SENATE COMMITTEE ON ENVIRONMENTAL QUALITY
Senator Blakespear, Chair
2025 - 2026 Regular

Bill No:	SB 1258		
Author:	Wiener		
Version:	3/25/2026	**Hearing Date:**	4/15/2026
Urgency:	No	**Fiscal:**	Yes
Consultant:	Brynn Cook		

SUBJECT: Streamlined housing approvals: hazardous waste sites

DIGEST: This bill would expand the eligibility criteria for specified housing projects for ministerial review (and thus exempt from the California Environmental Quality Act) by authorizing eligibility prior to a state or local agency making a determination that a known hazardous waste site is suitable for residential/mixed use, and specifies the process by which local officers would oversee remediation on these sites.

ANALYSIS:

Existing law:

1) Requires the Department of Toxic Substances Control (DTSC) to compile, update at least annually, and submit to the Secretary for Environmental Protection (Secretary), a list of hazardous waste facilities subject to corrective action, land designated as hazardous waste property, hazardous waste disposals on public property, hazardous substance release sites, and sites included in the Abandoned Site Assessment Program. (Government Code (GOV) § 65962.5)

2) Requires the State Department of Health Services (now the State Water Board) to compile, update at least annually, and submit to the Secretary, a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis by local health officers. (GOV § 65962.5)

3) Requires the State Water Board to compile, update at least annually, and submit to the Secretary, a list of underground storage tanks with an unauthorized release report, solid waste disposal facilities with migration of hazardous waste, and cease and desist orders regarding certain hazardous materials discharges. (GOV § 65962.5)

4) Requires local enforcement agencies (LEAs) to compile, update at least annually, and submit to the Department of Resources Recycling and Recovery

(CalRecycle) a list of solid waste disposal facilities with a known migration of hazardous waste. (GOV § 65962.5)

5) Sets requirements, and provides state oversight, for local officers that are eligible to oversee remedial investigation and remedial action at sites with released hazardous waste, specifying that those local officers must have adequate technical expertise, as provided (Health and Safety Code (HSC) § 101480**)**.

6) Defines "local officer" to mean a county health officer, city health officer, or county director of environmental health who has been granted authority by their jurisdiction to enter into remedial action agreements and oversee remedial action at sites with released hazardous waste. (HSC § 25117.4.1)

7) Requires under CEQA that a lead agency determines whether a project is exempt from CEQA, or if it must do an initial study to determine if a project will have significant effects on the environment. If a project has no effect on the environment or effects that can be mitigated, the lead agency prepares a negative declaration (ND) or mitigated ND (MND). If the project will have significant impacts, the lead agency prepares an environmental impact report (EIR) to evaluate and propose mitigation measures for any effects on the environment, including impacts or likely impacts to land, air, water, minerals, flora, fauna, ambient noise, and historic or aesthetic significance. (Public Resources Code (PRC) §§21000 et seq.)

8) Establishes, pursuant to SB 35 (Wiener, Chapter 366, Statutes of 2017) and expanded and modified in SB 423 (Wiener, Chapter 778, Statutes of 2023), a ministerial approval process (i.e., not subject to CEQA) for certain multifamily housing projects that are proposed in local jurisdictions that have not met regional housing needs. Requires eligible projects to meet specified standards, including that the projects are not listed on certain sensitive sites as specified (GOV § 65913.4). Further specifies that SB 423 does not apply on hazardous waste sites, unless those sites meet the following criteria:
    i) The site is an underground storage tank site that received a uniform closure letter issued for residential use or residential mixed uses.

    ii) The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency has determined that the site is suitable for residential use or residential mixed uses.

This bill expands the criteria by which housing projects may be deemed eligible for the SB 423 ministerial process (CEQA exempt) if they are located on hazardous waste sites. Specifically, the bill:

1) Authorizes an otherwise eligible housing project to be processed ministerially if it is located on a hazardous waste site so long as an applicant receives a determination from DTSC, SWRCB, that the site is suitable for residential or mixed use residential before the issuance of a certificate of occupancy.
2) Authorizes a development subject to be processed ministerially if it is located on a hazardous waste site if an applicant takes specified actions before the issuance of the first post entitlement phase permit.

Background

1) *State oversight of contaminated sites.* The United State Environmental Protection Agency estimates that there are between 96,000 and 212,000 contaminated sites in California. DTSC has identified approximately 9,800 contaminated sites statewide. These sites vary widely and can include pesticide manufacturing facilities, rail yards, ports, dry cleaners, and refineries where pollutants were released to the soil, groundwater, surface water, and/or sediment. Given the variety of facilities that have historically been on hazardous sites, there is an equally diverse array of pollutants, including solvents, heavy metals, and petroleum. Some of these pollutants can persist in the environment, meaning that today's contaminated sites may be due to historical releases of pollutants.

   The State Water Board and DTSC both have authority to do hazardous waste cleanup, but have different jurisdictions. The State Water Board oversees remediation where hazardous waste impacts surface or ground waters of the state, as well as underground storage tank contamination. There are nine regional water boards that exercise rulemaking and regulatory activities in regions defined by watersheds. DTSC oversees all other hazardous waste release cleanup.

   The regional water boards and DTSC are charged with identifying parties that are responsible for the contamination, setting cleanup standards and requirements, and overseeing the cleanup of contaminated sites to ensure that they are properly remediated and do not continue to pose a threat to public health and the environment. State law specifies requirements for cleaning up contaminated sites, and the regional water boards and DTSC have developed their own detailed policies and procedures for determining the extent and type of contamination, and processes and standards for the proper remediation of contaminated sites.

2) *Local oversight of contaminated sites: a complex network.* The California Land Environmental Restoration and Reuse Act (SB 32, Escutia, Chapter 764, Statutes of 2001, codified in HSC § 25401 et seq. and 57008 - 57010) was enacted to enable cities and counties to direct or conduct the investigation and remediation at brownfield sites that are outside of redevelopment areas.

   Generally speaking, local agencies can, when provided sufficient resources and information, assist in remediation of contaminated sites through oversight or abatement efforts through local Certified Unified Program Agencies (CUPAs).

   The CUPAs are local agencies regulated under the unified hazardous waste and hazardous materials management regulatory program (Unified Program) SB 1082 (Calderon, Chapter 418, Statutes of 1993). The Unified Program ensures that administrative requirements, permits, inspections, and enforcement at the local regulatory level are standardized across the state. CalEPA oversees the statewide implementation of the Unified Program and its 81 CUPAs, which apply regulatory standards established by the Governor's Office of Emergency Services, DTSC, the Office of the State Fire Marshal, the State Water Board, and CalEPA.

   DTSC may certify CUPAs to oversee the cleanup of contaminated sites, if DTSC determines they are qualified to do so. These CUPAs may be certified by DTSC as approved for "Tier 1 cleanup oversight" for less complex sites, or "Tier 2 cleanup oversight" for complex or high-risk sites.

   The role of locals in remediating hazardous sites is variable, depending on the qualifications of the local officer, the oversight agency, the type of hazardous site, and the severity of the contamination at the site. Some of the programs by which local agencies engage in site remediation and mitigation include the following:

   a) *The voluntary cleanup program.* Under the Voluntary Cleanup program, (AB 1248 – O'Connell, Chapter 671, Statutes of 1995) local health officers are authorized to supervise a remedial action if the officer determines there are adequate technical staff ready for the job. Under this program, local health officers enter into a remedial action agreement with the responsible party which specifies the testing, monitoring, and analysis that the responsible party will undertake to determine the extent and type of contamination at the site and the remedial actions that will be undertaken by the responsible party.

      Local health officers currently oversee remediation sites pursuant to a voluntary agreement for any sites where there is no lead agency (i.e.

DTSC or regional water board) providing oversight and where local health officers determine they have the appropriate level of expertise. These sites include redevelopment with various previous site uses, such as gas stations, dry cleaners, industrial sites, gun ranges, large spills from truck accidents, spills from aboveground tanks, contaminated soils associated with disposal sites, and spills from machinery or other equipment, including transformers.

In order to enter into a voluntary cleanup agreement with a responsible party, a local health officer is required to first provide written notification to DTSC and the appropriate regional water board(s) within 10 working days prior to entering into an agreement with a responsible party to ensure the state is aware of the site remediation and who is conducting it.

There are a number of sites where local health officers are prohibited from using the voluntary cleanup agreement authority, including, but not limited to, any State Response, federal Superfund, military, and backlog sites designated by DTSC; sites subject to a cleanup and abatement order for a violation of any waste discharge requirement into a water source; or, sites that are under Phase I Environmental Assessment. The notification required to the state before entering into voluntary agreement provides the opportunity for the state and local health officer to determine the applicability of the local health officer's authority to oversee the site remediation

b) *Local Oversight Program (LOP).* Established in 2013 by AB 1701 (Wieckowski, Chapter 536, Statutes of 2012), the State Water Board is authorized to implement the Local Oversight Program (LOP) for the abatement of, and oversight of the abatement of, unauthorized releases of hazardous substances from underground storage tanks by certified local agencies. It further empowers local agencies to oversee the investigation and cleanup of leaking underground fuel tanks (LUFTs) and other hazardous substance releases. Certified agencies can ensure cost-effective, timely remediation, protecting public health and water resources.

3) *Concerns on local authority.* There is relatively little data available on cleanups of contaminated sites under the voluntary cleanup program because local agencies are not required to upload their cleanup data to the State Water Board and DTSC's websites and most do not do so voluntarily. Regional water boards have found instances in which cleanups of contaminated sites overseen by a local health officer under the voluntary cleanup program have been inadequate.

Specifically, problems have arisen including: inconsistent cleanup oversight practices, under-qualified personnel conducting highly-specialized technical oversight, lack of data entry, lack of public access to case records, poorly documented sites, and approval of site closures that may not meet the regional water board or DTSC requirements even though the site has been certified by the local agency as "clean."

4) *What are requirements for remediation?* There is no statutory requirement that explicitly states a site be fully remediated prior to development. However, the Water Boards and DTSC have the authority to require investigation and cleanup, after which the responsible party develops and implements a plan to remediate and abate the site with oversight from state agencies or, when applicable, local agencies.

5) *How are sites remediated?* Remediation of contaminated sites involves removing or neutralizing harmful substances in soil, water, and air, with common techniques classified into in-situ (treating in place) and ex-situ (excavation and treating elsewhere) methods. Some of these methods must occur prior to any construction, whereas others are often deployed while construction is ongoing. Some of the remediation techniques include:

   a) "Scraping" which generally falls under the umbrella of excavation. As it sounds, the earth is scraped up, and the contaminated soil is removed and transported to a licensed landfill or treated off-site. Unsurprisingly, scraping cannot occur after construction begins.
   b) Soil Vapor Extraction (SVE), also known as in-situ soil venting or vacuum extraction, is used to remove volatile organic compounds (VOCs) from the unsaturated (vadose) zone above the water table. A vacuum is applied to the soil through extraction wells, creating a low-pressure area that draws volatile contaminants into the air stream. The air is then treated (through adsorption of contaminants on activated carbon filters, biofiltration where microorganisms break down vapors, or thermal oxidation wherein vapors are destroyed at high temperatures) aboveground before being released. This can be especially useful when gasoline, solvents, and other lighter petroleum products are uncapped at the sites. SVE may be deployed at the time that soil is disturbed for construction if a site needs to be graded or potentially during construction.
   c) Capping/Barriers: Placing a physical barrier (e.g., clay, asphalt) over contaminated soil to prevent exposure and infiltration. This would occur prior to construction of the site.

d) Bioremediation: Using microorganisms to break down contaminants in place (in situ), which is often very effective but time consuming.
e) Chemical Oxidation/Reduction (ISCO/ISCR): Injecting chemicals into the soil to neutralize contaminants.
f) Stabilization and Solidification: Mixing binding agents (like cement) into the soil to prevent contaminants from leaching and enhancing soil strength for reuse.

6) *Environmental Screening Levels (ESLs).* ESLs, developed and updated by the State Water Board are risk-based concentration thresholds used as guidance to evaluate whether contamination in soil, groundwater, or soil gas may pose a threat to human health. They are commonly used to support site assessments and determine whether further investigation or remediation is needed. These levels vary depending on the type of land use (e.g., residential vs. commercial/industrial), with more stringent thresholds typically applied to sensitive uses. Common contaminants addressed include volatile organic compounds (VOCs) such as benzene and trichloroethylene (TCE), petroleum hydrocarbons, heavy metals like lead and arsenic, and semi-volatile compounds such as polycyclic aromatic hydrocarbons (PAHs).

   Notably, ESLs may not be adequately protective for certain sites, and as such are not intended to be used as a general checklist applicable to all sites for remedation. For example, they should not be used at sites where physical conditions or exposure scenarios substantially differ from those assumed in development of the ESLs. In addition, the ESLs do not apply to sediment or sensitive ecological habitats (such as wetlands or endangered species habitats). The need for a detailed human health or ecological risk assessment should, according to the San Francisco Bay Regional Water Quality Control Board, be evaluated on a site-by-site basis for areas where significant concerns may exist.[1]

Comments

1) *Purpose of Bill.* According to the author, "Remediating hazardous waste sites and building infill housing provide climate, public health, and affordability benefits for Californians. SB 1258 fixes a bug in the SB 423 approval process for certain hazardous waste sites by realigning the timing for site suitability determinations with the typical development cycle site remediation timeline. By setting the site suitability determination deadline prior to certificate of

[1] User's Guide: Compilation and Application of Environmental Screening Levels (ESLs) 2025. San Francisco Bay Regional Water Quality Control Board https://www.waterboards.ca.gov/rwqcb2/water_issues/programs/ESL/ESL_UserGuide.pdf

occupancy - and by unlocking more qualified government capacity for overseeing project-specific site remediation - SB 1258 will help get sites cleaned up in a safe manner and help more climate-friendly infill housing get built, reducing the pressure on sprawl development."

2) *Pros and Cons: building on hazardous sites prior to determining suitability.* SB 1258 specifies that projects are eligible for a ministerial process (CEQA exempt) even if they are on hazardous waste sites that are not remediated. Fundamentally, the intent behind this policy is to speed up deployment of housing on (remediated) hazardous waste sites that may otherwise be tied up waiting to get a determination of site suitability before they can be eligible for the ministerial, CEQA exempt process. Developers can encounter significant delays at DTSC and the SWRCB when seeking a 'no final action' letter or 'uniform closure letter' for sites with underground storage tanks, which they would need to be eligible for the ministerial, CEQA exempt process in law today. These delays can occur both for sites that are already safe for residential use, and sites that need significant remediation. There are many instances where development occurs on sites with existing contamination, with cleanup and risk mitigation measures implemented concurrently or following construction to ensure protection of public health and the environment.

   On the other hand, proceeding with a CEQA exemption for development on a hazardous waste site prior to completing cleanup can introduce additional complexity, cost, and risk for the workers, residents, and the developer: given that, unremediated hazardous waste sites may not be a good candidate for a ministerial process. Hazardous waste sites are typically not eligible for CEQA exemptions, since CEQA provides the rigorous environmental review and requirements for mitigation to ensure that cleanup of hazardous waste sites for residential uses happens with rigor and with transparency for the communities that may be affected.

3) *What if the house is built and the site is not safe?* SB 1258 proposes a process by which project developers can be eligible for ministerial processes, meaning that they skip environmental review under CEQA, and build on hazardous waste sites so long as they guarantee to the lead agency that they will get a determination that a site is safe for residential use before the certificate of occupancy is granted (or in some cases, before the first post entitlement permit, although post-entitlement permits can also be granted under the guarantee that the project will be remediated by the certificate of occupancy, resulting in the same backstop in the timeline of 'certificate of occupancy')

This puts the cart before the horse and could result in a scenario where a housing development is built on a site that is not safe for residential use. That outcome could lead to several unfortunate scenarios:

a) *Unbuild the house and start over.* The housing development would, in failing to be deemed safe for residential use, no longer be eligible for the CEQA exemption that it had already used.

   To truly remedy this outcome, the house would have to be deconstructed and full CEQA review used, which would capture the important 'alternatives analysis' component of CEQA which includes the impacts of no-build and could include the impacts of building on another site.

b) *Settle for mitigation, not remediation.* If a site is not safe for residential use but has already been built, developers may opt to use mitigation, rather than remediation techniques, which are inherently more risky since mitigation systems may fail. Some remediation technologies, (e.g., scraping or capping options) are no longer available, and with more limited tools in the toolbox to safely remediate contamination, developers may have to pay more for intensive mitigation measures when remediation would have been more efficient.

c) *Puts agencies in the political pressure cooker.* It may be more likely for the state or local agency to avoid making a determination that the site is unsafe, and instead continue working with the project applicant to consider mitigation measures that could sufficiently reduce contamination so that they can deem the site safe. State, but especially local agencies, may face pressure to make determinations that sites are suitable for residential use when they are standing in the way of opening new housing developments that are already constructed and just awaiting a certificate of occupancy. Local officers may be extremely vulnerable to political pressures from developers or cities and counties needing to reach development goals given that many local officers are appointed (although there is heterogeneity on this across the state).

While streamlining building houses on hazardous waste sites could leverage investment from developers to do important remediation work, the approach taken in SB 1258 introduces several significant concerns for the safety of workers, future residents, and nearby communities. ***To ensure that these concerns are addressed, the author and committee may wish to strike the existing provisions in the bill, and instead task DTSC and the SWRCB***

with developing guidance for making safe determinations of site suitability, pursuant to comment 4 below.

4) *What goes into a 'determination that [a] site is suitable for use'?* Current law, first developed in SB 35 and then further modified in SB 423, states that state and local agencies may make determinations that sites are suitable for residential/mixed use. However, local agencies ability to oversee remediation is already limited in existing law and local agencies should consult with state agencies before stepping into this role (e.g. some sites, like USTs, cannot be remediated by local officers in accordance with an MOA between the SWRCB and the U.S. EPA).

   SB 1258 addresses this in part by outlining a process by which local health officers can oversee development-specific project remediation: some local offices see this as an expansion of their role, while others may interpret this as clarifying.
   Without a clear, uniform process of how local agencies make determinations that sites are suitable for residential use, it is challenging to evaluate whether those criteria are sufficient to ensure that remediation is adequate: this is especially true in the case when development begins prior to a determination that the site is safe for residential use, as proposed in SB 1258.

   To fix the uncertainty in interpreting existing law, the author and committee may wish to specify that DTSC and SWRCB, in coordination with LCI, shall develop guidance for local agencies in overseeing development-specific remediation and for all agencies making determinations of 'site suitability'. As part of this guidance and to inform determinations of site suitability, DTSC and the SWRCB should also develop thresholds of contamination below which sites would be deemed safe for residential use for different use cases across the state.

5) *Committee amendments.* ***Staff recommends the committee adopt the bolded amendments contained in comments 3 and 4 above.***

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Housing Committee.

Related/Prior Legislation

SB 423 (Wiener, Chapter 778, Statutes of 2023) extends and expands by right approval (i.e., not subject to the CEQA) for both affordable and market-rate multifamily housing projects pursuant to SB 35 (Wiener, Chapter 366, Statutes of 2017) and changes the labor criteria to allow more projects to move forward under prevailing wage requirements instead of skilled and trained workforce requirements.

SOURCE:
SPUR
Housing Action Coalition

SUPPORT:

Bay Area Council
California Yimby
Council of Infill Builders
Greenbelt Alliance
Housing Action Coalition
Prosperity Action
Spur
Zillow Group

OPPOSITION:

350 Bay Area Action
Beverly-vermont Community Land Trust
California Environomental Justice Alliance
California Rural Legal Assistance Foundation (crla Foundation)
Center for Community Action and Environmental Justice (CCAEJ)
Center for Public Environmental Oversight
Center on Race, Poverty & the Environment
Communities for a Better Environment
East Yard Communities for Environmental Justice
Endangered Habitats League
Esperanza Community Housing Corporation
Leadership Counsel for Justice & Accountability
Los Angeles Neighborhood Land Trust
Physicians for Social Responsibility - Los Angeles
Planning and Conservation League
Redeemer Community Partnership

T.r.u.s.t. South LA
Thai Community Development Center
Western Center on Law & Poverty, INC.

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