Date of Hearing: April 29, 2025

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS
Damon Connolly, Chair
AB 1102 (Boerner) – As Amended April 9, 2025

SUBJECT: Sea level rise and groundwater rise: contaminated sites: report

SUMMARY: Requires, on or before January 1, 2027, the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board (State Water Board) to submit a report to the Legislature that includes all contaminated sites that are vulnerable to sea level rise and groundwater rise and when the vulnerability assessment will be, or has been, completed.

EXISTING LAW:

1) Creates, under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a Federal "Superfund" to clean up uncontrolled or abandoned hazardous waste sites, as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Provides the United States Environmental Protection Agency (US EPA) with the authority to seek out those parties responsible for any release and assure their cooperation in the cleanup. (42 United States Code (USC) § 9601 et seq.)

2) Creates the Hazardous Waste Control Law (HWCL), which authorizes the DTSC to regulate the management of hazardous wastes in California. (Health and Safety Code (HSC) § 25100 et. seq.)

3) Establishes the Carpenter-Presley-Tanner Hazardous Substance Account Act (HSAA) program to provide for response authority for releases of hazardous substances, including spills and hazardous waste disposal sites that pose a threat to public health or the environment. (HSC § 25300 et seq.)

4) Requires DTSC to publish and revise, at least annually, a listing of hazardous release sites selected for a response action under the HSAA. (HSC § 25356)

5) Authorizes the State Water Board to certify local agencies as qualified to clean up or oversee a responsible party to clean up soil and groundwater contamination from leaking underground storage tanks. Prohibits local agencies from overseeing the cleanup of leaking underground storage tank sites unless they have been certified by the State Water Board. (HSC § 25297.01)

6) Requires the State Water Board to compile and update, at least annually, and submit to the Secretary of the California Environmental Protection Agency, a list of all of the following: all underground storage tanks for which an unauthroized release report is filed; all solid waste disposal facilities from which there is a migration of hazardous waste and for which a Regional Water Quality Control Board has notified DTSC; and, all cease and desist orders issued after January 1, 1986, and all cleanup or abatement orders issed after January 1, 1986, that concern the discharge of wastes that are hazardous materials. (Government Code § 65962.5 (c))

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill: According to the author, "Sea levels are rising due to climate change, and research indicates that this phenomenon is also causing groundwater levels to rise. There is evidence that rising groundwater is mobilizing contaminants from nearby contaminated sites, posing significant risks to the environment and to public health. Many of these contaminated sites are located in historically disadvantaged communities, making this an urgent environmental justice issue. The state must take proactive measures to ensure that climate change does not worsen these existing environmental inequities, and protect vulnerable communities from further harm."

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA): CERCLA, or Superfund, provides a Federal "Superfund" to clean up uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. Through CERCLA, the US EPA was given authority to seek out those parties responsible for any release and assure their cooperation in the cleanup. The US EPA cleans up orphan sites when potentially responsible parties cannot be identified or located, or when they fail to act.

Carpenter-Presley-Tanner Hazardous Substances Account Act (HSAA): State law provides DTSC with general administrative responsibility for overseeing the state's responses to spills or releases of hazardous substances, and for overseeing hazardous waste disposal sites that pose a threat to public health or the environment. The HSAA provides DTSC with the authority, procedures, and standards to investigate, remove, and remediate contamination at sites; to issue and enforce a removal or remedial action order to any responsible party; and, to impose administrative or civil penalties for noncompliance with an order. DTSC utilizes the HSAA for cleanup of contaminated sites and the HWCL for the regulation of hazardous waste sites. .

State Water Board's Cleanup Program: The Site Cleanup Program (SCP) regulates and oversees the investigation and cleanup of 'non-federally owned' sites where recent or historical unauthorized releases of pollutants to the environment, including soil, groundwater, surface water, and sediment, have occurred. Sites in the program are varied and include, but are not limited to, pesticide and fertilizer facilities, rail yards, ports, equipment supply facilities, metals facilities, industrial manufacturing and maintenance sites, dry cleaners, bulk transfer facilities, refineries, and some brownfields. These releases are generally not from strictly petroleum USTs. The types of pollutants encountered at the sites are plentiful and diverse and include solvents, pesticides, heavy metals, and fuel constituents to name a few.

Impacts of sea level rise: In March 2025, the Assembly Office of Policy and Research released a report, *The Coast and Climate Change Series, No.2: Sea Level Rise and Extreme Storms*. According to the report:

> "The impacts of sea level rise are being exacerbated by intensifying storms. Atmospheric rivers, which drop large amounts of water rapidly, are expected to increase in number and intensity. These atmospheric rivers bring higher-than-normal waves that blast over sea walls, stress flood control systems, and push coastal flooding further inland. When storms combine with high tides and other natural events, their potential for damage increases.

> Sea level rise and extreme storm impacts include: Beach and bluff erosion; coastal flooding; rising groundwater; and salt water intrusion of freshwater aquifers.
> As the ocean rises, sea water moves inland underground, putting pressure on fresh water that lies within the soil. Rising sea levels are pushing this groundwater towards the surface where it contributes to coastal and inland flooding.
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> Additionally, rising groundwater can expose underground infrastructure to corrosive sea water and damage building foundations, plumbing systems, utilities, and storage facilities.
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> Many sea level rise projections do not account for rising groundwater and might underestimate potential flooding risks. A University of California, Berkeley study of the San Francisco Bay area found that rising groundwater could flood twice as wide an area over the next 100 years than initially projected. The study estimates that rising groundwater could also put more than 5,000 Bay area sites at risk of releasing contaminated substances."

Recent DTSC activities regarding sea level rise (SLR) and contaminated sites: DTSC has developed guidance to support consistency in addressing sea level rise across all phases of the DTSC cleanup project life cycle. The SLR guidance ensures that DTSC project managers evaluate remedies at contaminated sites using a consistent process, so that remedies are resilient both now and into the future. DTSC requires responsible parties to account for SLR by assessing the vulnerability of sites to SLR. If through the assessment potential issues with remedy resilience are identified, responsible parties will be required to develop and implement adaptation plans.

DTSC, as part of the SLR guidance, requires a SLR vulnerability assessment (SLRVA) be conducted to specifically evaluate the proposed or existing remedy at the site to future SLR impacts. DTSC has inventoried its EnviroStor database of sites to assess the number of current projects that could be subject to a SLRVA. While every project could be subject to an assessment, resources will be focused on those projects which lie within inundation areas or in areas where groundwater rise could affect known contamination

The SLR guidance is currently being utilized by DTSC project managers and will be updated as needed. Planning for SLR is an ever-changing process because scientific discoveries and change in the multitude of factors that influence SLR projections can evolve.

This bill: AB 1102 requires, by January 1, 2027, DTSC and the State Water Board to submit a report to the Legislature that includes all contaminated sites that are vulnerable to sea level rise and groundwater rise and when the vulnerability assessment will be, or has been, completed. Having information about contaminated sites that could be impacted by sea level and groundwater rise will be very helpful for future local and state planning purposes.

Arguments in support: According to the California Association of Environmental Health Administrators (CAEHA), "CAEHA represents the 62 jurisdictions, both cities and counties, which have environmental public health programs. Many local environmental health programs play a key role in hazardous waste management and clean-up as well as small water system oversight. Our programs recognize the growing impact that climate change can have on? Contaminated sites in local communities. AB 1102 will take a necessary step in helping coastal communities to understand this growing problem."

Arguments in opposition:

None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Environmental Health Administrators
Center for Environmental Health
San Francisco Bay Area Planning and Urban Research Association
Sierra Club

Opposition

None on file.

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