Assembly Committee on Environmental Safety and Toxic Materials

2013 - 14 Legislative Summary



Luis Alejo, Chair



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ASSEMBLY COMMITTEE ON

ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

2013 - 2014 LEGISLATIVE SUMMARY

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Assembly Environmental Safety and Toxic Materials Committee

2013-2014 REGULAR LEGISLATIVE SESSION

ASSEMBLY COMMITTEE ON

ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

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Introduction

During the 2013- 2014 Regular Legislative Session, 78 measures were referred to the Assembly Committee on Environmental Safety and Toxic Materials. This report contains summaries of the bills referred to, and considered by, the Committee during the 2013- 2014 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 2013 and 2014, the Committee held 8 oversight hearings focusing on governmental programs within the Committee's jurisdiction. Summaries of the topics investigated are included in this report.

The jurisdiction of the Environmental Safety and Toxic Materials Committee includes the following:

Department of Pesticide Regulation
Drinking water regulation, toxic contamination of water
Emergency response relating to hazardous materials
Hazardous waste regulation and remediation
Pesticides: processed food and public health
Proposition 65
Regulation of consumer products containing toxic substances under the Sherman Food, Drug and Cosmetics Law
Toxic air contaminants and indoor air quality
Toxic substances and hazardous materials, except for workplace safety
Underground storage tank regulation and cleanup

Additional information on these measures may be obtained online at <u>www.leginfo.ca.gov</u>, or by calling the Assembly Environmental Safety and Toxic Materials Committee at (916) 319-3965.

2013 - 2014 Legislative Summary

Air Quality: Toxic Air Contaminants and Indoor Air Quality

SB 498 (Lara) Solid waste: biomass conversion. Provides expanded authority for biomass processing facilities. Includes conversion technologies that use specified biomass feedstock in the definition of "biomass conversion" for purposes of the Integrated Waste Management Act.

Final Status: Signed into law, Chapter 746, Statutes of 2014.

SB 804 (Lara) Solid waste: energy. Specifies that conversion technologies that use specified biomass feedstocks are included in the definition of "biomass conversion" for purposes of the Integrated Waste Management Act (IWMA). Requires biomass conversion technology facilities to certify to the air district that a local agency sending biomass to the facility is in compliance with the IWMA. Authorizes the Department of Resource Recycling and Recovery to inspect the facility to ensure that the facility is only processing biomass that meets the local certification requirement and is limited to the "biomass eligible waste stream."

Final Status: Governor vetoed on October 11, 2014.

Chemicals Policy: Chemicals in Products

AB 227 (Gatto) Proposition 65: enforcement. Changes the enforcement provisions of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) by limiting recovery by private citizen enforcement action for specified types of exposure to chemicals causing cancer, or birth defects, or other reproductive harm, in those circumstances when the failure to provide clear and reasonable warnings has been remedied and a penalty has been paid.

Final Status: Signed into law, Chapter 581, Statutes of 2013.

AB 324 (Bloom) Glass beads: lead and arsenic. Extends the sunset date from January 1, 2015, to January 1, 2020, on the prohibition of the manufacture or sale of glass beads containing hazardous heavy metals if the beads will be used with blasting equipment, and makes technical changes to make this program consistent with other enforcement programs.

Final Status: Signed into law, Chapter 230, Statutes of 2013.

AB 358 (Holden) Lead hazard evaluation. Provides specific standards for lead hazard evaluation in public and residential buildings. Requires that testing of lead hazards in public buildings or residential buildings be carried out in compliance with the Department of Public Health and include either quantitative or qualitative results using tests recognized by the United States Environmental Protection Agency.

Final Status: Held in the Senate Appropriations Committee.

AB 597 (Dahle) Hazardous materials: chemicals of concern. Prohibits the Department of Toxic Substances Control from taking a regulatory response on chemicals or chemical ingredients in consumer products until an unspecified number of days after the date that it submits a notice to the consumer product manufacturer, the consumer product distributor, and the consumer product retailer.

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

AB 1026 (Quirk) Toxic chemicals: listing. Changes the process for identifying and listing carcinogens and reproductive toxicants under the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) to require that chemicals are listed based only when if there is sufficient evidence that the suspect material is known to cause cancer or reproductive toxicity.

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

AB 1699 (Bloom) Waste management: synthetic plastic microbeads. Prohibits, on or after January 1, 2016, the sale or promotion of personal care products containing microplastic.

Final Status: Held in the Senate Appropriations Committee.

AB 2361 (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.

SB 1019 (Leno) Upholstered furniture: flame retardant chemicals. Requires manufacturers of upholstered furniture to indicate, on a label currently required by law, whether or not the product contains added flame retardant chemicals.

Final Status: Signed into law, Chapter 862, Statutes of 2014.

Drinking Water

AB 1 (Alejo) Water quality: integrated plan: Salinas Valley. Appropriates \$2 million from the Waste Discharge Permit Fund to the State Water Resources Control Board for use by the Greater Monterey County Regional Water Management Group to develop an integrated plan to address the drinking water and wastewater needs of the disadvantaged communities in the Salinas Valley.

Final Status: Held in the Assembly Appropriations Committee.

AB 21 (Alejo) Safe Drinking Water Small Community Emergency Grant Fund. Creates the Safe Drinking Water Small Community Emergency Grant Fund and authorizes the Department of Public Health to assess an annual charge to be deposited in this fund in lieu of interest that would otherwise be charged on Safe Drinking Water State Revolving Fund loans. Authorizes the monies in the grant fund to be used for grants for emergency drinking water projects that meet the requirements stated in the Emergency Clean Water Grant Fund provisions that serve disadvantaged and severely disadvantaged communities.

Final Status: Signed into law, Chapter 628, Statutes of 2013.

AB 69 (Perea) Groundwater: drinking water: Nitrate at Risk Fund. As approved by the Assembly, established the Nitrate at Risk Area Fund to be administered by the State Water Resources Control Board to fund solutions for disadvantaged communities with nitrate-contaminated drinking water to be administered by the State Water Resources Control Board.

This bill was substantially amended in the Senate to remove the provisions approved by the Assembly and to substitute language that exempts transportation fuels from the requirements of the California Global Warming Solutions Act of 2006.

Final Status: Held in the Senate Rules Committee.

AB 115 (Perea) Safe Drinking Water State Revolving Fund. Expands the eligibility for planning grants from the Safe Drinking Water State Revolving Fund by allowing multi-agency grant

applications when at least one of the communities served by the construction project will meet safe drinking water standards.

Final Status: Signed into law, Chapter 630, Statutes of 2013.

AB 118 (Committee on Environmental Safety and Toxic Materials) Safe Drinking Water State Revolving Fund. Authorizes drinking water systems serving a severely disadvantaged community to be eligible for a grant instead of a loan from the State Drinking Water State Revolving Fund (SDWSRF) and allows loans from the SDWSRF to cover the full cost of a project, instead of having to adhere to the current limit of \$20 million per project.

Final Status: Signed into law, Chapter 631, Statutes of 2013.

AB 119 (Committee on Environmental Safety and Toxic Materials) Water treatment devices. Modifies the Department of Public Health (DPH) approval process for in-home water treatment devices. Requires DPH to approve water treatment devices that make health claims, provided that the manufacturer of the device submits independent third party certification of the effectiveness of the water treatment device to the DPH.

Final Status: Signed into law, Chapter 403, Statutes of 2013.

AB 145 (Perea) State Water Resources Control Board: drinking water. Transfers, during the 2014 - 2015 fiscal year, the duties and responsibilities related to the regulation and oversight of drinking water, including the authority to administer the Safe Drinking Water State Revolving Fund, from the Department of Public Health, which is within the California Health and Human Services Agency, to the State Water Resources Control Board, which is within the California Environmental Protection Agency.

Final Status: Held in the Senate Appropriations Committee.

AB 467 (Stone) Freshwater Protection Act. As approved by the Assembly, created the Freshwater Protection Fund to receive monies for funding various activities relating to drinking water solutions for disadvantaged and severely disadvantaged communities, fertilizer

management, and groundwater quality.

This bill was substantially amended in the Senate to remove the provisions approved by the Assembly and to substitute language that provides a license and regulatory framework for a "surplus medication collection and distribution intermediary" to facilitate the donation of surplus medications in California.

Final Status: Signed into law, Chapter 10, Statutes of 2014.

AB 1043 (Chau) Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006: groundwater contamination. Modifies the disposition of specified Proposition 84 funds, including by allowing local agencies that receive grants or loans from Proposition 84 for groundwater projects that are subsequently able to recover costs from responsible parties, to then access that money to fund additional groundwater cleanup activities.

Final Status: Signed into law, Chapter 349, Statutes of 2014.

AB 1249 (Salas) Integrated regional water management plans: nitrate, arsenic, perchlorate, or hexavalent chromium contamination. Requires the Department of Water Resources' integrated regional water management plans (IRWMPs) to include consideration of the impacts of drinking water contaminated by nitrate, arsenic, perchlorate, or hexavalent chromium, should those contaminants exist within the boundaries of the IRWMP.

Final Status: Signed into law, Chapter 717, Statutes of 2014.

AB 1527 (Perea) Public water systems: Safe Drinking Water State Revolving Fund. Requires the State Water Resources Control Board to provide incentives for the consolidation of public water systems for funding under the Safe Drinking Water State Revolving Fund based on a service review developed by a local agency formation commission.

Final Status: Governor vetoed on September 28, 2014.

AB 1630 (Alejo) Water quality: integrated plan: Salinas Valley. Appropriates \$2 million from the Waste Discharge Permit Fund to the State Water Resources Control Board for use by the Greater Monterey County Regional Water Management Group to develop an integrated plan to address the drinking water and wastewater needs of the disadvantaged communities in the Salinas Valley.

Final Status: Held in the Senate Environmental Quality Committee.

AB 1674 (Bigelow) Vended water. Exempts a water-vending machine from various quality and labeling standards for bottled water and vended water, if the drinking water vended by the machine derives from a groundwater basin that does not exceed the maximum contaminant levels.

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

AB 2049 (Dahle) Drinking water: point-of-entry and point-of-use treatment systems. Expands the authorization, from 200 connections to 500 connections, for small public water systems to use point-of-use and point-of-entry treatment in lieu of centralized water treatment.

Final Status: Held in the Senate Environmental Quality Committee.

AB 2737 (Committee on Environmental Safety and Toxic Materials) Safe drinking water. Requires the California Department of Public Health to develop and implement drinking water pilot projects in the Salinas Valley, Tulare Lake Basin, and Coachella Valley in economically disadvantaged areas in which high levels of arsenic or nitrate contamination have been detected in the drinking water.

Final Status: Held in the Assembly Appropriations Committee.

AB 2738 (Committee on Environmental Safety and Toxic Materials) Contamination. Contains technical or noncontroversial revisions to hazardous materials and safe drinking water provisions of the statutes.

Final Status: Signed into law, Chapter 828, Statutes of 2014.

SB 14 (Gaines) Bear Lake Reservoir: recreational use. Allows the Bear Lake Reservoir to be used for swimming and to store water for domestic use, under specified conditions.

Final Status: Signed into law, Chapter 172, Statutes of 2013.

SB 1130 (Roth) Drinking water: County Water Company of Riverside water system: liability. Provides limited immunities from liability for the Elsinore Valley Municipal Water District, the Eastern Municipal Water District, the Western Municipal Water District, and the Metropolitan Water District of Southern California for claims by past or existing County Water Company of Riverside (CWC) customers, or those who consumed water provided through the CWC water system, prior to and during an interim operation period.

Final Status: Signed into law, Chapter 173, Statutes of 2014.

SB 1292 (Hueso) Safe Drinking Water State Revolving Fund. Increases, from \$3 million to \$5 million the maximum amount of a construction grant award authorized under the Safe Drinking Water State Revolving Fund to each participating public water system serving a severely disadvantaged community for the system's share of the cost of a construction project.

Final Status: Governor vetoed on September 29, 2014.

Hazardous Materials: Emergency Response

AB 380 (Dickinson) Spill response for railroads. Requires rail carriers to submit specific information regarding the transport of hazardous materials and Bakken oil to the Office of Emergency Services for the purposes of emergency response planning.

Final Status: Signed into law, Chapter 533, Statutes of 2014.

AB 403 (Stone) Solid waste: home-generated sharps. Requires businesses that sell medical sharps to establish a product stewardship plan for the end of life management of home-generated medical sharps.

Final Status: Held in the Assembly Appropriations Committee.

AB 1827 (Patterson) State bodies: environmental agencies: administrative and civil penalties. Prohibits the California Environmental Protection Agency and the California Natural Resources Agency departments, boards, and offices from imposing civil or administrative penalties for violations of the law without allowing a business to correct the violation.

Final Status: Held in the Assembly Environmental Safety and Toxics Material Committee.

SB 193 (Monning) Hazard evaluation system and information service. Requires chemical manufacturers and importers to provide the Hazard Evaluation System and Information Service repository the names and addresses of businesses to which these manufacturers and importers sold their products.

Final Status: Signed into law, Chapter 830, Statutes of 2014.

SB 483 (Jackson) Hazardous materials: business and area plans. Revises and recasts the area and business plan requirements regarding unified program agencies. Requires the inspection program that is part of the unified program to include the onsite inspection of businesses and deletes the requirement to institute a data management system.

Final Status: Signed into law, Chapter 419, Statutes of 2013.

SB 1261 (Jackson) Hazardous materials: business plans. Revises and recasts the area and business plan requirements for certified unified program agencies. Requires the California Environmental Protection Agency, in coordination with the Office of Emergency Services, to specify the hazardous materials inventory required to be submitted by handlers, including the data to be collected and submitted for hazardous materials. Revises the information required to be included in the business plan, and makes other updates to the unified hazardous waste and hazardous materials management regulatory program.

Final Status: Signed into law, Chapter 715, Statutes of 2014.

SB 1458 (Committee on Environmental Quality) Hazardous substances. Makes technical and non-substantive corrections to the Department of Toxic Substance Control's program authority for hazardous waste regulation and the State Water Resources Control Board's underground storage tank programs.

Final Status: Signed into law, Chapter 544, Statutes of 2014.

Hazardous Waste: Regulation and Remediation

AB 333 (Wieckowski) Medical waste. Makes numerous technical and conforming changes to the Medical Waste Management Act.

Final Status: Signed into law, Chapter 564, Statutes of 2014.

AB 440 (Gatto) Hazardous materials: releases: local agency cleanup. Authorizes local government agencies to remedy or remove a release of hazardous substances within the boundaries of the local agency. Allows counties, cities, or housing authorities to undertake the cleanup of a contaminated property if there is no responsible party for the property; the responsible party fails to agree within 60 days of request to clean up the property; or, having agreed, the responsible party fails to follow through in an appropriate and timely manner.

Final Status: Signed into law, Chapter 588, Statutes of 2013.

AB 452 (Brown) Radioactive materials: federal regulation. Provides that regulations adopted by the Nuclear Regulatory Commission in effect on January 1, 2014, are deemed to be the regulations of this state and adopted pursuant to the Radiation Control Law, if the regulations are required by federal law in an essentially identical manner. Prohibits the Department of Public Health from adopting regulations that are determined by the Nuclear Regulatory Commission to address areas of regulation that cannot be relinquished to agreement states.

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

AB 686 (Quirk) Alcoholic beverages: sales: distilled spirits. As approved by the Assembly, required the Department of Toxic Substance Control to develop recommendations for standards and guidelines for the operation of on-site hazardous waste management and recycling at pharmaceutical manufacturing and processing facilities.

This bill was substantially amended in the Senate to remove the provisions approved by the Assembly and to substitute language that authorizes distilled spirits manufacturers to sell general merchandise, food, nonalcoholic beverages, and distilled spirits to consumers on the

licensed premises.

Final Status: Held in the Senate Governmental Organization Committee.

AB 1190 (Bloom) Hazardous waste: transportation. Exempts public utilities from hazardous waste transport requirements when they are transporting up to 5,000 gallons of hazardous wastewater under specified emergency situations.

Final Status: Signed into law, Chapter 793, Statutes of 2014.

AB 1329 (V. Manuel Pérez) Hazardous waste. Requires the Department of Toxic Substances Control to prioritize enforcement actions in communities identified by the California Environmental Protection Agency as being the most impacted environmental justice communities. Prohibits a person from transporting hazardous waste if the final destination of the transported hazardous waste is a domestic facility on tribal lands outside the jurisdiction of the state unless the facility is subject to a cooperative agreement.

Final Status: Signed into law, Chapter 598, Statutes of 2013.

AB 1635 (Brown) Radioactive materials: federal regulation. Authorizes the State Department of Public Health to adopt a regulation adopted by the United States Nuclear Regulatory Commission by a specified procedure.

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

AB 1966 (Patterson) Hazardous waste: regulations. Requires the Department of Toxic Substance Control to adopt federal testing requirements for hazardous waste analysis.

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

AB 2371 (Mullin) Pharmaceutical waste management: exemption: over-the-counter drugs and nutritional supplements. Requires local governments to update Household Hazardous

Waste Management Elements to include consideration of the convenience of waste collection.

Final Status: Held in the Senate Environmental Quality Committee.

AB 2748 (Committee on Environmental Safety and Toxic Materials) Hazardous waste: business plans. Provides that a business that handles paint that will be recycled or otherwise managed under an architectural paint recovery program approved by the Department of Resources Recycling and Recovery is only required to establish and implement a hazardous materials business plan if it handles postconsumer (leftover) paint above specified quantities.

Final Status: Signed into law, Chapter 744, Statutes of 2014.

AJR 30 (Stone) Federal Chemical Safety Improvement Act. Memorializes the Congress and the President of the United States to respect the rights of states to protect the health of their citizens, and to not enact the federal Chemical Safety Improvement Act (S. 1009) in its current form containing provisions that preempt a state's authority to protect the public from toxic chemicals.

Final Status: Held on the Senate floor.

SB 712 (Lara) Hazardous waste facility: permitting: interim status. Requires the Department of Toxic Substance Control to take final action prior to December 31, 2015, on a permit renewal application for a hazardous waste treatment facility operating under an interim permit issued on or prior to January 1, 1986. Provides that any interim permit status granted for a hazardous waste facility shall terminate five years from the date on which the status was granted.

Final Status: Signed into law, Chapter 419, Statutes of 2013.

SB 812 (De León) Hazardous waste. Modifies the Department of Toxic Substances Control's (DTSC) permitting process and public participation requirements for hazardous waste facilities. Establishes a Bureau of Internal Affairs to oversee DTSC and investigate departmental misconduct and a DTSC Citizen Oversight Committee to receive and review allegations of misconduct.

Final Status: Governor vetoed on September 29, 2014.

SB 1014 (Jackson) Pharmaceutical waste: home generated: collection. Requires the Department of Resources Recycling and Recovery and the California State Board of Pharmacy to jointly develop regulations authorizing a voluntary program to collect and properly dispose of home-generated pharmaceutical waste.

Final Status: Held in the Assembly Appropriations Committee.

SB 1249 (Hill) Hazardous waste: shredder waste. Authorizes the Department of Toxic Substances Control to adopt regulations establishing management standards for hazardous waste management activities at metal shredding facilities until January 1, 2018.

Final Status: Signed into law, Chapter 756, Statutes of 2014.

Marine Water Quality

SB 1395 (Block) Public beaches: inspection for contaminants. Authorizes the Department of Public Health to allow local health officers to use specified alternative beach water quality tests.

Final Status: Signed into law, Chapter 928, Statutes of 2014.

Pesticides: Department of Pesticide Regulation

AB 304 (Williams) Pesticides: toxic air contaminant: control measures. Sets a two-year deadline for the Director of the Department of Pesticide Regulation to adopt control measures to protect human health on any pesticide determined by the Director to be a toxic air contaminant.

Final Status: Signed into law, Chapter 584, Statutes of 2013.

AB 425 (Atkins) Pesticides: copper-based antifouling paint: leach rate determination: mitigation measure recommendations. Requires, no later than February 1, 2014, the Department of Pesticide Regulation to determine a leach rate for copper-based antifouling paint used on recreational vessels, and to make recommendations for appropriate mitigation measures to address the protection of aquatic environments from the effects of exposure to that paint.

Final Status: Signed into law, Chapter 587, Statutes of 2013.

AB 1789 (Williams) Pesticides: neonicotinoids: reevaluation: determination: control measures. Requires, on or before July 1, 2018, the Department of Pesticide Regulation (DPR) to issue a determination with respect to its reevaluation of neonicotinoid pesticides. Requires, if DPR is unable to adopt control measures necessary to protect pollinator health within two years, DPR to submit a report to the appropriate committees of the Legislature setting forth the reasons that they were unable to do so.

Final Status: Signed into law, Chapter 578, Statutes of 2014.

AB 2657 (Bloom) Wildlife habitat areas: use of anticoagulants. Prohibits the use of anticoagulant rodenticides in wildlife habitat areas.

Final Status: Signed into law, Chapter 475, Statutes of 2014.

SB 1117 (Monning) Pesticide Contamination Prevention Act. Requires the Department of Pesticide Regulation, in consultation with a specified subcommittee, to develop peer-reviewed methods for determining how pesticides are included on the Groundwater Protection List.

Final Status: Signed into law, Chapter 626, Statutes of 2014.

SB 1244 (Lieu) Structural Pest Control Board. Extends, until January 1, 2019, the provisions establishing the Structural Pest Control Board (SPCB) and the term of the executive officer of the SPCB, and makes numerous technical, updating, and correcting changes to the structural pest control law.

Final Status: Signed into law, Chapter 560, Statutes of 2014.

SB 1332 (Wolk) Pesticides: carbon monoxide pest control devices. Authorizes the California Department of Pesticide Regulation to adopt and enforce regulations that provide for the use of carbon monoxide pest control devices.

Final Status: Signed into law, Chapter 257, Statutes of 2014.

SB 1405 (DeSaulnier) Pesticides: schoolsites. Requires, under the Healthy Schools Act of 2000, schools and day care facilities, if they choose to use certain pesticides, to post on their Internet website an integrated pest management (IPM) plan, to submit pesticide use information to the Department of Pesticide Regulation, and to have specified staff trained in IPM strategies.

Final Status: Signed into law, Chapter 848, Statutes of 2014.

Porter-Cologne Water Quality Control Act; Toxic Contamination of Water; Surface Water and Groundwater Protection

AB 30 (Perea) Water quality. Removes the sunset date for the Small Community Grant Fund, which provides grants to small communities for the construction of wastewater collection, treatment, or disposal projects.

Final Status: Signed into law, Chapter 629, Statutes of 2013.

AB 371 (Salas) Sewage sludge: Kern County. Requires the State Water Resources Control Board to require testing on the effects of sewage sludge or other biological solids applied on properties in Kern County.

Final Status: Held in the Senate Rules Committee.

AB 407 (V. Manuel Pérez) Renewable energy resources: Salton Sea. As approved by the Assembly, required a state agency awarding or granting funds for projects associated with the New River to ensure that the grants, loans, or other forms of financial support are expended in a manner consistent with the New River Improvements Project strategic plan.

This bill was subsequently amended in the Senate to remove the provisions approved by the Assembly and to substitute language that requires the State Energy Resources Conservation and Development Commission, in consultation with the Public Utilities Commission and the Independent System Operator, to convene a stakeholder group to identify impediments and recommend steps that should be taken to properly maintain, develop, integrate, and transmit electricity generated by eligible renewable energy resources located in and around the Salton Sea and the Geysers Geothermal Field.

Final Status: Held in the Senate Energy, Utilities, and Communications Committee.

AB 687 (Roger Hernández) Electricity. Permits the California Public Utilities Commission to give priority direct electrical power purchase rights to public entities cleaning up polluted Superfund groundwater. Provides priority direct power purchase rights to public entities currently

remediating groundwater that local, state, and federal agencies have identified as contaminated, and that the United States Environmental Protection Agency has placed on its Superfund list.

Final Status: Held in the Senate Appropriations Committee.

AB 803 (Gomez) Water Recycling Act of 2013. Modifies the State Water Resources Control Board (SWRCB) and Regional Water Quality Control Boards' (RWQCBs) regulation of recycled water. Modifies recycled water spill reporting and authorizes the SWRCB and the RWQCBs to permit Advanced Treated Purified Water projects at the point where the highly treated water enters a conveyance facility exiting the treatment plant.

Final Status: Signed into law, Chapter 635, Statutes of 2013.

AB 1200 (Levine) Recycled water: agricultural irrigation impoundments: pilot project. Requires the San Francisco Bay Regional Water Quality Control Board to authorize a voluntary pilot project within the Counties of Napa and Sonoma to investigate potential water quality impacts and water supply benefits associated with allowing agricultural irrigation impoundments containing recycled water to overflow during storm events.

Final Status: Governor vetoed on October 7, 2013.

AB 1251 (Gorell) Water quality: stormwater. Establishes the Stormwater Task Force to develop recommended control for sources of stormwater pollution.

Final Status: Held in the Assembly Appropriations Committee.

AB 1707 (Wilk) Water quality: scientific peer review. Requires the State Water Resources Control Board and regional water quality control boards to post on their Internet websites a copy of the scientific peer review conducted for proposed total maximum daily load requirements adopted to implement the Federal Clean Water Act.

Final Status: Signed into law, Chapter 722, Statutes of 2014.

AB 1896 (V. Manuel Pérez) Coachella Valley Water District: nonpotable water use. Adds landscaped common areas of residential developments maintained by a homeowner's association to those entities within the Coachella Valley Water District for which a person or local public agency is prohibited from using potable water for nonpotable uses.

Final Status: Signed into law, Chapter 267, Statutes of 2014.

AB 2071 (Levine) Recycled water: animals. Requires the California Department of Public Health to establish standards for the use of treated recycled water for use by pasture animals.

Final Status: Signed into law, Chapter 731, Statutes of 2014.

AB 2442 (Gordon) Porter-Cologne Water Quality Control Act: remedial action: liability. Provides the State Water Resources Control Board and regional water quality control boards with explicit protection from civil liability related to investigating and cleaning up water pollution.

Final Status: Signed into law, Chapter 739, Statutes of 2014.

AB 2712 (Daly) Hazardous materials: Orange County Water District: groundwater remediation. Establishes a process for groundwater cleanup for the Orange County Water District.

Final Status: Held on the Senate Floor.

SB 322 (Hueso) Water recycling. Modifies the duties of the California Department of Public Health regarding the development of uniform water recycling criteria for indirect and direct potable reuse.

Final Status: Signed into law, Chapter 637, Statutes of 2013.

SB 429 (Hernández) San Gabriel Basin Water Quality Authority Act. Extends the San Gabriel Basin Water Quality Authority from July 1, 2017, to July 1, 2030.

Final Status: Signed into law, Chapter 214, Statutes of 2013.

Site Cleanup: Underground Storage Tank Regulation

AB 120 (Committee on Environmental Safety and Toxic Materials) Underground storage tanks: school districts. Modifies eligibility requirements for the School District Account within the Underground Storage Tank Cleanup Fund.

Final Status: Signed into law, Chapter 632, Statutes of 2013.

AB 282 (Wieckowski) Underground storage tanks: petroleum: charges. Extends the current \$0.006 storage fee on each gallon of petroleum placed in an underground storage tank from the current sunset date of January 1, 2014, to January 1, 2016.

Final Status: Held in the Senate Appropriations Committee.

SB 445 (Hill) Underground storage tanks: hazardous substances: petroleum: groundwater and surface water contamination. Extends the current State Water Resources Control Board (SWRCB) program for the clean up of underground storage tanks (USTs) from 2016 to 2020. Authorizes a two-cent per gallon fee on petroleum products until 2020 to extend the current SWRCB program for the clean up of USTs. Requires owners and operators of single-walled USTs to permanently close their single-wall tanks by December 31, 2020.

Final Status: Signed into law, Chapter 547, Statutes 2014.

SB 763 (Fuller) State Water Resources Control Board: underground storage tanks. Eliminates the sunset date on the loans and grants program known as the Replacing, Removing, and Upgrading Tanks Program, changes the interest rate on the loans, reduces the share of funds that may be used for grants, and transfers \$8 million from the Underground Storage Tank Cleanup Fund to the Petroleum Underground Storage Tank Financing Account.

Final Status: Signed into law, Chapter 640, Statutes of 2013.

2013 – 2014 Oversight Hearings

Drinking Water Program Organization: Improving State Assistance and Regulation of Public Drinking Water Systems

March 18, 2013 – Sacramento, CA

The Assembly Environmental Safety and Toxic Materials Committee (ESTM) held an oversight hearing on Monday, March 18, 2013, to consider whether efficiencies can be achieved and effectiveness can be improved if California's Drinking Water Program (DWP) is moved from the California Department of Public Health (DPH), which is housed in the California Health and Human Services Agency, to the California Environmental Protection Agency (CalEPA).

This hearing was the second in a four-part series of oversight hearings investigating the provision of safe, affordable, accessible drinking water to all Californians, especially those in disadvantaged communities. At the first hearing, held on November 14, 2012, the ESTM Committee reviewed the actions that state agencies, including DPH, which manages the state's DWP, had taken to address the issue of contaminated drinking water, especially in disadvantaged communities.

Specifically, the hearing sought to investigate progress on the following statement regarding the review of the DWP, submitted in the Proposed 2013 – 2014 State Budget in January, 2013, by Governor Jerry Brown:

"The Administration is reviewing the State's activities related to the provision of safe drinking water and to recommend efficiencies and alignments to maximize the state's ability to ensure that all members of the public have access to safer water. In addition, the State Water Resources Control Board will recommend potential funding mechanisms to provide disadvantaged communities with safe, affordable, and reliable water. Stakeholders will be consulted in the development of a proposal to improve the administration of the water programs and to implement sustainable funding mechanisms."

The ESTM hearing gathered information and took testimony on policy issues related to the DWP, including:

- 1) How can we, as a state, ensure that all Californians have access to the safest drinking water sources?
- 2) Can the water quality program management experience of the CalEPA be useful in informing the management of the state's DWP?
- 3) Is it efficient and effective to have the DWP housed in a different agency than the agency that oversees water quality?
- 4) Will moving the DWP from the DPH to CalEPA provide program efficiency and effectiveness?

<u>Recent state drinking water policy</u>: In 2012, the Legislature and Governor Brown recognized the principle that all people have a right to safe drinking water by enacting AB 685 (Eng). This state policy declares that every human being has the right to clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. While in California the majority of residents receive drinking water that meets public health standards, recent studies have shown that many disadvantaged and rural communities have not had, and continue not to have, access to safe, accessible, and affordable drinking water.

<u>The State Drinking Water Program</u>: In 1974, the federal Safe Drinking Water Act (SDWA) was passed by the United States Congress to protect public health by regulating public drinking water sources. The federal SDWA authorized the United States Environmental Protection Agency (US EPA) to establish mandatory drinking water standards. In 1976, the California SDWA was enacted to build on and strengthen the federal SDWA. At the time of the hearing, the California SDWA required DPH to manage the state's DWP. The DWP's mission includes the enforcement of the federal and state safe drinking water acts and the oversight of Public Water Systems (PWSs) throughout the state.

At the time of the hearing, in California, several state entities had responsibility over water quality; however, DPH was the only entity responsible for the oversight of the DWP and for enforcing the quality and safety of the state's drinking water. DPH's responsibility for the quality of drinking water began when water was pumped from a drinking water well or surface-water intake point. The State Water Resources Control Board (SWRCB) and the regional water quality control boards were responsible for the quality of the water source before the water is pumped.

<u>Transfer of the DWP</u>: With the Governor's signing of Senate Bill 851 and Senate Bill 861, the administration of the DWP was transferred from DPH to the SWRCB on July 1, 2014.

Groundwater Contamination and the Threat to California Drinking Water

April 2, 2013 – Sacramento, CA

The Assembly ESTM Committee held an oversight hearing on Tuesday, April 2, 2013, focusing on California's groundwater contamination and the steps needed to protect the state's drinking water. This hearing was the third in a four-part series of ESTM oversight hearings on the provision of safe, affordable, accessible drinking water to all Californians, especially those in disadvantaged communities.

At the April 2nd hearing, Committee members investigated the causes and severity of groundwater contamination, and examined solutions for providing safe drinking water to communities that rely on contaminated groundwater as their source of drinking water. This ESTM hearing considered the following:

- 1) Is there, or how can we create, a reliable, stable funding source to provide long-term safe drinking water infrastructure and interim solutions for the small disadvantaged communities impacted by nitrate contamination?
- 2) To provide long-term protection for groundwater supplies, how can we develop an effective system for minimizing discharges of nitrates and other contaminants to groundwater?
- 3) How can we provide DPH, or another state agency, regional organizations, and county agencies with the regulatory responsibility and authority to assess alternatives for providing safe drinking water and to develop, design, implement, operate, and manage drinking water systems for small disadvantaged communities impacted by nitrate contamination?
- 4) Nitrate contamination of drinking water is a nationwide problem. In many cases, individual states have established programs to provide assistance and relief for drinking water systems affected by nitrate contamination. Are there actions that regulatory agencies in other states have taken to regulate nitrate sources, such as fertilizer, animal waste, food processing by-products, and domestic septic systems, that California should learn from?
- 5) Is California's regulatory program for fertilizers robust enough to protect groundwater? Can the financial aspects of the regulatory program be improved upon?

<u>Recent reports</u>: In 2013, the State Water Resources Control Board (SWRCB) issued two critical reports on the status of drinking water and the threat posed to drinking water supplies by groundwater contamination from natural and anthropogenic chemicals.

- 1) Communities That Rely on a Contaminated Groundwater Source For Drinking Water, Report to the Legislature, January 2013; and,
- 2) *Recommendations Addressing Nitrate in Groundwater, Report to the Legislature*, February 2013.

Prevalence of groundwater contamination in disadvantaged communities: Assembly Bill 2222 (Caballero) Chapter 670, Statutes of 2008, required the SWRCB to submit to the Legislature a report that identifies, among other things, communities that rely on contaminated groundwater as a primary source of drinking water. The resultant report, Communities That Rely on a Contaminated Groundwater Source For Drinking Water, which was released in January 2013, identified 682 community public water systems (PWS) that rely on contaminated groundwater as a primary source of drinking water. These community water systems serve nearly 21 million people. The SWRCB report also revealed that 265 community PWS that rely on contaminated groundwater and serve more than two million people had received at least one drinking water quality violation within the last DPH compliance cycle. According to this report, most of the community PWSs with violations of drinking water standards are located in the Southern California Inland Empire, the east side of the San Joaquin Valley, the Salinas Valley, and the Santa Maria Valley. The findings from this report and the recent University of California Davis (UCD) study, Addressing Nitrate in California's Drinking Water, which informed the second SWRCB report, suggest that drinking water contamination in California disproportionally affects small, rural, and low-income communities that depend mostly on groundwater as their drinking water source.

An additional two million Californians rely on groundwater from either a private domestic well or a smaller groundwater-reliant system that is not regulated by the State. Most of these residents lack an assessment of their water because they are not required to test its quality.

<u>Nitrate contamination in California</u>: Senate Bill SBX2 1 (Perata) Chapter 1, Statutes of 2008, Second Extraordinary Session, required the SWRCB, in consultation with other agencies, to prepare a report to the Legislature focusing on nitrate groundwater contamination in the state and potential remediation solutions. In response, the SWRCB contracted with the University of California to gather information to prepare its report, *Addressing Nitrate in California's Drinking Water*. While the study only examined nitrate contamination in the four-county Tulare Lake Basin and the Monterey County portion of the Salinas Valley, its findings are helpful at informing the discussion about nitrate contamination statewide.

The UCD study showed that nitrate loading to groundwater in the area is widespread and chronic, and is overwhelmingly the result of crop and animal agricultural activities. Urban wastewater, septic systems, and other sources have significant localized impact. Due to long transit times, the impact of nitrates on groundwater resources will likely worsen in scope and concentration for several decades.

The study indicated that about 2.6 million people in these regions rely on groundwater for drinking water, including those in some of the poorest communities in California. Nitrate contamination is increasing and currently poses public health concerns for about 254,000 people in the study area. Groundwater data show that 57% of the current population in the study area uses a community PWS with recorded raw (untreated) nitrate concentrations that have exceeded the maximum contaminant level (MCL) at least once between 2006 and 2010. Continued basin-wide trends in nitrate groundwater concentration may raise the affected population to nearly 80% by 2050.

Finding Alternatives to the Use of Fumigants in Strawberry Production

April 25, 2013 – Sacramento, CA

The Assembly ESTM Committee held an oversight hearing on Tuesday, April 25, 2013, focusing on the use of fumigants in strawberry production in California. The Committee reviewed the actions of state agencies, including the Department of Food and Agriculture (DFA) and the Department of Pesticide Regulation (DPR), to both regulate the use of fumigants and to develop and support the use of less hazardous alternatives to fumigants among strawberry growers.

The Committee asked agencies, growers, researchers, and community members about the future of fumigant use. Among the specific issues of concern were:

- 1) What are the likely effects in California of the ongoing methyl bromide phase-out pursuant to the *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol) and the federal Clean Air Act (CAA)?
- 2) How will California strawberry growers be affected by the long-term methyl bromide requirements of the Montreal Protocol and the state's steps to support or restrict future critical use exemptions (CUEs) under the Montreal Protocol?
- 3) Have California state agencies identified populations at higher risk from adverse effects of methyl bromide and other fumigants?
- 4) What are the steps taken by the State of California to reduce exposure to methyl bromide and other fumigants used in strawberry production?
- 5) What will be the implications of the recommendations of the *Nonfumigant Strawberry Production Working Group Action Plan?*
- 6) What steps will the State of California take to implement the research and development strategy outlined in the *Nonfumigant Strawberry Production Working Group Action Plan?*

<u>Strawberries in California</u>: In 2011, California strawberries represented 88 percent of the U.S. domestic crop with 2.3 billion pounds harvested for a value of \$2.4 billion. According to the DFA, strawberries are the sixth most valuable fruit crop produced in California.

Strawberry growers have relied on soil fumigation treatments, most notably methyl bromide, to address soil borne pests. Methyl bromide (MeBr) is an odorless, colorless gas that has been used as a soil fumigant and structural fumigant to control pests across a wide range of agricultural sectors. According to the United States Environmental Protection Agency (US EPA), exposure to methyl bromide may occur during fumigation activities. Methyl bromide is highly

toxic. Studies in humans indicate that the lung may be severely injured by the acute (shortterm) inhalation of methyl bromide. Acute and chronic (long-term) inhalation of methyl bromide can lead to neurological effects in humans. The EPA has classified methyl bromide as a Group D, not classifiable as to human carcinogenicity.

<u>Nonfumigant Strawberry Production Working Group Action Plan¹</u>: In April of 2012, DPR convened a 10-member work group to develop a 5-year plan to accelerate the development of tools and practices to control soil-borne pests in strawberry fields without fumigants. That working group completed their work in April of 2013 and released the *Nonfumigant Strawberry Production Working Group Action Plan*.

The goal of the working group plan was to help maintain the viability of the state's strawberry industry in the face of increasing restrictions on fumigant use and the phase-out of methyl bromide.

The working group identified the need for collaborative research to test combinations of alternatives in extensive field trials and on-farm demonstrations. The recommended priority actions are categorized into three focus areas: Discovery, Research and Evaluation, and Adoption and Demonstration.

- 1. Discovery recommendations include:
 - Expand breeding programs for genetic resistance to soil borne pests; and,
 - Investigate, monitor, and manage soil microbial populations to promote plant health.
- 2. Research and Evaluation recommendations include:
 - Improve viability of options such as anaerobic soil disinfestation, biopesticides, biofumigants, soilless substrate, steam, and solarization;
 - Determine how these techniques could be combined into an integrated pest management system; and,
 - Promote more collaborative research.
- 3. Adoption and Demonstration recommendations include:
 - Ensure comprehensive and easily accessed resources are available for producers online;
 - Develop ways to mitigate risks growers take when adopting new practices early. Consider new approaches to grants for growers and new options for crop insurance; and,

¹California Department of Pesticide Regulation, <u>Nonfumigant Strawberry Production Working Group Action Plan</u>, April 2013.

• Foster early adoption of alternative practices, such as in regions with nearby sensitive sites like schools.

<u>Future potential regulatory actions</u>: The phase-out of methyl bromide has been difficult for the California strawberry industry. Strawberry producers are faced with the certainty that methyl bromide will no longer be available to them by 2015. They also must deal with increasing regulatory stringency on the use of all soil fumigants.

Methods of strawberry production that do not use fumigants include crop production in substrates and soil disinfestation with anaerobic soil disinfestation or steam. All of these systems need to be evaluated on a much larger scale with different soil types to determine commercial feasibility and cost-effectiveness. The development of barrier films has been reported to help trap fumigants in the soil and reduce the likelihood that neighbors will be exposed to fumigants. Multiple production schemes, both fumigant and nonfumigant would allow producers to rotate treatments to take advantage of a variety of mechanisms to suppress soil pests².

² Pacific Area-wide Program for Integrated Methyl Bromide Alternatives.

Hydraulic Fracturing in California: Water Quality Protection

May 14, 2013 – Sacramento, CA

The Assembly ESTM Committee and the Assembly Natural Resources Committee held a joint oversight hearing on Tuesday, May 14, 2013, to review the status of hydraulic fracturing in California. The focus of the hearing was to gather information and take testimony on policy issues related to the effects of hydraulic fracturing on the state's ground and surface water systems. The issues and questions that were addressed included:

- 1) What should, and can, the state do to protect our groundwater and surface water resources from the impacts of hydraulic fracturing?
- 2) The Division of Oil, Gas, and Geothermal Resources (DOGGR) of the Department of Conservation has proposed draft hydraulic fracturing regulations. The legislature anticipates the draft hydraulic fracturing regulations to be modified as a result of public meetings and stakeholder recommendations. What is the nature and adequacy of the modifications to the proposed regulations?
- 3) What is the need for additional statutory authority for the regulation of hydraulic fracturing, and how will legislative action effect or enhance the current DOGGR rule making process?
- 4) What is the public process for the development of DOGGR's draft hydraulic fracturing regulations, moving forward?
- 5) In order to effectively protect California's water resources, how will the State Water Resources Control Board (SWRCB) be involved with DOGGR's regulatory process on hydraulic fracturing?
- 6) What actions are anticipated by the SWRCB to enhance the ground and surface water protection surrounding hydraulic fracturing?

<u>Hydraulic fracturing</u>: Hydraulic fracturing, or fracking, is an energy production technique used to obtain oil and natural gas in areas where those energy supplies are trapped in rock (i.e. shale) or sand formations. Once an oil or natural gas well is drilled and properly lined with steel casing, fluids are pumped down to an isolated portion of the well at pressures high enough to cause cracks in shale formations below the earth's surface. These cracks or fractures allow oil and natural gas to flow more freely. Often, a propping agent such as sand is pumped into the well to keep fractures open.

<u>Environmental risks associated with hydraulic fracturing</u>: The potential for the spill and release of chemicals involved in hydraulic fracturing has received a great amount of public attention.

According to a recent congressional report³, between 2005 and 2009, oil and gas companies throughout the United States used hydraulic fracturing products containing 29 chemicals that are (1) known or possible human carcinogens, (2) regulated under the Safe Drinking Water Act for their risk to human health, or (3) listed as hazardous air pollutants under the Clean Air Act. As for produced water, it can carry a range of contaminants, including hydraulic fracturing chemicals, salts, metals, oil, grease, dissolved organics, and naturally occurring radioactive materials. Drill cuttings (i.e. the broken bits of solid material removed from drilling) may contain naturally occurring radioactive materials.

The potential for underground migration is also a potential risk to water quality. The Government Accountability Office explains that "[u]nderground migration can occur as a result of improper casing and cementing of the wellbore as well as the intersection of induced fractures with natural fractures, faults, or improperly plugged dry or abandoned wells. Moreover, there are concerns that induced fractures can grow over time and intersect with drinking water aquifers." It should be noted that the oil and gas industry has provided information claiming that hydraulic fracturing typically occurs thousands of feet below the earth's surface and that the well casing for these wells extends below an impervious layer of rock "that would prevent any migration of fluids up into the drinking water supply." Assuming that the industry is correct, there is still the problem with well casing failures. A 2000 Society of Petroleum Engineers article regarding an oil field in Kern County explained that "the well failure rate, although lower than that experienced in the 1980s, is still economically significant at 2 to 6% of active wells per year." In Pennsylvania, poor cementing around a well casing allowed methane to contaminate the water wells of 19 families. Moreover, little data exists on (1) fracture growth in shale formations following multistage hydraulic fracturing over an extended time period, (2) the frequency with which refracturing of horizontal wells may occur, (3) the effect of refracturing on fracture growth over time, and (4) the likelihood of adverse effects on drinking water aquifers from a large number of hydraulically fractured wells in close proximity to each other.

<u>Hydraulic fracturing in California</u>: According to the oil and gas industry, hydraulic fracturing has been used in California for decades. The industry claims that more than 90% of hydraulic fracturing occurs in Kern County, in areas with no potable water, no surrounding population, and no other significant business interests. However, reports from various sources suggest that hydraulic fracturing in California will likely increase significantly in the upcoming years, spreading to areas throughout the state.

A recent report from the University of Southern California explains that "California boasts perhaps the largest deep-shale reserves in the world. Those reserves exist within the Monterey Shale Formation, a 1,750 square mile swath of mostly underground shale rock that runs

³ United States House Of Representatives Committee On Energy And Commerce, Minority Staff <u>Chemicals Used In Hydraulic Fracturing</u>, April 2011.

lengthwise through the center of the state, with the major portion in the San Joaquin Basin."⁴ The US Energy Department estimates that the Monterey Shale contains more than 15 billion barrels of oil, accounting for approximately two-thirds of the shale-oil reserve in the United States. Additionally, according to a 2008 paper published by the Society of Petroleum Engineers, "it is believed that hydraulic fracturing has a significant potential in many Northern California gas reservoirs."

<u>The UC Berkeley Law Report</u>: In April of 2013, the University of California, Berkeley Center for Law, Energy, and the Environment issued a report on the *Regulation of Hydraulic Fracturing in California*. The report reviewed the current regulatory status of hydraulic fracturing and made a series of recommendations on regulatory and legislative actions related to the potential increased use of the fracturing technology in California.⁵

The report focused on water quality related issues surrounding hydraulic fracturing and attendant unconventional oil and gas production processes in California. The report identified the need for more information on fracking and its potential impacts, greater public notice and transparency, and increased accountability across all hydraulic fracturing operations and attendant activities.

<u>Action on hydraulic fracturing</u>: The 2013 legislative session saw a range of bills introduced addressing the concerns over the safety and environmental impacts of hydraulic fracturing in California. The lack of specific legal authority or regulation of hydraulic fracturing and the significance of the threat to water use fostered nine different legislative proposals. While three of the bills included overall moratoriums on new fracking activities, the remainder dealt with issues such as trade secrets, increased SWRCB oversight of oil and gas production, and groundwater monitoring. Of note is SB 4, (Pavley), which established a comprehensive regulatory program for oil and gas well stimulation treatments (e.g., hydraulic fracturing, acid well stimulation), and was signed by the governor into law.

⁴ University of Southern California, Global Energy Network, <u>Powering California: The Monterey Shale &</u> <u>California's Economic Future</u>, 2013.

⁵ Michael Kiparsky and Jayni Foley Hein, <u>Regulation of Hydraulic Fracturing in California: A Wastewater and</u> <u>Water Quality Perspective</u>, April 2013.

Finding Solutions to the Bee Colony Collapse Disorder

October 16, 2013 - Sacramento, CA

The Assembly ESTM Committee and the Assembly Agriculture Committee held a joint oversight hearing on Wednesday, October 16, 2013, focusing on the bee colony collapse disorder (CCD) in California.

The Committees heard from researchers, state agency, commodity groups, farmers, beekeepers, and others to identify additional steps needed to protect California bees and agriculture. The Committee sought answers from the witnesses about habitat protection, bee colony health, and factors affecting long-term improvement. Among the specific issues of concern are:

- 1) What is the current available hive supply and trends of the bee population in California?
- 2) What are the economic effects of impaired pollination on California's agricultural industry?
- 3) What environmental impacts on bee colony health can be improved with regulatory actions and through best management practices by agriculture and beekeepers?
- 4) Can the State of California provide for a more robust bee population what are the elements of such a plan and how can the State provide leadership?
- 5) What practices by agriculture, environmental organizations, and the state are needed to improve the habitat for bee population and will that reduce declines from bee CCD?
- 6) What practices by beekeepers would improve the hive health and ensure available pollination for those dependent crops?

<u>Bees in California</u>: Many California commodities benefit from bee pollination. Those crops dependent upon bee pollination also depend upon the services provided by commercial beekeeper operators from inside and outside of the state. The importance of these operators' hives being healthy and vibrant is critical to the crop being pollinated. The most important tree crop users of pollination services include almond, apple, avocado, cherry, kiwi, pear, and prunes/plums. Other important California crops using pollination services include alfalfa seed, cucumbers, melons (cantaloupes, honeydew, and watermelons), sunflowers, and vegetable seeds.⁶

⁶ Carman, Hoy. 2011. "The Estimated Impact of Bee Colony Collapse Disorder on Almond Pollination Fees." *ARE Update* 14(5): 9-11. University of California Giannini Foundation of Agricultural Economics.

<u>Bee colony collapse disorder</u>: Bee colony health has been declining since the 1980s. The spread into the United States of varroa and tracheal mites, in particular, created major new stresses on honey bees. Other stressors include loss of available habitat with a rich mix of nutritional pollens, inability of the bee immune system to protect it from disease, lack of genetic diversity, toxic plant pollens, and pesticides.

Beginning in October 2006, some beekeepers began reporting losses of 30 to 90% of their hives. While colony losses are not unexpected during winter weather, the magnitude of loss suffered by some beekeepers was highly unusual. This phenomenon has been termed Colony Collapse Disorder (CCD). The main symptom of CCD is a hive that includes all of the following: 1) No, or a low number of, adult honey bees present in the hive; 2) A live queen in the hive; and, 3) No dead honey bees in the hive. Often, there is still honey in the hive and immature bees are present.

<u>California Department of Pesticide Regulation (DPR)</u>: Any new active ingredient (a pesticide) must first be registered federally by the United States Environmental Protection Agency (US EPA) before it can be registered in California. Normally, before the US EPA registers a new active ingredient, it conducts a full risk assessment.

Of the possible causes of CCD being examined, one that has become the subject of debate is whether certain chemicals or combinations of chemicals could be contributing more to CCD than others, including certain pesticides and possibly some fungicides. There has been a concern that certain pesticides may have sub-lethal effects on bees, not killing them outright but instead impairing their development and behavior.

One class of insecticide being studied are neonicotinoids, which contain the active ingredient imidacloprid, and similar other chemicals, such as clothianidin and thiamethoxam. These neonic active ingredients were conditionally registered at US EPA because they were seen as more benign alternatives to the organophosphate chemicals they were replacing.

There are currently four neonicotinoid chemicals being reviewed for potential impacts to honey bees, all of which are registered for use in California. These include the active ingredients imidacloprid, clothianidin, dinotefuran, and thiamethoxam.

DPR has requested studies looking at residues of the four active ingredients in pollen and nectar resulting from applications to soil and by foliar application. At the time of the hearing, DPR was looking at the role neonics may play in future bee mortality events and what other pesticides and factors might cause bee deaths in California.

Impact of the Drought on Vulnerable Communities' Access to Drinking Water

February 18, 2014 – Sacramento, CA

The Assembly ESTM Committee, along with the Assembly Committee on Health, held a joint oversight hearing on Tuesday, February 18, 2014, to review the impact of the 2013- 2014 drought on vulnerable communities' access to safe drinking water and to investigate how California's Drinking Water Program (DWP), which is housed at the California Department of Public Health (DPH), plans to address this challenge. This hearing was the fourth in a four-part series of hearings on the provisions of safe, affordable, and accessible drinking water to all Californians, especially those in disadvantaged communities.

At the hearing, Committee members gathered information and took testimony on policy issues associated with drought-related drinking water issues. In particular, DPH was provided the following questions to address at the hearing during their testimony:

- 1) The DPH announced that it has identified and offered support to 17 rural communities with vulnerable drinking water systems due to drought conditions.
 - a) What is the status of action on the 17 identified drinking water systems, and how does DPH plan to address additional drinking water systems that are at immediate risk?
 - b) Which drinking water systems may lack adequate water supplies to provide sufficient drinking water and emergency water during the drought?
 - c) Which drinking water systems are likely to suffer a decline in water quality as a result of ongoing drought conditions?
 - d) What steps are being taken to address the risk to underserved communities without adequate water supplies that are uniquely affected by ongoing drought conditions?
 - e) How will DPH's drought response integrate with the ongoing DWP project to bring 63 small community public water systems that currently violate primary drinking water quality standards into compliance?
- 2) What is the financial condition of the State's Safe Drinking Water Revolving Fund, including the balance of unencumbered funds?
- 3) What is the status of the State's "Section 75021 Emergency Grant" funds, and are these funds available for actions specific to water systems impaired by drought conditions?

4) What steps is DPH taking to prepare for the broader public health risks associated with ongoing drought conditions?

<u>Drought state of emergency</u>: At the end of 2013 and the beginning of 2014, state water officials announced that California's rivers and reservoirs were below their record lows and that the state's snowpack water content was at about 20 percent of normal average for that time of year. As California faced water shortages in the driest year in recorded state history, on January 17, 2014, Governor Edmund G. Brown Jr. proclaimed a State of Emergency and directed state officials to take all necessary actions to prepare for the drought conditions. In the State of Emergency declaration, Governor Brown directed state officials to ensure that the state could respond if Californians face drinking water shortages.

<u>Drinking water supply shortages</u>: Following the Governor's declaration of a State of Emergency, on January 28, 2014, DPH announced that it had identified and offered support to 17 rural communities with vulnerable drinking water systems due to drought conditions. The 17 rural drinking water systems identified serve communities that range in size from 39 to approximately 11,000 Californians.

<u>Other public health impacts of the drought</u>: According to the Centers for Disease Control and Prevention's (CDC) *When Every Drop Counts: Protecting Public Health During Drought Conditions—A Guide for Public Health Professionals,* in addition to a shortage of drinking water supplies, the public health implications of drought are numerous and extensive, and are discussed below.

Drought can compromise the quality of both surface water and groundwater. Drought reduces stream and river flows which, in turn, increases the concentration of pollutants in water and causes stagnation. Higher water temperatures in lakes and reservoirs lead to reduced oxygen levels, which can affect aquatic life and water quality. Runoff from drought-related wildfires can carry extra sediment, ash, charcoal, and woody debris to surface waters, killing fish and other aquatic life by decreasing oxygen levels in the water. Additionally, unusually high sediment loads, such as those caused by wildfires, can clog filters at water treatment facilities.

California already faces a near catastrophe due to groundwater contamination. The State Water Resources Control Board (SWRCB) identified 682 community public water systems, which serve nearly 21 million people, that rely on contaminated groundwater as a primary source of drinking water. Research by the SWRCB suggests that drinking water contamination in California disproportionally affects small, rural, and low-income communities that depend mostly on groundwater as their drinking water source.

The groundwater that these communities rely upon for drinking water is likely to be further impacted by the drought. Reduced precipitation and increased evaporation of surface water

can impact the recharge of groundwater supplies over time. Drought in coastal areas can increase saltwater intrusion into fresh groundwater supplies. The non-profit Public Health Institute asserts that as surface and groundwater levels decline and water temperatures increase, pathogens and contaminants become more concentrated, raising the risk of disease.

Safer Consumer Products Regulations: Priority Products

May 13, 2014 – Sacramento, CA

The Assembly ESTM Committee held an oversight hearing on Tuesday, May 13, 2014, which was its sixth hearing on the Safer Consumer Products (SCP) program, also known as California's Green Chemistry program. The May 13th hearing focused on the Priority Product list released by the Department of Toxic Substances Control (DTSC) on March 13, 2014, as part of the SCP regulations.

The key oversight issues to be addressed in this hearing included:

- 1) What is the process that DTSC has undertaken to implement AB 1879 (Feuer, 2008) up to this point?
- 2) How did DTSC create the initial Priority Products list as part of SCP regulations?
- 3) What are the next steps that DTSC will take to reduce exposure to toxic chemicals in the identified Priority Products?
- 4) What are the next steps that DTSC will take to reduce toxic chemicals in consumer products through the SCP regulatory process?
- 5) What can we, as a state, do to ensure the creation of safer substitutes for hazardous ingredients in consumer products sold in California?

<u>Green Chemistry</u>: For the last century, environmental protection has concentrated on capturing and storing hazardous waste. Green Chemistry is a fundamentally new approach to environmental protection, transitioning away from managing hazardous chemicals at the end of the life-cycle to reducing or eliminating their use 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.

<u>Legislative oversight of the Green Chemistry regulations</u>: The California legislature recognized the principle of Green Chemistry by enacting two landmark pieces of legislation, AB 1879 (Feuer, Chapter 559, Statutes of 2008) and SB 509 (Simitian, Chapter 560, Statutes of 2008). These bills laid the statutory foundation for the state's Green Chemistry program and intended to establish a comprehensive, life-cycle approach to chemicals policy. The structure for regulatory action required by AB 1879 is broad and general. Rather than specify particular chemicals or explicit regulatory action on those chemicals, the statute relies on 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 assign appropriate regulatory action for those chemicals and products. This unique statutory approach anticipates 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 ensure that both the letter of the law, as well as the spirit of the law, is complied with. This oversight hearing was part of the California State Assembly's responsibility to ensure that broad agency authority is utilized in the most effective and efficient manner.

<u>2014 Priority Products</u>: According to DTSC, a Priority Product is a consumer product that contains one or more chemicals—known as Candidate Chemicals—that have a hazard trait that can harm people and the environment. On March 13, 2014, DTSC released the initial list of Priority Products for consideration of regulation under the SCP regulations. Publication of the draft list of products imposes no new regulatory requirements on manufacturers until DTSC finalizes it by adopting regulations.

The draft initial Priority Products list identifies three products:

- 1) Spray Polyurethane Foam (SPF) Systems containing unreacted diisocyanates;
- 2) Children's Foam Padded Sleeping Products containing Tris(1,3-dichloro-2-propyl) phosphate or TDCPP; and
- 3) Paint and Varnish Strippers, and Surface Cleaners with methylene chloride.

<u>Statutory requirements for the California Green Chemistry Regulations</u>: The bulk of the statutory requirements for establishing regulations governing the Green Chemistry program were included in AB 1879 in Health and Safety Code (HSC) Section 25252, et seq. Its companion bill, SB 509, in HSC Section 25251 and 25256, et seq, also includes provisions related to the regulations. AB 1897 requires DTSC to adopt regulations that fulfill two major requirements: 1) establish a process to *identify and prioritize* chemicals or chemical ingredients in consumer products that may be considered a chemical of concern; and 2) establish a process for *evaluating* chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by the chemical.

Department of Toxic Substances Control Hazardous Waste Cleanup and Cost Recovery Programs

September 25, 2014 - Sacramento, CA

The Assembly ESTM Committee oheld an versight hearing on September 25, 2014, which focused on the California Department of Toxic Substances Control's (DTSC's) hazardous waste and contaminated site cleanup efforts and the California State Auditor's August 7, 2014, audit report on DTSC's recovery of outstanding costs incurred to clean up contaminated sites.

The Committee requested DTSC to provide testimony, and, if necessary, background materials on the following questions:

- DTSC's office of legal counsel has determined that the statute of limitations has expired for 76 projects totaling \$13.4 million. What is the status of DTSC's efforts to date to develop and implement a reporting function to track and monitor the statute of limitations expiration dates for projects with outstanding costs?
- 2) In implementing that tracking function, how does DTSC plan to prevent a lost opportunity to recoup costs due to an expired statute of limitations?
- 3) Please provide a status update for the top five billed-but-uncollected projects.
- 4) What is the status of the BKK Sanitary Landfill unbilled costs? Why haven't the liabilities for the responsible parties for this project yet been determined?
- Projects with bankruptcies or ongoing litigation represent 38% of all outstanding costs (\$72.7 million out of \$193.5 million), and cost collection is unknown until the litigation is closed. Please describe DTSC's efforts to protect state interests by recouping those costs.
- 6) What are DTSC's policies and procedures for notifying surrounding/affected communities about contamination cleanup sites, and what are DSTC's procedures for ensuring there is communication to those communities throughout the duration of the remediation/cleanup, as well as long-term stewardship?
- 7) Are the cleanup costs that get billed to responsible parties calculated to include the longterm stewardship and any post-cleanup testing and/or assurances that the cleanup goals provide a long-term safe landscape for those communities?
- 8) Are any of the billed costs returned to the affected communities in any form?

- 9) Describe DTSC's program policies and goals for providing post-cleanup groundwater testing, medical (biomonitoring) testing for community members, and overall long-term oversight of the site.
- 10) DTSC provides funding to cover federal Superfund match and state "orphan" site cleanup efforts where no viable responsible party can be identified. DTSC acknowledges that the amount of money needed to cover California's Federal Superfund match obligations and State's orphan funding needs will be more than what is currently appropriated annually.
 - a) What is the universe of sites on this Superfund/orphan list; for example, how many total and how many in disadvantaged communities?
 - b) How has/will DTSC continue to determine which projects will be funded and which will not be funded?
 - c) How will DTSC determine which projects' work will either need to stop or slow down?
 - d) What non-public funding sources has DTSC identified for these sites?
- 11) Under long-term stewardship, does DTSC determine thresholds of residual contamination to ensure the protection of public health and the environment over the long term? (In other words, how does DTSC define or measure "residual contamination"?)
- 12) Please describe the new policies and procedures that DTSC has implemented to ensure better long-term oversight of cleanup and corrective action projects to effectively protect the public and the environment.
- 13) What performance metrics has DTSC developed for monitoring and tracking long-term stewardship, and how are those metrics tracked?

On August 1, 2013, the ESTM Committee requested that the Joint Legislative Audit Committee (JLAC) approve an audit of the effectiveness of DTSC's cost recovery efforts related to hazardous waste cleanup projects. The JLAC approved the request on August 21, 2013, and directed the California State Auditor to perform the aforementioned audit.

<u>Background</u>: In the long history of the state's hazardous waste and contaminated site cleanup programs, there has been a need for clarity, measurable goals, and public transparency in order for the people of California to understand the process and progress being made to reduce the threat from contaminated sites.

DTSC's mission is to protect California's people and the environment from the harmful effects of toxic substances, in part, through the restoration of contaminated resources. In fulfilling its mission, DTSC incurs direct cleanup costs and oversight costs (collectively, "response costs") when investigating and remediating contaminated properties. Federal and state laws authorize DTSC to recover the costs and expenses it incurs in carrying out activities relating to the cleanup of contaminated sites.

Despite the legal authority to recover costs, there is clear evidence that DTSC has incurred response costs for which it did not issue invoices to responsible and billable parties, as well as costs for which it did issue invoices but then failed to collect the funds.

California has hundreds of toxic waste sites that need to be cleaned up in order to protect public health and the quality of communities. The failure to pursue spent costs hurts all Californians. Any laxity sends the wrong message, not only to responsible parties, but to communities who need clean up and to businesses that are working on being good neighbors. We need a stronger, more transparent system for tracking the cleanup of toxic waste sites, and a robust cost recovery program for those sites where responsible parties have been unwilling or unable to remediate the contamination.

According to the United States Environmental Protection Agency (US EPA), there are as many as 355,000 contaminated sites that will require clean up over the next 30 years at a cost of as much as \$250 billion. California must have an effective cost recovery program in place to manage this ongoing and future problem.

<u>Summary of the State Auditor's findings.</u> The California State Auditor report, "California Department of Toxic Substances Control: Its Lack of Diligence in Cost Recovery Has Contributed to Millions in Unbilled and Uncollected Costs," was released on August 7, 2014.

Among the findings of the audit were serious concerns about the operation of the DTSC cleanup cost recovery program, including:

 Long-standing shortcomings with DSTC's recovery of costs have resulted in millions of dollars in unbilled and billed but uncollected cleanup costs (outstanding costs) dating back to 1987.

- 2) Inadequate procedures, incomplete documentation, and misclassification of certain sites in its database. These issues are so pervasive that DTSC has not yet determined the exact amount it may be able to recover.
- 3) DTSC's s data showed that it has more than 1,600 projects totaling almost \$194 millioon in outstanding costs, of which nearly \$142 was unbilled and almost \$52 million was billed by uncollected.

<u>The State Auditor's recommendations</u>: The August 2014, California State Auditor report included the following recommendations for DTSC to take to ensure that it maximizes opportunities to recover its costs:

- 1) By January 2015, develop processes for tracking and monitoring the federal and state statutes of limitations on contaminated sites;
- 2) By January 2015, develop processes for tracking the progress and resolution of settlement agreements to ensure DTSC staff can verify updated information;
- 3) By October 2014, develop written procedures for updating and monitoring its collection letter process;
- 4) By October 2014, update policies and procedures for using liens;
- 5) Consistently issue collection letters to responsible parties delinquent on payment or recorded liens on the properties of responsible parties; and,
- 6) Increase the interest rate charged on billed by delinquent unpaid amounts to improve timeliness of payments (requires legislative action).