

Senate Bill No. 712

CHAPTER 833

An act to add Sections 25186.2.5 and 25200.7.5 to the Health and Safety Code, relating to hazardous materials.

[Approved by Governor September 29, 2014. Filed with
Secretary of State September 29, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 712, Lara. Hazardous waste facility: permitting: interim status.

Existing law requires the facilities handling hazardous waste to obtain a permit from the Department of Toxic Substances Control. Existing law authorizes a hazardous waste facility in existence on a specified date or on the effective date of any statute or regulation that subjects the facility to the hazardous waste permitting requirements to continue to operate under a grant of interim status pending the review and decision of the department on the permit application.

This bill would require the department, on or before December 31, 2015, to issue a final permit decision on an application for a hazardous waste facilities permit that is submitted by a facility operating under a grant of interim status on or before January 1, 1986, by either issuing a final permit or a final denial of the application. The bill would, except as specified, terminate the grant of interim status for such a facility on December 31, 2015, or on the date on which the department issues a final permit decision on the application, whichever is earlier. For other facilities granted interim status, the bill would terminate that status, at times determined based on specified factors.

Existing law authorizes the department to temporarily suspend a permit, registration, or certificate before a hearing if the department determines that the action is necessary to prevent or mitigate an imminent and substantial danger to the public health and the environment.

This bill would authorize the temporary suspension of a facility operating under an expired permit that has been extended because of a pending renewal application or under an interim status if the department determines that the action is necessary to prevent or mitigate a risk to the public health and the environment.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) California's public health and environmental protection programs, policies, and activities should be conducted in a manner that promotes equity

and affords fair treatment, accessibility, and protection for all residents, regardless of race, age, culture, income, or geographic location.

(2) California needs to provide the greatest level of attention and protection to those communities that are at the greatest risk from those impacts.

(3) It is the mission of the California Department of Toxic Substances Control to protect Californians and the environment of California from harmful effects of toxic substances.

(4) The department ensures that hazardous waste facilities comply with public health and safety requirements through regulations and permitting and inspection programs.

(5) Central to the regulation of hazardous waste facilities is ensuring that entities that operate these facilities comply with applicable laws and regulations, that facilities are operating under proper permits, and that entities that frequently fail to comply with applicable laws and regulations and pose a risk to public health and safety are not given new or renewed hazardous waste facilities permits.

(6) For a full permit, a facility should submit an application, which is subject to a detailed technical review by the department, a 45-day public comment period, and a public hearing, and should comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). Full permits should be renewed every 10 years, and permitted facilities are subject to regular inspection by the department.

(7) One facility has been operating under an interim status permit since 1985 and has repeatedly been found to have polluted the surrounding environment and community with dangerously high levels of lead and arsenic.

(8) Lead and arsenic are known carcinogens that increase the risk of skin, lung, and lymphatic cancer, and can cause developmental harm, damage to the nervous system, and damage reproductive health.

(b) It is the intent of the Legislature to identify, protect, and defend overburdened communities that suffer from asthma, cancers, and other illnesses born from heavy industrial pollution and to ensure increased public participation from affected communities in the governmental decisionmaking process.

SEC. 2. Section 25186.2.5 is added to the Health and Safety Code, to read:

25186.2.5. The department may temporarily suspend the operation of a facility operating under an expired permit that has been extended pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 25200 or an interim status pursuant to Section 25200.5 prior to a hearing if the department determines that the action is necessary to prevent or mitigate a risk to the public health or safety or the environment. The department shall notify the owner and operator of the facility of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve the person with an accusation. Upon receipt by the department

of a notice of defense to the accusation from the owner or operator of the facility, the department shall, within 15 days, set the matter for a hearing, which shall be held as soon as possible, but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the department has made a final determination on the merits, which shall be made within 60 days after the completion of the hearing. If the determination is not transmitted within this period, the temporary suspension shall be of no further effect.

SEC. 3. Section 25200.7.5 is added to the Health and Safety Code, to read:

25200.7.5. (a) On or before December 31, 2015, the department shall issue a final permit decision on an application for a hazardous waste facilities permit submitted to the department by a facility operating under a grant of interim status pursuant to Section 25200.5 on or before January 1, 1986, by either issuing a final permit pursuant to the application or a final denial of application.

(b) Interim status granted pursuant to Section 25200.5 for a facility described in subdivision (a) shall terminate on December 31, 2015, or on the date on which the department issues a final permit decision on the application for a hazardous waste facilities permit, whichever is earlier. If a person petitions the department for review of a final permit decision to approve a hazardous waste facilities permit or a facility currently operating under interim status, then the interim status shall not terminate until final administrative disposition of the petition, even if the final administrative disposition occurs after December 31, 2015.

(c) Except as provided in subdivision (b), interim status granted for a facility before January 1, 2015, shall terminate on January 1, 2020, or on the date on which the department issues a final permit decision on the application for a hazardous waste facilities permit, whichever is earlier.

(d) Interim status granted for a facility on or after January 1, 2015, shall terminate five years from the date on which the interim status is granted or on the date on which the department issues a final permit decision on the application for a hazardous waste facilities permit, whichever is earlier.