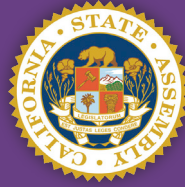


Assembly Committee on  
Environmental Safety and Toxic Materials

# 2019 - 20 Legislative Summary



Bill Quirk, Ph.D., Chair



## Members

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**ASSEMBLY COMMITTEE ON  
ENVIRONMENTAL SAFETY AND TOXIC MATERIALS  
2019 - 2020 LEGISLATIVE SUMMARY**

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Rachel Silvern, PhD, Science and Technology Fellow, 2020

COMMITTEE SECRETARY

Pía Estrada

**2019 - 2020 REGULAR LEGISLATIVE SESSION**  
**ASSEMBLY COMMITTEE ON**  
**ENVIRONMENTAL SAFETY AND TOXIC MATERIALS**  
**LEGISLATIVE SUMMARY**

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# Acronyms and Shortened Titles Reference List

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

CalEPA	California Environmental Protection Agency
CalRecycle	California Department of Resources, Recycling and Recovery
CDFA	California Department of Food and Agriculture
CDPH	California Department of Public Health
CUPA	Certified Unified Program Agency
DPR	Department of Pesticide Regulation
DTSC	Department of Toxic Substances Control
DWR	Department of Water Resources
ESTM	Assembly Environmental Safety and Toxic Materials Committee
OEHHA	Office of Environmental Health Hazard Assessment
Regional Water Board	Regional Water Quality Control Board
State Water Board	State Water Resources Control Board
USEPA	United States Environmental Protection Agency

# Introduction

During the 2019-2020 Regular Legislative Session, 97 measures were referred to the Assembly Environmental Safety and Toxic Materials Committee (ESTM Committee). This report contains summaries of the bills referred to the ESTM Committee during the 2019-2020 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. Veto messages are included for bills vetoed by Governor Gavin Newsom.

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

It should be noted that in 2020, the global spread of the novel coronavirus, SARS-CoV-2, which causes coronavirus disease 2019 (COVID-19), greatly affected the world. The COVID-19 pandemic effectively shut down the California Legislature in March of 2020, and completely altered how legislative business was conducted throughout the remainder of the 2019-2020 Legislative Session. Due to physical distancing requirements, most of the legislative hearing rooms in the Capitol were unable to be used, which limited legislative activities to just a few hearing rooms. As a result, committees were limited to one legislative hearing each, thereby limiting the number of bills each committee could hear. Additionally, with only one hearing per committee, bills that would have typically been referred to more than one committee were only single-referred. While hundreds of Assembly and Senate bills were introduced, very few bills were ultimately moved through the legislative process. The impact of these limitations are reflected in the “status” section of each bill in this report. Limits on hearings, and therefore the amount of bills that were moved through the process, were designed to allow timely legislative business to continue while also ensuring the safety of legislators, staff, and the public.

\*For reference, two bills were included in this summary that were not referred; under normal circumstances the two bills would have likely been referred to the ESTM Committee.

In addition to legislative hearings, during 2019 and 2020, the ESTM Committee held 5 oversight and informational hearings focusing on governmental programs within the ESTM 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 of the Committee

The jurisdiction of the Assembly ESTM Committee includes the following policy areas:

Cleanup of contaminated sites, including federal Superfund sites

Drinking water regulation

Emergency response relating to hazardous materials

Hazardous waste management, regulation, and enforcement

Medical waste management

Nuclear waste

Pesticide regulation

Proposition 65

Regulation of consumer products containing toxic substances, consumer product safety

Toxic air contaminants and indoor air quality

Toxic substances, hazardous materials

Underground storage tank regulation and cleanup

Water quality, toxic contamination of water

# 2019 - 2020 Legislative Summary

## Consumer Product Safety

**AB 60 (Friedman) Sunscreen: oxybenzone and octinoxate.** As referred to the ESTM Committee, prohibits the sale, offering of sale, or distribution for sale in the state, of any sunscreen that contains oxybenzone, or octinoxate, or both without a prescription. This bill was later amended to deal with water conservation and water meters.

Final Status: Held in the Assembly Appropriations Committee on the suspense file.

**AB 495 (Muratsuchi) Cosmetics: safety.** Establishes the Toxic-Free Cosmetics Act, which defines a cosmetic as adulterated if it contains specific ingredients, including any amount of asbestos, lead above a de minimis amount, formaldehyde, isobutyl or isopropylparaben, dibutyl phthalate, diethylhexyl phthalate, and specified perfluoroalkyl and polyfluoroalkyl substances (PFAS).

Final Status: Failed passage in the Assembly Health Committee.

**AB 647 (Kalra) Hazardous substances: cosmetics: disinfectants: safety documents.** Requires, beginning July 1, 2020, an entity that manufacturers or imports a hazardous substance or mixture of substances that constitutes a cosmetic, or any substance or mixture of substances used as a disinfectant, that is required to create or obtain a safety data sheet, to post and maintain the safety data sheet on the entity's internet website by its brand name or other commonly known name in a manner generally accessible to the public. Requires the entity to translate the safety data sheet(s) into Spanish, Vietnamese, Chinese, Korean, and other languages that the director of the Division of the Department of Industrial Relations may determine to be common for the beauty care industry.

Final Status: Signed into law, Chapter 305, Statutes of 2019.

**AB 1438 (Melendez) Hazardous materials: Green Ribbon Science Panel: meetings.** Increases the number of times the Green Ribbon Science Panel is required to meet to no less than three times a year.



Final Status: Held in the ESTM Committee.

**AB 1989 (C. Garcia) Menstrual Products Right to Know Act of 2020.** Requires that packaging containing menstrual products is conspicuously labeled with a list of all ingredients in the product.

Final Status: Signed into law, Chapter 272, Statutes of 2020.

**AB 2762 (Muratsuchi) Cosmetic products: safety.** Prohibits, beginning January 1, 2025, the manufacture, sale, delivery, holding, or offering for sale in commerce of any cosmetic product containing specified intentionally added ingredients.

Final Status: Signed into law, Chapter 314, Statutes of 2020.

**AB 3354 (Friedman) Hazardous materials: green chemistry.** Repeals the statutes that enacted the Green Chemistry Program administered by DTSC.

Final Status: \*Introduced February 21, 2020.

**SB 312 (Leyva) Cosmetic Fragrance and Flavor Ingredient Right to Know Act of 2020.** Requires, commencing January 1, 2022, a manufacturer of a cosmetic product sold in the state to disclose information to the Division of Environmental and Occupational Disease Control within CDPH on fragrance and flavor ingredients present on a designated list; a list of allergens present at specified amounts; and, other information identifying the specific product for which the information is being reported.

Final Status: Signed into law, Chapter 315, Statutes of 2020.

**SB 392 (Allen) Hazardous materials: green chemistry: consumer products.** Updates and reforms California's Green Chemistry program, including creating a streamlined alternatives analysis process DTSC can invoke in specified situations; requiring manufacturers to provide data on a consumer product's ingredients, use, and sale to DTSC upon request; authorizing DTSC to enforce product chemical information requests through a civil penalty of \$50,000; and,

requiring DTSC to include information relating to plans and timelines for regulating priority products in the triennial Priority Product Work Plan.

Final Status: Held on the Assembly Floor.

**SB 574 (Leyva) Cosmetic Fragrance and Flavor Ingredient Right to Know Act of 2019.** Requires, commencing January 1, 2022, a manufacturer of a cosmetic product sold in the state to disclose information to the Division of Environmental and Occupational Disease Control within CDPH on fragrance and flavor ingredients present on a designated list; a list of allergens present at specified amounts; and, other information identifying the specific product for which the information is being reported.

Final Status: Held in the Assembly Appropriations Committee on the suspense file.

**SB 647 (Mitchell) Hazardous substances: metal-containing jewelry.** Updates and restructures the Metal-Containing Jewelry Law, which sets limits on the amount of lead and cadmium that can be used in jewelry.

Final Status: Signed into law, Chapter 379, Statutes of 2019.

## **Drinking Water**

**AB 134 (Bloom) Safe Drinking Water.** Establishes a framework to identify and address drinking water needs throughout the state in order to ensure the long-term sustainability of drinking water service and infrastructure, and to prevent the likelihood of additional and continuing failed water systems.

Final Status: Held in the Senate Environmental Quality Committee.

**AB 217 (E. Garcia) Safe Drinking Water for All Act.** As it was heard before the ESTM Committee, creates the Safe Drinking Water for All Act, which establishes a Safe and Affordable Drinking Water Fund (Fund) to provide a source of funding to secure access to safe drinking water for all Californians, while also ensuring long-term sustainability of drinking water systems. Imposes several fees on agricultural activities and creates a trust fund using investments from the state General Fund that together would provide the source of revenue to

the Fund. This bill was later amended to address income taxation and the author was changed to Assemblymember Burke.

Final Status: Held on the Assembly Floor.

**AB 292 (Quirk) Recycled Water.** Updates the definition of potable reuse of recycled water by including raw water augmentation, treated drinking water augmentation, groundwater augmentation, or reservoir water augmentation within the definition of recycled water and deletes the definition of direct and indirect potable reuse.

Final Status: Held on the Senate Floor.

**AB 402 (Quirk) State Water Resources Control Board: local primacy delegation: funding stabilization program.** Authorizes Local Primacy Agency counties to elect to participate in a funding stabilization program, administered by the State Water Board, to fund regulatory oversight of small public drinking water systems.

Final status: Held in the Senate Appropriations Committee on the suspense file.

**AB 508 (Chu) Drinking water: consolidation and extension of service: domestic wells.** Makes changes to statute related to the State Water Board's authority to order the consolidation of drinking water systems.

Final Status: Signed into law, Chapter 352, Statutes of 2019.

**AB 756 (C. Garcia) Public water systems: PFAS.** Authorizes the State Water Board to order one or more public water systems to monitor for PFAS and establishes a separate public notification process as a result of any confirmed detection(s).

Final Status: Signed into law, Chapter 162, Statutes of 2019.

**AB 841 (Ting) Drinking water: contaminants: PFAS.** As it was heard before the ESTM Committee, requires, on or before January 1, 2021, OEHHA to adopt a work plan to assess which substances in the class of PFAS substances should be identified as a potential risk to

human health, taking into account which substances have the potential to be detected in California waters based on prevalence of manufacturing of, manufacturing products with, or use of a PFAS substance in California, and which substances are technologically feasible to detect based on current detection methodologies. This bill was later amended with content outside of ESTM jurisdiction related to transportation electrification.

Final Status: Signed into law, Chapter 372, Statutes of 2020.

**AB 1204 (B. Rubio) Public water systems: primary drinking water standards: implementation date.** Requires new and amended primary drinking water standards that are not currently regulated or are more stringent than those set by the US EPA to take effect three years after adoption or amendment by the State Water Board.

Final status: Held in the ESTM Committee.

**AB 1588 (Gloria) Drinking water and wastewater operator certification programs.** Requires the State Water Board, in consultation with the federal Department of Defense, to evaluate opportunities to issue a water treatment operator certificate and water distribution operator certificate by reciprocity to persons who performed comparable duties while serving in the United States military.

Final status: Signed into law, Chapter 760, Statutes of 2019.

**AB 1672 (Bloom) Solid waste: premoistened nonwoven disposable wipes.** Requires labels indicating that a product should not be flushed on specified nonwoven disposable products and establishes enforcement provisions and a consumer education and outreach program.

Final Status: Held in the Senate Appropriations Committee on the suspense file.

**AB 1751 (Chiu) Water and sewer system corporations: consolidation of service.** Establishes timeframes by which the CPUC is required to take action on a request for water system consolidation.

Final Status: Held in the Senate Appropriations Committee on the suspense file.

**AB 2296 (Quirk) State Water Resources Control Board: local primacy delegation: funding stabilization program.** Authorizes Local Primacy Agency (LPA) counties to elect to participate in a funding stabilization program, administered by the State Water Board, to fund regulatory oversight of small public drinking water systems, based on a determination of need.

Final status: Vetoed by the Governor. The veto message stated:

"This bill would authorize LPA counties to elect to participate in a funding stabilization program, administered by the State Water Board, to fund regulatory oversight of small public drinking water systems.

The goal of stabilizing the funding that is needed to assist LPA's with providing proper regulatory oversight of small water systems is laudable and fits into the state's overarching goal of achieving clean drinking water for every Californian. However, to the extent that LPA counties choose to participate in the new funding stabilization program authorized by the bill, the State Water Board would need to raise fees to cover the costs of the program. If participation among LPAs is high, the total funding needed from the Safe Drinking Water Account to administer the funding stabilization program would almost certainly exceed the statutory funding cap and as a result the State Water Board would be unable to implement the program."

**AB 2560 (Quirk) Drinking Water: Notification Level and Response Level.** Requires the State Water Board to post on its internet website and distribute through e-mail that it has initiated the development of a Notification Level (NL) or Response Level (RL) for a contaminant and the draft NL or RL along with supporting documentation.

Final Status: Signed into law, Chapter 350, Statutes of 2020.

**SB 166 (Weiner) Process water treatment systems: breweries.** Requires the State Water Board, in consultation with CDPH, to adopt regulations, by December 1, 2025, for microbiological, chemical, and physical water quality and treatment standards for the voluntary reuse of process water in breweries that are required to obtain a processed food registration license from the Food and Drug Branch at CDPH.

Final Status: Held in the Assembly Appropriations Committee on the suspense file.

**SB 200 (Monning) Drinking Water.** Creates the Safe and Affordable Drinking Water Fund (Fund) to help water systems provide an adequate and affordable supply of safe drinking water in both the near- and long-term. Requires the State Water Board to develop a Fund expenditure plan and provide funding according to that expenditure plan to identify failing water systems and provide safe and affordable drinking water in the short- and long-term to those who rely on drinking water from those failing water systems.

Final Status: Signed into law, Chapter 120, Statutes of 2019.

**SB 413 (S. Rubio) San Gabriel Basin Water Quality Authority.** Extends by one year the terms of city representatives currently elected to the San Gabriel Basin Water Quality Authority Board and revises specified reporting requirements.

Final Status: Signed into law, Chapter 370, Statutes of 2019.

**SB 414 (Caballero) Drinking Water: Small System Water Authority Act.** Creates the Small System Water Authority Act of 2019, which authorizes the creation of a small system water authority (Authority) that will have powers to absorb, improve, and competently operate noncompliant public water systems. Requires the State Water Board to send a notice to public water systems that are not in compliance with drinking water standards. Requires, if the system does not return to compliance in a timely manner, the State Water Board to consolidate the public water system with an existing water system; use existing funding sources and existing legal authority to return the public water system to compliance; or, force the dissolution of the public water system and merge that system into a new Authority.

Final Status: Held in the Assembly Appropriations Committee on the suspense file.

**SB 513 (Hurtado) State Water Board: Grants: Interim Relief: Drinking Water.** Authorizes the State Water Board to provide grants to provide relief to households in which a private water well has gone dry or has been destroyed due to drought, wildfire, or other natural disaster.

Final Status: Signed into law, Chapter 373, Statutes of 2019.

## Environmental Health

**AB 320 (Quirk) Pest control: mosquito abatement.** Establishes the California Mosquito Surveillance and Research Program to be administered by the University of California, Davis.

Final Status: Signed into law, Chapter 422, Statutes of 2019.

**AB 762 (Quirk) Public health: fish and shellfish: health advisories.** Requires local health officers to conspicuously post fish and shellfish consumption advisories at public access points to waterbodies where contaminated fish and shellfish may be caught and where recreational or subsistence fishing is known to occur.

Final Status: Signed into law, Chapter 538, Statutes of 2019.

### **SB 1 (Atkins) California Environmental, Public Health, and Workers Defense Act of 2019.**

Enacts the California Environmental, Public Health, and Workers Defense Act of 2019 with the purpose of ensuring that protections afforded to Californians under federal environmental and labor laws and regulations as of January 2017 remain in place in the event that President Donald Trump weakens or repeals any of those federal laws or regulations.

Final Status: Vetoed by Governor Gavin Newsom. The veto message stated:

"This bill would enact the California Environmental, Public Health, and Workers Defense Act of 2019 with the intent of ensuring that protections afforded under federal environmental and labor laws and regulations as of January 2017, could remain in place in the event of federal regulatory changes.

California is a leader in the fight for resource, environmental, and worker protections. Since 2017, the federal government has repeatedly tried to override and invalidate those protections, and each time, the state has aggressively countered - taking immediate legal action and deploying every tool at the state's disposal to safeguard our natural resources, environmental protections and workers. No other state has fought harder to defeat Trump's environmental policies, and that will continue to be the case.

While I disagree about the efficacy and necessity of Senate Bill 1, I look forward to working with the Legislature in our shared fight against the weakening of California's environmental and worker protections."

## Hazardous Materials

**AB 432 (Quirk) Released waste: certification of local officers.** Requires the State Water Board, in cooperation with DTSC, to develop and implement a certification program for local health officers who enter into remedial action agreements.

Final Status: Held in the Assembly Appropriations Committee on the suspense file.

**AB 1429 (Chen) Hazardous materials: business plans.** Authorizes a business that handles hazardous materials to submit their Hazardous Materials Business Plan to the California Environmental Reporting System once every three years, instead of annually, if that business is not required to submit Tier II chemical inventory information under the federal Emergency Planning and Community Right-to-Know Act of 1986.

Final Status: Signed into law, Chapter 66, Statutes of 2019.

**AB 1500 (Carrillo) Hazardous substances.** Authorizes a CUPA or a local health officer to temporarily suspend a permit, including the shutdown of a facility, if conditions at the facility pose an imminent or substantial endangerment to public health and safety. Clarifies the authority of a CUPA, subject to its jurisdiction, to fine or penalize a facility that is operating without a permit.

Final Status: Held in the Senate Appropriations Committee on the suspense file.

**AB 1596 (ESTM Committee) Hazardous Substances: contaminated property: fentanyl cleanup.** Adds fentanyl to the Methamphetamine Contaminated Property Act of 2005 in order to set interim cleanup standards for fentanyl-contaminated property and to provide direction to local health officers for the oversight and cleanup of fentanyl-contaminated properties.

Final Status: Signed into law, Chapter 691, Statutes of 2019.

**AB 2060 (Holden) Drinking water: pipes and fittings: lead content.** Establishes a "lead free" performance standard for end use plumbing fixtures, requires labeling of such products, and sets an implementation schedule for compliance with the new standard.



Final Status: Held in the Senate Appropriations Committee on the suspense file.

**AB 2279 (C. Garcia) Childhood lead poisoning prevention.** Adds several additional risk factors required to be considered as part of the standard of care for a lead poisoning evaluation of children. Requires CDPH to update its formula for allocating funds to any local agency that contracts with CDPH to administer the Childhood Lead Poisoning Prevention Program (CLPPP).

Final Status: After the contents of the bill were added to AB 2276 (Reyes), this bill was held in the Senate Health Committee.

**AB 2907 (Gipson) CalEPA: DTSC: brownfields: report.** Requires, by December 31, 2021, CalEPA to complete a programmatic review of DTSC's existing grant and loan programs for brownfields and a comprehensive review of brownfields in the state. Requires CalEPA, by February 2021, to submit a report to the Legislature on the comprehensive review of DTSC's brownfields program.

Final Status: Held in the ESTM Committee.

**SB 519 (Bradford) Hazardous substances: underground storage tanks.** Authorizes the State Water Board to use funds in the Site Cleanup Subaccount of the Underground Storage Tank Cleanup Fund program to pay for expenditures incurred by a water replenishment district or DTSC in identifying sources of, or remediating harm caused by, surface or groundwater contamination.

Final status: Signed into law, Chapter 480, Statutes of 2019.

**SB 633 (Stern) Toxic substances: cleanup standards.** As heard by the ESTM Committee, requires DTSC to impose additional cleanup standards for contaminated sites that are finalized after January 1, 2020. This bill was later amended to deal with electric vehicles.

Final Status: Held on the Assembly Floor.

## Hazardous Waste

**AB 142 (C. Garcia) Lead-acid batteries.** Amends the Lead-Acid Battery Recycling Act (Act) of 2016 to delete the sunset on the \$1 Manufacturer Battery Fee and increase the fee to \$2 in perpetuity effective April 1, 2022; specifies that the repayment of the \$176.6 million General Fund loan or any other loan provided to the DTSC to clean up the Exide Technologies facility remediation site will not be paid back until the cleanup of Exide and all other areas of the state contaminated by lead-acid batteries is completed; makes other changes related to, liability and exemptions; and, provides that these changes take effect immediately as an urgency statute.

Final Status: Signed into law, Chapter 860, Statutes of 2019.

**AB 181 (Maienschein) Hazardous waste: cost: reimbursement.** Exempts a hazardous waste facility owned by a federal agency from the requirement that the facility provide at least 25% of the hazardous waste facility permit cost to DTSC in advance of DTSC processing the permit application.

Final Status: Signed into law, Chapter 797, Statutes of 2019.

**AB 733 (Quirk) Hazardous waste: identification: testing.** Requires DTSC to evaluate the existence of alternate test methods that avoid the use of live vertebrate fish for hazardous waste identification, and, provided an adequate alternate test exists, requires DTSC to include it as an optional test method. Declares that these provisions are subject to an appropriation by the Legislature, and are required to be completed within five years of the appropriation.

Final Status: Vetoed by Governor Gavin Newsom. The veto message stated:

"This bill requires DTSC to include an optional alternative acute aquatic toxicity test for hazardous waste identification that does not use live vertebrate fish, should a test be found suitable after an evaluation by DTSC.

While updating the state's aquatic toxicity test for hazardous waste is laudable and should be explored, DTSC estimates that this bill would require \$4.9 million to implement. As the Hazardous Waste Control Account has a structural deficit, the account and DTSC cannot support this additional activity and expense until the fiscal deficiencies have been addressed."

**AB 995 (C. Garcia) Hazardous waste.** Creates the Board of Environmental Safety within CalEPA to provide policy direction to and oversight of DTSC. Raises and recasts existing fees within the Hazardous Waste Control Account to fill a projected deficit of approximately eighteen million dollars.

Final Status: Vetoed by Governor Gavin Newsom. The veto message stated:

"This bill would create the Board of Environmental Safety within [CalEPA] to provide policy direction to and oversight of [DTSC].

I applaud the author's diligence in seeking to increase transparency and accountability in DTSC. However, the bill as written falls short of the goals we have previously set for needed changes to better protect public health and safety. Without necessary funding, DTSC will be unable to deliver on the promise of this legislation - cleaning up too many abandoned sites adversely impacting the health of low-income communities across our state and better protecting Californians from dangerous chemicals going forward.

Understanding that governance and fiscal changes are both necessary and inextricably tied to achieving the mandates DTSC is currently responsible for, my 2020 Budget proposed a comprehensive approach to achieve a more transparent decision-making process through the creation of a board and restructured fees to adequately fund this Department.

AB 995 seeks to impose changes to governance but lacks necessary fiscal reform.

To accomplish comprehensive change and make progress on the more than 150,000 brownfield sites where no responsible party exists, we will need comprehensive fiscal reform to support adequate revenues. Over the last year, we were able to reach agreement with the Legislature on many of the key elements of DTSC reform. I am confident that in the upcoming legislative session we will achieve the much needed fiscal and governance reforms to better protect communities across our state."

**AB 1357 (Quirk) DTSC: public meetings.** Requires DTSC to hold at least four public meetings each year and present on recent and upcoming decisions or actions relating to permitted hazardous waste facilities and cleanup sites.

Final Status: Held on the Senate Floor

**AB 1462 (Santiago) Hazardous substances: lead: cleanup: Exide Technologies facility.**

Appropriates one hundred million dollars from the state General Fund to DTSC for activities related to accelerating the investigation and cleanup of homes and communities within a 1.7 mile radius of Exide.

Final Status: Held in the Assembly Appropriations Committee on the suspense file.

**AB 1509 (Mullin) Solid waste: lithium-ion batteries.** Establishes the Lithium-Ion Battery Recycling Program within CalRecycle that requires manufacturers of lithium-ion batteries to provide convenient collection, transportation, and disposal of lithium-ion batteries.

Final Status: Held in the Senate Environmental Quality Committee.

**AB 1597 (ESTM Committee) Hazardous waste: transportation: electronic manifests.**

Authorizes the state's hazardous waste management manifest requirements to be satisfied through the use of the US EPA electronic manifest system.

Final Status: Signed into law, Chapter 133, Statutes of 2019.

**AB 2104 (C. Garcia) Lead-Acid Battery Recycling Act of 2016.** Revises public notice, public comment, and site designation requirements for DTSC as part of the Lead-Acid Battery Recycling Facility Investigation and Cleanup Program, and authorizes moneys in the Lead-Acid Battery Cleanup Fund to be available and expended for specified oversight and closure activities.

Final status: Signed into law, Chapter 276, Statutes of 2020.

**AB 2298 (Carrillo) Hazardous waste.** Authorizes a CUPA to temporarily suspend the permit, including the shutdown of a facility, if conditions at a facility pose an imminent or substantial endangerment to public health and safety or the environment. Clarifies the authority of a CUPA, subject to its jurisdiction, to fine or penalize a facility that is operating without a permit.

Final Status: Held in the ESTM Committee.

**AB 2333 (Quirk) Waste: releases: remedial action: local oversight.** Sets requirements for local health officers overseeing remedial action at sites with released hazardous waste, including for remedial action agreements, electronic recordkeeping, public notification, and notification to the state, and provides specified procedures to DTSC or the regional water board when either elects to retain oversight authority over a waste release.

Final status: Held in the Senate Environmental Quality Committee.

**AB 2511 (C. Garcia) Hazardous waste.** Requires DTSC to post on its internet website findings and results of an investigation it has undertaken under the Hazardous Waste Control Law (HWCL) and reports summarizing or containing any order of the DTSC Director or judgment or court order rendered under the HWCL, including the nature of the charge and its disposition.

Final Status: Held in the ESTM Committee.

**AB 2677 (Santiago) Lead contamination: Exide Technologies facility: community liaison.** Creates, under the Secretary for CalEPA, the position of community liaison, which is required to be responsible for community outreach and dissemination of information relating to the cleanup of lead contamination in the areas surrounding Exide.

Final Status: Held in the ESTM Committee.

**AB 2740 (Carrillo) Fireworks: dangerous fireworks: seizure: management.** Requires any seized dangerous or safe and sane fireworks to be managed by the State Fire Marshal. Requires the State Fire Marshal to consult with relevant federal and state agencies to develop specific protocols and procedures for the safe seizure, storage, repurposing, destruction, or disposal of dangerous fireworks. Requires state, county, special districts, and local government entities to handle, transport, and store seized fireworks in a manner prescribed by the State Fire Marshal.

Final Status: \*Introduced February 20, 2020.

**AB 2882 (Chu) Hazardous emissions and substances: schoolsites: private and charter schools.** Requires charter schools and private schools to follow the same siting requirements as public

schools for evaluating a schoolsite for potential hazardous substances, hazardous emissions, or hazardous waste. Requires the evaluation of a potential charter schoolsite under the California Environmental Quality Act (CEQA) to follow the same process as public schools under CEQA.

Final Status: Held in the Senate Environmental Quality Committee.

**AB 2920 (Obernolte) Hazardous waste: transportation: consolidated manifesting procedure.**

Authorizes hazardous waste generators and transporters to use consolidated manifesting procedures for retail hazardous waste collected from retailers engaged in business in the state.

Final status: Signed into law, Chapter 222, Statutes of 2020.

**AB 2993 (Levine) Hazardous waste: classification: exclusions: green waste.** Excludes green waste that would be classified as hazardous solely because it has an acute aquatic 96-hour LC50 value of less than 500 milligrams per liter, pursuant to the test described in the California Code of Regulations, or any successor regulation, from classification as a hazardous waste.

Final status: Held in the ESTM Committee.

**AB 3158 (Melendez) Solid waste: Rechargeable Battery Recycling Act.** Authorizes DTSC to post on its website survey data from previous years on rechargeable batteries returned for recycling.

Final status: Held in the ESTM Committee.

**AB 3261 (ESTM Committee) Hazardous waste: small quantity generator.** Updates terms within the state Hazardous Waste Control Law to conform to recent changes in federal hazardous waste regulation promulgated by US EPA under their Generator Improvement Rule.

Final Status: Held in the Senate Environmental Quality Committee.

**SB 68 (Galgiani) Hazardous waste: treated wood waste.** Deletes the December 31, 2020, sunset on treated wood waste (TWW) statute; requires the wood preserving industry to prepare training materials on how to best handle, dispose of, and otherwise manage TWW;

and, requires DTSC to perform regular inspections of representative TWW generator sites and TWW disposal facilities.

Final status: Vetoed by Governor Gavin Newsom. The veto message stated:

"This bill would eliminate the sunset on the [TWW] program at [DTSC] and would make various changes to that program.

SB 68 creates a significant additional mandate for DTSC to perform regular inspections of generators and disposal sites for treated wood waste. The Hazardous Waste Control Account (HWCA) currently has a structural deficit and this unfunded new mandate will cost the department millions of dollars to implement, exacerbating this deficit.

Moreover, it is not appropriate to eliminate the sunset date for the Treated Wood Waste program authorization, essentially exempting this hazardous waste from hazardous waste law and regulation. While the generation of this waste may have justified the allowance for alternative management standards, this waste is hazardous and poses a risk to both human health and the environment and necessitates periodic review of its statutory authorization."

**SB 232 (Dodd) Hazardous substances: regulated metals: packaging materials.** Exempts glass packaging from the requirements of the Toxics in Packaging Prevention Act (Act) if the glass packaging exceeds the requirements of the Act only due to the presence of recycled glass metals and the glass packaging does not exceed a total of 200 parts per million (ppm) of regulated metals. Sunsets this exemption on January 1, 2024, and restores the existing requirements of 100 ppm of regulated metals on January 1, 2024.

Final Status: Vetoed by Governor Newsom. The veto message stated:

"This bill increases the permissible heavy metal limit in recycled glass from 100 parts per million (ppm) to 200 ppm until January 1, 2024.

While I have been a strong supporter of increasing our recycling efforts in California, I do not believe we should risk potential exposure to toxic substances during the process.

This bill would allow increased heavy metal levels in glass packaging, which may result in unsafe toxic exposures. The Centers for Disease Control and Prevention have unequivocally stated that there is no safe level of lead exposure, especially for vulnerable populations like our children. We need to ensure that the food products we

give to our children are in glass containers that are safe for consumption."

**SB 317 (Caballero) Hazardous waste: waste facilities: prohibited chemicals.** Prohibits, on and after January 1, 2022, the sale, distribution, or use of a product used in recreational vehicle chemical toilet deodorizers that contains any of fourteen specified chemicals.

Final Status: Signed into law, Chapter 367, Statutes of 2019.

**SB 552 (Archuleta) Hazardous waste: household hazardous waste: door-to-door collection programs: residential pickup services.** Authorizes the use of consolidated manifests in the transportation of household hazardous waste (HHW) in door-to-door HHW collection programs indefinitely by deleting the current sunset.

Final status: Signed into law, Chapter 481, Statutes of 2019.

**SB 726 (Caballero) Hazardous waste: public agencies: materials exchange program.**

Authorizes a contractor of a public agency to conduct a materials exchange program at a household hazardous waste collection facility for reusable household hazardous products and materials.

Final status: Signed into law, Chapter 485, Statutes of 2019.

**SB 1156 (Archuleta) Lithium-ion batteries: illegal disposal: fire prevention.** Requires, before January 1, 2022, the Department of Forestry and Fire Protection to develop a model protocol and training to identify best practices for managing fires that originate from discarded lithium-ion batteries within the solid waste management system. Requires, on or before July 1, 2023, CalRecycle to develop guidance to better inform and educate the public on the proper handling and potential fire risk due to mishandling lithium-ion batteries.

Final Status: Held on the Senate Floor.



## Medical Waste

**AB 804 (Ting) Medical waste: sharps waste.** Allows a pharmaceutical manufacturer to not submit or post an annual plan pursuant to the requirements under the Pharmaceutical Stewardship Plan, if the devices it uses for the injection of that medication are covered products under the Pharmaceutical Stewardship Plan.

Final Status: Held in the ESTM Committee.

**AB 1419 (Kamlager-Dove) Medical waste: pharmaceuticals.** Amends the existing definition for "pharmaceutical" in the Medical Waste Management Act to exclude the following products if lawfully sold without a prescription: homeopathic drugs, remedies, and any other product with a National Drug Code identifying the product as "homeopathic" in the National Drug Code Directory; cosmetics, as defined in the Federal Food, Drug, and Cosmetic Act), as specified; and, soap, shampoo, sunscreen, toothpaste, lip balm, antiperspirant, and saline products.

Final Status: Held in the ESTM Committee.

## Pesticides

**AB 468 (Muratsuchi) Pesticides: schoolsites: glyphosate.** Prohibits the outdoor use of a pesticide that contains glyphosate at a schoolsite.

Final Status: Held in the Assembly Education Committee.

**AB 1788 (Bloom) Pesticides: use of second generation anticoagulant rodenticides.** Prohibits the use of second generation anticoagulant rodenticides (SGARs) until the director of DPR certifies, as described, a completed reevaluation of SGARs.

Final status: Signed into law, Chapter 250, Statutes of 2020.

**AB 1919 (Bauer-Kahan) Pesticides: enforcement actions: civil penalty: judicial review.** Authorizes DPR to initiate and maintain enforcement actions and to levy civil penalties for specified pesticide use violations.

Final Status: Held in the Assembly Judiciary Committee.

**AB 2373 (B. Rubio) Structural pest control: second generation anticoagulant rodenticides.** Requires a structural pest control operator licensee to complete a training course of at least one hour on the ecological impact of second generation anticoagulant rodenticides, as defined, on wildlife with respect to primary and secondary poisoning.

Final Status: Held in the Assembly Business and Professions Committee.

**AB 2491 (Choi) School facilities: organic pesticides: pilot program.** Requires the State Department of Education to establish a 5-year pilot program to provide funding to school districts to use only organic pesticides, both indoors and outdoors, for the purpose of determining the benefits of organic pesticide use and the financial impact on school districts of using organic pesticides instead of chemical pesticides.

Final Status: Held in the Assembly Education Committee.

**AB 3220 (ESTM Committee) Hazardous materials: underground storage tanks: pesticides.** Extends the sunsets of two distinct public health programs: the Replacing, Removing, or Upgrading Underground Storage Tanks program, which provides loans and grants to assist small businesses with complying with standards for underground storage tanks, and the reporting and registration requirements of the California Medical Supervision Program, which protects certain pesticide workers from overexposure.

Final status: Signed into law, Chapter 296, Statutes of 2020.

**SB 86 (Durazo) Department of Pesticide Regulation: chlorpyrifos: quarterly reports.** Requires DPR to submit a quarterly report, as specified, on the use of the pesticide, chlorpyrifos, in granular form.

Final status: Signed into law, Chapter 299, Statutes of 2020.

## **Proposition 65**

### **(The Safe Drinking Water and Toxic Enforcement Act of 1986)**

**AB 1123 (Reyes) Safe Drinking and Toxic Enforcement Act of 1986: appeal: notice to the Attorney General.** Requires each party in an alleged violation, application, or construction of Proposition 65 at issue in a proceeding of an appellate court to serve a copy of their brief on the Attorney General prior to submission to the appellate court.

Final status: Signed into law, Chapter 187, Statutes of 2019.

**AB 2849 (Chau) Proposition 65: enforcement.** Authorizes a person employing fewer than 10 employees to waive their exemption to the requirements of Proposition 65 on terms and conditions as that person shall state in writing to the party providing a notice to bring an action under Proposition 65 and the Attorney General.

Final Status: Held in the Senate Environmental Quality Committee.

## **Underground Storage Tanks**

**AB 3039 (Quirk) Underground Storage Tanks: small business loan and grant program.**

Extends, until January 1, 2026, the Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) program, which provides loans and grants to assist small businesses with complying with state and federal standards for underground storage tanks (USTs). Expands RUST grant eligibility to certain applicants who are not in compliance with water quality or air quality requirements. Provides the State Water Board with authority to help prevent fraud in the RUST program and help recover monetary losses to the RUST program due to fraud. The contents of this bill were amended into AB 3220 (ESTM), which was signed by Governor Gavin Newsom.

Final Status: Held in the Senate Environmental Quality Committee.

## Water Quality

**AB 129 (Bloom) Microfiber pollution.** Requires the State Water Board by July 1, 2020, to adopt a standard methodology to evaluate residential microfiber filtration systems and publish the filtration efficiency of various filtration systems. Requires, by January 1, 2020, a public entity that uses a laundry stem to install a filtration system to capture microfibers shed during washing. Requires, by January 1, 2021, a private entity that uses an industrial or commercial laundry system to install a filtration system to capture microfibers that are shed during washing.

Final Status: Held in the ESTM Committee.

**AB 223 (Stone) California Safe Drinking Water Act: microplastics.** Requires the State Water Board, when it adopts a definition of microplastics and a standard methodology to be used in the testing of drinking water for microplastics, as required by state law, to, to the extent possible, and where feasible and cost effective, work with CDPH.

Final Status: Held in the ESTM Committee.

**AB 274 (Mathis) Water Treatment Facility: State Water Resources Control Board: grant.** Appropriates 20 million dollars from the General Fund to an unknown entity in order for that entity to provide a grant of 20 million dollars to a joint powers authority comprised of the Tule River Tribe and the City of Porterville for a water treatment facility to be operated by the joint powers authority.

Final Status: Held in the Assembly Appropriations Committee on the suspense file.

**AB 636 (Gray) State Water Resources Control Board: water quality objectives.** Prohibits the State Water Board from implementing water quality objectives for which it has adopted a statement of overriding consideration until the State Water Board has submitted the water quality objectives to the Legislature and the appropriate policy committees have held a hearing regarding the water quality objectives and statement of overriding consideration.

Final Status: Held in the ESTM Committee.

**AB 637 (Gray) State Water Resources Control Board: disadvantaged communities: drinking water.** Requires the State Water Board, before taking an action that impacts drinking water, to identify potential adverse human health effects that the proposed action may have on minority and low-income populations, and seek to reduce those effects to the greatest extent practicable. Requires the State Water Board to promote nondiscrimination and provide minority and low-income communities with opportunities for public participation before taking an action that impacts drinking water.

Final Status: Held in the Assembly Appropriations Committee on the suspense file.

**AB 755 (Holden) California tire fee: Stormwater Permit Compliance Fund.** Increases the California tire fee from \$1.75 to \$3.25 per tire, and directs the additional revenue to be available for grants for municipal stormwater projects that mitigate zinc pollution from tires.

Final Status: Held on the Assembly Floor.

**AB 912 (Muratsuchi) Marine invasive species: ballast water and biofouling management requirements.** Revises and recasts ballast water management law, including delaying dates by which the owner or operator of a vessel must implement interim and final performance standards for the discharge of ballast water; requiring the State Lands Commission (SLC) to adopt regulations implementing federal performance standards for the discharge of ballast water; and, authorizing the SLC to take samples of ballast water, sediment, and biofouling from arriving vessels for research purposes.

Final status: Signed into law, Chapter 443, Statutes of 2019.

**AB 937 (R. Rivas) Waste Discharge Requirements: produced water: oil and gas operations.** Authorizes a regional water board to approve a waste discharge requirement for the use or reuse of produced water from an oil and gas operation for agricultural purposes or groundwater recharge only, if after a public hearing, it finds that the California Council on Science and Technology has found that the use of the produced water will not pose a significant risk to the public.

Final Status: Held in the ESTM Committee.

**AB 1086 (Bauer-Kahan) State Water Pollution Control Revolving Fund: State Water Efficiency and Enhancement Program.** As it was referred to the ESTM Committee, requires the State Water Board to transfer \$4,645,987 from the State Water Pollution Control Revolving Fund to the Department of Food and Agriculture for the purposes of a State Water Efficiency and Enhancement Grant Program. This bill was later amended to deal with off-highway vehicle recreation.

Final Status: Vetoed by Governor Gavin Newsom.

**AB 1093 (B. Rubio) Municipal separate storm sewer systems: financial capability analysis.** Requires the State Water Board, by July 1, 2020, to establish financial capability assessment guidelines for municipal separate storm sewer system permittees that are adequate and consistent when considering the costs to local jurisdictions.

Final status: Vetoed by Governor Gavin Newsom. The veto message stated:

"This bill would require the State Water Board to establish financial capability assessment guidelines for municipal storm sewer system permittees.

However, municipal finances are diverse, and a generic financial analysis as this bill suggests would not meaningfully advance our understanding of the ability of municipalities to meet stormwater permitting requirements.

The State Water Board is currently implementing and refining guidelines to assist local agencies in estimating and tracking the cost of compliance with their stormwater permits. Additionally, the State Water Board and Regional Water Boards work with permittees to create customized compliance schedules and offer grants and loans."

**AB 1180 (Friedman) Water: recycled water.** Requires the State Water Board to update the uniform statewide criteria for nonpotable recycled water uses and requires the State Water

Board, if it adopts standards for backflow protection and cross-connection control through the adoption of a policy handbook, to include provisions for the use of a swivel or changeover device to supply potable water to a dual-plumbed system during an interruption in recycled water service.

Final status: Signed into law, Chapter 455, Statutes of 2019.

**AB 1381 (Salas) Safe Drinking Water Plan.** Requires the State Water Board to include in its Safe Drinking Water Plan specified information including the identification of public water systems that consistently fail to deliver water that meets all applicable standards; specified areas in which persons have limited access to, or ability to pay for, safe and affordable drinking water; strategies to address the changing needs of current and future populations; and, a publicly accessible map that identifies areas that consistently lack, or are at risk of losing, access to safe and affordable drinking water.

Final status: Held in the ESTM Committee.

**AB 1952 (Stone) Washing machines: microfiber filters: state laundry facilities: pilot program.** Requires the Department of General Services, in coordination with CalEPA, to implement a one-year pilot program to assess the efficacy of microfiber filtration systems for 10 state-owned laundry facilities and report the results to the Legislature on or before January 1, 2023.

Final status: Held in the Assembly Accountability and Administrative Review Committee.

**AB 2297 (Bloom) Microfiber pollution.** Requires the State Water Board to identify the best available control technology for filtering microfibers from an industrial, institutional, or commercial laundry facility on or before an unspecified date.

Final Status: Held in the ESTM Committee.

**AB 2364 (B. Rubio) Municipal separate storm sewer systems: financial capability analysis.** Requires, by July 1, 2021, the State Water Board to establish financial capability assessment guidelines for municipal separate storm sewer system permittees that are adequate and consistent when considering the costs to local jurisdictions.

Final Status: Held in the ESTM Committee.

**AB 3047 (Flora) Water quality: groundwater: monitoring.** Requires the State Water Board to identify and recommend to the Legislature funding options to extend the comprehensive groundwater quality monitoring program indefinitely.

Final Status: Held in the ESTM Committee.

**AB 3048 (Flora) State Water Board: Small Business Water Regulation Working Group: streamlining recommendations.** Requires the State Water Board to establish and convene a working group composed of representatives of small businesses, environmental justice advocates, and representatives of working lands to review the State Water Board's regulation and enforcement of water quality standards for small businesses that use their own, independent sources of water that may not meet water quality standards required of public water systems.

Final Status: Held in the ESTM Committee.

**AB 3232 (Friedman) Commercial washing machines: microfiber filter.** Requires all washing machines for commercial sale in California to contain a microfiber filtration system with a 90% or greater filtration rate on or before January 1, 2023.

Final status: Held in the ESTM Committee.

**SB 205 (Hertzberg) Business licenses: stormwater discharge compliance.** Requires a business operation in a regulated industry to demonstrate enrollment in the National Pollutant Discharge Elimination System permit program when applying for an initial business license or business license renewal.

Final status: Signed into law, Chapter 470, Statutes of 2019.



**SB 690 (Hueso) Coastal resources: Tijuana River Valley: funding prioritization.** Encourages the State Coastal Conservancy, when granting funds appropriated by Assembly Bill 74 (Ting, Chapter 23, Statutes of 2019), for the purposes of addressing transboundary flows and pollution in the Tijuana River Valley, to prioritize, to the extent feasible, those projects identified in statutorily required studies on the Tijuana River Valley.

Final status: Signed into law, Chapter 381, Statutes of 2019.

**SB 1044 (Allen) Firefighting equipment and foam: PFAS chemicals.** Prohibits the manufacture, sale, distribution, and use of class B firefighting foam containing per- and polyfluoroalkyl substances (PFAS chemicals) by January 1, 2022, with some exceptions, and requires notification of the presence of PFAS chemicals in the protective equipment of firefighters.

Final status: Signed into law, Chapter 308, Statutes of 2020.

# 2019 – 2020 Oversight, Informational, & Initiative Hearings

## Informational Hearing on Safe and Affordable Drinking Water

The federal Safe and Affordable Drinking Water Act (SDWA) was enacted in 1974 to protect public health by regulating drinking water. California has enacted its own safe drinking water act to implement the federal law and establish state standards. The US EPA enforces the federal SDWA at the national level. However, most states, including California, have been granted "primacy" by the USEPA, giving them authority to implement and enforce the federal SDWA at the state level.

The State Water Board's Division of Drinking Water (DDW) regulates public water systems that provide water for human consumption and have 15 or more service connections, or regularly serve at least 25 individuals daily at least 60 days out of the year. The state does not regulate water systems with less than 15 connections; county health officers oversee them. At the local level, 30 of the 58 county environmental health departments in California have been delegated primacy—known as local primacy agencies or LPAs—by the State Water Board to regulate systems with between 15 and 200 connections within their jurisdiction.

The causes of unsafe drinking water can generally be separated into two categories (1) contamination caused by human action and (2) naturally occurring contaminants. In some areas, there are both human-caused and natural contaminants in the drinking water.

The State Water Board has identified a total of 331 water systems that it or LPAs regulate that are in violation of water quality standards. These water systems serve an estimated 500,000 people throughout the state. The number of water systems with 14 or fewer connections that are currently in violation of water quality standards is unknown, but estimated to be in the thousands by the State Water Board. Of the 331 systems identified by the State Water Board, 68 have violations associated with nitrates (and in some cases, additional contaminants). In some of these water systems, unsafe contamination levels persist over time because the local agency cannot generate sufficient revenue from its customer base to implement, operate, or maintain the improvements necessary to address the problem. The challenge in these systems is often a product of a combination of factors, including the high costs of the investments required, low income of the customers, and the small number of customers across whom the costs would need to be spread.

In 2017, Senator Monning introduced SB 623 to provide a comprehensive solution to the issue of safe and affordable drinking water. This bill provided the framework for a multi-decade program designed to both decrease the amount of contaminants moving into water supply resources (mainly groundwater), and to ensure that communities would be able to build, operate, and maintain water treatment systems. In order to achieve this goal, a series of fees

and taxes on agricultural inputs and water systems was proposed. This bill ultimately did not pass, but provides the basis for two other bills that moved through the Legislature in 2018 (SB 844 and SB 845, both by Monning), and the Governor's 2018 budget and trailer bill proposal. Ultimately, none of these bills were adopted by the Legislature.

Governor Jerry Brown, as part of the 2018-19 Budget, proposed trailer bill language to establish the Safe and Affordable Drinking Water Program and Fund to be administered by the State Water Board.

The proposal, similar to SB 623, would have:

- 1) Provided the Department of Food and Agriculture the authority to impose and collect fees from certain agricultural entities, including a budget of \$1.4 million and 7 positions.
- 2) Exempted an agricultural operation from enforcement for causing or contributing to nitrate in groundwater if they demonstrate certain mitigation requirements are followed.
- 3) Provided \$3.3 million and 23 positions to the State Water Board to: 1) develop and adopt a fund implementation plan; 2) process charges that would be deposited into the fund; 3) map areas at high risk for drinking water contamination and process drinking water data provided by local agencies; and, 4) perform accounting and other administrative tasks.
  - **February 6, 2019 – Sacramento.** The ESTM Committee, along with the Assembly Water Parks and Wildlife Committee, and the Assembly Budget Subcommittee #3 (Resources and Transportation), held a joint informational hearing to explore barriers to providing safe and affordable drinking water to all Californians. Over the previous two years, several proposals (budget and legislative) had been introduced to address the cleanup and distribution of clean drinking water, particularly in areas with legacy pollutants. The goal of this hearing was to discuss these proposals and to provide an open dialogue on the issue of safe and affordable drinking water.

## **Informational Hearing on California's Green Chemistry Program: Are We Protecting People from Toxic Chemicals in Products?**

Industrial chemicals have become a part of everyday life, contributing to medicine, technology, and infrastructure and touching just about everything people come into contact with. More than 84,000 chemicals have been registered for use in the United States, and over 700 new chemicals enter the marketplace each year.

As a consequence of weaknesses in federal chemicals policy, chemicals suspected of being hazardous are found in numerous consumer and commercial products, including some to which children likely are exposed. In California, chemical and pollution related diseases among children and workers cost the state's insurers, businesses, and families an estimated \$2.6 billion in direct and indirect costs per year. In 2004, more than 200,000 California workers were diagnosed with deadly, chronic diseases - such as cancer or emphysema - attributable to chemical exposure in the workplace. Over that same year, 240,000 cases of preventable childhood diseases related to exposure to chemical substances were diagnosed.

For the last century, environmental and public health protection has concentrated on capturing and storing hazardous waste. Green Chemistry is a fundamentally different approach to environmental and public health protection, transitioning away from managing hazardous chemicals to reducing or eliminating the use of hazardous materials in the design, manufacture and application of products altogether. Green Chemistry encourages cleaner and less-polluting industrial processes, while creating new economic opportunities in the design and use of chemicals, materials, products, and processes.

In 2008, the California Legislature recognized the principle of Green Chemistry by enacting two landmark pieces of legislation, AB 1879 (Feuer and Huffman, Chapter 559, Statutes of 2008) and SB 509 (Simitian, Chapter 560, Statutes of 2008). These bills lay the statutory foundation for the state's Green Chemistry program and intend to establish a comprehensive approach to chemicals policy.

The structure for regulatory action required by this legislation is broad and general. Rather than specifying particular chemicals or explicit regulatory action on those chemicals, the statutes authorize state agencies, primarily DTSC, to set up a process to identify and evaluate chemicals of concern and the products in which they are found, and to impose appropriate regulatory action for those chemicals and products in order to protect people and the environment. This unique statutory approach anticipated state agencies playing a greater role in developing strategies and policies designed to meet the general objectives of the statute. Faced with significant agency discretion, the Legislature has an important oversight obligation

to assure that state agencies have complied with both the letter, as well as the spirit, of the law.

Ten years after the Green Chemistry statutes were enacted, on October 2018, the Public Health Institute released a report, *California's Green Chemistry Initiative at Age 10: An Evaluation of its Progress and Promise*, which evaluated the Green Chemistry program in California. The report noted that while the Green Chemistry program is an innovative program with the potential to drive the market for safer chemicals and products, and has many of the attributes of a successful chemicals policy, it has failed to achieve its full potential in several ways.

This informational hearing was part of the California State Legislature's ongoing responsibility to ensure that broad agency authority under the state's Green Chemistry program is utilized effectively and efficiently to protect the public and the environment from toxic chemicals in products.

- **February 12, 2019 - Sacramento.** The ESTM Committee, along with the Senate Committee on Environmental Quality, held a joint hearing on Tuesday, February 12, 2019, to investigate California's efforts at protecting people and the environment from toxic chemicals in consumer and commercial products. At the hearing, the Committees explored the role of Green Chemistry in the state and assessed California's Green Chemistry program, with a particular focus on the DTSC's Safer Consumer Products regulations.

## **Oversight Hearing on the Department of Toxic Substances Control**

DTSC's mission is to protect public health and the environment from toxic harm by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically safer products. DTSC has approximately 900 scientists, engineers, toxicologists, chemists, geologists, attorneys, criminal investigators, and administrative staff. DTSC employees are geographically located in Sacramento headquarters and nine offices throughout the state, and in two environmental chemistry laboratories located in Berkeley and Pasadena. DTSC operations fall under three major program areas: Hazardous waste regulation, Site mitigation (cleanup of contaminated sites), and Safer consumer products regulation.

DTSC is funded by fees paid by persons that generate, transport, store, treat, or dispose of hazardous wastes; environmental fees levied on most corporations; federal funds; and General Fund dollars. DTSC's operating budget for 2018-19 is \$317,095,000.

DTSC's two largest funding sources are the Hazardous Waste Control Account (HWCA) and the Toxic Substances Control Account (TSCA). These funds comprise more than half of the Department's spending authority. They provide funding for the Hazardous Waste Management Program, the Cleanup Program and the Safer Consumer Products Program. They are also the primary funding source for DTSC's support programs, including administration, information technology, legal, and communications.

Expenditures out of HWCA and TSCA currently exceed revenues from fees, taxes, and cost recovery. The structural imbalance is largely a reflection that the baseline fees that feed into both funds, while adjusted annually based Consumer Price Index, have not been modified in over 20 years to account for new statutory mandates and the growth and changes in various programs. The structural deficit for TSCA is expected to worsen in the next couple of years, as a number of Superfund/National Priorities List (NPL) sites are anticipated to enter the post-cleanup monitoring and maintenance phase. Under federal law, the state is responsible for all post-cleanup costs. If left unaddressed, both accounts, TSCA and HWCA, will deplete their reserves resulting in negative fund balances in the near future. However, there is a large amount of uncertainty over when the reserves will be depleted.

In recent years, DTSC has faced criticism over fiscal mismanagement, inconsistent record keeping, insufficient administrative processes, and lack of transparency. Specific incidents across California have exposed and continue to expose glaring failings in DTSC's implementation of its core programs, as well as its support programs. Such incidences include the mishandling of the hazardous waste facility permitting and enforcement of Exide and the

Quemetco battery recycling facilities; delayed site remediation; failed public participation and transparency activities; and personnel issues. These issues, and others, have all led to decreased stakeholder confidence and public trust in DTSC's ability to meet its mandate to protect public health and the environment.

Over the last five years, the Legislature has conducted numerous hearings on DTSC's internal controls, its business practices, and its basic statutory obligations. In those hearings, the budget and policy committees have evaluated the following four main areas: (1) reviewing and monitoring DTSC's strategic plan and reorganization; (2) auditing cost recovery at DTSC; (3) providing staffing to improve permit backlogs and business operations; and, (4) improving enforcement at DTSC.

As a result of those hearings, statutory changes were made to clarify and strengthen the statute to help DTSC better achieve its mandates, and budget augmentations were made to give DTSC the resources to reduce backlogs and address outstanding programmatic failings. Included in those statutory changes was the creation of the DTSC Independent Review Panel (IRP) which spent three years looking at DTSC's permitting, enforcement, public outreach, and fiscal management. While the IPR noted that DTSC had made some progress to improve its programs, it generally found that many of the underlying concerns about transparency, accountability, and long-term stability of DTSC programs remain.

While Governor Jerry Brown recognized the need for improved programmatic performance by DTSC, he vetoed multiple improvement efforts, citing that none of those statutory changes should be done without also addressing the budget issues within DTSC.

Despite a number of internal and external efforts to improve DTSC's ability to satisfactorily meet its core mission and statutory mandates, the Department continues to not meet public expectations, especially in regards to clean-up and permitting activities. Effective regulation of hazardous waste and hazardous materials is essential for the protection of public health.

The Department's difficulties likely are a result of multiple factors, though undoubtedly a major factor is the shortage of funding from both HWCA and TSCA. The fees that feed into these funds have not been adjusted for over 20 years and do not reflect significant program expansions and new mandates.

Improving the function of DTSC will be extremely difficult, if not impossible, without addressing the funding issues. Resolution of the funding issues will require transparency of the true

revenues and expenditures of the past few years, as well as an identification of the true costs of performing all the statutory mandates for which DTSC is charged.

Bringing additional funding to DTSC will necessitate providing assurances that the additional funding will actually lead to better performance, including improved consideration of public health in its decisions and timely permitting. As noted by the IRP's final recommendation, providing these assurances will require actions to enhance transparency and accountability, perhaps with a governing board or other structural change.

- **February, 27, 2019 – Sacramento.** The ESTM Committee, along with the Assembly Budget Subcommittee # 3 (Resources and Transportation), the Senate Budget Subcommittee # 2 (Resources and Transportation), and the Senate Committee on Environmental Quality held an oversight hearing on DTSC. The goal of the hearing was to explore DTSC's fiscal situation and look at ways of reforming and improving DTSC so that it can better communicate with and protect the public from hazardous wastes and hazardous substances.



## **Oversight Hearing on Childhood Lead Levels: Millions of Children in Medi-Cal Have Not Received Required Testing for Lead Poisoning**

**(Report Number 2019-105)**

Exposure to lead can seriously harm a child's health. Millions of children are being exposed to lead in their homes, increasing their risks for damage to the brain and nervous system. Although all children are at risk for lead exposure, poor and minority children are disproportionately affected. Because calcium and iron prevent lead uptake in the body, poor nutrition can lead to higher risk for lead absorption; therefore, children on state nutrition assistance programs are considered higher risk for lead exposure. Economic studies have shown lead exposure can be a result of poverty as well as a contributor to the cycle that perpetuates and deepens the state of being poor.

Pursuant to the Legislature's request, in January 2020, the State Auditor released the audit entitled, *Childhood Lead Levels: Millions of Children in Medi-Cal Have Not Received Required Testing for Lead Poisoning* (Audit). Medi-Cal, the California Medical Assistance Program, is California's medical assistance program serving low-income individuals. The Audit focused on both the administration of lead tests to children in Medi-Cal and the activities of the Childhood Lead Poisoning Prevention Program (CLPPP). In general, the State Auditor determined that millions of children in Medi-Cal are not receiving the lead tests they should be receiving, and CDPH is not prioritizing the prevention of lead poisoning.

State law generally requires that children enrolled in Medi-Cal receive tests for elevated lead levels at the ages of one and two years. When the State Auditor's Office reviewed data maintained by the Department of Health Care Services (DHCS), they found that from fiscal years 2009–10 through 2017–18, more than 1.4 million of the 2.9 million one- and two-year-old children enrolled in Medi-Cal did not receive any of the required tests, and another 740,000 children missed one of the two tests. As a result, the rate of eligible children receiving all of the tests that they should have was less than 27 percent. Without these tests, health care providers do not know whether these children are suffering from elevated lead levels and need treatment. Despite low lead testing rates, DHCS has only recently begun developing an incentive program to increase testing and a performance standard for measuring the extent to which managed care plans are providing the tests.

The State Auditor's Office also found that CDPH, which manages the state's CLPPP, does not focus on proactive abatement of lead hazards to prevent future poisoning. Additionally, the Audit found that CDPH has failed to meet several legislative requirements, including a mandate

to update the factors that health care providers must use to determine whether a child is at risk of lead exposure, which would help them identify children who need testing.

- **March 10, 2020 – Sacramento.** The ESTM Committee held a joint oversight hearing with the Joint Legislative Audit Committee; the Assembly Committee on Health; and, the Senate Committees on Environmental Quality and Health to review the State Auditor's Office's report, *Childhood Lead Levels: Millions of Children in Medi-Cal Have Not Received Required Testing for Lead Poisoning* (report 2019-105, January 7, 2020). The report found that CDPH has not sufficiently identified areas of the state at high risk for childhood lead exposure, nor has it met its obligation to reduce the lead risks in those areas. The Committees heard an overview of the State Auditor's findings and recommendations for improved compliance for testing all eligible children on state assistance programs, such as Medi-Cal, and asked representatives from DHCS and CDPH about their plans and timelines for implementing the State Auditor's recommendations.

# **Oversight Hearing on California Department of Toxic Substances Control: The State's Poor Management of the Exide Cleanup Project Has Left Californians at Continued Risk of Lead Poisoning**

**(Report No. 2020-107)**

From the State Auditor, "As directed by the Joint Legislative Audit Committee, my office conducted an audit of the steps taken by the Department of Toxic Substances Control (DTSC) to identify and remove lead contamination from over 10,000 properties surrounding a former lead battery recycling facility in Vernon, California. Lead contamination can have detrimental effects on the health of individuals who are exposed, and in some cases can be lethal. Despite the importance of removing lead contamination, we found that DTSC's cleanup efforts are behind schedule."

Since 2015 the Department of Toxic Substances Control (DTSC) has been working to identify and remove lead contamination from about 10,160 properties surrounding a former lead battery recycling facility that Exide Technologies (Exide) operated in Southern California. Approximately 100,000 people live in the area surrounding the facility and are thus at risk of lead exposure, which can cause significant health problems for vulnerable populations such as children. DTSC's data indicate that a significant majority of the properties—including residences, childcare centers, parks, and schools— had dangerous levels of lead contamination.

In the early stages of its cleanup effort, DTSC identified 50 properties— including childcare centers, schools, and parks—where lead contamination posed a particularly high risk to children who frequently spend time at these locations. Despite the risk these properties present, DTSC has yet to clean 31 of them. In fact, it has cleaned only one of these properties since May 2018. In addition, DTSC has been unable to maintain the cleanup pace it presented in its 2017 plan for cleaning the most contaminated properties. As a result, it is significantly behind schedule and is unlikely to meet its goal to clean the 3,200 most contaminated properties by June 2021—extending the time that residents in the cleanup site are exposed to dangerous levels of lead. Finally, DTSC has not established a timeline or strategy for cleaning an estimated 4,600 remaining properties that also have dangerous levels of contamination. Until DTSC creates a plan for cleaning all lead-contaminated properties, stakeholders and policy makers will have little information about the level of effort and time the cleanup project will require.

The State has already provided \$251 million to DTSC to complete the cleanup of the 3,200 most contaminated properties. However, we estimate that DTSC will exhaust this funding before cleaning 269 of these properties. Moreover, based on DTSC's current spending rate, we estimate the total cost of the cleanup project will approach \$650 million. DTSC's estimates of per-property cleanup costs were inaccurate because it failed to account for predictable costs,

such as inflation and payment of legally required prevailing wages. Finally, DTSC has paid about \$17 million more than it anticipated to clean 768 properties because it did not establish adequate protections in its agreement with its largest cleanup contractor. In particular, it agreed to a cost structure that requires it to pay for all cost overruns related to labor and materials instead of a fixed-price structure that held the contractor responsible for cost overruns.

Summary of the Audit Recommendations: To ensure that it promptly and effectively addresses the risk that lead-contaminated properties pose to children and other individuals, DTSC should do the following: 1) Immediately begin cleaning all childcare centers, parks, and schools; 2) Immediately deploy sufficient resources to clean the 3,200 most contaminated properties on schedule; 3) By no later than April 2021, identify and publicize the date by which it expects to complete its cleanup of all 7,800 contaminated properties; 4) To ensure that it has sufficient funding to clean up all lead-contaminated properties, DTSC should identify the full amount of funding it needs to complete the cleanup of these properties. It should submit a request for funding in time for the spring 2021 budget discussions that includes a range of funding options that spans from funding for the full cleanup to funding for only a portion of the remaining contaminated properties; and, 5) To protect against the unsustainably high costs it has incurred thus far in the cleanup project, DTSC should structure any future cleanup contracts so that they at least partially incorporate fixed prices.

DTSC expressed concern about our conclusions that it is behind schedule to complete the cleanup of the 3,200 most contaminated properties and that it has not developed a cleanup plan for the remaining 4,600 properties. DTSC believes that it has cleaned properties more quickly than comparable cleanup projects and that it could not anticipate certain factors that have slowed its rate of progress. Further, DTSC cited a lack of funding as a reason it has not developed a plan to clean the remaining 4,600 properties. However, DTSC concurred with and agreed to implement all of our recommendations.

- **November 16, 2020 – Sacramento.** The ESTM Committee along with the Joint Legislative Audit Committee held an oversight hearing on the audit released covering DTSC's cleanup of the Exide Technologies contamination of thousands of properties near the facility. The hearing covered the missteps in contracting by DTSC, as identified by the Auditor as well as identified recommendations to improve DTSC's handling of the cleanup of the remaining properties.

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