
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

SB 819 (Padilla) - Geothermal waste: exemption from generation and handling fees: study

Version: March 26, 2025

Urgency: No

Hearing Date: May 5, 2025

Policy Vote: E.Q. 8 - 0

Mandate: No

Consultant: Ashley Ames

Bill Summary: This bill would require the Department of Toxic Substances Control (DTSC) to conduct a study on geothermal waste generation, handling fees and fee exemptions.

Fiscal Impact:

- DTSC estimates one-time costs of about \$1 million (special fund) for approximately 5 positions to develop the report by the July 1, 2026 due date.
- Unknown but potentially significant cost pressures (special fund) to make changes or provide funding based on the required report.

Background: DTSC is the lead agency in California for hazardous waste management. It enforces the state's Hazardous Waste Control laws, issues permits to hazardous waste facilities and conducts oversight of actions to clean up sites contaminated with hazardous substances.

SB 158 (Senate Budget & Fiscal Review Committee, Chapter 73, Statutes of 2021) collapsed four fees – generator, disposal, U.S. Environmental Protection Act identification verification, and manifest user – into a single generation and handling fee. This new fee is based on a price-per-ton model instead of the previously used tiered model. The initial fee was set at \$49.25 per ton (previously it ranged from \$10-\$100 per ton) though DTSC's Board of Environmental Safety can increase it under certain circumstances. The fees are deposited into the Hazardous Waste Control Account (HWCA).

SB 158 – which was the result of months of negotiations between the Legislature, the Governor's office, and affected industries – was designed to accomplish four main goals: simplifying the fee structure, eliminating DTSC's ongoing operating deficit, creating a prudent reserve, and increasing DTSC's staff to allow the department to meet its statutory mandate.

The bill also created a new Board of Environmental Safety, required DTSC to develop a hazardous waste management plan by March 1, 2025, strengthened financial assurance requirements for both hazardous waste facilities and contaminated cleanup sites, and changed some of the permitting requirements for hazardous waste facilities.

A Budget Shortfall. By January 2024 – not quite three years after the enactment of the new fee structure in SB 158 – DTSC indicated the HWCA was in the red to the tune of \$21 million. The Legislative Analyst's Office (LAO) attributed the shortfall to the new

\$49.25 per ton fee bringing in less than half of the money SB 158 had anticipated, writing:

“During the enactment of SB 158, the new generation and handling fee ... was projected to generate approximately \$81 million in total revenues in 2022-23. However, in the middle of 2022-23, DTSC indicated that these revenues were coming in significantly below what had been anticipated and would only generate about \$40 million that year.

“The department’s preliminary analysis of the issue indicated the shortfalls were attributable to a combination of three primary factors: (1) a reduction in the amount of hazardous waste generated; (2) a higher utilization of government fee exemptions, such as related to a government entity removing or remediating hazardous waste caused by another entity; and (3) nonpayment or low payment of fee amounts owed.”

Exemptions for Geothermal Waste. Geothermal wastes have been exempt from regulation as hazardous waste when the waste stems from drilling for geothermal resources for a number of years.

In 2006, SB 1294 (Ducheny, Chapter 143, Statutes of 2006) expanded the exemption to cover any waste from a geothermal energy plant.

Six years later, AB 2205 (V. Manuel Pérez, Chapter 253, Statutes of 2012) clarified that wastes from the extraction, beneficiation, and processing of ores and minerals includes spent brine solutions used to produce geothermal energy are also exempt from hazardous waste regulation if certain standards and handling requirements are met.

AB 474 (E. Garcia, Chapter 840, Statutes of 2017) took the exemption one step further, exempting spent brine solutions that are byproducts of the treatment of groundwater to meet California drinking water standards if certain standards and handling requirements are met.

DTSC Moves to Increase Rates. DTSC submitted a proposal to the Office of Administrative Law (OAL) in late 2024 to set new fee rates for the 2024-25 fiscal year and to adjust the fee rate limits in accordance with the consumer price increase set by the Department of Industrial Relations for June 2023 to June 2024. This proposal sought to hike the generation & handling fee from \$49.25 per ton fee to \$60.05 per ton, an increase of approximately 22%. DTSC explained its proposal by saying in part:

“Combined with all sources of revenue available to the Department, the fee rates set by this emergency rulemaking are anticipated to generate revenues that will allow DTSC operations to be maintained at the levels of service planned for the Department during the current fiscal year while also maintaining a prudent reserve, which accounts for a reasonable level of financial uncertainty.”

OAL approved the regulatory proposal on January 27, 2025, and it took effect immediately.

Proposed Law: This bill would require DTSC to submit a study by July 2, 2026 to the Legislature addressing any issues that would arise if geothermal waste not currently exempt from the generation and handling fees were to be exempted from those fees.

Related Legislation:

AB 1031 (Jeff Gonzalez, 2025) exempts all geothermal waste, except filter cakes, from DTSC's hazardous waste fees. This bill is pending in the Assembly Environmental Safety and Toxic Materials Committee.

Staff Comments: DTSC notes it would not have sufficient time implement the provisions of this bill and develop a report by the due date in the bill as currently written. DTSC would need to redirect 5 personnel years (PY) in 2025-26 and absorb all costs related to this bill. If redirected, DTSC warns it will risk timely completion of other mandated activities, such as the Hazardous Waste Management Report that is due to the Board of Environmental Safety by March 1, 2026. In addition, DTSC notes that the six-month period to complete the report is insufficient considering the lack of data available from the geothermal industry. DTSC's draft 2025 Hazardous Waste Management Plan proposes to study this industry's waste stream, as well as study the impact of fees on waste generation. These findings and recommendations are proposed to be included in the 2028 Hazardous Waste Management Plan.

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