
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2021 - 2022 Regular Session

SB 575 (Durazo) - Hazardous waste facility permits: regulations

Version: April 15, 2021

Urgency: No

Hearing Date: May 17, 2021

Policy Vote: E.Q. 5 - 2

Mandate: No

Consultant: Ashley Ames

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

Fiscal Impact:

- Unknown costs, likely in the low hundreds of thousands of dollars (Hazardous Waste Control Account [HWCA]), for DTSC to update its regulations to conform to the provisions of the bill and update its website to reflect the changes.
- Unknown, potentially significant costs (HWCA) for DTSC to respond to VSP score disputes that result from the scoring requirement modifications in this bill.

Background: 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.

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.

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.

Proposed Law: This bill would:

1. Require 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. Prohibit 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. Revise the numerical ranges used by DTSC to determine a hazardous waste facility's compliance tier.
4. Require DTSC to revise its VSP regulations for consistency with these provisions by July 1, 2022.
5. Makes various findings and declarations.

Related Legislation:

SB 42 (Wieckowski) would establish a Board of Environmental Safety within the DTSC. This bill is on the Suspense File in 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.

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

Staff Comments: This bill would require additional spending from HWCA. HWCA has operated with a significant structural deficit for many years. Expenditures from the account were \$30 million higher than revenues in 2019-20, and HWCA required a General Fund backfill to remain solvent. Moreover, the department's recent workload analysis identified roughly \$20 million in resource gaps within the Hazardous Waste Management Program—the program primarily supported by HWCA—suggesting that even with the recent General Fund backfills, HWCA is not currently providing sufficient resources to enable DTSC to meet its statutorily required regulatory workload.

The Governor's trailer bill proposal, if adopted, could potentially increase revenue to HWCA in future years. However, given the magnitude of the existing shortfall and current resource gaps within DTSC, the committee may wish to consider the prudence of placing additional spending demands on HWCA at this time.

DTSC notes that it received no additional funding to implement the VSP process, and has had to absorb those costs—estimated to be over \$3 million per year—into its current allocated resources, which has impacted its delivery of other responsibilities related to permitted hazardous waste facilities, including inspections and enforcement and processing of permits.

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