



Department of
Toxic Substances
Control

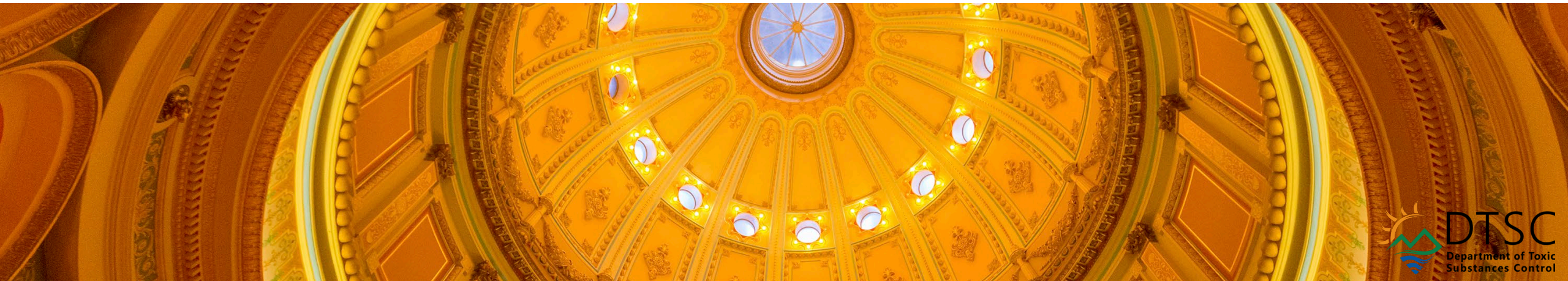


DTSC & BES Joint Virtual Fees Workshop

APRIL 26, 2024

10:00 AM – 12:00 PM PST

Accessibility Note: We are currently working to ensure the entire PDF document is accessible.



Meeting Materials and Logistics

Meeting materials are available – <https://dtsc.ca.gov/fees-events/>

Zoom Webinar Logistics:

- The workshop and Q&A are being recorded
- Closed captions: Select your preference by using the More menu – show/hide subtitle
- Q&A function: submit your questions to the presenters
- Chat function: ask for technical assistance or contact BEInfo@bes.dtsc.ca.gov

Purpose

To provide:

- Information about the Environmental Fee, Facility Fee, and the Generation and Handling Fee
- Preliminary findings about the Generation and Handling Fee shortfall
- How to engage in the Budget process



Agenda

Welcome and Introductions

BES Presentation

DTSC Presentation

Questions and Answers



Introductions

- Gabby Nepomuceno, Asst. Deputy Director, Office of Legislation and Regulatory Review
- Kaytherine Grant, Fiscal Policy and Process Improvement Manager, Office of Financial Planning
- Brian Brown, Chief Financial Officer, Office of Financial Planning
- Swati Sharma, Executive Officer, Board of Environmental Safety

BES Fee Subcommittee Members

- Board Chair - Jeanne Rizzo
- Board Member - Sushma Bhatia
- BES Staff Support:
 - Executive Officer - Swati Sharma
 - Senior Board Staff Engineer - Linda Ocampo
 - Public Outreach Manager - Sheena Brooks
 - Board Counsel - Greg Forest

SB 158 Context

Prior to SB 158, the fee rate setting process was set in statute by the Legislature.

SB 158 changed the base fee rates for the first time since the 1990's. SB 158 restructured and raised fees that fund DTSC:

Generation and Handling Fee with a flat rate of \$49.25 per ton

Facility Fee with tiered rates

Environmental Fee (Tax) with tiered rates

BES Authority

Starting with Fiscal Year 2023-24 the Board set fee rates and is required to do so annually.

The Board has emergency rulemaking authority for fee rate setting.

The adopted regulation remains in effect until repealed by the Board.

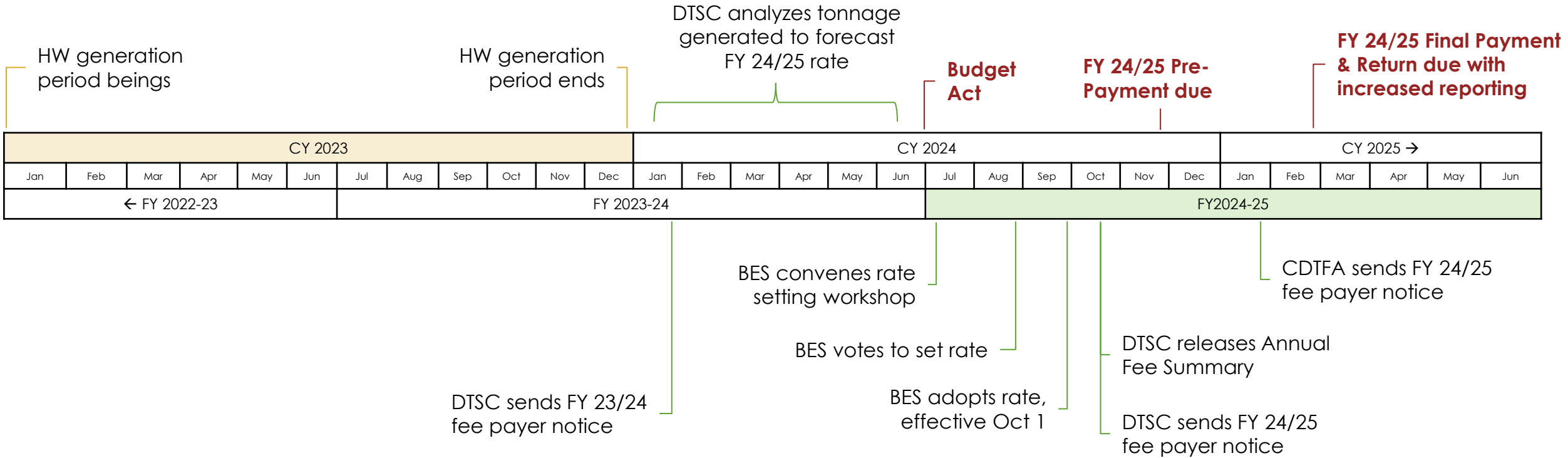
BES Authority cont..

Board to adjust fee rate caps (limits) to reflect changes in Consumer Price Index (CPI), for most fees beginning in FY 2024-25.

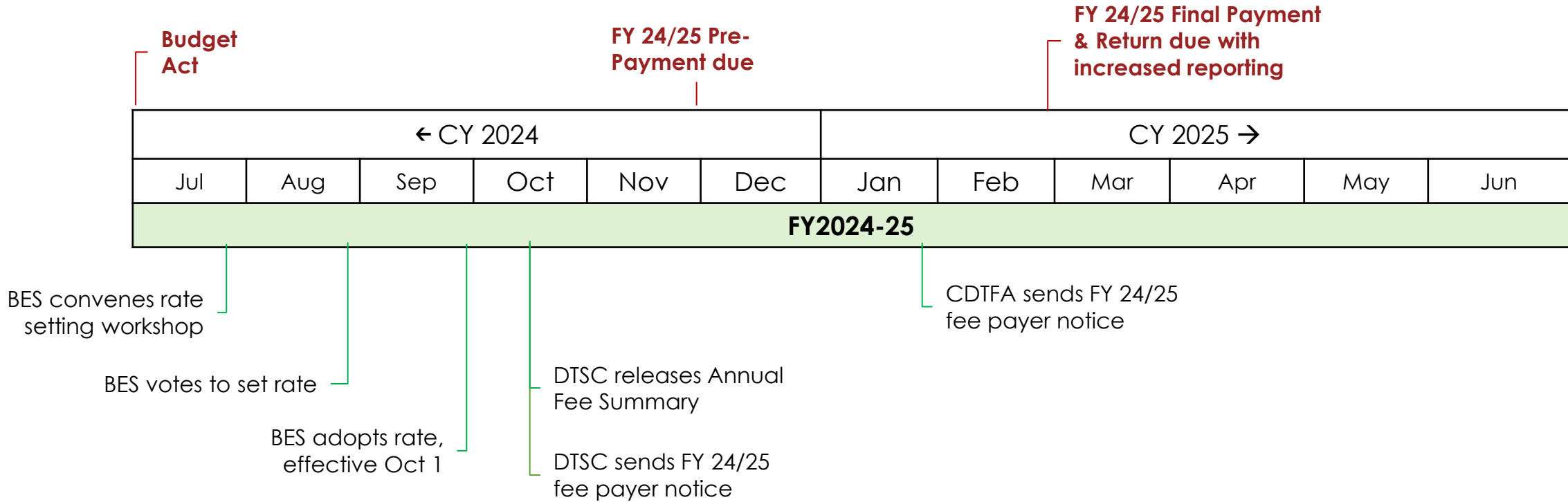
Board to provide fee rates and fee caps to CA Department of Tax and Fee Administration (CDTFA) by no later than October 1.

The rates are retroactive to July 1

Annual Rate Setting Schedule for FY2024-25



Annual Rate Setting Schedule for FY2024-25



CY – calendar year
 FY – fiscal year

Developing Fee Rate Recommendations

- Fees subcommittee, together with DTSC, set out to:
 - assess the impact of the SB 158 fee increases on DTSC's overall revenues,
 - build out the Board's fee rate setting process,
 - make recommendations (to the full Board) on fee rates for FY 24-25.

Board's Consideration for Setting Fee Rates

Board cannot set rates that exceed caps set in statute (after annual CPI adjustment)

The Board shall determine the fee revenue collected during the preceding year was greater than, or less than, the amounts appropriated by the Legislature.

Board shall adjust fee rates to compensate for over- or under- collection of revenue in prior year

Board's Consideration for Setting Fee Rates

Board to set fee rates according to:

- Amounts appropriated by the Legislature for that fiscal year from the associated account
- The costs of administration and collection of fees
- Statewide general administrative costs assessed to the associated account

Fee rates must allow for a reserve in the associated account

- Amount sufficient to ensure programs funded by the associated account are not adversely affected by revenue shortfalls or baseline expenditure adjustments
- Reserves must not exceed 10% of authorized expenditures from the account

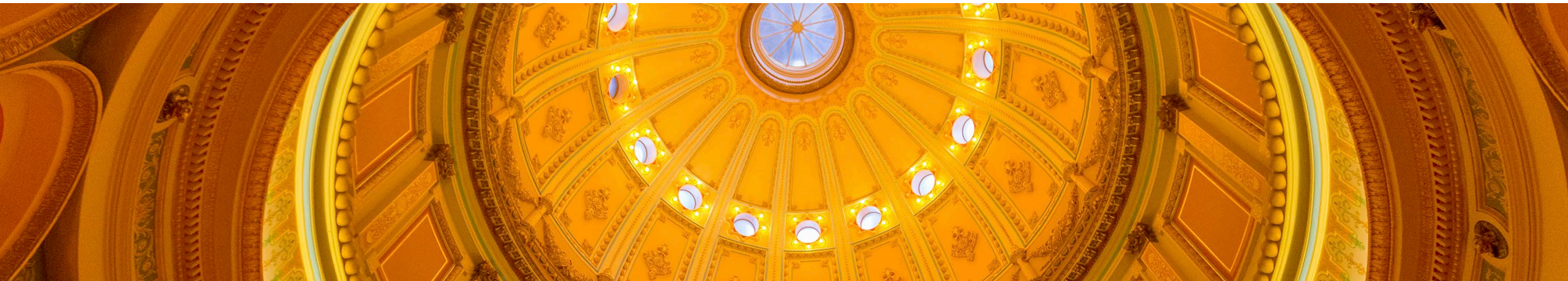


Department of
Toxic Substances
Control



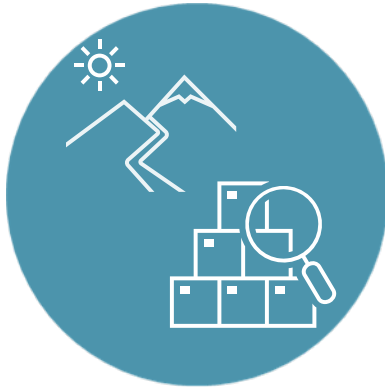
DTSC Fee Overview

BY KAYTHERINE GRANT

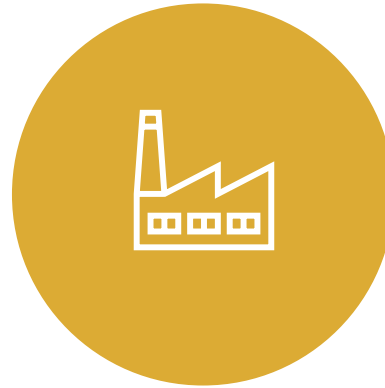


DTSC Fees

- Fee Rates Set by Board of Environmental Safety (BES or Board)
- Fees Administered by California Department of Tax and Fee Administration (CDTFA)



Environmental Fee



Facility Fee



Generation & Handling
Fee

Fee Reform Impacts (SB 158)

- Established Board of Environmental Safety (BES) to Annually Set Fee Rates and Adjust Fee Caps for Consumer Price Index (CPI)
- Restructured DTSC Fees and Rates
 - **Environmental Fee** – adjusted tiers and rates
 - **Facility Fee** - adjusted rates and created Hazardous Waste Facility Account
 - **Generation & Handling Fee (G&H Fee)** – consolidated fees into one flat rate and eliminated most exemptions
 - Generator Fee
 - Disposal Fee
 - EPA Identification Fee/Annual Verification Fee
 - Manifest Fee



Environmental Fee



Fee Payers:

California businesses with 100 employees or more that use, generate, or store hazardous materials

Exemptions:

- Private households
- Nonprofit residential and social care corporations
- Insurance companies that pay tax on gross premiums
- Banks that pay tax on net income
- Non-profit credit unions
- U.S. government agencies

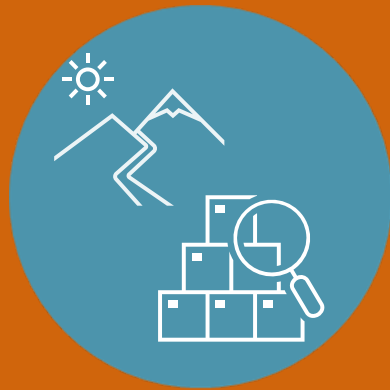




Activities funded by Environmental Fee

- Site Mitigation and Brownfields
- Site Remediation Transfer (federal "Superfund" and state orphan sites)
- Safer Consumer Products
- Support Programs (Biomonitoring, Legal, Attorney General Litigation support Information Technology, Environmental Chemistry Lab, Administration, Public Participation, etc.)

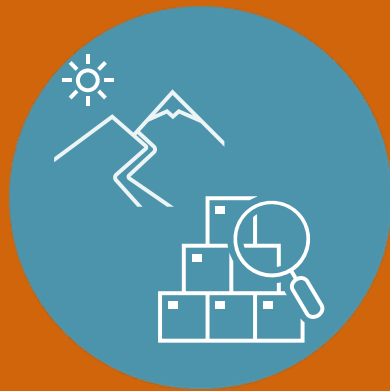
Environmental Fee



- 2023/24 Estimated Revenue: \$120 million
- Deposited into Toxic Substances Control Account
- Fee payers are required to register with CDTFA
- Fee payment and return due on or before February 28 each year



Environmental Fee



Impacts of Reform

Business Size	Pre-Reform: 2021-22	Post Reform: 2023-24	Fee Cap*
Less than 50 employees	\$0	\$0	\$0
50 but less than 75 employees	\$357	\$0	\$0
75 but less than 100 employees	\$627	\$0	\$0
100 but less than 250 employees	\$1,244	\$1,261	\$2,522
250 but less than 500 employees	\$2,669	\$2,706	\$5,412
500 but less than 1,000 employees	\$4,985	\$16,000	\$32,000
1,000 or more employees	\$16,911	\$54,100	\$108,200

* Fee cap adjusted annually by CPI beginning 2024/25 fiscal year



Facility Fee



Who pays:

Any facility treating, storing, or disposing of hazardous waste in California that is required to have a hazardous waste facility permit issued by DTSC. The Facility Fee is based on the type of permit held by a facility operator and the facility size.

Authorized uses:

May be used for regulatory activities associated with permitted facilities.



Activities Funded by the Facility Fee

- DTSC Facility Permitting
- Inspections and Enforcement of DTSC Permitted Facilities
- Office of Criminal Investigations
- HWMP Policy Implementation
- Support Programs: (Legal, Attorney General Litigation support, Information Technology, Environmental Chemistry Lab, Administration, Public Participation, Health and Safety, etc.)

Facility Fee



- FY 2023/24 Estimated Revenue: \$14 million
- Deposited into Hazardous Waste Facility Account, a subaccount of Hazardous Waste Control Account
- Permitted Facilities are required to register with CDTFA
- Fee payments are due in two equal installments:
 - Prepayment due November 30
 - Return and final payment due February 28

Facility Fee



Rate Categories:

- Full permit - All RCRA regulated facilities, and certain non-RCRA facilities with operating permits
- Postclosure permit – All facilities with a post-closure permit
- Standardized permit – Non-RCRA regulated facilities with operating permits
- Tiered permit - Facilities operating fixed or transportable treatment units

Exemptions:

- Facilities operated by local household hazardous waste collection programs
- Solid waste disposal facilities operating load check programs
- Treatment facilities operating to perform a removal or remedial action or a corrective action related to an order issued by DTSC

Facility Fee – Full Permit

Base Rate		
Pre- Reform	\$ 35,943	No Cap
Post Reform	\$ 94,910	\$189,820*

*Fee Cap Annually Adjusted by CPI

Full Permit Facility Fee		Pre-Reform	Post Reform
Disposal Facility	10 x Base Rate	\$ 359,430	\$949,100
Large Onsite Treatment Facility	3 x Base Rate	\$ 107,829	\$284,730
Large Offsite Treatment Facility	3 x Base Rate	\$ 107,829	\$284,730
Small Treatment Facility	2 x Base Rate	\$ 71,886	\$189,820
Mini Treatment Facility	0.5 x Base Rate	\$ 17,972	\$47,455
Large Storage Facility	2 x Base Rate	\$ 71,886	\$189,820
Small Storage Facility	Base Rate	\$ 35,943	\$94,910
Mini Storage Facility	.25 x Base Rate	\$ 8,986	\$23,728

Facility Fee – Post Closure Permit

Post Closure Permit Facility Fee			
During First Five Years of Postclosure Period			
DTSC-Lead Sites	Pre-Reform	Post Reform	Rate Cap*
Small Facility	\$5,725	\$26,980	\$53,906
Medium Facility	\$11,450	\$53,960	\$107,920
Large Facility	\$17,175	\$80,940	\$161,880
During Remaining Years of Postclosure Period			
DTSC-Lead Sites	Pre-Reform	Post Reform	Rate Cap*
Small Facility	\$3,050	\$14,375	\$28,750
Medium Facility	\$6,100	\$28,750	\$57,500
Large Facility	\$10,300	\$48,550	\$97,100

* All Rate Caps Annually Adjusted by CPI

Facility Fee – Standardized Permit

Standardized Permit Tier	Pre-Reform	Post Reform	Rate Cap*
Std Permit Facility Series A	\$11,730	\$55,280	\$110,560
Std Permit Facility Series B	\$5,497	\$25,910	\$51,820
Std Permit Facility Series C	\$4,617	\$21,760	\$43,520
Std Permit Facility Series C (Sm Qty)	\$2,308	\$10,880	\$21,760

All Rates Caps Annually Adjusted by CPI

Facility Fee – Treatment Units

Fixed Treatment Unit Fee*	Pre-Reform	Post Reform	Rate Cap
Permit-by-Rule	\$1,743	\$4,600	\$9,200
Conditional Authorization	\$1,743	\$4,600	\$9,200
Conditional Exemption**	\$38	\$180	\$360
*Fee rates are per unit **Not Subjected CPI Adjustment, All Other Rates Annually Adjusted			
Transportable Treatment Unit Fee*	Pre-Reform	Post Reform	Rate Cap
Permit-by-Rule	\$1,743	\$4,600	\$9,200
Conditional Authorization	\$1,743	\$4,600	\$9,200
Conditional Exemption**	\$38	\$180	\$360
*Fee rates are per unit **Not Subjected CPI Adjustment, All Other Rates Annually Adjusted			

Generation and Handling Fee



Who pays:

All entities that generate 5 or more tons of hazardous waste per site in the prior calendar year.

Authorized uses:

May be used for any hazardous waste related regulatory activities not associated with permitted facilities.



Activities Funded by the Generation & Handling Fee

- Inspections and Enforcement
- Office of Criminal Investigations
- HWMP Policy and Program Support
- Corrective action and cleanup at hazardous waste facilities
- Support Programs: (Legal, Attorney General Litigation support, Information Technology, Environmental Chemistry Lab, Administration, Public Participation, Health and Safety, etc.)

Generation and Handling Fee



- 2023/24 Estimated Revenue: \$43.2 million
- Deposited into Hazardous Waste Control Account
- Assessed on the amount of hazardous waste generated in the prior calendar year
- Rate for FY 23/24 is \$49.25 per ton or fraction of a ton
- Fee payments are due in two equal installments:
 - Prepayment due November 30
 - Return and final payment due February 28



What waste is excluded?

Hazardous waste generated that can be excluded from your G&H fee calculation:

- Wastes transferred, stored, or bulked through a treatment, storage, and disposal facility enroute to destination facility
- Hazardous materials recycled and reused on site, and not transferred offsite
- Aqueous waste treated in a treatment unit operating under Conditional Exemptions, Conditional Authorizations or Permit-by-Rule

Fee Exemptions (Part 1)

Hazardous waste generated that is exempt from the G&H fee:

- Waste generated from household hazardous waste collection facility
- Banned, outdated, unregistered agricultural wastes submitted to a county under a collection program
- Do-it-Yourselfer used oil collected by Certified Used Oil Collection Centers

Fee Exemptions (Part 2)

Hazardous waste generated that is exempt from the G&H fee:

- Hazardous waste generated by solid waste load check operations
- Reusable soiled textile materials that meet specified conditions.
- Waste generated by government agencies responding to releases of waste caused by others
- Wastes generated by a natural disaster which is not a routinely produced hazardous waste

G&H Fee – Pre and Post Reform

Pre-Reform			
EPA ID Verification Fee	Manifest User Fee	Generator Fee	Land Disposal Fee
Annual EPA ID verification fee. Rates were tiered, based on number of employees	Fee assessed on each manifest used to transport hazardous waste	Tiered fee rate based on the hazardous waste generated	Per ton fee rate based on waste type being disposed
Post Reform			
Generation & Handling Fee			
Flat rate assessed on each ton of waste of hazardous waste generated			

G&H Fee – Scenario

Last year, a California business with **150 employees** generated **20 tons** of non-RCRA hazardous waste. This waste was transported on **75 manifests** and sent to a California landfill.

Tonnage	Pre-Reform					Post Reform	Net Change in Fees
	EPA ID	Manifest Fee	Disposal Fee	Generator Fee	Total Pre-Reform Fees	G&H	
20	\$200	\$563	\$114	\$250	\$1,127	\$985	(\$142)

G&H Fee – Scenario

Last year, a California business with **150 employees** generated **500 tons** of non-RCRA hazardous waste. This waste was transported on **75 manifests** and sent to a California landfill.

Pre-Reform					Post Reform	Net Change in Fees
EPA ID	Manifest Fee	Disposal Fee	Generator Fee	Total Pre-Reform Fees	G&H	
\$200	\$563	\$2,860	\$50,000	\$53,623	\$24,625	(\$28,998)

G&H Fee – Scenario

Last year, a California business with **150 employees** generated **2,000 tons** of non-RCRA hazardous waste. This waste was transported on **75 manifests** and sent to a California landfill.

Pre-Reform					Post Reform	Net Change in Fees
EPA ID	Manifest Fee	Disposal Fee	Generator Fee	Total Pre-Reform Fees	G&H	
\$200	\$563	\$11,440	\$100,000	\$112,203	\$98,500	(\$13,703)

G&H Fee – Scenario

Last year, a California business with **150 employees** generated **5,000 tons** of non-RCRA hazardous waste. This waste was transported on **75 manifests** and sent to a California landfill.

Pre-Reform					Post Reform	Net Change in Fees
EPA ID	Manifest Fee	Disposal Fee	Generator Fee	Total Pre-Reform Fees	G&H	
\$200	\$563	\$28,600	\$100,000	\$129,363	\$246,250	\$116,888

G&H Fee – Scenario Summary

Tonnage	Pre-Reform					Post Reform	Net Change in Fees
	EPA ID	Manifest Fee	Disposal Fee	Generator Fee	Total Pre-Reform Fees	G&H	
20	\$200	\$563	\$114	\$250	\$1,127	\$985	(\$142)
500	\$200	\$563	\$2,860	\$50,000	\$53,623	\$24,625	(\$28,998)
2,000	\$200	\$563	\$11,440	\$100,000	\$112,203	\$98,500	(\$13,703)
5,000	\$200	\$563	\$28,600	\$100,000	\$129,363	\$246,250	\$116,888

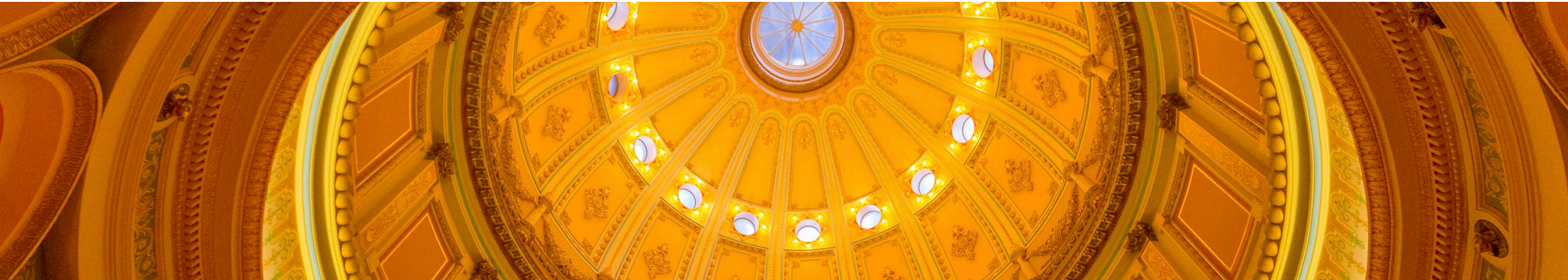


Department of
Toxic Substances
Control



Generation and Handling Fee Shortfall

BY BRIAN BROWN



Generation and Handling Fee Shortfall

- Revenue shortfall identified in first year of fee
 - In 2022-23, \$43 million was paid
 - By comparison, the fee was projected to generate \$81 million
- 2023-24 state budget included short-term actions
 - \$55 million in one-time loans
 - To keep HWCA solvent through end of current fiscal year
 - The Board kept the fee rate the same in 2023-24 as in prior year

Actions Taken to Date

- Evaluation of past waste generation and fee payment data to identify why revenues were lower than projected
 - Non-compliance
 - Broad and inconsistent use of statutory exemptions
 - Data challenges
- Increased communications to generators
- Modifications to provide additional data
 - CDTFA updated the fee return
 - DTSC is exploring opportunities to improve data collected from generators

Next Steps

- Release of Governor's *May Revision*
 - Around May 15th
 - Anticipate will include a proposal to address the shortfall
- Legislative budget hearings
 - Late May and early June
- 2024-25 Budget Act enacted
 - New fiscal year begins on July 1
- Board will continue to have regular public meetings

Resources

For general fee information:

DTSC: <https://dtsc.ca.gov/fee-payer-resources/>

CDTFA: <https://www.cdtfa.ca.gov/taxes-and-fees/hazardous-substances-fee/>

Fact sheets:

Generation & Handling Fee: <https://dtsc.ca.gov/wp-content/uploads/sites/31/2024/01/GH-Fee-Handout-1.19.24.pdf>

Environmental Fee: <https://www.cdtfa.ca.gov/formspubs/pub90.pdf>

Contact Us

- For questions about your fee account and paying fees:

<https://www.cdtfa.ca.gov/email/>

- For questions about hazardous waste management activities and general fee information:

<https://dtsc.ca.gov/submit-comments-and-feedback/>

- For questions about how the fee rate setting process:

BEInfo@bes.dtsc.ca.gov

- For legislative matters: DTSCLegislationOffice@dtsc.ca.gov

Q&A

- Q&A function: submit your questions to the presenters
- Chat function: ask for technical assistance or contact BESInfo@bes.dtsc.ca.gov