



August 13, 2015

TO: Members, Assembly Appropriations Committee

FROM: California Chamber of Commerce  
 Automotive Specialty Products Association  
 California Building Industry Association  
 California Business Properties Association  
 California Cement Manufacturers Environmental Coalition  
 California Manufacturers and Technology Association  
 California Metals Coalition  
 Chemical Industry Council of California  
 Clean Harbors Environmental Services, Inc.  
 Consumer Specialty Products Association  
 Industrial Environmental Association  
 Institute of Scrap Recycling Industries, Inc.  
 Metal Finishing Association of Northern California  
 Metal Finishing Association of Southern California  
 North Orange County Chamber  
 Southwest California Legislative Council  
 West Coast Lumber & Building Material Association  
 Western States Petroleum Association  
 Western Plant Health Association

SUBJECT: **SB 673 (LARA) – HAZARDOUS WASTE  
 SET FOR HEARING – AUGUST 19, 2015  
 OPPOSE – AS AMENDED JULY 8, 2015**

The California Chamber of Commerce and the above-listed organizations must respectfully **OPPOSE SB 673 (Lara)**, which establishes a new “California Communities Committee” to oversee DTSC’s existing permitting program, and further requires DTSC to establish new permitting criteria that DTSC must consider in making permitting decisions. **SB 673** is significantly flawed because it (1) imposes substantial new costs to the state; (2) establishes a “California Communities Committee” that duplicates an oversight commission that was recently established in the 2015-16 budget for the very same purpose; and (3) imposes unreasonable and unrealistic permitting criteria that DTSC must consider in making permitting decisions.

**SB 673 Would Impose Substantial New Costs to the State**

According to Senate Appropriations Committee Analysis for **SB 673**, DTSC preliminarily estimates that it will cost approximately \$1.2 million annually—beginning in 2015-16 and continuing through 2020-21—to

provide administration and staff to **SB 673's** newly established California Communities Committee. Additionally, in order to adopt the regulations required by **SB 673**, DTSC estimates that it would need one-time costs of \$600,000. In total, **SB 673** would cost the state nearly \$7.8 million over six years.

**The 2015-16 Already Establishes an Independent Review Panel**

The 2015-16 Budget, through SB 83 (Chapter 24, Statutes of 2015), includes substantial new funding to DTSC amounting to \$16.8 million for a total of 52 new staff positions, some of whom will be tasked with improving DTSC's current permitting program. Importantly, SB 83 also establishes an independent review panel, comprised of three members chosen respectively by the Assembly, the Senate, and the Governor, and charged with reviewing and making recommendations to the Legislature and the Governor regarding improvements to DTSC's permitting, enforcement, public outreach and fiscal management. Accordingly, the budget's substantial new funding to DTSC and the establishment of the independent review panel together obviate the need for this bill.

**SB 673 Establishes Unreasonable and Unworkable Permitting Criteria**

**SB 673** requires DTSC to adopt regulations establishing additional criteria that DTSC must use to determine whether to issue a new or renewed hazardous waste permit. According to **SB 673**, these criteria shall include, among others: (1) minimum setback distances from sensitive receptors and (2) the vulnerability of, and existing health risks to, nearby populations. Vulnerability, according to **SB 673**, shall be assessed using the CalEnviroScreen tool and other indicators of community vulnerability.

The permit criterion related to minimum setbacks from sensitive receptors fails to take into account that virtually every application for a hazardous waste permit is for a *renewal* of an existing facility. With this understanding in mind, some sensitive receptors have located near hazardous waste facilities *after* the facility had already been operating for years within an existing, permitted footprint. **SB 673** would now require DTSC to potentially impose new, more restrictive setback requirements which would, in turn, require existing facilities to change their operating footprint. This would be impossible for many facilities as a practical matter, and would further raise serious legal implications with respect to the vested property rights of existing facilities.

It should also be noted that, under the California Environmental Quality Act ("CEQA"), lead agencies are required to analyze potential environmental impacts caused by proposed projects to sensitive receptors. (*Citizens for Responsible Equitable Environmental Development v. City of Chula Vista* (2011) 197 Cal.App.4th 327, 332 ["The Air Quality Assessment states that a project would have a significant environmental impact if it would expose sensitive receptors, such as children or the elderly, to substantial pollutant concentrations."].) If a proposed project would cause a potentially significant impact to sensitive receptors, then the project applicant is required to implement feasible mitigation measures to reduce that impact to a level of insignificance.

Next, use of the CalEnviroScreen tool in permitting decisions belies the purpose for which it was intended. The CalEnviroScreen tool was designed to identify communities at greatest risk from environmental contamination, air quality, pesticide use, etc., and to use that information as a basis for awarding grants to these communities. It was never intended to be used as a permitting tool. Doing so here would be inappropriate and set a troubling precedent for statewide and local permitting decisions.

For these reasons, we must **OPPOSE SB 673 (Lara)**.

cc: Martha Guzman-Aceves, Office of the Governor  
The Honorable Ricardo Lara  
Jennifer Galehouse, Assembly Appropriations Committee  
Eric Swanson, Assembly Republican Caucus  
District Office, Members, Assembly Appropriations Committee

AS:mm