties for violations. If the manufacturer of a Priority Product fails to comply with SCP regulations, DTSC places that manufacturer on their publicly available Failure to Comply List. When a manufacturer does not comply, the duty to comply falls to the importer (if any), and then after continued non-compliance, this duty falls to the retailer or assembler. The SCP Regulations prohibit retailers and assemblers from purchasing or selling non-compliant Priority Products, and these parties must notify DTSC that they have ceased ordering the Priority Product if the manufacturer is on the Failure to Comply List.

SCP has been recognized for its strengths in its hazard-based approach for a broad list of chemicals, evaluating chemicals in the context of their safety and product function, and shifting the burden of performing alternative analyses on to businesses. However, SCP has its shortfalls, drawing critics that find the processes in the program to be slow and the data gaps to be wide. With its broad focus on a variety of products, lack of timelines, and inefficiencies within its processes, SCP has only adopted 8 products as Priority Products over the last 12 years, since the adoption of its regulations. There are currently 6 proposed Priority Products and there are products DTSC decided not to adopt as Priority Products based on low risk of exposure or conflicting legislation. Administratively, DTSC faced challenges implementing SCP with the transition of P2 staff, continuous staffing constraints, and insufficient resources and infrastructure.

Addressing the Shortfalls of SCP

In recognition of these shortfalls and challenges, DTSC issued a BCP after the SB 158 Reform for the 2022-2023 fiscal year requesting 37.0 permanent positions and $7.2 million in TSCA and ongoing to fully implement SCP. Full implementation of this request would nearly double the number of staff designated to work within SCP. Some of the additional resources were expected to accelerate the identification or regulation adoption of Priority Products, expand compliance and technical assistance for responsible entities, develop regulatory responses following alternative analyses, and engage in enforcement actions. It was estimated in DTSC's budget proposal submitted to the Legislature that the additional resources would lead to 12 Priority Products identified per year, and 5 Priority Product rulemaking packages per year. Since then, 6 Priority Product regulations have been initiated or adopted as opposed to the 15 Priority Products that were anticipated. Although SCP exhibited low performance in identifying Priority Products, the program has been able to publish 27 research or decision documents with the additional resources.

Legislators also took action to address the challenges within SCP. SB 502 (Allen, Chapter 701, Statutes of 2022) provided DTSC with additional tools to improve and streamline the SCP

process. Some of the provisions required manufacturers to confidentially provide information on their products and chemical ingredients to DTSC within a specified timeframe if issued a formal request. Other provisions required the Priority Product Work Plans to include timelines for product categories, information that has been obtained from manufacturers, and known data gaps with plans to fill them. Additionally, SB 502 permitted DTSC to expedite the process and issue regulatory responses based on pre-existing and reliable information on a Priority Product. The public comment period for the SB 502 proposed regulatory text ended on July 21, 2025, and the anticipated effective date for the regulation is by January 2026.

The Challenges and Limitations of Current Toxics Policies

It may require another couple of years to gauge how these efforts will impact and improve SCP. These changes were made as questions started to arise surrounding the program's efficacy to address larger classes of chemicals or broader groups of products. Per- and polyfluoroalkyl substances (PFAS) are a class of toxic chemicals ubiquitously found throughout humans and the environment that have been addressed in a couple of products through the SCP framework and continue to be contemplated within the program. There are thousands of different PFAS in thousands of products, and some parties suspect SCP may not be the most appropriate framework to address PFAS pollution. Similarly, DTSC is currently proposing to list microplastics as a Candidate Chemical, which would allow them to evaluate product-chemical combinations that contain or release microplastics. Because of the number of products that may lead to the release of microplastics, this and further action under SCP could prove to be a significant undertaking, despite a more streamlined process and additional resources being allocated to the program.

Even with newly implemented regulations and additional resources, open questions and concerns for SCP remain. In determining Priority Products, DTSC tends to select product-chemical combinations that have a relatively higher potential for public exposure and that industries could practically move away from. Alternative chemistries may be considered within the scope of what may provide optimal function for the product from the manufacturer's perspective, and safer alternatives that may not perform as well may not be considered. While there is thorough and productive engagement between DTSC and industries regarding these products, there are concerns that decisions are weighted by industry influence. If an alternative analysis is conducted, the process may be slowed down as these analyses may be cumbersome and too expensive, especially for smaller companies. If no alternatives are found, it is unclear in the statutes and regulations how industries will administer green chemistry grants to research safer alternatives.

The pace of this program has led to frustrations among legislators, who feel compelled to take swift action on toxics in products through ban bills. The Legislature has also required DTSC to enforce some of these ban bills, restricting the use of PFAS in certain products (AB 347, Ting,

Chapter 932, Statutes of 2024). SCP was created in part to address unintended consequences and regrettable substitutions that could result from various chemical bans adopted prior to the program's implementation. It is important that the Legislature gains trust in this science-based program, but that trust is difficult to maintain when the impact of the program does not meet expectations. Interested parties have noted that SCP could narrow its focus to prioritize products that have the largest impact on Californians, and the Legislature could guide its focus towards impacts that will be most meaningful.

Furthermore, the scope of SCP is limited to toxic chemicals and their potential alternatives in products, and does not consider toxic exposure risks from production and manufacturing. Although an alternative analysis takes a life-cycle approach, it only seems to focus on how the use of an alternative chemistry will alter processes within the product's life cycle, including manufacturing and production, and related hazardous exposures and impacts. There is a need to address the toxic exposures associated with industrial manufacturing processes separate from individual products and the harmful impacts to workers within facilities and proximal communities. These issues were originally considered during the implementation of the Green Chemistry laws, but the scope of the program was narrowed.

The 2025 Draft Hazardous Waste Management Plan envisions a modern waste reduction program based on P2 (Goal 4). This goal includes recommendations to establish a program that emphasizes hazardous waste reduction and alternative technologies. This presents an opportunity to address the toxics-related challenges that SCP is not suited to solve with its current framework and other outstanding issues that fall outside the scope of SCP. Such a program could target streams of toxic materials that most negatively impact the state, address manufacturing processes and industrial pollution with high exposure to vulnerable communities, and expand upon the original P2 program to reduce the generation of hazardous waste.

Questions to Consider:

- *What are the factors that have contributed to the shortfall in Priority Products in the three years since DTSC received additional resources towards Safer Consumer Products?*
- *When will SCP produce at least 5 Priority Products a year, as promised to the Legislature in budget documents in 2022?*
- *It has been acknowledged that Safer Consumer Products may not be the most appropriate regulatory framework to address PFAS because of the large number of product-chemical combinations. Why does DTSC consider the program to be the most appropriate framework to address microplastics, which may also have a large number of product-chemical combinations?*

- *In considering a modern waste reduction program, what challenges could such a program address that Safer Consumer Products fails to address? How would a modern waste reduction program expand upon the original Pollution Prevention program?*

Community Engagement and Cleanup Efforts

Environmental Justice Advisory Council (EJAC)

SB 158 led to the creation of EJAC, which is intended to strengthen DTSC's engagement with environmental justice communities. EJAC is composed of seven appointed members representing various diverse communities across the state that will amplify community and Tribal voices and provide independent advice, consultation, and recommendations to DTSC and BES. The policy solutions developed by EJAC members will improve the health of communities across the state and promote the fair treatment and meaningful involvement of all people, regardless of race, ethnicity, color, national origin, sexual orientation, or income. The recommendations from EJAC are to be integrated into all DTSC programs and activities. The most recent framework for EJAC was finalized in October 2024. The first seven members of EJAC hosted their inaugural meeting in June 2025 and have since met in July 2025.

Cleanup in Vulnerable Communities Initiative (CVCI)

SB 158 established the Cleanup in Vulnerable Communities Initiative (CVCI), allocating $500 million over three years to expedite the cleanup and beneficial reuse of contaminated properties, with priority given to properties in historically vulnerable and disadvantaged communities. The allotted $500 million included the following core CVCI programs:

- **Equitable Community Revitalization Grant (ECRG):** Providing more than $250 million in grants to incentivize cleanup and investment in disadvantaged areas of California. The ECRG funding is available to help California public entities, nonprofit organizations, and Tribes conduct community-wide assessments, site-specific investigations, and site-specific cleanups, with over half of projects focused on affordable housing.
- **Discovery and Enforcement (D&E):** Providing more than $152 million to fund investigation into a prevalent and ubiquitous potential source of contamination from current or former dry cleaners.
- **Workforce Development (WFD):** Providing more than $4 million to provide education, training, and certification to community members in regions where cleanup work will be conducted.
- **Technical Assistance Grants (TAG):** Providing $2.5 million available to provide grants for community organizations to engage in the cleanup process of contaminated properties in their communities through technical assistance and community science.

- **Community Benefits Agreements:** Providing $800,000 to develop a policy for facilitating Community Benefits Agreements (CBAs) between Responsible Parties of cleanup sites and impacted communities.
- **Orphan Sites:** Providing $40 million to accelerate cleanups at 21 existing contaminated sites with unknown responsible parties across the state.

After the first round of allocations, $65 million was appropriated from the Greenhouse Gas Reduction Fund (GGRF) in the 2024 Budget Act to fund programming under CVCI. Through April 2025, the remaining balance from GGRF for all CVCI programs was approximately $31 million. The webpage for ECRG indicates that the next round of funding for the program has been reallocated to address other state priorities and community needs.

Eaton and Palisades Wildfire Cleanup

DTSC's Emergency Response Unit worked alongside the U.S. EPA to address the cleanup of hazardous materials after the January 2025 Eaton and Palisades wildfires that impacted various communities across LA County. Within 30 days, over 9,000 properties out of nearly 14,000 assessed properties with hazardous materials were cleaned up during Phase 1. The U.S. Army Corps of Engineers oversaw the remainder of the cleanup in Phase 2, addressing non-hazardous structural debris and any residual hazardous materials in locations that were deemed too dangerous to clear during Phase 1. The U.S. EPA set up temporary staging areas to sort hazardous material before transporting it to a disposal site. The Kettleman Hills disposal facility accepted much of the hazardous waste generated from the fires. While unclear, it is likely out-of-state facilities in Arizona and Nevada also accepted some of the hazardous waste.

Santa Susana Field Laboratory (SSFL) Cleanup

The SSFL is a roughly 2,850-acre site where rocket testing and nuclear research has taken place since 1948, with operations ceasing in 2006. SSFL is located 30 miles northwest of downtown LA in southeastern Ventura County. Operational, maintenance, and research activities in the past contaminated the site's soil and groundwater with various toxic chemicals, including trichloroethylene (TCE), polychlorinated biphenyls (PCBs), and petroleum-based compounds. The nuclear research also resulted in the accidental release of radioactive elements to the environment. The Boeing Company, U.S. Department of Energy (DOE), and National Aeronautics and Space Administration (NASA) are the responsible parties for cleanup at SSFL.

DTSC directs and oversees the site investigation and clean-up at the SSFL site under the Corrective Action Program of RCRA. The 2007 Consent Order and the 2010 Administrative Orders on Consent (AOC) for remedial action established requirements for the responsible parties to conduct investigation and cleanup of soil and groundwater at the project site. In 2023, DTSC released the final program environmental impact report (PEIR) for the cleanup of SSFL, which explained the environmental impacts that could result from SSFL cleanup activities and

identified strategies to mitigate those impacts. DTSC also prepared a draft Program Management Plan (PMP), most recently revised in 2023, which establishes the framework for investigation and cleanup decisions at SSFL. All documents are subject to a public comment period and drafts will incorporate recommendations into the final documents. Though final cleanup decisions have not been made, there have been interim remediation actions for sites that represent immediate threats to ecological receptors.

In May 2022, after 15 months of legal mediation, CalEPA announced a comprehensive framework that establishes strict cleanup protocols and timelines for the Boeing Company to remediate contaminated soil. Boeing has since began excavation of contaminated soil at a site known as the Area 1 Burn Pit after an Imminent and Substantial Endangerment Determination and Consent Order (ISE Order). The cleanup of this site is ongoing and was anticipated to be completed in the late summer of 2025. Similarly, in March 2022, DTSC issued an ISE Order to Boeing to address soil contamination at the Rocketdyne Shooting range. Cleanup at this site began in 2023 and was completed in January 2025 with the removal of 29,000 cubic yards of contaminated soil.

In January 2024, NASA issued a corrective measures study evaluating the first phase of potential cleanup areas, methods, and technologies to address TCE contamination in groundwater. Public comment was solicited until June 10, 2025. Three wells have been identified for the first phase of treatment, which have concentrations of TCE 2,000 times the federal maximum contaminant level. This action represents the first phase of groundwater cleanup by NASA, and corrective action implementation is anticipated to begin in 2026. The second phase of evaluation and corrective action addressing the remainder of the wells is anticipated to begin in 2027. Members and organizations representing the surrounding communities experience frustration with the decades-long delays in implementation, limited scope of remediation, and selected remediation techniques that will not address contamination on reasonable timescales.

Exide Technologies Cleanup

Exide Technologies was a lead battery recycling plant in the City of Vernon, located about five miles southeast of downtown LA. Operations of the facility resulted in the dispersion and deposition of lead, contaminating the soil of the surrounding residential areas. In 2002, DTSC issued a Corrective Action Consent Order that required Exide to investigate and clean up lead releases from the facility's operations. The facility shut down in 2015 after DTSC ordered Exide to withdraw its permit and cease operations.

For over a decade, sampling and cleanup efforts have ensued with the support of $100's of millions in state funding and local programming. In 2020, Exide filed for bankruptcy, liquidating all assets and evading its obligations to cleanup contamination at the facility. DTSC responded by appealing the court's bankruptcy ruling and sought lawsuits against former owners and

operators to recoup some costs of remediation. Though the appeal was rejected, the litigation against other responsible parties is ongoing.

The 2021 Budget Act included $322 million from the General Fund for remediation efforts in residential areas through 2025. As of June 2025, DTSC has supported the cleanup of 5,940 contaminated parcels. There are approximately 3,000 contaminated residential properties that remain. DTSC issued a BCP in January 2025 to revert $75 million from the 2021 Budget Act and appropriate the amount in loans to continue funding cleanup activities.

In 2024, the U.S. EPA announced its proposal to include Exide on the National Priorities List (NPL) as a Superfund site, which would provide millions of federal dollars to expedite cleanup activities. The final decision to include Exide on the NPL is anticipated by the end of 2025.

Questions to Consider:

- *Which programs within CVCI will continue to receive funding and which programs are anticipated to be negatively impacted?*
- *Could DTSC explain their role in wildfire cleanup?*
- *Why is the scope of remediation under NASA's jurisdiction for Santa Susana Field Laboratory so limited? What is contributing to the delay for final cleanup decisions?*
- *Is there any update to the state's request for Exide to be placed on the National Priorities List?*