
CONSENT

Bill No: AB 2776

Author: Committee on Environmental Safety and Toxic Materials

Amended: 7/2/26 in Senate

Vote: 21

SENATE ENVIRONMENTAL QUALITY COMMITTEE: 7-0, 7/1/26

AYES: Blakespear, Valladares, Allen, Dahle, Gonzalez, Hurtado, Menjivar

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 66-0, 5/7/26 (Consent) - See last page for vote

SUBJECT: Hazardous materials

SOURCE: Author

DIGEST: This bill makes various technical changes to the unified hazardous waste and hazardous materials management regulatory programs that are overseen by the Certified Unified Program Agencies (CUPAs) and adds reporting authorizations for the Board of Environmental Safety (BES).

ANALYSIS:

Existing federal law:

- 1) Establishes the Resource Conservation and Recovery Act (RCRA) to authorize the United States Environmental Protection Agency (U.S. EPA) to manage hazardous and non-hazardous wastes throughout its life cycle. (42 United States Code (USC) §§ 6901 et seq.)
- 2) Enacts the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986, which was created to help communities plan for chemical emergencies. EPCRA requires industry to report on the storage, use, and releases of hazardous substances to federal, state, and local governments; and requires state and local governments, and Indian tribes to use this information

to prepare their community for potential risks. (42 United States Code (USC) §§ 11001 et seq.)

- 3) Establishes standards and requirements for generators of hazardous waste and lists conditions for permit exemptions. (40 Code of Federal Regulations (CFR) §§ 262 et seq.)

Existing state law:

- 1) Creates the Hazardous Waste Control Law (HWCL), which authorizes the Department of Toxic Substances Control (DTSC) to regulate the management of hazardous wastes in California. (Health and Safety Code (HSC) §§ 25100 et seq.)
- 2) Defines “Certified Unified Program Agency” or “CUPA” as the agency certified by the Secretary of the California Environmental Protection Agency (CalEPA) to implement the unified program within a jurisdiction. (HSC § 25404(a)(1)(A))
- 3) Defines “Unified Program Agency” or “UPA” as the CUPA to implement or enforce a particular Unified Program element. UPAs have the responsibility and authority to implement and enforce the unified program requirements and implementing regulations. (HSC § 25404(a)(1)(C))
- 4) Requires the Secretary of CalEPA to adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, known as the Unified Program. (HSC § 25404(b))
- 5) Defines “treatment” to mean any method, technique, or process that is designed to change the physical, chemical, or biological character or composition of any hazardous waste or any material contained therein, or that removes or reduces its harmful properties or characteristics and provides specified activities that treatment does not include. (HSC § 25135.5(a))
- 6) Defines “aboveground storage tank” as a tank or container that has a capacity to store 55 gallons or more of petroleum that is substantially above the surface of the ground; and provides that “aboveground storage tank” does not include a specified list of things including oil filled electrical equipment or a tank in an underground area that has capacity to store less than 55 gallons of petroleum, has secondary containment, and is inspected monthly. (HSC § 25270.2 (a)(4), (a)(8))

- 7) Specifies various requirements for the owner/operator of an aboveground petroleum storage tank facility. (HSC § 25270.4.5 (b)(1); HSC § 25270.6 (a)(1).
- 8) Requires a permit holder of an underground storage tank (UST) to, within 60 days of receiving a compliance report or special inspection report, file with the CUPA a plan to implement all recommendations contained in the compliance report or demonstrate to the satisfaction of the CUPA why the recommendations should not be implemented. (HSC § 25288(d))
- 9) Requires vacuum, pressure, or hydrostatic (VPH) monitoring for USTs for all product piping, including aboveground piping. (HSC § 25290.1(e))
- 10) Requires businesses to establish and implement a business plan for emergency response to a release or threatened release of a hazardous material, as described, if the business meets specified conditions, including handling specified hazardous materials at defined quantities, including gases.
- 11) Establishes the BES within DTSC with five voting members that represent the general public interest and act to protect public health and reduce risks of toxic exposure with a particular focus on disproportionately burdened and vulnerable communities. (HSC § 25125)

This bill:

- 1) Removes the exclusion for biohazardous waste, that meets specified conditions, from the requirements of the HWCL.
- 2) Precludes a small quantity generator from the requirements of a storage facility if the generator complies the requirements of 22 California Code of Regulation (CCR) § 66262.16.
- 3) Exempts the “compaction of hazardous waste” from the definition of “treatment”, including nonliquid waste materials and provides that the compaction of hazardous waste applies to the compaction of nonliquid waste materials, as specified, if all of the following conditions apply:
 - a) The waste is not a liquid, as specified, or a solid that meets the ignitability characteristics, as defined, or the reactivity characteristic, as defined;
 - b) The compaction does not alter the physical, chemical, or biological character or composition of the waste, other than the reduction in volume of the waste, increase in density, or changes in shape or form; and

- c) The compaction does not result in the production of fugitive dust, fire, or explosion.
- 4) Amends the exclusions to “aboveground storage tank”, oil-filled electrical equipment to specify a single piece of equipment; and a tank in an underground area that has the capacity to store less than 55 gallons of petroleum to specify that the secondary containment includes contents of the tank, associated piping, and ancillary equipment, until cleanup occurs and that such equipment are inspected monthly.
- 5) Requires a permitholder of an underground tank system to return to compliance within 30 days, instead of 60 days, after receiving a compliance or special inspection report, as described, except if the local agency approves a plan to return to compliance in excess of 30 days and the local agency receives the plan within 30 days of the permitholder receiving the compliance or special inspection report.
- 6) Clarifies that VPH monitoring of a UST only applies to UST components beneath the surface of the ground.
- 7) Clarifies that businesses that handle specified gases in a quantity of less than 1,000 cubic feet are precluded from establishing and implementing a business plan for emergency response to a release or threatened release of a hazardous material, as described.
- 8) Requires an owner or operator of a tank facility to immediately notify the Office of Emergency Services and the CUPA, as specified, of the occurrence of a discharge of any petroleum into or upon any waters of the state.
- 9) Requires the BES to annually prepare, post on its internet website, and transmit to the Secretary of the CalEPA an annual review of DTSC’s performance and authorizes, to the extent feasible using existing resources, the review to include any of the following:
 - a) A review of DTSC’s performance as measured by the performance metrics, as specified;
 - b) Recommendations regarding the analysis of the fee structure that supports the activities of DTSC;
 - c) Legislative, regulatory, and budgetary changes that BES has identified as necessary to improve the performance of any of the department’s programs; and

- d) Findings from the subcommittees of the BES and the ombudsperson of the BES that the chairperson deems significant.
- 10) Prohibits specified components of the review from resulting in an increase in facility and generator fees.
- 11) Makes non-substantive, clarifying, and technical amendments.

Background

- 1) *Certified Unified Program Agencies (CUPAs)*. CUPAs are local agencies certified by the Secretary of CalEPA to implement and enforce six “unified hazardous waste and hazardous materials management” regulatory programs (Unified Program). Currently, there are 81 CUPAs in California tasked with implementation and enforcement of the following:
 - a) Hazardous Materials Release Response Plans and Inventories (Business Plans);
 - b) California Accidental Release Prevention Program (CalARP);
 - c) Underground Storage Tank Program (USTP);
 - d) Aboveground Petroleum Storage Act (APSA);
 - e) Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs; and,
 - f) California Uniform Fire Code: Hazardous Material Management Plans and Hazardous Material Inventory Statements.
- 2) *Underground Storage Tank Program (UST Program)*. The statewide UST Program works to protect public health and safety and the environment from releases of petroleum and other hazardous substances from USTs. A UST is defined by law (HSC § 25299.32) as “any one or combination of tanks, including pipes connected thereto, that is used for the storage of hazardous substances and is substantially or totally beneath the surface of the ground.” CUPAs enforce UST regulations within their jurisdiction.
- 3) *Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs*. State and federal law and regulation require businesses to manage their hazardous waste from the point of generation until proper disposal or recycling. This includes labeling and storage requirements and ensuring it is properly transported to a facility authorized to receive hazardous waste.

Additionally, there are requirements for entities that treat their hazardous waste on-site. CUPAs enforce hazardous waste generator requirements as well as onsite hazardous waste treatment requirements within their jurisdiction.

- 4) *Aboveground Petroleum Storage Tank Act (APSA)*. APSA regulates tank facilities that are subject to federal regulation or tank facilities with an aggregate storage capacity of 1,320 gallons or more of petroleum in aboveground storage containers or tanks with a shell capacity equal to or greater than 55 gallons. APSA also regulates tank facilities with less than 1,320 gallons of petroleum if they have one or more stationary tanks in an underground area (TIUGA). CUPAs enforce APSA within their jurisdiction.
- 5) *The Board of Environmental Safety (BES)*. BES was established by SB 158 (Committee on Budget and Fiscal Review, Chapter 73, Statutes of 2021) as part of the reform for the Department of Toxic Substances Control (DTSC). BES is a five-member board that advances key governance and fiscal measures to improve transparency, accountability, and fiscal stability of DTSC. Members of BES represent the general public interest, protect public health, and reduce risks of toxic exposure with a particular focus on disproportionately burdened and vulnerable communities. SB 158 gave BES various mandates, including setting generator and permitted facility fees, hearing and deciding permit appeals, reviewing the priorities of the director of DTSC, and conducting an analysis on the fee structure that supports the activities of DTSC. BES is required to submit an annual review of DTSC's performance to the Secretary of CalEPA.

Comments

Purpose of Bill. According to the author, "CUPAs meet routinely to discuss implementation of the six statewide programs they oversee and occasionally discover inconsistencies in interpretation of the law. In order to maintain a unified program, the CUPAs bring any potential inconsistencies to state regulators (CalEPA, the Department of Toxic Substances Control (DTSC), State Water Resources Control Board (State Water Board)) and to the regulated community. AB 2776 reflects suggestions brought forward from the discussions with the CUPAs, state regulators, and the regulated community"

Related/Prior Legislation

AB 1459 (ESTM Committee, Chapter 89, Statutes of 2025) made various technical changes to the six unified hazardous waste and hazardous materials management regulatory programs that are overseen by the CUPAs.

AB 1716 (ESTM Committee, Chapter 207, Statutes of 2023) made various technical changes to the six unified hazardous waste and hazardous materials management regulatory programs that are overseen by the CUPAs.

AB 2059 (Carrillo, Chapter 278, Statutes of 2022) required specified suppliers of hazardous materials to maintain, for at least one year, records of sales and provisions of hazardous materials of specified quantities to a business in the state and provide such records to a CUPA within five days of a request. Narrows the definition of retail establishment for purposes of hazardous material reporting and limits current exemptions of consumer products as specified from inclusion in a business plan for emergency response to a release or threatened release.

AB 1429 (Chen, Chapter 66, Statutes of 2019) authorized a business that handles hazardous materials to submit their Business Plan to the California Environmental Reporting System once every three years, instead of annually, if that business is not required to submit Tier II chemical inventory information under the federal EPCRA of 1986.

AB 1500 (Carrillo, 2019) would have authorized a CUPA or a local health officer to temporarily suspend a facility permit, including the shutdown of a facility, if conditions at the facility pose an imminent or substantial endangerment to public health and safety. Would have clarified the authority of a CUPA, subject to its jurisdiction, to fine or penalize a facility that is operating without a permit.

AB 1689 (ESTM Committee, Chapter 159, Statutes of 2017) added combustible metals and metal alloys to the list of materials a business must include in its hazardous materials business plan.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 8/4/26)

None received

OPPOSITION: (Verified 8/4/26)

None received

ASSEMBLY FLOOR: 66-0, 5/7/26

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bryan, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Patel, Patterson, Pellerin, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Ward, Wilson, Zbur, Rivas

NO VOTE RECORDED: Arambula, Bonta, Chen, Flora, Gallagher, Hart, Hoover, Irwin, Papan, Petrie-Norris, Celeste Rodriguez, Valencia, Wallis, Wicks

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