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SB-328 Hazardous waste generation and handling fees: Department of Toxic Substances Control oversight responses: housing development projects. (2025-2026)

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AMENDED IN ASSEMBLY JUNE 25, 2025

AMENDED IN SENATE MAY 23, 2025

AMENDED IN SENATE APRIL 29, 2025

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AMENDED IN SENATE APRIL 07, 2025

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CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

SENATE BILL

NO. 328

Introduced by Senator Grayson

(Coauthors: Assembly Members Blanca Rubio and Wallis)

February 11, 2025

An act to add Section 65913.3.3 to the Government Code, and to add Section 25205.5.5 to the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 328, as amended, Grayson. Hazardous waste generation and handling fees: Department of Toxic Substances Control oversight ~~and postentitlement phase permit~~ responses: housing development projects.

The hazardous waste control laws require the Department of Toxic Substances Control to regulate the handling and management of hazardous waste and hazardous materials. A violation of the hazardous waste control laws is a crime.

Existing law, which is part of the Planning and Zoning Law, establishes time limits for a local agency, as defined, to complete reviews regarding ~~whether an application for a postentitlement phase permit, as defined, is complete and compliant, and~~ whether to approve or deny an application, as specified, and makes any failure to meet these time limits a disapproval of the housing development project and a violation of specified law.

Upon the department receiving a request for a housing development project seeking oversight of investigation, characterization, and remediation ~~activities, or for a request from a housing development project for a postentitlement phase permit that a local~~

~~agency deemed complete that requires a response from the department;~~ *activities*, this bill would require the department to provide written notice to the requestor within specified timelines regarding subsequent actions in the review process, as specified. The bill would require, for a housing development with 25 units or fewer, the department to provide the written notice within 60 business days of receiving the request. The bill would require, for a housing development with 26 units or more, the department to provide the written notice within 120 business days of receiving the request. The bill would make these provisions operative on July 1, 2028.

Existing law requires a generator of hazardous waste to pay to the California Department of Tax and Fee Administration a generation and handling fee for each generator site based on the amount of waste generated, as specified.

This bill would impose a maximum fee in a total amount of \$100,000 upon a generator of hazardous waste that is residential infill housing, as provided. The bill would impose a maximum fee in a total amount of \$250,000 upon a generator of hazardous waste that is a master development project, without regard to the phase of the project. These provisions would only apply to generators that are not responsible for creating the hazardous waste. The bill would require generators to *apply to the department and* certify their eligibility for these fee limitations to the Department of Toxic Substances Control.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65913.3.3 is added to the Government Code, to read:

65913.3.3. (a) This section applies to ~~both of the following:~~

~~(1)~~ *A* request submitted to the department for a housing development project seeking oversight of investigation, characterization, and remediation activities, including, but not limited to, any of the following actions:

~~(A)~~

(1) An application for a voluntary cleanup agreement.

~~(B)~~

(2) An application for a prospective purchaser agreement.

~~(C)~~

(3) An application for an agreement entered into pursuant to the California Land Reuse and Revitalization Act of 2004, as set forth in Chapter 6.82 (commencing with Section 25395.60) of Division 20 of the Health and Safety Code.

~~(D)~~

(4) A request for approval of completion of site mitigation.

~~(E)~~

(5) A request for Affirmation of No Further Action, a request for a No Further Remedial Action letter, or an equivalent determination.

~~(F)~~

(6) Any interim step necessary for the issuance of determinations described in ~~subparagraphs (A) to (E);~~ *paragraphs (1) to (5),* inclusive, including, but not limited to, site screening, preliminary endangerment assessment, work plan, action plan, or cleanup program.

~~(2) A request from a housing development project for a postentitlement phase permit that a local agency deemed complete pursuant to subdivision (b) of Section 65913.3 that requires a response from the department.~~

(b) The department, upon receipt of a request pursuant to subdivision (a), shall provide written notice to the requestor, pursuant to the timelines specified in subdivision (c), of subsequent actions in the review process, including, but not limited to, any additional information that may be required to begin to review the request.

(c) (1) For a housing development project with 25 units or fewer, the department shall provide the written notice required by subdivision (b) within 60 business days of receipt of the request.

(2) For a housing development project with 26 units or more, the department shall provide the written notice required by subdivision (b) within 120 business days of receipt of the request.

(d) (1) After receiving notice that a request requires additional information pursuant to subdivision (b), a requestor ~~may~~ *shall* provide the requested information directly to the ~~department~~ *department within the timeframe established by the department in the notice.*

(2) The department, upon receipt of additional information pursuant to paragraph (1), shall respond to the requestor with a notice that contains the information or subsequent actions required by subdivision (b) in the applicable time period described in subdivision (c).

(3) The department shall continue to review each request to determine additional relevant information and provide written notice of the subsequent actions or additional information required in the applicable time periods described in subdivision (c) of each submission by the requestor.

(e) A person or entity requesting information about a project pursuant to this section shall provide any information they may have about the history of the site being cleaned up, including any information about past ownership of the property.

~~(e)~~

(f) This section does not limit the amount of comments, feedback, revisions, or requests for additional information the department may provide to a requestor or to a local agency.

~~(f)~~

(g) This section does not require the department to make a final determination within a specified time period.

~~(g)~~

(h) For purposes of this section, the following definitions apply:

(1) "Department" means the Department of Toxic Substances Control.

(2) "Housing development project" has the same meaning as defined in paragraph (3) of subdivision (b) of Section 65905.5.

(3) "Local agency" means any city, county, or city and county.

~~(4) "Postentitlement phase permit" has the same meaning as defined in Section 65913.3.~~

(i) In implementing this section, the department shall use its authority under Division 45 (commencing with Section 78000) of the Health and Safety Code or the California Land Reuse and Revitalization Act of 2004 (Chapter 6.82 (commencing with Section 25395.60) of Division 20 of the Health and Safety Code).

~~(h)~~

(j) This section is operative on July 1, 2028.

SEC. 2. Section 25205.5.5 is added to the Health and Safety Code, to read:

25205.5.5. (a) For purposes of this section, the following definitions apply:

(1) "Sixty-six percent residential housing" means a multifamily housing development project in an infill setting that is surrounded on at least three sides by urbanized uses and of which at least two-thirds of the proposed square footage is dedicated to residential use.

(2) "Master development project" means a project that complies with all of the following criteria:

(A) The project is governed by a development agreement entered into pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 of Title 7 of the Government Code.

(B) The project explicitly contemplates development in multiple phases.

(C) The project requires construction of new infrastructure.

(D) The project includes residential dwelling units.

(b) Notwithstanding Section 25205.5, the generation and handling fee imposed upon a generator of hazardous waste that is infill housing that is at least 66 percent residential housing shall be in a total amount that does not exceed one hundred thousand

dollars (\$100,000) for ~~the entire project.~~ *waste generated each fiscal year for each project site.*

(c) Notwithstanding Section 25205.5, the generation and handling fee imposed upon a generator of hazardous waste that is a master development project shall be in a total amount that does not exceed two hundred fifty thousand dollars (\$250,000) for ~~the entire development project.~~ *waste generated each fiscal year for each project site*, without regard to the phase.

(d) This section only applies to generators that are not ~~responsible for creating the hazardous waste.~~ *the "responsible party," as defined in Section 78145.*

(e) (1) A generator seeking a fee limitation pursuant to this section shall *submit an application and* certify its eligibility to the Department of Toxic Substances Control and include any information necessary to demonstrate its ~~eligibility.~~ *eligibility, including a copy of the approved entitlement from the applicable local government.*

(2) The Department of Toxic Substances Control shall notify the California Department of Tax and Fee Administration of generators certifying eligibility for a fee limitation pursuant to this section.

(f) This section only applies to fees imposed on or after January 1, 2026.