

Assembly Committee on
Environmental Safety and Toxic Materials

2015 - 16 Legislative Summary



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**ASSEMBLY COMMITTEE ON
ENVIRONMENTAL SAFETY AND TOXIC MATERIALS
2015 - 2016 LEGISLATIVE SUMMARY**

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2015-2016 REGULAR LEGISLATIVE SESSION
ASSEMBLY COMMITTEE ON
ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

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Acronyms Used in this Legislative Summary

The following acronyms and shortened titles are used in this Legislative Summary:

CalEPA	California Environmental Protection Agency
CalOES	California Office of Emergency Services
CDFA	California Department of Food and Agriculture
CUPA	Certified Unified Program Agency
DPH	Department of Public Health
DPR	Department of Pesticide Regulation
DTSC	Department of Toxic Substances Control
DWR	Department of Water Resources
MWMA	Medical Waste Management Act
OEHHA	Office of Environmental Health Hazard Assessment
PWS	Public Water System
RWQCB	Regional Water Quality Control Board
SWRCB	State Water Resources Control Board
USEPA	United States Environmental Protection Agency

Introduction

During the 2015-2016 Regular Legislative Session, 77 measures were referred to the Assembly Environmental Safety and Toxic Materials Committee. This report contains summaries of the bills referred to the Committee during the 2015-2016 Regular Legislative Session. Bills that were passed by the Legislature and became law are followed by the chapter number and year enacted. For bills that did not become law, the last location of the bill in the legislative process is shown.

Bills are listed categorically based on the jurisdiction of the Committee. Some bills could have been placed in several subject categories; an effort was made to place each bill in the most appropriate category.

In addition to legislative hearings, during 2015 and 2016, the Committee held 6 oversight and informational hearings focusing on governmental programs within the Committee's jurisdiction. Summaries of the topics investigated are included in this report.

Additional information on these measures and hearings may be obtained online at <http://leginfo.legislature.ca.gov>, <http://aesm.assembly.ca.gov/committeehome>, or by calling the Assembly Environmental Safety and Toxic Materials Committee at (916) 319-3965.

Jurisdiction

The jurisdiction of the Assembly Environmental Safety and Toxic Materials Committee (E.S. & T.M.) includes the following:

Cleanup of contaminated sites, including federal Superfund sites

Department of Pesticide Regulation, pesticides

Drinking water regulation

Emergency response relating to hazardous materials

Hazardous waste management, regulation and enforcement

Medical waste management

Nuclear waste

Proposition 65

Regulation of consumer products containing toxic substances, consumer product safety

Toxic air contaminants and indoor air quality

Toxic substances, hazardous materials

Water quality, toxic contamination of water

2015 - 2016 Legislative Summary

Air Quality

AB 1904 (Wilk) Hazardous materials: natural gas odorants. Requires OEHHA to evaluate and report to the Legislature on the potential dangers of currently used natural gas odorants and potential alternatives that may pose a lower risk to the public health and the environment.

Final Status: Held in the Senate Appropriations Committee.

Consumer Product Safety

AB 888 (Bloom) Waste management: plastic microbeads. Prohibits the sale of personal care products that contain plastic microbeads on and after January 1, 2020.

Final Status: Signed into law, Chapter 594, Statutes of 2015.

AB 2125 (Chiu) Healthy Nail Salon Recognition Program. Requires DTSC, by January 1, 2018, to publish guidelines for healthy nail salon recognition programs voluntarily implemented by local cities and counties.

Final Status: Signed into law, Chapter 564, Statutes of 2016.

SB 763 (Leno) Juvenile products: flame retardant chemicals. As approved by the Assembly Environmental Safety and Toxic Materials Committee, required manufacturers of juvenile products manufactured on or after July 1, 2016 to indicate on a label whether or not the product contains added flame retardant chemicals. This bill was later amended to instead require the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, the Naturopathic Medicine Committee, and the Acupuncture Board to make specified information with respect to licensees on probation and licensees practicing under a probationary license available to an inquiring member of the public and to change the author of the bill to Senator Hill.

Final status: Held in the Assembly Rules Committee.

SB 1073 (Monning) Lead-based paint. As approved by the Assembly Environmental Safety and Toxic Materials Committee, required DPH to update regulations governing lead-related construction work to conform to the USEPA's Lead Renovation, Repair, and Painting Rule. This bill was later amended to clarify that, for eligible individuals with three or more qualifying children, the state's Earned Income Tax Credit percentage shall be 45%.

Final Status: Signed into law, Chapter 722, Statutes of 2016.

Drinking Water

AB 434 (E. Garcia) Drinking water: point-of-entry and point-of-use treatment. Repeals the sunset date on emergency regulations governing the permitted use of point-of-entry and point-of-use treatment by PWSs in lieu of centralized treatment.

Final Status: Signed into law, Chapter 663, Statutes of 2015.

AB 1531 (Committee on Environmental Safety and Toxic Materials) State Water Resources Control Board. Provides minor and technical corrections to the Safe Drinking Water Act and the Clean Water Act carried out by the SWRCB.

Final Status: Signed into law, Chapter 673, Statutes of 2015.

AB 1694 (Lackey) State Water Resources Control Board: grant program for school drinking water. Requires the SWRCB to establish a \$10,000,000 grant program to award grants to public elementary and secondary schools to improve access to, and the quality of, drinking water.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

AB 2022 (Gordon) Advanced purified demonstration water. Authorizes the bottling of advanced purified demonstration water, as defined in the bill, for educational purposes and to promote water recycling.

Final Status: Signed into law, Chapter 408, Statutes of 2016.

AB 2099 (Mark Stone) Safe drinking water benefit. Requires the California Department of Social Services to establish and administer a safe drinking water assistance program.

Final Status: Held in the Senate Appropriations Committee.

AB 2124 (Eduardo Garcia) State Water Resources Control Board: grant program for school drinking water. As approved by the Assembly Environmental Safety and Toxic Materials Committee, appropriated \$10,000,000 from the General Fund to the SWRCB for allocation to local educational agencies as grants to improve access to, and the quality of, drinking water at public elementary and secondary schools. This bill was later amended to instead require public water systems to include in the analysis of water samples provided to the SWRCB samples from schools, day care facilities, and health care facilities; to the extent those locations are within the public water system.

Final Status: Held in the Senate Environmental Quality Committee.

AB 2844 (Bloom) Environmental health: drinking water. As approved by the Assembly Environmental Safety and Toxic Materials Committee, required a person operating a public water system to obtain and provide samples of water from schools, day care facilities, and health care facilities, to the extent those locations are within the public water system, in an analysis of water that is submitted to the SWRCB. This bill was later amended to require a person who submits a bid or proposal to enter into, or renew, a contract of \$100,000 or more with a state agency to certify they are in compliance with the California Fair Employment and Housing Act and the Unruh Civil Rights Act.

Final Status: Signed into law, Chapter 581, Statutes of 2016.

AB 2890 (Committee on Environmental Safety and Toxic Materials) Drinking water and wastewater operator certification programs. Makes statutory changes to better align the SWRCB programs for certifying operators of wastewater treatment plants and for certifying operators of drinking water treatment plants, and to improve the efficiency and effectiveness of these programs.

Final Status: Signed into law, Chapter 305, Statutes of 2016.

SB 334 (Leyva) Pupil health: drinking water. Requires drinking water at school sites to be tested for lead. Requires a school district with drinking water not in compliance with the USEPA or the state standards to contact DPH and the local department of public health to identify the most urgent mitigation needs and to develop a protocol or plan for mitigation.

Final Status: Governor vetoed on October 9, 2015. The veto message stated:

"I am returning Senate Bill 334 without my signature.

This bill requires a school district that has a drinking water source that does not meet the Environmental Protection Agency's drinking water standards to provide alternative drinking water to their students.

I agree that all California students should have access to safe drinking water but this bill creates a state mandate of uncertain but possibly very large magnitude.

As our first order of business, local schools should understand the nature of their water quality problem, if there is one. Accordingly, I am directing the State Water Resources Control Board to work with school districts and local public water systems to incorporate water quality testing in schools as part of their lead and copper rule. School districts should utilize this information to ensure all students are provided safe water."

SB 385 (Hueso) Primary drinking water standards: hexavalent chromium: compliance plan.

Allows the SWRCB to grant a PWS additional time to meet the drinking water standard for hexavalent chromium by approving a compliance plan.

Final Status: Signed into law, Chapter 272, Statutes of 2015.

SB 552 (Wolk) Public water systems: disadvantaged communities: consolidation or extension of service: administrative and managerial services. Authorizes the SWRCB to contract with an administrator to provide administrative and managerial services to a designated PWS, as defined, to assist with the provision of an adequate and affordable supply of safe drinking water.

Status: Signed into law, Chapter 773, Statutes of 2016.

SB 930 (Gaines) Bear Lake Reservoir: recreational use. Extends the sunset date, from January 1, 2017 to January 1, 2022, to allow for recreational uses within the Bear Lake Reservoir and to use the water as a source of drinking water, with appropriate measures taken to ensure its safety for drinking.

Final Status: Signed into law, Chapter 149, Statutes of 2016.

SB 1263 (Wieckowski) Public water systems: permits. Requires a person submitting an application for a permit for a proposed new PWS to first submit a preliminary technical report to the SWRCB. Authorizes the SWRCB to deny a permit for a new PWS if it determines that it is reasonably foreseeable that the proposed new PWS will be unable to provide affordable, safe drinking water.

Final Status: Signed into law, Chapter 843, Statutes of 2016.

SB 1398 (Leyva) Public water systems: lead user service lines. Requires, by July 1, 2018, a PWS to identify and replace known lead service lines.

Final Status: Signed into law, Chapter 731, Statutes of 2016.

SB 1456 (Galgiani) Safe Drinking Water State Revolving Fund Law of 1997: water systems: financing. Allows costs incurred by a community water system or not-for-profit noncommunity water system for planning and preliminary engineering studies, project design, and construction to be funded under the Safe Drinking Water State Revolving Fund.

Final Status: Signed into law, Chapter 488, Statutes of 2016.

Environmental Health

AB 543 (Quirk) Proposition 65: exposure. Provides that businesses may complete an exposure assessment to determine if a Proposition 65 warning is required.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

AB 1059 (E. Garcia) California Communities Environmental Health Screening. Requires OEHHA to update its CalEnviroScreen 2.0 tool by using any relevant environmental data relating to known impacts of air pollution, water pollution, and toxic sites on the environmental quality of the communities in the California-Mexico border region.

Final Status: Signed by the Governor, Chapter 584, Statutes of 2015.

AB 1252 (Jones) Proposition 65: enforcement. Prohibits any person from bringing an enforcement action against a company that employs 25 people or less for failure to provide a warning for an exposure to a chemical known to the state to cause cancer or reproductive toxicity, in violation of Proposition 65, unless certain conditions are met.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

AB 2292 (Gordon) California Global Warming Solutions Act of 2006: disadvantaged communities. Requires the California Environmental Protection Agency, by July 1, 2017, to further update the identification of disadvantaged communities through the CalEnviroScreen for investment opportunities by including factors that include areas of the state that are disproportionately impacted by: high poverty rates; high rent burden and severe rent burden where households pay more than 50% of their household income in gross rent; and, high cost of living.

Final Status: Held in the Assembly Appropriations Committee.

Hazardous Materials

AB 102 (Rodriguez) Railroad and surface transportation safety and emergency planning and response: hazardous materials. Creates the Regional Railroad and Surface Transportation Accident Preparedness and Immediate Response Force in CalOES (Response Force). Requires the Response Force to be responsible for providing regional and onsite response capabilities in the event of a release of hazardous materials from a railroad tank car, a railroad accident involving a tank car, or a hazardous material release from a truck. Establishes a fee paid by each person owning hazardous materials that are transported by rail or truck in California to fund CalOES activities.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

AB 1420 (Salas) Oil and gas: pipelines. Requires a local health officer to take specified actions when there is a leak in a gas pipeline and requires the Division of Oil, Gas, and Geothermal Resources to review its gas pipeline regulations and update them, if needed.

Final Status: Signed into law, Chapter 601, Statutes of 2015.

AB 1759 (Bonta) Hydrogen fluoride: notice of use: substitution. Requires businesses that use hydrogen fluoride (HF) to use safer alternatives and requires specific notification requirements for facilities within specified zones of the business using HF.

Final Status: Held in the Assembly Natural Resources Committee.

SB 612 (Jackson) Hazardous materials. Modifies the statute related to CUPA administration to clarify the provisions of the Health and Safety Code related to CUPAs to provide consistent interpretation of the statute statewide.

Final status: Signed into law, Chapter 452, Statutes of 2015.

SB 1147 (Galgiani) Hazardous materials: aboveground storage tanks. Prohibits a city, county, or city and county from enforcing standards for aboveground storage tanks that are more stringent than state or federal standards for aboveground storage tanks unless the city, county, or city and county first adopts an ordinance establishing those standards.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

Hazardous Waste

AB 45 (Mullin) Household hazardous waste. Requires local jurisdictions to increase diversion of household hazardous waste. Requires, on or before July 1, 2020, each local jurisdiction to increase its collection and diversion of household hazardous waste in its service area by 15 percent over its baseline amount.

Final Status: Held in the Senate Environmental Quality Committee.

AB 263 (Patterson) Hazardous waste: regulations. Requires DTSC to adopt federal testing requirements for hazardous waste analysis.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

AB 273 (Committee on Environmental Safety and Toxic Materials) Hazardous waste and substances: corrective action: liability. Increases the interest rate accrued on monetary obligations owed to DTSC and requires a person to pay for DTSC's costs to carry out or oversee a corrective action with respect to the release of hazardous waste.

Final Status: Signed into law, Chapter 456, Statutes of 2015.

AB 274 (Committee on Environmental Safety and Toxic Materials) Oversight costs: uncollectible accounts. Authorizes DTSC not to pursue specified uncollected invoices.

Final Status: Signed into law, Chapter 457, Statutes of 2015.

AB 275 (Committee on Environmental Safety and Toxic Materials) Hazardous substances: liability recovery actions. Revises the state's statute of limitations on the recovery of costs incurred by DTSC related to overseeing or carrying out a response or corrective action by requiring it to commence within three years after completion of all response or corrective actions have been certified by DTSC or a RWQCB. Deletes the requirement that the Toxic Substances Control Account shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned to responsible parties.

Final Status: Signed into law, Chapter 458, Statutes of 2015.

AB 276 (Committee on Environmental Safety and Toxic Materials) Department of Toxic Substances Control: response actions: cleanup ability information. Authorizes DTSC to request financial information from specified entities.

Final Status: Signed into law, Chapter 459, Statutes of 2015.

AB 628 (Bloom) Used oil. Provides for the inclusion of all synthetic oil within the state definition of used oil.

Final Status: Held in the Senate Environmental Quality Committee.

AB 1075 (Alejo) Hazardous waste: enforcement. Establishes standards for what constitutes a repeat serious hazardous waste facility violation and specifies the enforcement action to be taken by DTSC.

Final Status: Signed into law, Chapter 460, Statutes of 2015.

AB 1159 (Gordon) Product stewardship: pilot program: household batteries and home-generated sharps waste. Establishes a limited-term product stewardship program for home-generated medical sharps and household batteries.

Final Status: Held in the Assembly Appropriations Committee.

AB 1419 (Eggman) Hazardous Waste: cathode ray tube glass. Provides that used, broken cathode ray tube (CRT) panel glass and processed CRT panel glass that exceeds the total threshold limit concentration (TTLC) only for barium is not a waste and is not subject to regulation by the DTSC as a hazardous waste if that panel glass meets certain requirements. Permits the use of that CRT panel glass that exceeds the TTLC only for barium for specified end uses.

Final Status: Signed into law, Chapter 445, Statutes of 2016.

AB 1435 (Alejo) Hazardous waste: toxics: packaging. Provides an exemption from the Toxics in Packaging Prevention Act for glass beverage, food, or drink containers.

Final Status: Held in the Senate Appropriations Committee.

AB 1776 (Oberholte): Hazardous waste: disposal: exemption. As approved by the Assembly Environmental Safety and Toxic Materials Committee, excluded from the definition of "disposal" the onsite movement of soil at an active outdoor sport shooting range if this

movement is done to facilitate the removal and recycling of spent ammunition materials; the activities are consistent with the USEPA's Management Practices for Lead at Outdoor Shooting Ranges manual; and, the residual soil is replaced within the area from which it was originally removed. This bill was later amended to instead authorize an electronic delivery of transcripts to an appellate court when a court, party, or other person entitled to request a transcript requests that it be delivered in a computer-readable form, unless the court requests the transcript in paper form.

Final Status: Held in the Senate Rules Committee.

AB 2153 (Garcia) The Lead-Acid Battery Recycling Act of 2016. Establishes the Lead-Acid Battery Recycling Act of 2016 and creates new fees on lead-acid batteries to fund lead contamination cleanup.

Final Status: Signed into law, Chapter 666, Statutes of 2016.

AB 2605 (Nazarian) State government: Office of Permit Assistance. Removes references to the Office of Permit Assistance within the Office of Planning and Research and replaces these references with the DTSC.

Final Status: Signed into law, Chapter 78, Statutes of 2016.

AB 2794 (Santiago) Hazardous waste: facilities permitting: fees. Increases statutorily specified flat fee options for a person applying for a new hazardous waste facility permit, a permit for post closure, a renewal of an existing permit, or a class 2 or class 3 permit modification and states that the flat fees are base rates for the 1997 calendar year.

Final Status: Held in the Assembly Appropriations Committee.

AB 2891 (Committee on Environmental Safety and Toxic Materials) Hazardous waste: funding. Revises the annual appropriation requirements for funding federal hazardous waste cleanup requirements. Deletes statutory formulas that inform funding appropriations and replaces it with a requirement that DTSC, at the same time as the Governor's January 10

Budget, and annually thereafter, report to the Legislature an estimate of the funding needed to meet the state's obligation at federal Superfund orphan sites and at state-only orphan sites.

Final Status: Signed into law, Chapter 704, Statutes of 2016.

AB 2893 (Committee on Environmental Safety and Toxic Materials) Department of Toxic Substances Control: enforcement. Makes conforming changes to the statutes governing DTSC's cost recovery authorities.

Final Status: Signed into law, Chapter 145, Statutes of 2016.

AB 2894 (Committee on Environmental Safety and Toxic Materials) Hazardous waste: Orphan Share Reimbursement Trust Fund. Subjects a potentially responsible party to a civil penalty only if the party knowingly and willfully withholds information required to be submitted or knowingly and willfully submits false information.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

SB 162 (Galgiani) Treated wood waste. Extends the sunset date on treated wood waste statute from June 1, 2017, to December 31, 2020, and requires DTSC to prepare a comprehensive report on the implementation of treated wood waste law.

Final Status: Signed into law, Chapter 351, Statutes of 2015.

SB 423 (Bates) Surplus household consumer product waste: management. Requires DTSC to convene a Retail Waste Working Group to identify regulatory and policy directives that need clarification for managing consumer products, and to adopt consensus recommendations for waste reduction opportunities.

Final Status: Signed into law, Chapter 771, Statutes of 2016.

SB 489 (Monning) Hazardous waste: photovoltaic modules. Authorizes DTSC to designate end-of-life photovoltaic modules that are identified as hazardous waste as a universal waste and subject those modules to universal waste management.

Final Status: Signed into law, Chapter 419, Statutes of 2015.

SB 654 (De León) Hazardous waste: facilities permitting. As approved by the Assembly Environmental Safety and Toxic Materials Committee, modified the permitting process for hazardous waste facilities permitted by DTSC. This bill was later amended to instead make it an unlawful employment practice for an employer of 20 or more employees to refuse to allow an eligible employee to take up to six weeks of job protected parental leave to bond with a new child within one year of the child's birth, adoption, or foster care placement.

Final Status: Governor vetoed on September 30, 2016.

SB 673 (Lara) Hazardous Waste. This bill revises DTSC's permitting process and public participation requirements for hazardous waste facilities.

Final Status: Signed into law, Chapter 611, Statutes of 2015.

SB 820 (Hertzberg) Hazardous materials: California Land Reuse and Revitalization Act of 2004. (Act). Extends, from January 1, 2017, to January 1, 2027, the sunset on the Act. Extends, from January 1, 2017, to January 1, 2027, the sunset on the qualification for immunity under the Act.

Final Status: Signed into law, Chapter 166, Statutes of 2016.

SB 1325 (De León) Hazardous waste: facilities: postclosure plans. Requires DTSC to, on or before January 1, 2018, adopt regulations to impose post-closure plan requirements on the owner or operator of a hazardous waste facility through the issuance of an enforcement order, an enforceable agreement, or a post-closure permit.

Final Status: Signed into law, Chapter 676, Statutes of 2016.

Medical Waste

AB 649 (Patterson) Medical waste: law enforcement drug takeback programs. Authorizes law enforcement agencies to use prescription drug incinerators for treatment and disposal of collected pharmaceuticals. Amends the MWMA to require DPH to complete an evaluation of any proposed medical waste treatment, including a pharmaceutical incinerator, within six months of receipt of a complete application.

Final Status: Held in the Senate Appropriations Committee.

AB 2039 (Ting) Solid waste: home-generated sharps. Requires the development and implementation of industry-generated plans to collect and recycle home-generated sharps.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

SB 225 (Wieckowski) Medical Waste. Makes various technical changes to the MWMA.

Final Status: Signed into law, Chapter 352, Statutes of 2015.

Nuclear Waste

AJR 29 (Chávez) Interim Consolidated Storage Act of 2015: San Onofre Nuclear Generating Station. Urges the passage of the Interim Consolidated Storage Act of 2015 (House Resolution 3643), and urges the United States Department of Energy to implement the prompt and safe relocation of spent nuclear fuel from the San Onofre Nuclear Generating Station to a licensed and regulated interim consolidated storage facility.

Final Status: Chaptered by Secretary of State, Resolution Chapter 112, Statutes of 2016.

Pesticides

AB 2362 (Chu) Common interest developments: pesticide application. Requires a homeowners association to provide notification, as specified, to homeowners and tenants in a

common interest development if the homeowners association applies pesticides without a licensed pest control operator.

Final Status: Signed into law, Chapter 330, Statutes of 2016.

AB 2596 (Bloom) Pesticides: use of anticoagulants. Prohibits the use of a pesticide containing any of nine listed anticoagulants, except for the use for agricultural activities.

Final status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

AB 2892 (Committee on Environmental Safety and Toxic Materials) Pesticide poisoning.

Updates and enhances the California Medical Supervision Program by extending the sunset on the requirement for laboratories to transmit cholinesterase test results for agricultural workers to the state; requiring OEHHA to register medical supervisors; and, requiring medical supervisors to report depressions in cholinesterase levels as a pesticide illness.

Final Status: Signed into law, Chapter 475, Statutes of 2016.

Water Quality

AB 243 (Wood) Medical marijuana. Establishes new requirements for marijuana cultivation, requires medical marijuana cultivation to meet the requirements of state law, and requires coordination between the state and local governments to enforce medicinal marijuana cultivation. Requires a multiagency task force to continue enforcement efforts on a permanent basis statewide to ensure the reduction of adverse impacts of marijuana cultivation on water quality, fish, and wildlife.

Final Status: Signed into law, Chapter 688, Statutes of 2015.

AB 965 (Eduardo Garcia) California and Mexico border: water resources improvement.

Requires the California-Mexico Border Relations Council to establish the New River Water Quality, Public Health, and River Parkway Development Program to coordinate funding for, and the implementation of, the recommendations from the New River Strategic Plan.

Final Status: Signed into law, Chapter 668, Statutes of 2015.

AB 977 (Mayes) State Water Pollution Control Revolving Fund. Requires, for loans and other financial assistance for the construction of publicly owned treatment works and other related purposes to a municipality, intermunicipal agency, interstate agency, or state agency in accordance with the federal Clean Water Act and the Porter-Cologne Water Quality Control Act, full amortization not later than 30 years after project completion.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

AB 1173 (Williams) Water equipment: backflow prevention devices testing: certification.

Requires, if a local health officer does not maintain a program for certification of backflow prevention device testers, the local water system to hire a person who has received a California-specific certification for testing backflow prevention devices from specified certification providers.

Final Status: Held in the Senate Environmental Quality Committee.

AB 1312 (O'Donnell) Ballast water management. Delays the implementation of interim and final performance standards for eliminating living organisms in ships' discharged ballast water.

Final Status: Signed into law, Chapter 644, Statutes of 2015.

AB 1738 (McCarty) Building standards: dark graywater. Requires the Department of Housing and Community Development to develop building standards for the construction, installation, and alteration of dark graywater systems, as defined in the bill.

Final Status: Held in the Senate Environmental Quality Committee.

AB 2076 (Cristina Garcia) Water and energy use efficiency: certification: breweries. As approved by the Assembly Environmental Safety and Toxic Materials Committee, required the SWRCB to adopt uniform water recycling criteria for the use of recycled water in the manufacture of beer and wine. This bill was later amended to instead require DWR to develop water and energy use efficiency certification guidelines for the production of beer that include, among other things, uniform standards for the industry's use of efficiency certification seals.

Final Status: Held in the Assembly Water, Parks, and Wildlife Committee.

AB 2139 (Williams) Ocean Protection Council: ocean acidification and hypoxia. Authorizes the Ocean Protection Council (Council) to develop an ocean acidification and hypoxia science task force to ensure that Council decision making is supported by the best available science. Requires the Council to take specified actions and adopt recommendations to address ocean acidification and hypoxia.

Final Status: Signed into law, Chapter 352, Statutes of 2016.

AB 2409 (Wagner) Water quality standards: trash: single-use carryout bags. Invalidates the California Ocean Plan if the state's ban on single use plastic bags is upheld at the 2016 statewide general election.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

AB 2729 (Williams) Oil and gas: operations. Substantially revises and reforms the state's idle well requirements with revisions to the current law governing oil and gas operations to protect freshwater formations from contamination due to improperly maintained well casings. Increases idle oil and gas well fees and blanket indemnity bonds to provide a disincentive for operators to maintain large numbers of idle wells.

Final Status: Signed into law, Chapter 272 Statutes of 2016.

AJR 44 (Holden) Municipal separate storm sewer system stormwater permits: federal financial support. Urges the federal government to provide greater financial support for local agencies implementing a federal mandate to improve storm water quality, including, but not limited to, by passing legislation strengthening the Clean Water State Revolving Fund and creating new grant programs to assist in funding storm water projects.

Final Status: Chaptered by Secretary of State, Resolution Chapter 145, Statutes of 2016.

SB 163 (Hertzberg) Wastewater treatment: recycled water. Requires, by January 1, 2023, holders of National Pollutant Discharge Elimination System (NPDES) permits to submit a plan to the SWRCB for the beneficial reuse of treated wastewater that would otherwise be discharged through ocean or bay outfalls and requires, by January 1, 2033, NPDES permit holders to

beneficially reuse at least 50% of treated wastewater that would otherwise be discharged through ocean or bay outfalls. This bill was later amended to instead require a court or magistrate, upon the appearance before a competent court or magistrate a person charged with a criminal offense, to hold a specified hearing of and take one of several actions.

Final Status: Held in the Assembly Environmental Safety and Toxic Materials Committee.

SB 295 (Jackson) Pipeline safety: inspections. Increases the frequency of intrastate pipeline inspections by changing from 10 years to 5 years the age of the pipeline that is not provided with effective cathodic protection that is to be hydrostatically tested on a periodic basis, and increases that periodic basis from every 3 years to every 2 years. Increases from every 2 years to annually the testing frequency on those pipelines that are provided with effective cathodic protection that are on the State Fire Marshal's list of higher risk pipelines.

Final Status: Signed into law, Chapter 607, Statutes of 2015.

SB 995 (Pavley) Well standards. Requires the DWR, on or before January 1, 2019, to update the well standards for water wells, monitoring wells, and cathodic protection wells.

Final Status: Held in the Assembly Appropriations Committee.

SB 1260 (Allen) Stormwater: municipalities: online resource center. Requires the SWRCB to make information available online for compliance with municipal storm water permit requirements.

Final Status: Signed into law, Chapter 153, Statutes of 2016.

SB 1318 (Wolk) Local government: drinking water infrastructure or services: wastewater infrastructure or services. Requires Local Agency Formation Commissions to recommend plans for providing water or wastewater services to disadvantaged unincorporated communities that lack those services.

Final Status: Held in the Assembly Local Government Committee.

2015 – 2016 Oversight Hearings

Water Supply and Quality Challenges

In January 2014, Governor Brown declared California's drought a State of Emergency and directed state officials to take all necessary actions to prepare for water shortages. At the time of print of this report, California is going into its fifth year of drought.

Due to the severity of the water deficits over the past five years, many of California's reservoirs and groundwater basins remain depleted, and the need for water conservation has been critical.

In April 2015, Governor Brown announced the first-ever 25-percent statewide mandatory water reduction requirement and a series of actions to help save water. Subsequently, the SWRCB adopted emergency regulations mandating urban water conservation through 2016.

The drought has not only constrained water supplies, it has constrained access to quality drinking water.

When it comes to drinking water supply diminished by the drought, East Porterville, an unincorporated community in Tulare County (County), became the poster child of California communities without water. As of January 2015, the County had reported that 896 private wells had gone completely dry, which meant approximately 3,251 people were out of water – roughly 73% of the community. The challenge to drilling new wells for the residents, beside cost, was the lack of viable locations to drill without nitrate-contaminated water.

- **February 18, 2015 – Sacramento, California: PART 1.** The Assembly Environmental Safety and Toxic Materials Committee held an informational hearing on the impacts of the drought on drinking water supplies, and how the state has coordinated with local governments to disperse and utilize the emergency drought funding from the California Disaster Assistance Act. The hearing specifically focused on East Porterville and how state assistance provided short-term and long-term drinking water to the residents without any reliable water supply.

The Committee learned that the permanent solution for East Porterville was that the County was completing a feasibility study to understand the options for hooking East Porterville up to the City of Porterville's municipal water system.

- **February 18, 2015 – Sacramento, California: PART 2.** Disadvantaged communities in the Tulare Lake Basin region face widespread drinking water and wastewater challenges predominantly complicated by nitrate contamination. The Assembly Environmental Safety and Toxic Materials Committee also heard an update on the Tulare Lake Basin Disadvantaged Community Water Study (Study), which was required by legislation to develop an integrated water quality and wastewater treatment program plan to address the drinking water and wastewater needs of disadvantaged communities in the Tulare Lake Basin. The final Study, which was transmitted to DWR in August 2014, included recommendations on how it could be integrated into existing federal, state, and local planning and funding processes, and disseminated to the appropriate agencies. The Study also makes recommendations on how state, federal, and local agencies can provide funding, and other resources, and support to assist communities with implementing the solutions presented in each of the pilot projects.

On the heels of the work done on the Study, the Committee recognized that other regions in the state are in need of similar coordination and conflict resolution with issues of nitrate-contaminated drinking water supplies.

With lessons learned in the Tulare Lake Basin, the local agencies and non-profit organizations that partnered on the Study helped inform other municipalities around the state grappling with the same water quality challenges, including the Monterey County Regional Water Management Group, which was in the midst of developing an integrated plan to address drinking water and wastewater needs of the disadvantaged communities in the Salinas Valley.

Border Water Quality Hearing: Tijuana River Recovery Strategy

The issues affecting the United States / Mexico border region are complex and challenging. Communities on both sides of the border face rapid population growth, urbanization, industrial expansion, and increasing flows of international trade, which in turn create challenges related to the environment, public health, security, and land use. One particularly trying binational issue is the management of rivers, especially the Tijuana River and the New River, that flow between the two countries.

The Tijuana River Watershed (Watershed) is an approximately 1,700-square mile area that straddles the United States / Mexico border. While nearly three-quarters of the Watershed is located in Mexico, it drains to the Pacific Ocean through the 8-square mile Tijuana River Valley (Valley) north of the border. The Valley is home to tidally flushed wetland, riparian, and upland habitats supporting a broad range of organisms, including threatened and endangered species. The Valley also houses a number of federally-listed historical and archaeological sites.

While significant improvements in wastewater treatment have, in recent years, improved water quality on both sides of the border, storm water flows continue to bring substantial amounts of sediment, trash, and other contaminants into the Valley. The sediment and trash pollutants cause water quality impairments, threaten life and property from flooding, degrade valuable habitats, and impact recreational opportunities for residents and visitors.

Since dozens of federal, state, and local governmental agencies and stakeholders from both sides of the border are interested in reducing the impacts of anthropogenic sediment and trash on the Valley's resources, the San Diego Regional Water Quality Control Board spearheaded the creation of the Tijuana River Valley Recovery Team, which in 2014 released the collaborative *Recovery Strategy, Living with the Water* (Recovery Strategy).

The Recovery Strategy outlines the steps necessary to clean up the Valley and restore its beneficial uses. It also acknowledges that watershed-based solutions to the sediment and trash problems will require partnerships between the United States and Mexico, and asserts that source control and pollution prevention activities are often the best and most economically feasible long-term solutions.

In order to assess the progress on implementing the Recovery Strategy and on other recovery actions, the Assembly Environmental Safety and Toxic Materials Committee held the following hearing:

- **March 19, 2015 - Imperial Beach, CA.** The Assembly Environmental Safety and Toxic Materials Committee held an oversight hearing on the progress on, and challenges facing, action on the Recovery Strategy. At the hearing, the Committee heard testimony on whether the current planning and regulatory structures are effective and efficient at providing public health and environmental protections for the communities impacted by the Tijuana River, and on whether and how the state can improve communication, coordination, and collaboration with our partners in Mexico to enhance the public health and environment of communities impacted by the Tijuana River.

Border Water Quality Hearing: New River Restoration Efforts

The New River flows north from near Cerro Prieto, Mexico, through the city of Mexicali, into the United States through the city of Calexico, California, and discharges into the Salton Sea. The river does not flow from a natural source, but instead consists of urban runoff, untreated and partially treated municipal wastes, untreated and partially treated industrial wastes, and agricultural runoff. While strides have been made over the decades to improve the quality of the water in the New River, it is still referred to as one of the most severely polluted rivers of its size in the United States.

To improve statewide oversight and coordination of the state's involvement with Mexico, the Legislature enacted AB 3021 (Núñez, Chapter 621, Statutes of 2006), which created the Border Relations Council to serve as the central organizing body overseeing and collaborating on California / Mexico border issues. Further defining the Border Relations Council's role, AB 1079 (V. M. Pérez, Chapter 382, Statutes of 2009) required it to create a strategic plan to study, monitor, remediate, and enhance the New River's water quality to protect human health and to develop a river parkway suitable for public use and enjoyment. Pursuant to provisions in AB 1079, the Border Relations Council released the *Strategic Plan: New River Improvement Project* (New River Strategic Plan) in December of 2011. The New River Strategic Plan includes more than a dozen specific recommended solutions to continue to clean up the New River.

The Colorado Basin Regional Water Quality Control Board, the main entity responsible for New River water quality on the United States side of the border, has taken steps to comply with the recommendations laid out in the New River Strategic Plan, including working with dischargers on the United States side to bring them into compliance. However, California entities face statutory authority, resource, and other limitations to achieving all of the recommendations, including that the water is in an impaired state when it crosses the border, and that cross-border issues are often federal in nature.

In order to assess progress on and challenges to the New River Strategic Plan, the Assembly Environmental Safety and Toxic Materials Committee held the following hearing:

- **March 20, 2015 - Calexico, CA.** The Assembly Environmental Safety and Toxic Materials Committee held an oversight hearing on the progress on and challenges facing action on the New River Strategic Plan. At the hearing, the Committee heard testimony on whether the current planning and regulatory structures are effective and efficient at providing public health and environmental protections for the communities impacted by the New River, and on whether and how the state can improve communication,

coordination, and collaboration with our partners in Mexico to enhance the public health and environment of communities impacted by the New River.

In response to testimony heard at the hearing, Assembly Member Eduardo Garcia introduced AB 965, which requires the Border Relations Council to establish the New River Water Quality, Public Health, and River Parkway Development Program to coordinate funding for, and the implementation of, the recommendations from the New River Strategic Plan. It also provides the Border Relations Council with a consultative and coordinating role on the development, implementation, and funding of specified border-related projects and on funding. AB 965 was signed by the Governor on October 9, 2015.

Toxic Waste Cleanup at Exide Technologies

The Exide Technologies (Exide) facility, located in the City of Vernon, California, recycled lead from used automotive batteries and other sources. The facility could process about 25,000 automotive and industrial batteries per day, providing a source of lead for new batteries.

For 33 years, Exide operated the Vernon facility on an interim status permit, while its hazardous waste permit application was being processed. Over the course of decades of operation, the facility polluted the soil beneath it with high levels of lead, arsenic, cadmium, and other toxic metals. It also contaminated groundwater, released battery acid onto roads, and contaminated homes and yards in surrounding communities with lead emissions. Exide was finally forced to close in 2015.

On December 8, 2015, DTSC issued a draft closure plan outlining how to cleanup and close the contaminated facility. The total estimated cost of the closure plan is \$38 million and the closure process is expected to extend through 2018.

In addition to closing the facility, DTSC is investigating the magnitude of pollution in the communities surrounding the facility to identify the scope and range of off-site cleanup. In addition to nearby businesses, schools, and parks, an estimated 10,000 homes are impacted by Exide's pollution.

Many residents and community groups decried DTSC's regulatory oversight of Exide and its permission to allow the facility to operate for so long without a full permit.

On April 8, 2016, a DPH analysis was released that found blood lead levels in children near the former Exide facility are higher than for those who live further from the facility. These blood sample results underscored the surrounding communities' fears of the elevated lead pollution from the Exide facility in their homes, and stoked their concerns about DTSC's role in the oversight of Exide.

On April 20, 2016, Governor Brown signed AB 118 (Santiago, Chapter 10, Statutes of 2016) and SB 93 (De León, Chapter 9, Statutes of 2016), appropriating a \$176.6 million loan from the state's General Fund to the Toxic Substances Control Account to enable DTSC to test for lead at the properties, schools, daycare centers, and parks in a 1.7 mile radius and to remove contaminated soil at the properties that have the highest lead levels and greatest potential exposure to residents. The appropriation will also fund cleanup of approximately 2,500 properties where the lead levels are highest and the potential for exposure is greatest. Other

aspects of the plan include enhanced public outreach and a workforce development and training program.

- **January 26, 2016 – Sacramento, California.** The Assembly Environmental Safety and Toxic Materials Committee held an informational hearing on DTSC's regulatory oversight of hazardous waste facility closure plans. In particular, the Committee examined the closure process of Exide Technologies' battery recycling plant in the City of Vernon.
- **June 9, 2016 – Los Angeles, California.** The Assembly Environmental Safety and Toxic Materials Committee held a follow-up informational hearing to the January 26, 2016, hearing on the Exide battery recycling facility closure plan, but the primary focus was obtaining updates from DTSC on lead sampling in the surrounding communities, funding availability for cleanup, and remediation plans and timing of the cleanup. In addition to those updates, the hearing was an opportunity for community members and community groups affected by the Exide contamination and actively involved with DTSC's public processes to talk directly to their legislators about their concerns.

At the time of print of this document, DTSC plans to sample all of the projected 10,000 residential properties by July 2017. With sampling results in hand, DTSC will prioritize residential cleanups. It will conduct environmental review of the activities in the cleanup plan in compliance with California Environmental Quality Act, and anticipates that cleanups using the \$176.6 million will begin in June of 2017.

Certified Unified Program Agencies

California's Unified Program was created to deliver quality environmental protection at the local level. The Unified Program consolidates the administrative, permit, inspection, and enforcement activities of the following state environmental and emergency management programs: Aboveground Petroleum Storage Act Program; Area Plans for Hazardous Materials Emergencies; California Accidental Release Prevention Program; Hazardous Materials Release Response Plans and Inventories (Business Plans); Hazardous Material Management Plan; Hazardous Material Inventory Statements; Hazardous Waste Generator and Onsite Hazardous Waste Treatment Programs; and, Underground Storage Tank Program.

The local agencies implementing these consolidated hazardous materials and emergency management programs were certified by CalEPA in 1997 and are called Certified Unified Program Agencies (CUPAs). There are also Participating Agencies (PAs) that work with the CUPAs in implementing the programs. CUPAs and PAs have performed more than 241,600 facility program inspections over the past 3 years, including 82,500 inspections over the past year, on the approximately 160,000 facilities in the Unified Program.

State agency partners involved in the implementation of the Unified Program are responsible for setting program element standards, working with CalEPA to ensure program consistency, and providing technical assistance to CUPAs and PAs. State agency partners include: CalEPA; DTSC; CalOES; the Department of Forestry and Fire Protection Office of the State Fire Marshal (CAL FIRE-OSFM); and, the SWRCB.

In order for Committee members and the public to gain a better understanding of how state environmental and emergency management programs are implemented at the local level through the Unified Program, the Assembly Environmental Safety and Toxic Materials Committee held the following hearing:

- **June 14, 2016, Sacramento, California.** The Assembly Environmental Safety and Toxic Materials Committee held an informational hearing on California's Unified Program and on California's CUPAs. State and local administrators presented testimony on how the Unified Program works as well as reported on the effectiveness of the program.

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