



****UPDATE****

Reflects Addition of the California Small Business Alliance

****OPPOSE/JOB KILLER****

DTSC BUDGET TRAILER PROPOSAL RE: ELIMINATION OF FLAT FEE OPTION FOR HAZARDOUS WASTE PERMIT APPLICATIONS

June 9, 2016

TO: Members, Assembly Budget Committee

FROM: California Chamber of Commerce, Anthony Samson, Policy Advocate
 Alhambra Chamber of Commerce
 Automotive Specialty Products Alliance
 California Business Properties Association
 California Cement Manufacturers Environmental Coalition
 California Manufacturers and Technology Association
 California Metals Coalition
 California Small Business Alliance
 Camarillo Chamber of Commerce
 Chemical Industry Council of California
 Clean Harbors Environmental Services, Inc.
 Consumer Specialty Products Association
 Fontana Chamber of Commerce
 El Dorado County Chamber of Commerce
 Greater Fresno Area Chamber of Commerce
 Industrial Environmental Association
 Institute of Scrap Recycling Industries
 Metal Finishing Association of Northern California
 Metal Finishing Association of Southern California
 Norco Area Chamber of Commerce
 North Orange County Chamber

Oxnard Chamber of Commerce
Palm Desert Area Chamber of Commerce
Rancho Cordova Chamber of Commerce
Redondo Beach Chamber of Commerce & Visitors Bureau
Safety-Kleen, Inc.
San Diego Regional Chamber of Commerce
South Bay Association of Chambers of Commerce
Southwest California Legislative Council
Simi Valley Chamber of Commerce
Torrance Chamber of Commerce
West Coast Lumber & Building Material Association
Western Plant Health Association
Western States Petroleum Association

**SUBJECT: ITEM NO. 3960 - DTSC BUDGET TRAILER PROPOSAL RE: ELIMINATION OF FLAT FEE OPTION FOR HAZARDOUS WASTE PERMIT APPLICATIONS
OPPOSE/**JOB KILLER****

The California Chamber of Commerce and the organizations listed above must respectfully **OPPOSE** the Department of Toxic Substances Control's (DTSC) request for budget trailer language to eliminate the flat permitting fee option for permit applicants seeking to obtain a hazardous waste permit from DTSC. The CalChamber has labeled this budget trailer language a **JOB KILLER**. The budget trailer language will instead require applicants to enter into an uncapped reimbursement agreement with DTSC, which is akin to handing DTSC a "blank check" to process permit applications. The cost for obtaining a permit would be unpredictable and unsustainable, and would thus discourage investment in facility upgrades and renewals for critical hazardous waste facilities.

We fundamentally object to the notion of requiring permit applicants to contribute to an uncapped, pay-as-you-go program for the purpose of reimbursing a permitting agency that is consistently charged by stakeholders and even independent third parties for having poor management practices with respect to processing permit applications. A recent Senate Environmental Quality Committee analysis noted that "[t]here has been significant dissatisfaction with the performance of the Permitting Office, directed at the cost and length of time in completing the permit process" (Senate Environmental Quality Committee Analysis, SB 654, April 29, 2016, at p.3.) Indeed, recognizing the current deficiencies in its permitting program, on February 1, 2013, DTSC entered into a contract with CPS HR Consulting to conduct a permitting process review and analysis. Among other findings, CPS HR Consulting found that a primary reason for permitting delays is the department's poor management practices. Further, CPS HR Consulting found that while many aspects of the work process required for a permit renewal are well defined and well known, most of the difficult or complex steps are not clear or well defined. Consequently, according to CPS HR Consulting, "This is one of the most likely reasons for prolonged delays in the permitting process.... (Permitting Process Review and Analysis: Final Report, at p. 8.) Although DTSC is currently developing reforms to its permitting process through what is known as the Permitting Enhancement Work Plan (PEWP), those reforms have yet to be implemented. Additionally, even when they are implemented, it will surely take time to assess whether the PEWP is achieving its goals.

Under DTSC's proposed language, the cost to obtain a permit renewal or modification would be limitless and thus, further investment in critical hazardous waste infrastructure upgrades will falter. California's extensive manufacturing sector and the larger California economy depend upon sustaining hazardous waste system that can efficiently handle waste in a manner that protects both Californians and their environment. For example, approximately 85 percent of the waste deposited at one of the largest hazardous waste facilities in California is treated as hazardous waste only in California. If and when it leaves the state because of unsustainable permitting processes like the one the budget trailer language proposes, the waste is then treated as non-hazardous and thus subject to few, if any, environmental protocols. For this reason, we strongly support the treatment, storage, and disposal of hazardous waste in California, and we further

believe that we have a collective obligation as Californians to do so for California-generated waste deemed hazardous pursuant to California's more stringent statutory and regulatory requirements.

Unfortunately, DTSC's proposed language would discourage these facilities from further modernizing and improving their infrastructure by giving DTSC the authority to simply charge whatever it deems fit for purposes of processing a permit application, notwithstanding the DTSC's own self-acknowledged deficiencies that exist within its current permitting program. Additionally, in the event certain fees are disputed, the question then arises whether DTSC may obtain *additional* fees for handling the fee dispute on top of those fees the department is already demanding for permit processing. DTSC's proposal would create a process that would invite potentially intractable disputes, add further delays to the permitting process, and impose extraordinary, unjustified, and unpredictable costs on the permit applicant.

We note that our organizations have expressed a willingness to explore the possibility of substantially increasing current statutory fees. To this end, we are currently working closely with Assemblyman Santiago through his **AB 2794** on this very issue. **AB 2794** as introduced would have eliminated the flat fee option; however, after further discussions the Assemblyman acknowledged the problems with such a proposal and has agreed to work with our organizations on an alternative approach.

For these reasons, we must **OPPOSE DTSC's Proposed Budget Trailer Language.**

cc: Members, California State Assembly
Graciela Castillo-Krings, Office of the Governor
Kim Craig, Office of the Governor
Gabrielle Meindl, Consultant, Assembly Budget Committee
Eric Swanson, Assembly Republican Caucus