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INFORMATIONAL HEARING:

Keeping Communities Safe: Oversight of Lead Testing and Clean Up Plans Around Exide

To: Members of the Assembly Committee on Environmental Safety & Toxic Materials, Speaker Rendon, and Assemblymember Garcia, Gomez, Santiago
From: Assemblymember Luis Alejo, Chair
Subject: Oversight of Lead Testing and Clean Up Plans Around Exide
Date: Thursday, June 9, 2016

Introduction

Assemblymember Luis Alejo (D-Salinas) and the Assembly Environmental Safety and Toxic Materials Committee (Committee) are holding a follow-up informational hearing to the Committee's January 26, 2016, hearing on the Exide Technologies (Exide) battery recycling facility closure plans. The follow up hearing, on June 9th, will provide updates on lead sampling in the surrounding communities, funding availability, and remediation plans.

Exide Technologies in Vernon

The Exide battery recycling facility in Vernon, California recycled lead from used automotive batteries and other sources. The facility processed about 25,000 automotive and industrial batteries a day, providing a source of lead for new batteries. Over the course of decades of operation, the facility polluted the soil beneath it with high levels of lead, arsenic, cadmium and other toxic metals. It also has contaminated groundwater, released battery acid onto roads and contaminated homes and yards in surrounding communities with lead emissions. In March 2015, Exide was forced to close the facility for good and, under an enforcement order from the California Department of Toxic Substances Control (DTSC), set aside millions of dollars to test and cleanup residential properties near the facility as well as to remove equipment and structures at the facility during the closure process.



DTSC estimates properties between 1.3 and 1.7 miles away from the facility may potentially be affected by Exide's lead contamination – that equates to somewhere between 5,000 - 10,000 properties. Cleaning one home costs about \$45,000, according to DTSC. If the cleanup grows to thousands of properties, it could cost hundreds of millions of dollars. Removing lead-contaminated soil from thousands of homes surrounding Exide could result in the most extensive cleanup of its kind in California and would be among one of the largest cleanups ever conducted in the nation. When all is said and done, the cost of cleanup in and around the Exide facility is expected to top \$500 million dollars.

Exide Facility Closure Plan

Any hazardous waste facility that closes is required to go through a formal closure process under state and federal law, which is overseen by DTSC. On December 8, 2015, DTSC issued a public notice on a draft closure planⁱ, opening up a 60-day public comment period. Based upon comments received, DTSC can revise the proposed plans. DTSC will subsequently adopt a final closure plan.

One of the key issues discussed with the community is how to remove the lead the facility's kettles. DTSC is working with a technical advisor and the Exide Technologies Advisory Group on the best option for the removal of lead in the facility's kettles. There are 13 kettles, each about two stories tall and weighing 3 tons each, with varying amounts of lead. The kettles can hold up to 90 tons of lead and if full cannot be physically removed by a crane. However, removing the lead from the kettles without heating up the kettles, resulting in some emissions from the facility, is a significant challenge to the Exide facility closure plan.

The total estimated cost of the closure plan is \$38 millionⁱⁱ. However, under state and federal law, Exide is required to fund the closure of the facility. Regardless of whether the costs exceed the estimate or not, Exide is legally responsible for the closure.

Once DTSC adopts the final closure plan, the actual closure (removing equipment and buildings) can begin and is expected to take approximately two years.

Why Getting Closure Right Matters: Lead

Lead has been listed under California's Proposition 65 since 1987 as a substance that can cause reproductive damage and birth defects and has been on the list of chemicals known to cause cancer since 1992. According to the Office of Environmental Health Hazard Assessment, lead has multiple toxic effects on the human body. Even at low levels, lead may cause a range of health effects including behavioral problems and learning disabilities. Children six years old and younger are most at risk because this is when the brain is developing.

There is no level of lead exposure that has been proven safe, either for children or for adults. Both the U.S. Centers for Disease Control and Prevention (CDC) and the California Department

of Health Services consider any blood lead level more than 5 µg/dl (micrograms of lead per deciliter of blood) to be unsafe for children and for pregnant or nursing women; the CDC recommends public health actions be initiated for blood lead levels that exceed 5 µg/dl.

Scope of Contamination

The contamination from Exide is multi-faceted and the cleanup will proceed on several different, yet parallel tracks. There is contamination at the facility that will be dealt with during the official closure process. There is also contamination in the residential area near the facility which is being investigated and cleaned up concurrently, but separate from the closure process. Additionally, once the equipment and buildings are removed, there will be remediation of soil and potentially groundwater underneath the facility. Lastly, there is an investigation under way to determine the extent of contamination in the industrial area near the facility and this too will be cleaned up.

Responsible Party

DTSC will hold Exide accountable for its contamination. The enforcement order by DTSC, signed by Exide and approved by a bankruptcy judge, states that Exide is responsible for all of the contamination it has caused. DTSC will also identify and pursue others who may be responsible for the lead contamination. DTSC will work collaboratively with federal, state and local agencies to leverage expertise and resources to recover the costs of the cleanup which may also involve the remediation of lead based paint at residential properties.

Funding Update

In August 2015, the Legislature and the Governor approved \$7 million of emergency funding to test up to 1,500 residential properties, parks, schools, and daycare centers in the surrounding community; develop a comprehensive cleanup plan; and begin cleanup of the highest priority sites based on the degree of lead contamination and other exposure factors. To date, DTSC has overseen the sampling of 758 properties and the cleanup of 209 properties.

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

Outreach and Community Engagement Plan

DTSC has developed an Outreach and Community Engagement Plan (Plan) which describes planned and ongoing actions for lead sampling and cleanup in the residential areas surrounding the former Exide facility and for the closure of this facility through June 2016ⁱⁱⁱ.

According to DTSC, the Plan has three goals: 1) Inform affected communities about lead sampling and cleanup activities associated with Exide and the closure of the Exide facility; 2) Collaborate closely with communities, local governments, nonprofit organizations, legislative offices, and other agencies on engagement strategies; and, 3) Protect public health by ensuring that information is made available to communities and that resources are allocated appropriately.

DTSC has taken a multi-lateral approach to community engagement, which uses different avenues for connecting with the affected residents, answering questions, and being responsive to community concerns. During the duration of the Exide cleanup efforts, DTSC will continue learning about the communication strategies that generate larger response and interest in the communities surrounding Exide. Community engagement outreach includes:

1. **Advisory Group & Public Meetings.** DTSC has met 11 times with the Exide Advisory Group over the last year. These meetings serve as a space to collect formal and informal input, provide information, and answer questions related to all aspects of the cleanup and concerns regarding community health.
2. **Hotline.** DTSC operates a hotline that is widely advertised throughout the community in all of their communications (1-844-225-3887). The hotline serves to answer any questions regarding the cleanup project or the facility closure process.

On average, DTSC receives 110 calls per week on the hotline, but that number can triple in weeks following coordinated mailings to residents.

3. **Community Trainings.** Over the last four months, DTSC has prepared a training curriculum that informs residents, canvassers, and local government representatives about the process of residential soil sampling and cleanup. DTSC has trained approximately 400 community leaders on this project

The goal of these trainings is to prepare local leaders to obtain access agreements via canvassing (community door-to-door walks). In the last four months, DTSC has facilitated 16 trainings to community-based organizations, local government representatives, librarians, DTSC staff, and community members

4. **Canvassing Activities,** which include community canvassing with local community groups, collaboration with local governments to organize volunteers and city staff, and

DTSC-lead community canvassing. Thirteen community walks have already occurred and two more are scheduled in the next month.

All of these activities are conducted in both English and Spanish.

Results of Blood Lead Testing

On April 8, 2016, a California Department of Public Health (CDPH) analysis was released that found blood lead levels in children near the former Exide facility are higher than for those who live further from the facility.

The analysis, conducted by CDPH at the request of DTSC, also showed that children younger than six years old living in the area near the Exide facility were more likely to have higher blood lead levels than children in Los Angeles County overall.

CDPH researchers examined blood lead data from children younger than age six because the vast majority of testing is done for young children. They are at greater risk for lead exposure, so testing and interventions have typically focused on young children. CalEPA and DTSC requested the analysis as part of the state's investigation of possible impacts from operations at the former Exide facility. CDPH analyzed blood lead level data from nearly 12,000 children younger than the age of 6 who had their blood tested in 2012 – the last full year that Exide was operating.

CDPH found that 3.58% of young children, within one mile of the former Exide facility, had levels of 4.5 micrograms of lead or more per deciliter of blood. For comparison, during 2012 in Los Angeles County overall, 1.95% of children fell into this higher blood lead category. In the zone greater than one mile from the former Exide facility, but still within the study's broader Exide analysis area, reaching up to 4.5 miles from the facility, the percentage of children in the higher category was 2.41%.

CDPH also notes in the analysis that the age of housing in the area appears to play a significant role. It found that the age of housing is an important predictor of elevated blood lead levels in the area. When both proximity to the former Exide facility and the year of housing were included, the effect of proximity to Exide on blood lead levels was much smaller. This appears to be because older housing is more common in the areas closer to the Exide facility. Older housing often has lead hazards because lead content in paint was not strictly limited until 1978. CDPH researchers found that 3.11% of young children living in areas near Exide with many homes built before 1940 had elevated blood lead levels, while only 1.87% had elevated lead levels where most homes were built after 1940.

Residential Cleanup

The sampling and cleanup process begins with the collection of access agreements. DTSC is currently engaged in community outreach to collect access agreements from all of the projected 10,000 properties in the 1.7-mile radius.

Using the previous \$7 million allocation, about 1,500 residential properties will be sampled by July 1, 2016. The remaining estimated 8,500 properties, plus schools, parks and day care centers within that area will be sampled using the \$176.6 million. In order to sample all of the projected 10,000 residential properties by July 2017, DTSC will ramp-up sampling from 60 properties per week, up to approximately 200 properties per week. The number of properties sampled per week may be affected by weather, holidays, and other scheduling factors.

DTSC is currently developing a Draft Cleanup Work Plan for the approximately 2,500 properties where the lead levels are highest and the potential for exposure is greatest. DTSC will conduct environmental review of the activities in the Cleanup Plan in compliance with California Environmental Quality Act (CEQA). DTSC has identified a CEQA contractor for this work and a contract is in place. DTSC anticipates that cleanups using the \$176.6 million will begin in June of 2017, after the environmental review and has been completed and the Cleanup Plan has been finalized. This proposed timeline is an aggressive timeline and assumes no delays due to external factors.

After the environmental review has been completed, which is projected to be in June of 2017, DTSC will cleanup approximately 50 properties per week.

Investigation and Cleanup Progress

	Initial Assessment Area	Preliminary Investigation Area	Total
Total Properties	219	~10,000	~10,000
Properties with signed access agreements	195	1211	1406
Properties sampled	195	563	758
Properties assigned Priority 1	40	173	213
Properties cleaned up	186	23	209
Properties refused access for cleanup	6	0	6
Properties no cleanup required	3	2	5



Last Update: 04/15/2016 For questions, contact: Susan Castro-Vallenar, Public Participation Specialist at 844-225-9867
 RA - Preliminary Investigation Area: 1.7-mile radius around Exide Facility

CEQA Timelines

DTSC is currently conducting an environmental review of the Exide project in order to comply with CEQA. This timeline illustrates the steps in the CEQA process for the preparation of an Environmental Impact Report (EIR) and projected timeframes for those steps. These timeframes are approximate and may change as a project develops. The timeframe to complete these steps can vary depending on many factors, including the level of public interest. The timeline does not take into consideration any delays due to external factors.

Environmental studies are ongoing and will be presented in a draft environmental document estimated to be released in late 2016 with a minimum 45-day Public Comment Period, and a Final EIR approved or certified by June 2017 at the earliest.

Before DTSC can cleanup any additional properties, the CEQA process must be completed.

It is important to note that the CEQA process does not apply to the testing of the properties. Therefore, DTSC is able to immediately spend the General Fund loan to expedite testing of the impacted communities, which will allow immediate cleanup to commence once the CEQA process is completed.

ⁱ <http://dtsc.ca.gov/HazardousWaste/Projects/upload/CLOSURE-PLAN-MAIN-TEXT.pdf>

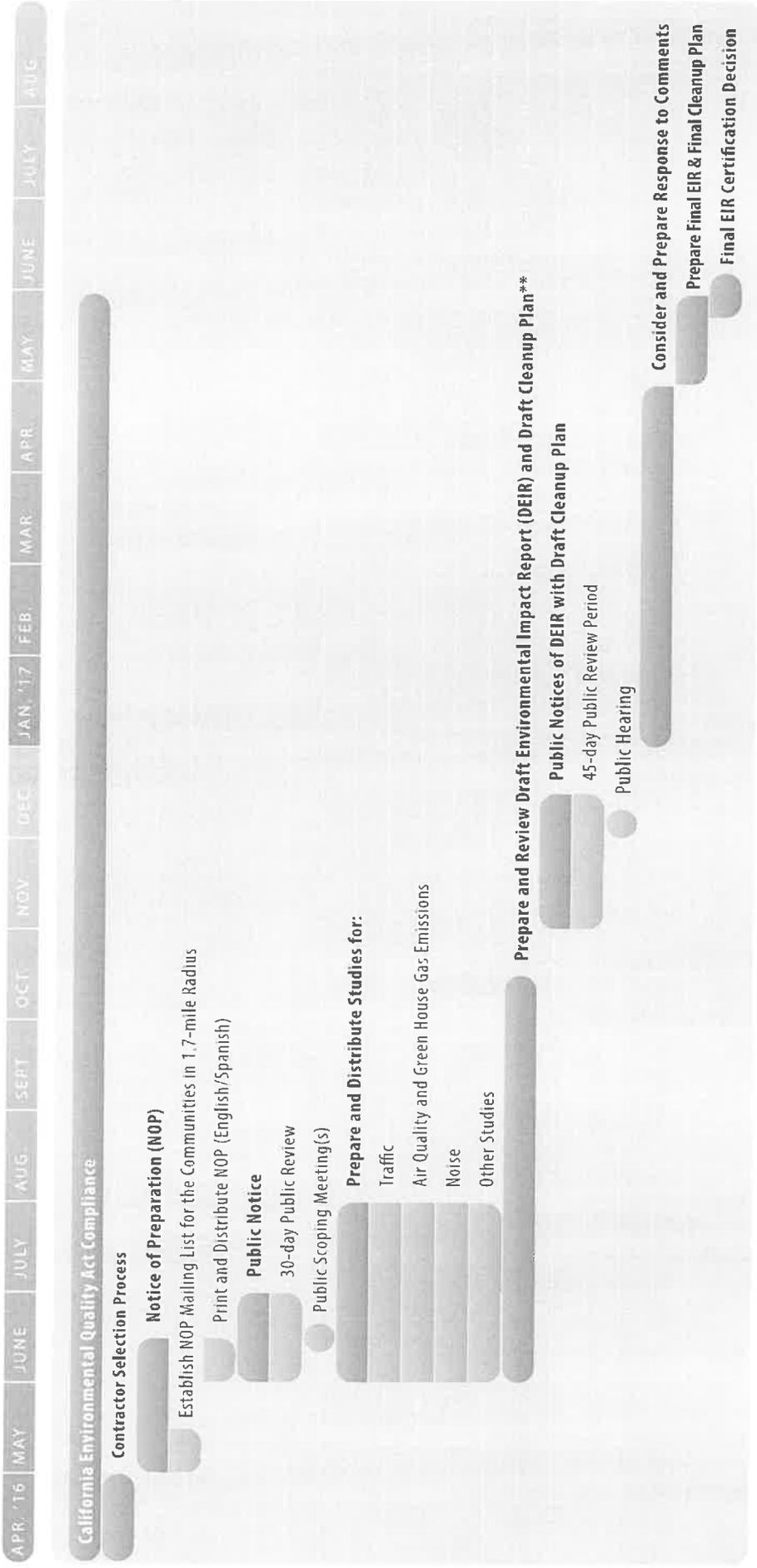
ⁱⁱ

http://www.envirostor.dtsc.ca.gov/public/view_hwmp_document.asp?docurl=http://www.hwmpenvirostor.dtsc.ca.gov/regulators/site_documents/3046994864/Appendix%20I%20%2D%20Closure%20Cost%20Estimate%2Epdf

ⁱⁱⁱ This plan does not capture activities associated with the 219 properties identified as the “Initial Assessment Area”. More information is available at DTSC’s website: www.dtsc.ca.gov/exide

California Environmental Quality Act (CEQA) Compliance

Projected Timeline for Preparation of an Environmental Impact Report* Exide Residential Cleanup



* These dates are approximate and may change as the project develops. This timeline does not take into consideration any delays due to external factors.

** Includes Plan that is National Contingency Plan (NCP) Compliant