
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

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Fiscal: Yes

SUBJECT: Hazardous waste facility permits: regulations

DIGEST: This bill would require the Department of Toxic Substances Control (DTSC), by July 1, 2022, to make specified changes to its Violation Scoring Procedure regulations for permitted hazardous waste facilities.

ANALYSIS:

Existing law:

- 1) Pursuant to the federal Resource Conservation and Recovery Act (RCRA), requires owners and operators of facilities that treat, store, or dispose of hazardous waste to obtain an operating permit.
- 2) Provides, under RCRA, that DTSC is authorized by the United States Environmental Protection Agency (USEPA) to be the lead agency for enforcing the provisions of RCRA. Requires, as an authorized state, California's regulations be consistent with, and at least as strict as, the federal regulations.
- 3) Requires, pursuant to the Hazardous Waste Control Act (HWCA), any person who stores, treats, or disposes of hazardous waste, to obtain a hazardous waste facility permit from DTSC.
- 4) Requires hazardous waste facilities to operate subject to permits issued by DTSC and which are in accordance with applicable federal law, including RCRA.
- 5) Requires DTSC to issue a hazardous waste facilities permit for a fixed term, which is prohibited from exceeding ten years, for any land disposal facility, storage facility, incinerator, or other treatment facility.
- 6) Requires DTSC, on or before January 1, 2018, to adopt regulations establishing or updating criteria used to issue a new, modified, or renewed hazardous waste

facilities permit, which may include criteria for the denial or suspension of a permit.

- 7) Requires DTSC to consider for inclusion in the regulations specified criteria, including, but not limited to, the number and types of past violations that will result in a denial of a hazardous waste facilities permit.
- 8) The regulations, known as the Violations Scoring Procedure (VSP), require DTSC to calculate an annual Facility VSP Score or Facility VSP Score for a permitted hazardous waste facility by adding the provisional or final inspection violation scores, as described, for each compliance inspection, as defined, conducted during the preceding 10-year period, divided by the number of compliance inspections that occurred during that 10-year period.
- 9) Requires DTSC to assign a hazardous waste facility to one of 3 compliance tiers, which consist of acceptable, conditionally acceptable, and unacceptable, based on the facility's Facility VSP Score and to take certain actions, including, but not limited to, taking steps to modify, deny, suspend, or revoke a hazardous waste facilities permit, if the facility falls within a conditionally unacceptable or unacceptable compliance tier.

This bill:

- 1) Requires DTSC, by January 1, 2023, to calculate the Facility VSP Score of a hazardous waste facility for the 2022 calendar year, and annually thereafter, by adding the provisional or final inspection violation scores for each compliance inspection conducted during the preceding 10-year period.
- 2) Prohibits the department from dividing the sum of the provisional and final inspection violation scores by the number of compliance inspections that occurred during that 10-year period.
- 3) Revises the numerical ranges used by DTSC to determine a hazardous waste facility's compliance tier.
- 4) Requires DTSC to revise its VSP regulations for consistency with these provisions by July 1, 2022.
- 5) Makes various findings and declarations.

Background

- 1) *California Hazardous Waste Control Law (HWCL)*. HWCL is the state's program that implements and enforces federal hazardous waste law in California and directs DTSC to oversee and implement the state's HWCL. Any person who stores, treats, or disposes of hazardous waste must obtain a permit from DTSC. The HWCL covers the entire management of hazardous waste, from the point the hazardous waste is generated, to management, transportation, and ultimately disposal into a state or federal authorized facility.
- 2) *DTSC's hazardous waste management permitting program*. DTSC is responsible for administering the hazardous waste facility permitting program established under HWCL and the federal Resource Conservation and Recovery Act (RCRA). The core activities of the permitting program include: review of RCRA and non-RCRA hazardous waste permit applications to ensure safe design and operation; issuance and denial of operating permits; issuance of post-closure permits; approval and denial of permit modifications; issuance and denial of emergency permits; review and approval of closure plans; oversight of approved closure plans; and, providing public involvement on issues related to permitted facilities.
- 3) *DTSC's hazardous waste management enforcement program*. DTSC's inspection and enforcement responsibilities include its delegated authority under RCRA, California's HWCL, and state laws pertaining to toxics in packaging, toxic substances in consumer products, and disposal of universal wastes such as electronic waste. Core activities of DTSC's hazardous waste management program include: routine compliance inspections, which involve review of submitted data and reports as well as physical observation, testing, and evaluation of regulated facilities; and targeted compliance inspections, which involve review of specific units or processes in response to focused concerns or to inform permitting decisions, as well as analysis of current and historical compliance to inform those decisions.
- 4) *The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)*. CERCLA, or Superfund, provides a Federal "Superfund" to clean up uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through CERCLA, the US EPA was given authority to seek out those parties responsible for any release and assure their cooperation in the cleanup. The US EPA cleans up orphan sites when potentially responsible parties cannot be identified or located, or when they fail to act.

- 5) *Carpenter-Presley-Tanner Hazardous Substances Account Act (HSAA)*. State law provides DTSC with general administrative responsibility for overseeing the state's responses to spills or releases of hazardous substances, and for hazardous waste disposal sites that pose a threat to public health or the environment. Additionally, DTSC ensures that the state meets the federal requirements that California pay 10 percent of cleanup costs for federal Superfund sites and 100 percent of the operation and maintenance costs after cleanup is complete. The HSAA provides DTSC with the authority, procedures, and standards to investigate, remove, and remediate contamination at sites; to issue and enforce a removal or remedial action order to any responsible party; and, to impose administrative or civil penalties for noncompliance with an order. Federal and state laws also authorize DTSC to recover costs and expenses it incurs in carrying out these activities.
- 6) *Recent criticism of DTSC*. Over the past decade or so, DTSC has received complaints from the public about its permitting program and held meetings with the public, the regulated community, and stakeholders to identify and understand concerns about its permitting program. Community groups that live near hazardous waste facilities are concerned that DTSC is not properly enforcing state and federal law and allowing facilities to operate with an expired permit or have numerous violations of state law and regulation. Additionally, the regulated community is concerned about the length of time it takes DTSC to process a permit, with processing a permit extending years beyond the expiration date of their permit, as well as the costs associated with processing a permit.
- 7) *Legislative Oversight*. Over the last five years, the Legislature has conducted numerous hearings on DTSC's internal controls, its business practices, and its basic statutory obligations. In those hearings, the budget and policy committees have evaluated the following four main areas: (1) reviewing and monitoring the department's strategic plan and reorganization; (2) auditing cost recovery at the department; (3) providing staffing to improve permit backlogs and business operations; and, (4) improving enforcement at the department.

Numerous statutory changes have been made to clarify and strengthen DTSC's statutes to help DTSC better achieve its mandates, and budget augmentations have been made to give DTSC resources to reduce backlogs and address outstanding programmatic failings. However, many of the underlying concerns about transparency, accountability, and long-term stability of DTSC programs remain.

- 8) *DTSC Independent Review Panel (IRP)*. In 2015, the Legislature passed and the Governor signed SB 83 (Budget Committee, Chapter 24, Statutes of 2015), which established within DTSC a three-member IRP to review and make recommendations regarding improvements to DTSC's permitting, enforcement, public outreach, and fiscal management. The statute stipulates that IRP membership shall be comprised of a community representative, a person with scientific experience related to toxic materials, and a local government management expert. Pursuant to SB 83, the IRP was authorized until January 1, 2018. Over the course of its term, the IRP conducted 24 public meetings and released 11 progress and annual reports. On January 8, 2018 the IRP released its final report and recommendations concluding: "The Department has implemented, or is working on, most of the IRP's recommendations and has achieved, or partially achieved, many of the IRP's suggested performance metrics. However, there is more work to be done. In the absence of the IRP, the Governor and the Legislature should consider a DTSC governing board or other structural change to enhance transparency and accountability and regularly monitor the status of the IRP-suggested recommendations and performance metrics, as well as DTSC's ongoing initiatives and decision-making."
- 9) *DTSC Reform Proposals*. Currently, there are three proposals in the Legislature that would establish a new oversight board to improve transparency and promote greater accountability at DTSC. Additionally, the Governor's proposed trailer bill would restructure and increase charges that support the HWCA and restructure and increase the tax that supports the TSCA. Along with other funding proposals contained in the Governor's 2021-22 budget, these fiscal and governance reform efforts are intended to fix the current budget deficit within TSCA and HWCA and give DTSC the resources and structure it needs to better carry out its mission. Additionally, the trailer bill and AB 1 (Garcia) include important programmatic reforms that would require the department to update a state hazardous waste management plan, accelerate time lines for the department to complete hazardous waste facility permit renewals, as well as implement other accountability measures, and strengthen financial assurance requirements for entities who handle hazardous waste.
- 10) *VSP Regulations*. The VSP regulations, which became effective January 1, 2019, were adopted in response to SB 673 (Lara, 2015), which directed the department to adopt regulations to establish or revise the standards used for determining whether to issue, deny or suspend a hazardous waste facility permit. The VSP focuses on the 78 hazardous waste operating facilities in the state that treat, store, transfer or dispose of waste received waste from generators.

The regulations require DTSC to comprehensively evaluate each hazardous waste facility's compliance history as part of the permit decision-making process. The VSP regulations establish a systematic process for evaluating and characterizing a hazardous waste facility's compliance with substantive hazardous waste management requirements.

According to DTSC, the Facility VSP Score and the corresponding assigned compliance tier provide important permitting decision metrics. The VSP regulations are meant to incentivize facilities to improve compliance performance and reduce the number of violations, which over time will result in better protection of public health and the environment.

- 11) *What Facilities are Subject to the VSP Regulations.* The VSP regulations apply to all permitted operating hazardous waste facilities, except for those facilities solely authorized by one of two types of authorizations: (1) post-closure permits or orders; and (2) permits and permit modifications for closure only.
- 12) *How Does DTSC Score a Facility?* Generally, each Class I violation is evaluated and scored for each compliance inspection. A Facility 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. *Class I Violation Scoring* – For the preceding ten calendar years, DTSC will score all Class I violations and any Class II violations that meet the definition of a Class I violation. The score for any Class I violation that has been cancelled, retracted, withdrawn or successfully challenged in an administrative or judicial proceeding will not be scored. When calculating a score for each Class I violation, DTSC determines the potential harm to public health and safety or the environment posed by the violation and the extent of deviation from hazardous waste management requirements posed by the violation. DTSC must then categorize the potential harm and extent of deviation as “major,” “moderate,” or “minimal.”
 - b. *Provisional and Final Inspection Violation Scores* – Each compliance inspection for the past ten years is given a provisional inspection violation score. Additionally, all inspections that occurred after the effective date of the VSP regulations (January 1, 2019), will also be given a provisional inspection violation score. A provisional inspection violation score is the sum of the scores for all Class I violations found during the compliance inspection and adjusted for repeat violations. If a

compliance inspection has no Class I violations the inspection violation score is zero.

- c. *Annual Facility VSP Scores* – The Facility VSP Score calculation includes all Class I violations that are found during DTSC compliance inspections over a rolling 10-year period. The sum of all final inspection violation scores is then divided by the number of compliance inspections that occurred during the preceding 10-year period. The resulting number is the Facility VSP Score. Each year, DTSC is required to re-calculate the Facility VSP Scores for the prior ten years. This time span only includes calendar years. For example, the 2019 Facility VSP Score will include all inspection violation scores for compliance inspections that occurred between January 1, 2009, and December 31, 2018. The 2020 Facility VSP Score will include all inspection violation scores for compliance inspections that occurred between January 1, 2010, and December 31, 2019.
 - d. *Notification and Posting of Facility VSP Scores* – On or before September 30 of each calendar year, DTSC must provide written notice to each facility of their Facility VSP Score through December 31 of the prior calendar year. DTSC is required to post on its website the Facility VSP Score and compliance tier assignment for each permitted operating hazardous waste facility by December 31 each year.
- 13) *Compliance Tiers*. DTSC assigns a facility to a compliance tier based on the Facility VSP Score. A Facility is assigned to one of the following three compliance tiers: “acceptable,” “conditionally acceptable,” and “unacceptable.”
- a. *“Acceptable”* – A facility that receives a Facility VSP Scores of less than 20 shall be designated as having a Facility VSP Score that is “acceptable.” A compliance tier assignment of “acceptable” is not subject to additional administrative dispute resolution.
 - b. *“Conditionally Acceptable”* – A facility that receives a Facility VSP Score equal to or greater than 20 and less than 40 is designated as having a Facility VSP Score that is “conditionally acceptable.” A compliance tier assignment of “conditionally acceptable” is not subject to additional administrative dispute resolution. Facilities that receive a final compliance tier assignment of “conditionally acceptable” are required to comply with additional requirements outlined in the regulations. A facility that receives a “conditionally acceptable” compliance tier

assignment will be required to prepare and provide at least two, third-party compliance audits to DTSC. A compliance audit is a detailed review of the facility's hazardous waste operations to assess compliance with applicable environmental laws and regulations, identify violations, and recommend actions needed to return to compliance. Upon review, DTSC may then impose other permit restrictions or enhancements, mitigation measures, or even prohibitions on some hazardous waste management activities deemed necessary to protect human health, safety, or the environment.

- c. *“Unacceptable”* – A facility that receives a Facility VSP Score equal to or greater than 40 is designated as having a Facility VSP Score that is “unacceptable.” DTSC is required to initiate permit denial, suspension, or revocation proceedings for facilities that receive a final compliance tier assignment of “unacceptable.” A facility may challenge an “unacceptable” compliance tier rating. If a facility submits a written notice challenging its “unacceptable” compliance tier assignment within sixty (60) days, a public meeting will take place where DTSC will present the grounds for assigning the facility an “unacceptable” compliance tier and the facility will demonstrate its opposition. The public is also provided an additional public comment period to weigh in on the pending permit decision. DTSC will issue a written decision regarding the facility's challenge of its “unacceptable” compliance tier assignment, which will then constitute the facility's final compliance tier assignment. DTSC may still grant a permit or a permit modification to a facility given an “unacceptable” compliance tier assignment if DTSC determines the operation of the facility will not pose a threat to public health, safety, or the environment. However, DTSC is required by the VSP regulations to impose mandatory permit restrictions, which include limiting the length of the permit, requiring additional audits, and requiring the correction for all potential harm associated with the facility operations.
- 14) *DTSC Scorecard Results.* On October 9, 2019, DTSC released its first VSP scorecard ranking the 78 operating permitted facilities in California that treat, store or dispose of hazardous waste. According DTSC, the provisional scores reflect a facility's history of compliance with hazardous waste laws and will be used as a factor to approve or deny an operating permit.

According to Meredith Williams, Director of DTSC,

“The new Violations Scoring Procedure provides a transparent way to

evaluate compliance with California’s hazardous waste laws. It helps us keep the public informed about facilities in their communities; it deters violations; and ultimately it protects communities from environmental harm... This scoring process is one in a series of progressive steps to systematically improve our permitting process, strengthen permitting regulations, and hold facility operators accountable.”

Types of violations scored include storing hazardous waste in containers in poor condition, storing ignitable hazardous waste within 50 feet of the property line, making false statements on a hazardous waste manifest, storing incompatible wastes together, not managing hazardous waste to reduce the possibility of a fire or release, and improperly labelling containers of hazardous waste. Of the 78 facilities scored, 64 received “acceptable” scores and 9 facilities received a score of “conditionally acceptable.” Five facilities received “unacceptable” scores for significant violations.

The following facilities received an Unacceptable tier assignment: California Oil Transfer in Riverbank; GEM in Rancho Cordova; Hazmat TSDf in San Bernardino County; HGST Inc. in San Jose; and Rho-Chem Corporation in Inglewood. These facilities have the opportunity to dispute their scores. After the dispute process, if the facilities remain in the Unacceptable tier, DTSC will start the process of suspending, revoking, or denying permits for these facilities.

- 15) *GEM permit denial.* On August 27, 2020, DTSC made a final permit decision to deny the permit renewal application for the GEM facility. On September 25, 2020, GEM submitted a petition for review of DTSC's final permit decision to deny the permit renewal application. Accordingly, DTSC's decision to deny has been stayed pending further review of the decision by DTSC's Permit Appeals Officer.

Comments

- 1) *Purpose of Bill.* According to the author, “The California Department of Toxic Substance Control (DTSC) developed the Violations Scoring Procedure in response to the passage of SB 673 (Lara, 2015) which directed DTSC to do many things—including develop a mechanism to determine the number and types of past violations used for the issuance of a new or modified permit or renewal of a permit of a hazardous waste permit. SB 673 was meant to address the reality that some facilities are long-term, serial violators of hazardous waste laws and are not safely handling hazardous waste, operating ways that harms

the environment and front-line communities which are overwhelmingly low-income and people of color. Facilities like Exide.

“Unfortunately the regulatory process DTSC undertook to develop VSP resulted in a mechanism that obscures the true impact and magnitude of harm caused by some hazardous waste facilities, by including an inspections division factor and compliance tiers that have no relation to a facility’s impact on public health and the environment. DTSC scores Class One violations based on public health and environment risk and how far the operator’s violation deviated from the law. Violations are added to determine the facility’s “inspection violation score.” The problem comes when the “inspection violation score” is divided by number of inspections conducted at the facility. The number of inspections DTSC conducts at a facility varies on several factors, with some receiving as few as one and others as many as 26. This division measure is inappropriate because it can result in facilities with very high “inspection violation scores” receiving very low VSP scores. SB 575 addresses this problem by directing DTSC to remove this division step to recalibrate VSP to be based on scoring a facility’s compliance based on the total and types of violations committed, the original intent of this measure as directed by SB 673. Front-line communities cannot wait for another regulatory process in hopes that DTSC will address this issue.”

- 2) *Averaging violation scores by the number of inspections.* SB 575 addresses a specific provision of DTSC’s VSP regulation – the division of a facility’s raw violation score by the total number of inspections over a 10-year period. The author argues that this last step in the VSP process dilutes a facilities true compliance history resulting in some facilities receiving an “acceptable” VSP score as opposed to an “unacceptable” score. As noted above, receiving an “unacceptable” VSP score can trigger the initiation of permit denial, suspension, or revocation proceedings for facilities.

To illustrate this issue, the author compares the difference in the 2019 VSP scores for Quemetco, Inc., a lead acid battery recycling facility in the City of Industry, (35.38) and California Oil Transfer (COT) LLC, a hazardous waste storage and transfer facility located in Stanislaus County (66). However, Quemetco’s raw (undivided) violation score (450) is far higher than COT’s raw score (132). In fact, Quemetco’s raw score ranked as the third highest amongst the 78 hazardous waste facilities. Once divided by the number of inspections it received during the ten year period (13 inspections), however, the score dropped to 35.38 and put it into the “conditionally acceptable” tier. COT, on the other hand, had the 19th highest score, yet was place in the “unacceptable” tier once its score was divided by its two inspections.

The issue of averaging violation scores was raised during the VSP regulatory process. One commenter noted that “averaging would obscure and minimize the total number and severity of violations and render the compliance tiers and the VSP completely irrelevant.” DTSC responded to the comment as follows:

“DTSC has determined that averaging is the best way to account for differing inspection intervals, which can vary based on facility type between multiple inspections per year to one inspection every three-to-four years. Having a cumulative score skews the data for facilities that are required to be inspected more frequently.”

According to DTSC, this division is the final step in “normalizing” VSP scores. *“This factor also indirectly takes into account the type of facility (e.g. facilities that pose a lower risk are inspected less frequently, unless violations are found). For example, landfills are inspected more frequently than facilities authorized by a Standardized Permit.”*

To ensure it did not back-calculate thresholds to capture specific facilities, DTSC states that it used statistics to determine thresholds and felt that based on the standard deviation used that the thresholds were defensible.

Even so, the Department has acknowledged that fixes to the VSP regulation are needed and it has calendared with the Office of Administrative Law a proposed update to the regulation commencing in June 2021. The types of changes being considered include the current practice of dividing the raw score by the number of inspections.

3) *Is the proposed fix more protective of public health and environment?* SB 575 requires DTSC, by January 1, 2023, to revise its VSP regulation to prohibit the averaging of VSP scores and change the numerical ranges for each compliance tier. If the bill’s new method for calculating violation scores was used on the 2020 VSP scores, there would be a number of notable shifts in facility rankings, including:

- a) Two facilities that were “conditionally acceptable” become “unacceptable,” (including Quemetco);
- b) Two facilities that were “acceptable” become “unacceptable,” (Clean Harbors Buttonwillow LLC and Safety-Kleen of California);
- c) Two facilities that were “unacceptable” become “conditionally acceptable” (Hazmat TSDF Inc. and HGST Inc.); and

- d) Three facilities that were “conditionally acceptable” become “acceptable” (WIT Sales and Refining of San Jose, AERC Recycling Solutions of Hayward, and D K Dixon of Dixon).

As noted previously, a VSP ranking of “unacceptable” means a high likelihood that a facility will go to closure and “conditionally acceptable” designation means a facility must correct compliance problems and may be subject to additional operating restrictions. Whether all of these changes in ranking are justifiable are beyond the scope of committee staff’s ability to determine.

The changes being proposed by SB 575 would result in some facilities having more compliance requirements and others having less. To wit, while a facility shifting from an “acceptable” tier to an “unacceptable” tier is clearly more protective of health and the environment, arguably the reverse is true for a facility going from “unacceptable” to “conditionally acceptable” or from “conditionally acceptable” to “acceptable.”

- 4) *New Compliance Tiers.* According to the author, the compliance tiers under SB 575 are tied to two factors. “First is DTSC’s analysis of the potential of harm caused by violations and the extent of the deviation of the violation. Second is an effort to closely track the disruption of facilities under the existing VSP scoring.”

Currently, under VSP, the highest score a facility can receive for a Class 1 violation is 25 points. This is known as a “Major-Major” violation using DTSC’s existing VSP scoring matrix. The first “Major” comes from the potential of harm. According to DTSC, such a violation presents “a major threat to public health and safety or the environment.” The second “Major” comes from the extent of deviation. According to DTSC, such a violation “deviates from the requirement to such an extent that the requirement is completely ignored and none of its provisions are complied with, or the function of the requirement is rendered ineffective because some of its provisions are not complied with.” SB 575 sets a VSP score of 250 or greater as the cut-off for the “unacceptable” compliance tier. The author states that this score signifies that a facility committed, on average, at least one “Major-Major” violation every year (25 points X 10 years = 250).

In contrast, DTSC determines compliance tiers under the current VSP by looking at the “threshold number based on the statistical distribution of the Facility VSP Scores. The threshold numbers for the scores were calculated using the estimated mean and standard deviation for the calculated Facility VSP Score data and surrogate data. The first threshold number of 40 represents

the mean plus three standard deviations. The second threshold of 20 is the mean plus two standard deviations.”

Due to the complexity of these matters and potential serious consequences to both public health and the environment, as well as to facility compliance requirements and operation, staff questions the suitability of reexamining the VSP scoring procedure outside the rigor and transparency of the regulatory process. Further, since the development of this regulation included extensive department and stakeholder engagement, staff questions the appropriateness and potential troubling precedent of circumventing that process in favor of dictating outcomes through the legislative process. Finally, staff notes that the Department is planning an update to the regulation this year and has stated that it plans to revisit the current practice of dividing the raw score by the number of inspections.

Should the Committee wish to advance this proposal, it may wish to direct the author to continue to work with committee staff, stakeholders, and the Administration to ensure that the proposed scoring methodology is indeed more protective of public health and the environment, defensible, and is not designed with predetermined outcomes in mind.

Related/Prior Legislation

SB 42 (Wieckowski) would establish a Board of Environmental Safety within the DTSC. This bill is pending before this Committee.

AB 1 (Garcia) would create the Board of Environmental Safety (Board) within the California Environmental Protection Agency (CalEPA) to provide policy direction to and oversight of DTSC, restructures the HWCA, and makes various other changes to the hazardous waste control laws. This bill is pending before the Environmental Safety and Toxic Materials Committee.

AB 995 (Garcia, 2020) would have created the Board of Environmental Safety within CalEPA to provide policy direction to and oversight of DTSC, restructured the HWCA, and made various other changes to the hazardous waste control laws. This bill was vetoed by the Governor.

AB 2094 (Kalra, 2018). Would have required DTSC to, on or before January 1, 2021, adopt regulations establishing inspection frequencies for permitted hazardous waste treatment, storage, and disposal facilities; hazardous waste generators; and, transporters. This bill was held in the Senate Appropriations Committee.

AB 2345 (Reyes, 2018). As it was heard before the ESTM Committee, would have made statutory changes to improve the process for the permitting of hazardous waste facilities. This bill was later amended to require the California Energy Commission to require each large electrical corporation to establish a tariff or tariffs that provide for bill credits for electricity generated by eligible renewable generating facilities and exported to the electrical grid. This bill was held in Senate the Rules Committee.

AB 2606 (Fong, 2018). Would have required DTSC to process a hazardous waste facility renewal permit in an expedited manner if DTSC determines certain conditions apply. This bill was held in the Senate Appropriations Committee.

AB 248 (Reyes, 2017). Would have made statutory changes to improve the permitting process for hazardous waste facilities. This bill was vetoed by the Governor.

AB 1179 (Kalra, 2017). Would have required DTSC to, on or before January 1, 2020, adopt regulations establishing inspection frequencies for permitted hazardous waste treatment, storage, and disposal facilities and for hazardous waste generators and transporters. This bill was vetoed by the Governor.

SB 774 (Leyva, 2017). As it was heard before the ESTM Committee, would have created the California Toxic Substances Board within DTSC to provide oversight of California's hazardous waste management and the remediation of contaminated sites. This bill was later amended to require the California State University Trustees to oversee a competitive process to award funds to the Wildland and Wildland Urban Interface Wildfire Research Grant Program and appropriate \$5 million from the General Fund to the Trustees in order to oversee the program. This bill was vetoed by the Governor.

SB 673 (Lara, Chapter 611, Statutes of 2015) revises DTSC's permitting process and public participation requirements for hazardous waste facilities.

SB 812 (De León, 2014). Would have modified the permitting process and public participation requirements for hazardous waste facilities. Would have established a Bureau of Internal Affairs to oversee DTSC and investigate departmental misconduct and a DTSC Citizen Oversight Committee to receive and review allegations of misconduct. This bill was vetoed by the Governor.

SOURCE: Clean Air Coalition of North Whittier and Avocado Heights and Earthjustice

SUPPORT:

Azul
California Communities Against Toxics
California Environmental Justice Coalition
California League of Conservation Voters
California Safe Schools
Californians Against Waste
Center for Biological Diversity
Clean Air Coalition of North Whittier and Avocado Heights
Clean Water Action
Coalition for Clean Air
Del Amo Action Committee
Earthjustice
Greenaction for Health and Environmental Justice
Hacienda Heights Improvement Association
Los Angeles County Chief Executive Office
National Stewardship Action Council
Parkwest Casinos
Physicians for Social Responsibility-los Angeles
Redeemer Community Partnership
San Gabriel Valley Task Force Angeles Chapter of Sierra Club

OPPOSITION:

California Council for Environmental & Economic Balance (CCEEB)
Manatt, Phelps & Phillips, Llp
Quemetco, INC.

ARGUMENTS IN SUPPORT: According to Clean Air Coalition of North Whittier and Avocado Heights the Board of Directors of the Hacienda Heights Improvement Association, “DTSC’s current VSP process results in the most harmful facilities having diluted Facility VSP Scores as a result of the higher number of inspections that occur at these facilities. SB 575 fixes the Violations Scoring Procedure to more accurately reflect the compliance history of hazardous waste facilities. The bill requires DTSC to modify the method for calculating Facility VSP Scores to no longer divide the Inspection violation Score by the number of inspections. This straightforward and precise fix will have a significant impact for communities that are located near hazardous waste facilities.”

ARGUMENTS IN OPPOSITION: According to California Council for Environmental & Economic Balance, “SB 575 is of great concern as it would eliminate the step of calculating the score by dividing the number of compliance inspections, an action that would make the number of facility inspections one of the most significant factors in calculating the VSP Score for that facility. Under the bill, a facility with a large number of inspections, but with less egregious violations, could see a VSP Score that does not correspond with the facility’s risk as compared to another facility with fewer inspections but more egregious violations. Such an approach is not a fair, much less balanced or effective process for evaluating and scoring hazardous waste facilities... We firmly believe any adjustment in the Procedure should be handled via the regulatory process DTSC has authority to manage, rather than via legislation like SB 575 that would not take into account the expertise of DTSC much less a robust stakeholder process.”

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