

## SUBCOMMITTEE NO. 2

## Agenda

Senator Bob Wieckowski, Chair  
Senator Mike McGuire  
Senator Tony Mendoza  
Senator Jim Nielsen



Thursday, April 27, 2017  
9:30 a.m. or upon adjournment of session  
State Capitol - Room 112

Consultant: Joe Stephenshaw

### Vote Only Calendar

<b>0555</b>	<b>Environmental Protection Agency</b>	
Issue 1	Water-Energy Nexus Registry (SB 1425)	3
Issue 2	Rural County Certified Unified Program Agency Support	3
<b>3900</b>	<b>Air Resources Board</b>	
Issue 1	Carl Moyer Program Fund Alignment	4
Issue 2	Environmental Justice Unit	4
Issue 3	Greenhouse Gas Scoping Plan Update (AB 197)	4
Issue 4	Revised Fund Source for the Near-Zero Clean Truck and Bus Program and the Advanced Clean Car Program	5
Issue 5	Short Lived Climate Pollutants (SB 1383)	5
Issue 6	Continued Implementation and Program Oversight for Proposition 1B	5
<b>3930</b>	<b>Department of Pesticide Regulation</b>	
Issue 1	Federal Trust Fund Authority Increase	6
<b>3960</b>	<b>Department of Toxic Substances Control</b>	
Issue 1	STF-Stringfellow Pretreatment Plant Site	6
<b>3970</b>	<b>Department of Resources Recycling and Recovery</b>	
Issue 1	Single-Use Carryout Bags	7
Issue 2	Solid Waste Enforcement Implementation and Evaluation Program	7
Issue 3	Tire Enforcement Agency Program Evaluation	7
Issue 4	Reimbursement Authority Request	8
Issue 5	Audio and Video Support	8
Issue 6	Establishing Permanent Positions for the Waste and Used Tire Manifest System Program	8
Issue 7	Used Oil Certified Collection Center Unit – Additional Staff for Claim Processing and Fraud Prevention	8

**Vote Only Calendar – Continued**

<b>3970</b>	<b>Department of Resources Recycling and Recovery (continued)</b>	
Issue 8	Special Environmental Project – Compostable Plastics Research	9
Issue 9	Organic Wastes	9
Issue 10	TBL – State Agencies to Retain Recycling Revenue	10
<b>3980</b>	<b>Office of Environmental Health Hazard Assessment</b>	
Issue 1	Litigation Costs (Prop 65)	10
Issue 2	Compliance Assistance	10
Issue 3	Site Risk Assessment Review	11
Issue 4	Indicators of Climate Change in California	11
Issue 5	Well Stimulation Treatment Health and Environmental Risks	12

**Issues for Discussion**

<b>3930</b>	<b>Department of Pesticide Regulation</b>	
Issue 1	Pest Management Research Grants	13
Issue 2	Pesticides Registration Database Management System Funding Realignment	14
<b>3960</b>	<b>Department of Toxic Substance Control</b>	
Issue 1	Department of Toxic Substances Control – Performance Review	15
Issue 2	Lead-Acid Battery Recycling Act of 2016	17
Issue 3	Stringfellow Superfund Removal and Remediation Action	19
<b>3970</b>	<b>Department of Resources Recycling and Recovery</b>	
Issue 1	Administrative Support Workload	20
Issue 2	Bonzi Sanitary Landfill Closure Funding	21
<b>3900</b>	<b>Air Resources Board</b>	
Issue 1	ARB Southern California Consolidation Project	23
Issue 2	Implementation of the Volkswagen Consent Decree	26
Issue 3	Implementation of Oil and Gas Methane Regulation	27
Issue 4	Mobile Source Heavy-Duty In-Use Program Improvements	28

Public Comment

---

*Pursuant to the Americans with Disabilities Act, individuals who, because of a disability, need special assistance to attend or participate in a Senate Committee hearing, or in connection with other Senate services, may request assistance at the Senate Rules Committee, 1020 N Street, Suite 255 or by calling (916) 651-1505. Requests should be made one week in advance whenever possible.*

## Vote-Only Calendar

### 0555 Environmental Protection Agency (CalEPA)

#### Issue 1 – Water-Energy Nexus Registry (SB 1425)

**Governor’s Proposal.** An April 1<sup>st</sup> Finance Letter proposes \$500,000, annually, for three years from the Cost of Implementation Account for the creation of a water-energy nexus registry pursuant to SB 1425 (Pavley), Chapter 596, Statutes of 2016. The registry would record and register voluntary information on greenhouse gas (GHG) emission reductions resulting from water systems.

**Background.** SB 1425 requires CalEPA to oversee the development of a water-energy nexus registry in support of GHG reduction efforts. Current resources are insufficient for CalEPA to develop the registry and complete the public stakeholder review process, as required by statute.

#### Issue 2 – Rural County Certified Unified Program Agency Support

**Governor’s Proposal.** An April 1<sup>st</sup> Finance Letter proposes \$1.1 million, one-time, from the Rural Certified Unified Program Agencies (CUPA) Reimbursement Account to expand the rural county Certified Unified Program Agency support program from the existing 13 Certified Unified Program Agencies to 24. This proposal also requests to shift \$835,000 in CUPA Account from state operations to local assistance.

**Background.** Certified Unified Program Agencies are local agencies that are certified by CalEPA and are responsible for implementing and regulating the Unified Program, which is a consolidation of six state environmental programs into one program. The six programs are:

- Aboveground Petroleum Storage Act Program
- California Accidental Release Prevention Program
- Hazardous Materials Business Plan Program
- Hazardous Materials Management and Inventory Program
- Hazardous Waste and Hazardous Waste Treatment Program
- Underground Storage Tank Program

Over the past 12 years, each of the 24 rural county CUPA programs has been evaluated four times by CalEPA to determine if the programs are being adequately implemented. Overall, those rural county CUPAs not receiving financial assistance through the reimbursement account have had an unsatisfactory evaluation rate of 34 percent. They are failing to adequately implement the program, endangering human health and safety and the environment. The rural county CUPAs that receive financial assistance from the reimbursement account have had an unsatisfactory evaluation rate of just four percent over this same timeframe. This is a clear indication over an extended period of time that a modest level of financial support to rural county CUPAs can create a far more compliant program.

## 3900 Air Resources Board (ARB)

### Issue 1 – Carl Moyer Program Fund Alignment

**Governor’s Proposal.** The Governor’s budget proposes to shift of \$318,000 within the Air Pollution Control Fund (APCF) from local assistance to state operations for two positions to continue implementation of the Carl Moyer Memorial Air Quality Standards Attainment program in light of commitments outlined in California’s State Implementation Plan Mobile Source Strategy, Sustainable Freight Action Plan, and Climate Change Scoping Plan.

**Background.** Initiated in 1998, the Carl Moyer Program is a grant program that funds the incremental cost of cleaner engines and equipment used in a variety of applications. The legislative authorization for the Moyer Program is \$69 million annually, funded by smog abatement fees and the California tire fees that are deposited in the APCF. SB 513 (Beall) Chapter 610, Statutes of 2015, allows for the percentage of Carl Moyer Program funds that can be spent on administrative and outreach costs to be increased. Funding for the requested staff, one Air Pollution Specialist and one Air Resources Engineer, will be funded from the newly allowed increase in the administrative allowance, requiring no additional appropriation of funds.

### Issue 2 – Environmental Justice Unit

**Governor’s Proposal.** The Governor’s budget proposes \$857,000 (including \$210,000 in contract funds) from various special funds and four positions for environmental justice efforts. These positions will support and expand the board’s effort to institutionalize environmental justice considerations into its program planning, development, and implementation decisions.

**Background.** These resources are needed to implement the legislative intent of AB 1288 (Atkins), Chapter 586, Statutes of 2015, and in response to feedback received from extensive outreach to the environmental justice community; formal recommendations from the Environmental Justice Advisory Committee established pursuant to AB 32 to provide specific recommendations to the board on the Greenhouse Gas Target Scoping Plan; and public input at public hearings including a series of legislative inquiries, workshops, and meetings on the need to institutionalize environmental justice considerations into all aspects of climate change and air quality control/public health protection programs.

### Issue 3 – Greenhouse Gas Scoping Plan Updates (AB 197)

**Governor’s Proposal.** The Governor’s budget proposes \$1.5 million (including \$750,000 in contract funding in 2017-18 and \$375,000 annually thereafter, and \$100,000 in one-time construction costs) and four positions to meet the statutory requirements set forth in AB 197 (Eduardo Garcia), Chapter 250, Statutes of 2016. Of the \$1.5 million, \$1.4 million will be funded from the Cost of Implementation Account, and \$100,000 will be funded from distributed administration.

**Background.** AB 197 requirements include considering the social costs of the emissions of greenhouse gas (GHG) in developing emission reduction measures and integrating the tracking of GHG, criteria pollutant, and air toxic contaminant emissions. These tasks will support the inclusion of improved ranges of GHG and air pollutant reduction projections in future Scoping Plan updates, and the prioritization of GHG reduction measures that obtain direct emission reductions.

AB 197 also requires ARB to make available on its website and annually update, the emissions of GHG, criteria pollutants, and toxic air contaminants over time for each facility that reports to ARB under the Mandatory Reporting Regulation. These provisions will increase the data transparency of ARB's programs.

#### **Issue 4 – Revised Fund Source for the Near-Zero Clean Truck and Bus Program and the Advanced Clean Car Program**

**Governor's Proposal.** The Governor's budget proposes \$1.3 million (including \$488,000 from the Motor Vehicle Account and \$798,000 from the Cost of Implementation Account) for the Near-Zero Clean Truck and Bus and Advanced Clean Car programs.

**Background.** In 2016-17, these activities were approved on a permanent basis with the first year of funding from the Air Pollution Control Fund, and ARB was directed to identify alternate fund sources for these permanent programs in future years. This proposal identifies the Motor Vehicle Account and Cost of Implementation Account as appropriate ongoing fund sources for these permanent programs.

The Near-Zero Clean Truck and Bus Program is intended to help achieve the Governor's GHG reduction goals and to help meet emission reduction requirements, especially NOx, in the State Implementation Plans. The Advanced Clean Car Program is needed to achieve the required GHG as well as criteria pollutant emissions reductions from passenger cars and light-duty vehicles to meet the AB 32 GHG emission reduction requirements and the Clean Air Act ozone requirements. In order to support and successfully complete the program objectives above, a permanent fund source is needed.

#### **Issue 5 – Short-Lived Climate Pollutants (SB 1383)**

**Governor's Proposal.** The Governor's budget proposes \$826,000 from the Cost of Implementation Account and five positions to investigate, research, develop, enforce, and implement a strategy consisting of several measures that will reduce emissions of short-lived climate pollutants in the state to levels set forth in SB 1383 (Lara), Chapter 395, Statutes of 2016.

**Background.** Measured against a 2013 baseline, SB 1383 calls for a 40 percent reduction in methane emissions; a 40 percent reduction in hydrofluorocarbon emissions; and a 50 percent reduction in emissions of black carbon; by 2030. In developing measures to achieve the emissions-reduction goals ARB is required to follow specific procedures, reach specified sets of findings, provide guidance to the regulated community, create supporting funding mechanisms, assist in the development of pilot projects, avoid impacts to disadvantaged communities, provide updates to the public and the legislature, and assist other agencies in the development of related programs.

#### **Issue 6 – Continued Implementation and Program Oversight for Proposition 1B**

**Governor's Proposal.** An April 1<sup>st</sup> Finance Letter proposes: 1) to revert the remaining unencumbered balance of \$20 million of Proposition 1B: Goods Movement Emission Reduction Program funds; 2) a new appropriation of \$826,000 for a total appropriation of \$1.2 million to support program administration costs; and 3) a new \$1.2 million local assistance one-time appropriation to spend funds that have reverted.

**Background.** Proposition 1B, passed by voters in 2006, provided almost \$20 billion in funding for California's transportation infrastructure, with over \$2 billion dedicated to the improvement of the state's freight network and \$1 billion for this program to be administered by ARB to fund cleaner freight vehicles and equipment. The program bond monies are leveraging substantial match funding from private, local, and federal sources - more than one match dollar for every program dollar invested.

Of the \$1 billion ARB was authorized to spend under Proposition 1B, \$20 million remains unencumbered for administrative costs, as well as any residual allocations that will be released back to the Proposition 1B fund. ARB requests to revert the remaining unencumbered balance and provide a new appropriation of \$826,000 annually for state operations for administrative costs associated with Proposition 1B activities.

The Budget Act of 2008 authorized approximately \$250 million in funding to carry out projects funded by Proposition 1B. Initial challenges with implementing projects resulted in a balance of \$1.2 million in funds that were not disbursed and ultimately reverted to the fund balance. Therefore, ARB is also requesting a new appropriation of the \$1.2 million for local assistance projects.

### 3930 Department of Pesticide Regulation (DPR)

#### Issue 1 – Federal Trust Fund Authority Increase

**Governor's Proposal.** The Governor's budget proposes \$350,000 in federal fund authority to bring the authority in line with the federal grants the department receives.

**Background.** DPR receives grant funding from the US Department of Food and Agriculture and the US Environmental Protection Agency to regulate pesticides and to supplement state projects. Federal grants available to DPR over the last three years have exceeded DPR's trust fund authority by \$250,000 to \$350,000. This request will help reduce the number of budget revision requests DPR will have to process in future fiscal years, and bring the department's federal fund authority in line with the federal grant awards the department receives.

### 3960 Department of Toxic Substances Control

#### Issue 1 – STF- Stringfellow Pretreatment Plant Site

**Governor's Proposal.** An April 1<sup>st</sup> Finance Letter proposes a one year extension of the liquidation period for the construction of the Stringfellow Pretreatment Plant site.

**Background.** Construction of the facility is complete. Due to the facility's complex control system programming, however, programming and commissioning is taking longer than anticipated. This might delay payments to parties involved in the project. This reappropriation will extend the liquidation period for one year, and thus will prevent existing funds from reverting and ensure that all commitments and obligations will be funded.

**3970 Department of Resources Recycling and Recovery (CalRecycle)****Issue 1 – Single-Use Carryout Bags**

**Governor’s Proposal.** The Governor's budget proposes \$298,000 from the Integrated Waste Management Account in 2017-18, \$292,000 in 2018-19, and \$197,000 in 2019-20, to implement Senate Bill 270 (Padilla), Chapter 850, Statutes of 2014.

**Background.** This request was originally included in the 2015-16 Governor’s budget, but was suspended pending the referendum on SB 270. On November 8, 2016, California voters approved Proposition 67, the statewide Single-Use Carryout Bag Ban.

Workload associated with implementing SB 270 includes emergency regulations to clarify the reusable bag certification and associated fee collection process, establishing and maintaining a system to receive proofs of certification and test results for reusable bags, developing and maintaining a webpage to pose the certifications, developing a fee schedule, and reporting to the Legislature. The fees, which will be established, collected, and deposited by CalRecycle, will provide long-term funding.

**Issue 2 – Solid Waste Enforcement Implementation and Evaluation Program**

**Governor’s Proposal.** The Governor's budget proposes \$130,000 from the Integrated Waste Management Account and one permanent Senior Environmental Scientist position to meet the increased oversight of the waste industry and long-term facility compliance issues.

**Background.** AB 341 (Chesbro), Chapter 476, Statutes of 2011, and AB 901 (Gordon), Chapter 746, Statutes of 2015, expanded the reporting requirements and increased evaluation, inspection, and enforcement efforts for waste diversion activities.

CalRecycle currently has eight environmental scientists inspecting 555 solid waste facilities statewide. CalRecycle also conducts inspections to determine if the Local Enforcement Agencies are conducting inspections consistent with state requirements in the jurisdictions for which they are responsible (there are approximately 1,000 waste diversion facilities total).

**Issue 3 – Tire Enforcement Agency Program Evaluation**

**Governor’s Proposal.** The Governor's budget proposes to shift expenditure authority of \$168,000 from local assistance to state operations in the Tire Recycling Management Fund and requests two Environmental Scientist positions.

**Background.** CalRecycle is responsible for the inspection of 31,000 waste tire-handling businesses. CalRecycle works with Waste Tire Enforcement (TEA) grantees to perform the majority of the 31,000 inspections. Nine TEA grantees (out of 45) recently withdrew from the program.

The requested resources will be used to implement a new program that will evaluate TEA grantee performance, and to perform inspections of 2,500 covered waste tire facilities that are no longer addressed by TEA grantees.

**Issue 4 – Reimbursement Authority Request - Ibank**

**Governor’s Proposal.** The Governor's budget proposes \$104,000 in reimbursement authority in the Integrated Waste Management Account to provide information technology (IT) support services to the California Infrastructure and Economic Development Bank (IBank).

**Background.** CalRecycle performed IT services for the IBank until 2014, when the IBank moved out of the CalEPA building. In April 2015, with the concurrence of the Governor’s office, IBank requested that CalRecycle resume IT services and both parties entered into an interagency agreement. The requested authority would allow CalRecycle to continue providing these services.

**Issue 5 – Audio and Video Support**

**Governor’s Proposal.** The Governor's budget proposes \$227,000 in reimbursement authority from the Integrated Waste Management Account and two permanent positions to deliver audio-visual services for CalEPA’s boards, departments, and offices within the California EPA headquarters.

**Background.** CalRecycle took over the function of providing audio-visual services to all of CalEPA in 2014 using state staff with the intent of being reimbursed based on the \$250,000 paid annually for the previously contracted audio and video services and maintenance. These positions were established on a temporary basis. This proposal reflects will allow these positions to provide the services on a permanent basis.

**Issue 6 – Establishing Permanent Positions for the Waste and Used Tire Manifest System Program**

**Governor’s Proposal.** The Governor's budget proposes to convert seven temporary positions to permanent positions for the Tire Hauler Registration process and the Uniform Waste and Used Tire Manifest System.

**Background.** CalRecycle oversees the storage and transportation of waste and used tires within California. Workload includes tracking the generation, transport and disposal of waste and used tires, auditing the manifest system, registering waste and used tire haulers, and assuring haulers have a surety bond. The current temporary help positions do not provide secure resources for this essential, full-time and ongoing work.

**Issue 7 – Used Oil Certified Collection Center Unit - Additional Staff for Claim Processing and Fraud Prevention**

**Governor’s Proposal.** The Governor's budget requests \$77,000 from the California Used Oil Recycling Fund and one position to implement new fraud prevention procedures for used oil incentive claims, and identify and include additional entities subject to but not currently paying the oil fee.

**Background.** CalRecycle administers the California Oil Recycling Enhancement Act, which is designed to discourage the illegal disposal of used oil. The law requires oil manufacturers to pay CalRecycle \$0.24 per gallon of lubricating oil sold in California. When oil is recycled, registered industrial generators, curbside collection programs, and certified collection centers are eligible to receive an incentive payment from CalRecycle, including \$0.16 per gallon used of oil generated on-



site, and \$0.40 per gallon of used oil collected from do-it-yourselfers. Findings in a Department of Finance audit in 2014 led CalRecycle to implement additional fraud prevention procedures to prevent ineligible payments.

### **Issue 8 – Special Environmental Project - Compostable Plastics Research**

**Governor’s Proposal.** An April 1<sup>st</sup> Finance Letter proposes \$50,000, one-time, from the Integrated Waste Management Account to expend recently awarded settlement fees between Napa County (and others) against Walmart Stores and Jet.com.

**Background.** In a settlement agreement filed on January 31, 2017, in the Napa County Superior Court, Walmart Stores, Inc., a Delaware Corporation; Wal-Mart.com, USA, LLC, a California Limited Liability Company; and Jet.com, a Delaware Corporation, agreed to pay the State of California more than \$900,000 to resolve allegations related to improperly offering plastic products for sale labeled as "biodegradable," "compostable," and otherwise making misleading environmental marketing claims prohibited by law. As part of the judgment, defendants were ordered to pay \$50,000 toward compostable plastics research and policy development. The Wal-Mart and Jet.com settlement stipulates funds shall be provided to CalRecycle for use in compostable plastics research. The requested authority will allow CalRecycle to conduct compostable plastics research and policy development consistent with the terms of the settlement.

### **Issue 9 – Organic Wastes**

**Governor’s Proposal.** The Governor's budget proposes \$650,000 from the Cost of Implementation Account, Air Pollution Control Fund, and \$508,000 from the Integrated Waste Management Account and six positions to implement SB 1383 (Lara), Chapter 395, Statutes of 2016.

**Background.** Organic wastes do not contain methane. However, as they decompose in an anaerobic environment (landfills are buried), methane is produced. Organic materials make up one-third of the waste stream. Recycling organic waste through composting and other organics processing technologies, including anaerobic digestion, reduces such emissions. While most modern landfills have systems in place to capture methane, significant amounts continue to escape into the atmosphere. According to ARB's Greenhouse Gas inventory, nearly 8.28 million metric tons of CO<sub>2</sub> equivalent are released annually by landfills in California.

In 2016, the Legislature passed Senate Bill 1383, which directed CalRecycle to reduce the state’s annual organic waste disposal by at least 50 percent by 2020 and 75 percent by 2025. This new requirement requires CalRecycle to develop regulations and perform oversight directed at reducing organic waste in landfills.

In addition to funding for these duties, CalRecycle requests a one-time expenditure authority of \$508,000 to conduct a waste characterization study. CalRecycle asserts that a waste characterization study would enable them to comply with waste sector evaluation requirements, by providing them with updated and scientifically informed information in the areas of waste disposal and recycling. CalRecycle has historically hired a professional solid waste sorting firm to conduct these studies, due to the very specific expertise needed for efficient and accurate data collection.

**Issue 10 – TBL – State Agencies to Retain Recycling Revenue**

**Governor’s Proposal.** The Governor's budget proposes trailer bill language to allow state agencies to contract for recycling services and retain revenue received.

**Background.** AB 4 (Eastin), Chapter 1094, Statutes of 1989, created the state’s in-house recycling program. Known as Project Recycle, the law was designed to reduce agency-generated solid waste and recoup value from discards when possible.

At the time of passage, recycling services were not widespread and few agencies had experience in setting up recycling programs. Project Recycle was an effort in bringing these services to state agencies by tasking CalRecycle (the Integrated Waste Management Board at the time) with negotiating and managing commodity recycling contracts for agencies.

In the following 27 years, private and public recycling services have become abundant and state agencies now have access to and awareness of, these services. Today all agencies have recycling coordinators who manage recycling programs and contracts. The number of recycling contracts managed by CalRecycle has been reduced to three.

Despite having agency recycling coordinators, the law still requires state agencies to first receive approval from CalRecycle prior to establishing or entering into an agreement for recycling services.

Further, the revenue generated from the recycling programs that exceed \$2,000 annually is remitted to CalRecycle. Agencies may request approval from CalRecycle to retain up to \$2,000 in revenue annually from recycling contracts. To retain more than \$2,000 in annual revenue, agencies must receive approval from the Legislature through the budget process. Current statute restricts such revenue to be used to offset recycling program costs.

**3980 Office of Environmental Health Hazard Assessment (OEHHA)****Issue 1 – Litigation Costs (Prop 65)**

**Governor’s Proposal.** The Governor's budget proposes \$574,000, annually, for two years from the Safe Drinking Water and Toxic Enforcement Fund to pay for defense of civil lawsuits brought against OEHHA for actions taken as lead agency for purposes of Proposition 65 (Safe Drinking Water and Toxic Enforcement Act of 1986).

**Background.** OEHHA has been party to several lawsuits relating to its decisions in listing chemicals or establishing safe harbor levels for chemicals already listed. OEHHA anticipates additional legal challenges related to its recently completed regulatory process to update the regulations concerning businesses' responsibilities for providing warnings for chemicals listed under Proposition 65.

**Issue 2 – Compliance Assistance**

**Governor’s Proposal.** The Governor's budget proposes \$304,000, annually, for two years from the Safe Drinking Water and Toxic Enforcement Fund to provide advice and consultation on when

Proposition 65 warnings are required for specific products or facilities and to conduct the assessments needed to make such determinations.

**Background.** OEHHA is receiving an increasing number of requests from businesses, the Department of Justice (DOJ), and other state entities for guidance concerning the level of exposure to Proposition 65 chemicals that Californians incur, and whether these levels trigger the Proposition 65 warning requirement. OEHHA cannot respond to these requests as quickly as it should because of limited resources, including a limited number of staff with expertise in exposure science. The delayed responses may be prompting businesses to provide Proposition 65 warnings that are not required, or could be resulting in litigation over whether such warnings are required. The resources are requested in anticipation of the workload associated with increasing requests from businesses and trade organizations for this kind of compliance assistance, and from the DOJ and other governmental entities that are enforcing Proposition 65.

### Issue 3 – Site Risk Assessment Review

**Governor’s Proposal.** The Governor's budget proposes one position to provide technical assistance to the Regional Water Quality Control Boards and to local governments on human health risk assessments on contaminated sites. The position will be funded by reimbursements from an existing interagency agreement with the State Water Resources Control Board.

**Background.** The State and regional boards regulate and oversee the investigation and cleanup of sites where unauthorized releases of pollutants to the environment have impacted groundwater. At sites where the contamination may result in human exposures, a human health risk assessment is performed to characterize the hazards and risks associated with such exposures. The risk assessment is usually performed by a consultant on behalf of the party responsible for the site. The assessment informs risk management decisions regarding actions needed to clean up the contamination or mitigate exposures. Since regional boards generally do not have in-house toxicological expertise, they rely on OEHHA to provide technical consultation on the scientific validity of the risk assessment and its adherence to regulatory guidance.

### Issue 4 – Indicators of Climate Change in California

**Governor’s Proposal.** The Governor's budget proposes one position to prepare periodic reports presenting indicators of climate change and its impacts on California. The position will be funded through an interagency agreement between OEHHA and CalEPA.

**Background.** Current law designates OEHHA as the lead agency for the development of environmental indicators on behalf of CalEPA. Since 2007, a series of interagency agreements has provided funding for the equivalent of one position to partially handle the workload involved in developing climate change indicators. The workload has required a total of 2.7 positions to complete the work. OEHHA has redirected staff, hired a retired annuitant, and used contracted services to accomplish the work. This request will enable OEHHA to hire and dedicate a staff scientist on an ongoing basis to tracking the environmental impacts that climate change is having on California.

**Issue 5 – Well Stimulation Treatment Health and Environmental Risks**

**Governor’s Proposal.** The Governor's budget proposes \$366,000, annually, for three years (including \$50,000 in contract funding), from the Oil, Gas and Geothermal Administrative Fund, to evaluate chemicals used in oil and gas well stimulation treatments in California.

**Background.** Oil and gas well operations using well stimulation treatments occur in a variety of locations in California, including the San Joaquin Valley (and frequently in areas close to low-income communities), the densely populated areas of Los Angeles County, and areas along the Central Coast. SB 4 (Pavley), Chapter 313, Statutes of 2013; required the California Natural Resources Agency to sponsor an independent study on hazards and risks posed by well stimulation treatments, including hydraulic fracturing. The study was carried out by the California Council on Science and Technology. SB 4 also required OEHHA to participate in the study. One of its highest-profile findings - that little is known about the toxicity and risk posed by the many chemicals used in well stimulation treatments - was based to a significant extent on information provided by OEHHA. The report recommended that chemicals used in well stimulation treatments activities be limited to those with hazards that are known and acceptable.

The requested resources would enable OEHHA to develop an inventory of chemicals used in well stimulation treatments, evaluate the health and environmental hazards they pose, identify and fill gaps in scientific information on these chemicals, and identify and evaluate potential alternatives to the high-hazard chemicals.

**Staff Recommendation.** Approve vote only items as budgeted.

## Issues for Discussion

### 3930 Department of Pesticide Regulation (DPR)

DPR protects public health and the environment by regulating pesticide sales and use and fostering reduced-risk pest management. The department ensures compliance with pesticide laws and regulations through its oversight of County Agricultural Commissioners, who enforce pesticide laws and regulations at the local level.

The Governor's budget proposed \$96.4 million for DPR in 2017-18. DPR's primary source of funds is the Department of Pesticide Regulation Fund, \$92.9 million is proposed from this source in the budget year.

#### 3-YR EXPENDITURES AND POSITIONS

	Positions			Expenditures		
	2015-16	2016-17	2017-18	2015-16*	2016-17*	2017-18*
3540 Pesticide Programs	284.7	294.9	294.9	\$91,877	\$99,419	\$96,353
9900100 Administration	76.7	78.3	78.3	11,496	11,748	11,748
9900200 Administration - Distributed	-	-	-	-11,496	-11,748	-11,748
<b>TOTALS, POSITIONS AND EXPENDITURES (All Programs)</b>	<b>361.4</b>	<b>373.2</b>	<b>373.2</b>	<b>\$91,877</b>	<b>\$99,419</b>	<b>\$96,353</b>

Dollars in Thousands

#### Issue 1 – Pest Management Research Grants

**Governor's Proposal.** The Governor's budget proposes \$600,000, annually, for two years from the Department of Pesticide Regulation Fund to continue funding pest management research grants at \$1.1 million per year. This request would extend a three-year legislative augmentation that appropriated an additional \$600,000 to the program.

DPR is also requesting budget bill language to allow funding for both of its pest management grants (research and alliance) be available for encumbrance for two years (instead of one), in recognition of the long-term nature of research and alliance grant projects and to accommodate terms of the model contract language, between the state and the University of California, that require grant recipients to submit final invoices up to 90 days after the end of projects.

**Background.** One of DPR's primary purposes is "to encourage the development and implementation of pest management systems, stressing application of biological and cultural pest control techniques with selective pesticides when necessary to achieve acceptable levels of control with the least possible harm to non-target organisms and the environment." To do so, DPR encourages the development and use of environmentally sound pest management systems, known as integrated pest management. Pest Management Research grants develop practices that contribute to an integrated pest management system to reduce use of high-risk pesticides and their unanticipated impacts on public health and the environment.

**Staff Recommendation.** Approve as budgeted.

**Issue 2 – Pesticide Registration Database Management System Funding Realignment**

**Governor’s Proposal.** An April 1<sup>st</sup> Finance Letter proposes to revert and reappropriate \$3.4 million, to and from, the Department of Pesticide Regulation Fund and allow for a four-year encumbrance period to use the funds for the Pesticide Registration Data Management System (PRDMS).

**Background.** The Pesticide Registration Branch (PRB) currently maintains registration for approximately 13,000 pesticide products containing 1,000 different active ingredients and seven devices. PRB receives and processes approximately 5,000 registration submissions each year, as well as managing license renewals and product label and data storage for existing products. In addition to responsibility for the evaluation and registration of pesticides and certain devices, PRB also processes exemptions from registration; tracks adverse effects submissions regarding pesticide products; issues research authorizations for the testing of new products; coordinates reevaluations of registered pesticide products, and is responsible for tracking the status and providing communication with the regulated community regarding human health risk assessment and mitigation programs. Currently, PRB completes these tasks manually, with some information technology (IT) support.

In 2015-16, DPR was appropriated resources to procure an external system integrator vendor to develop and implement the PRDMS in order to take the PRB manual process of registration to an integrated electronic system. Since then, there have been several changes in the project approval lifecycle of the IT project. These project delays have led to the timeline for final project implementation being pushed back from June 2017 to December 2019.

**Staff Recommendation.** Approve as budgeted.

## 3960 Department of Toxic Substances Control (DTSC)

The DTSC protects the people of California and the environment from the harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically-safer products.

The Governor's budget proposed \$285.8 million for DTSC in 2017-18. DTSC's primary sources of funds are the Toxic Substances Control Account, Hazardous Waste Control Account, and the General Fund, \$121.4 million, \$62.3 million, and \$32.1 million, respectively, are proposed from these sources in the budget year.

### 3-YR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2015-16	2016-17	2017-18	2015-16*	2016-17*	2017-18*
3620	Site Mitigation and Brownfields Reuse	286.7	280.2	285.2	\$130,007	\$135,187	\$123,776
3625	Hazardous Waste Management	371.2	389.2	389.7	80,599	83,720	78,659
3630	Safer Consumer Products	61.0	61.8	61.8	14,960	15,611	13,417
3635	State Certified Unified Program Agency	9.3	9.7	9.7	2,876	2,781	2,784
3645	Exide Technologies Facility Contamination Cleanup	-	-	-	4,790	24,393	67,191
9900100	Administration	174.9	176.9	176.9	33,964	34,580	34,477
9900200	Administration - Distributed	-	-	-	<u>-33,964</u>	<u>-34,580</u>	<u>-34,477</u>
<b>TOTALS, POSITIONS AND EXPENDITURES (All Programs)</b>		<b>903.1</b>	<b>917.8</b>	<b>923.3</b>	<b>\$233,232</b>	<b>\$261,692</b>	<b>\$285,827</b>

Dollars in Thousands

### Issue 1 – Department of Toxic Substances Control – Performance Review

As mentioned above, the Department of Toxic Substances Control (DTSC) is charged with protecting the people of California and the environment from the harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically-safer products. In addition to administration, the budget includes the following five programs for DTSC:

1. **Site Mitigation and Brownfields Reuse** – The program implements the state's laws regarding site cleanup and the federal Superfund program. The program currently oversees approximately 1,170 hazardous substance release site investigations and cleanups, and monitors long-term operations and maintenance activities at more than 470 sites where the cleanup process is complete. Additionally, the program is responsible for ensuring compliance with the terms of approximately 820 land-use restrictions in place on properties throughout the state.
2. **Hazardous Waste Management** – The program regulates the generation, storage, transportation, treatment, and disposal of hazardous waste to minimize risks to public health and the environment. The program oversees permitting and compliance at approximately 120 facilities that manage hazardous waste, approximately 900 registered businesses that transport hazardous waste, and approximately 300 facilities/generators that are subject to corrective actions.
3. **Safer Consumer Products** – The Safe Consumer Products (SCP) program strives to get manufacturers to reduce human and environmental exposure to toxic chemicals. SCP calls for industry to develop safer consumer products and use pollution prevention best practices. The

program implements the SCP regulations. SCP also collects information on the presence of toxic chemicals in products in order to identify priority products for possible regulation; provides support and guidance to priority product manufacturers for the analysis of safer alternatives; and issues regulatory responses to proposed alternatives. Lastly, the program encourages the adoption of "green chemistry" practices.

4. **State as Certified Unified Program Agency** – The California Environmental Protection Agency designated the Department of Toxic Substances Control as the Certified Unified Program Agency (CUPA) in Trinity and Imperial counties. As the CUPA, the department is responsible for implementing the six elements of the unified program: hazardous waste generator and onsite treatment activities; spill prevention control and countermeasure plans for owners of above-ground petroleum storage tanks; underground storage tank program; hazardous material release response plans and inventories; California Accidental Release Prevention program; and certain Uniform Fire Code.
5. **Exide Technologies Facility Contamination Clean Up Program** – The program oversees the removal and remedial actions in the communities surrounding the Exide Technologies facility in the City of Vernon.

As mentioned above, the Governor's budget proposes \$285.8 million and 923.3 positions for DTSC in 2017-18. DTSC is funded from multiple sources, including; the General Fund, special funds, and federal funds. Following are some of the departments more significant funding sources as outlined in the Governor's budget:

<b>DTSC – Significant Funding Sources</b>			
<b>Dollars in Thousands</b>			
<b>Funding Source</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>
General Fund	\$27,379	\$44,090	\$32,087
Toxic Substances Control Account	70,441	81,970	121,426
Hazardous Waste Control Account	63,512	65,892	62,302
Federal Funds	32,499	33,414	33,144
Reimbursements	13,075	13,525	13,531
Site Remediation Account	11,047	9,626	6,626
Removal and Remedial Action Account	3,346	3,185	3,185

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

This effort has been spurred by incidents across California that have exposed glaring issues in DTSC's operations. In particular, issues with hazardous waste facility permitting and enforcement at the Exide and Quemetco battery recycling facilities; shortcomings in cost-recovery efforts for cleanups leading to an accumulation of 1,661 projects totaling approximately \$194 million in uncollected cleanup costs; a



growing backlog of applications to renew hazardous waste permits; delayed site remediation; lack of public participation and transparency activities; and personnel issues, have all contributed to the need for increased scrutiny by the Legislature.

**Independent Review Panel.** The Independent Review Panel (IRP) was established within the DTSC pursuant to SB 83 (Committee on Budget and Fiscal Review), Chapter 24, Statutes of 2015. The IRP is comprised of three members: an appointee of the Assembly Speaker with scientific experience related to toxic materials; an appointee of the Senate Committee on Rules who is a community representative; and an appointee of the Governor who is a local government management expert. The current IRP members are: Dr. Arezoo Campbell (scientist with experience related to toxic materials), Gideon Kracov, JD (community representative), and Mike Vizzier (local government management expert). The panel members are tasked with reviewing and making recommendations regarding improvements to DTSC's permitting, enforcement, public outreach, and fiscal management. The IRP also may make recommendations for other DTSC programs, may advise DTSC on its reporting obligations, and is required to advise DTSC on compliance with the mandate to institute quality government programs to achieve increased levels of environmental protection and public satisfaction. The IRP will end on January 1, 2018, unless the Legislature extends its mandate.

**Legislative Analyst's Office (LAO).** On April 4, 2017, the LAO released a post regarding DTSC's performance improvement initiatives. In it, the LAO discusses the department's progress to date in addressing deficiencies, focusing on those programs that have received additional funding and personnel resources. These programs include 1) Hazardous Waste Management Program, 2) Exide Facilities Contamination Cleanup Program, 3) Site Mitigation and Brownfields Reuse Program, and 4) Office of Strategic Planning and Development. Specifically, for each of these programs, the LAO: 1) provides a brief program description; 2) summarizes the resources that were approved by the Legislature to address identified deficiencies; 3) includes data on outcomes achieved to date, where available, and projected future outcomes; and 4) provides questions for legislators to ask DTSC in future budget and policy hearings to determine the degree to which the department is improving program performance. The LAO also provides a brief description of the IRP, which was established by the Legislature to provide oversight over many of the same programs for which additional resources have been provided.

**Staff Comment.** The LAO's report notes that DTSC's own projections show that for some programs it will be years before deficiencies are fully remedied. To ensure that progress continues to be made, the Legislature should consider whether additional measures are necessary to review and assess DTSC programs upon the IRP's sunset. Options could range from additional oversight hearings to the continuation of the IRP or the establishment of a new body tasked with overseeing implementation of deficiency remedies.

**Staff Recommendation.** Informational item, no action.

<b>Issue 2 – Lead-Acid Battery Recycling Act of 2016 (AB 2153, Chapter 666, Statutes of 2016)</b>
---

**Governor's Proposal.** The Governor's budget proposes \$610,000 from the Lead-acid Battery Cleanup Fund and five positions to implement the Lead-acid Battery Recycling Act of 2016.

**Background.** Lead is a toxic metal that does not break down in the environment and accumulates in the human body. Exposures to lead can lead to a number of health problems, including behavioral problems, learning disabilities, joint and muscle weakness, anemia, organ failure, and even death.

A number of studies over the past 30 years have thoroughly documented the serious and cumulative impacts associated with lead exposure. According to the Centers for Disease Control and Prevention, there is no identified safe blood lead level in children.

Lead is a leading environmental threat to children's health. When children are exposed to lead it has lifelong adverse effects, including lower IQ scores, learning and hearing disabilities, behavioral problems, difficulty paying attention, hyperactivity and disrupted postnatal growth.

Lead-acid batteries constitute a significant contributor to lead in the environment. In 2013, Exide Technologies, a battery recycler in the City of Vernon, permanently suspended operations. The facility closed in 2015, after DTSC notified Exide that its application for a new permit would be denied. Exide was found to have discharged harmful quantities of lead for years and posed an unacceptable risk to human health and the environment. DTSC conducted soil tests and found lead contamination could have affected as many as 10,000 homes up to 1.7 miles away. A General Fund loan of \$176.6 million has been given to DTSC to expedite and expand the testing area and to cleanup properties with the highest levels of lead and greatest risk of exposure. The state intends to seek reimbursement from Exide for this loan to DTSC.

AB 2153 (Garcia) Chapter 666, Statutes of 2016, establishes the Lead-Acid Battery Recycling Act of 2016, which imposes new fees on manufacturers and consumers of lead-acid batteries to fund lead contamination cleanup. Among other things, this act requires DTSC to identify, investigate and cleanup areas reasonably suspected to have been contaminated by the operation of lead-acid battery recycling facilities.

According to DTSC, in addition to the Exide site, it has identified 14 former lead smelting facilities in California that may fall under AB 2153's definition of a lead-acid battery recycling facility. These types of facilities have been in operation in California since at least the 1920s. There could potentially be additional lead-acid battery recycling sites identified in coming years.

**Legislative Analyst's Office.** The LAO recommends approving this request. In addition, the LAO recommends that the Legislature adopt budget bill language requiring DTSC to provide a report summarizing its progress implementing the act. Given the uncertainty about the amount of contamination that may have been caused by lead-acid battery recycling facilities in some areas of the state, the LAO suggests that the report would serve to update the Legislature on the department's progress towards addressing this issue and inform the Legislature on future resource needs for this program.

**Staff Comment.** DTSC plays a critical role in implementing AB 2153, which, if properly implemented, will go a long way in mitigating a serious environmental concern. However, as the LAO points out, there is still a lot of work to be done in assessing the scope of contamination caused by lead-acid battery recycling facilities. In addition, the department was unable to identify a need for resources as AB 2153 moved through the legislative process. As such, it is important that the Legislature closely monitor and assess implementation to ensure that the program is carried out as intended.

**Staff Recommendation.** 1) Approve the request on a two-year limited-term basis; 2) As recommended by the LAO, adopt budget bill language requiring DTSC to provide a report, by March 1, 2018, summarizing its progress implementing the act.

<b>Issue 3 – Stringfellow Superfund Removal and Remediation Action</b>
--

**Governor’s Proposal.** The Governor's budget proposes \$2.5 million General Fund in 2017-18, \$3 million in 2018-19, and \$2.6 million in 2019-20, for removal and remedial action at the Stringfellow Hazardous Waste Site.

**Background.** The Stringfellow site, located in Riverside County in Pyrite Canyon, was originally a rock quarry operated by the Stringfellow Quarry Company. In 1956, the Stringfellow Quarry Company opened the site for dumping toxic waste. The hazardous waste disposal facility operated from 1956 until 1972. In its 16 years of operation, more than 35 million gallons of liquid industrial waste were disposed in unlined ponds. The waste included spent acids and caustics, metals, solvents, and pesticide byproducts from metal finishing, electroplating, and pesticide production.

California became the primary responsible party in 2002 and the US Environmental Protection Agency assumed the role of lead regulatory agency for the site. DTSC, on behalf of California, has been remediating, operating, maintaining, and monitoring the site. Failure to perform these duties could subject the state to regulatory enforcement action by the US EPA.

The funding requested in this proposal will enable DTSC to collect environmental data to support the selection of a protective, technically viable, and efficient final remedy for the site which addresses all contaminants including emerging contaminants such as hexavalent chromium and perchlorate for all areas of the plume. The absence of adequate resources for DTSC as the agent for the state to complete the characterization may result in violation of the state's agreement with US EPA.

**Staff Recommendation.** Approved as budgeted.

## 3970 Department of Resources Recycling and Recovery (CalRecycle)

CalRecycle protects public health, safety, and the environment by regulating solid waste facilities, including landfills, and promoting recycling of a variety of materials, including organics, beverage containers, electronic waste, waste tires, used oil, carpet, paint, mattresses, and other materials. CalRecycle also promotes the following waste management and recycling practices: 1) source reduction, 2) recycling and composting, and 3) reuse. Additional departmental activities include research, permitting, inspection, enforcement, public awareness, education, market development to promote recycling industries, and technical assistance to local agencies. Lastly, CalRecycle administers the Education and the Environment Initiative, a statewide effort promoting environmental education in California.

The Governor's budget proposed \$1.6 billion for CalRecycle in 2017-18. CalRecycle's primary sources of funds are the California Beverage Container Recycling Fund and the Electronic Waste Recovery and Recycling Account - Integrated Waste Management Fund, \$1.2 billion and \$102.3 million, respectively, are proposed from these sources in the budget year.

### 3-YR EXPENDITURES AND POSITIONS

	Positions			Expenditures		
	2015-16	2016-17	2017-18	2015-16*	2016-17*	2017-18*
3700 Waste Reduction and Management	328.8	327.3	349.8	\$380,942	\$285,714	\$234,893
3705 Loan Repayments	-	-	-	-2,909	-2,193	-2,505
3710 Education and Environment Initiative	10.5	10.1	10.1	2,372	4,084	2,821
3715 Beverage Container Recycling and Litter Reduction	276.7	221.4	199.4	1,332,527	1,341,206	1,331,973
9900100 Administration	101.0	102.0	110.0	13,023	15,183	16,110
9900200 Administration - Distributed	-	-	-	-13,023	-15,183	-16,110
<b>TOTALS, POSITIONS AND EXPENDITURES (All Programs)</b>	<b>716.8</b>	<b>660.8</b>	<b>669.3</b>	<b>\$1,692,932</b>	<b>\$1,608,811</b>	<b>\$1,566,982</b>

Dollars in Thousands

### Issue 1 – Administrative Support Workload

**Governor's Proposal.** The Governor's budget proposes \$929,000 in distributed administration and eight positions for increased fiscal activity, information technology services, and departmental operations.

**Background.** CalRecycle administers and provides oversight for all of California's state-managed waste handling and recycling programs. Known mostly for overseeing beverage container and electronic-waste recycling, CalRecycle is also responsible for organics management, used tires, used motor oil, carpet, paint, mattresses, rigid plastic containers, plastic film wrap, newsprint, construction and demolition debris, medical sharps waste, household hazardous waste, and food-scrap composting. CalRecycle collaborates with many stakeholders - local jurisdictions, state agencies, Recycling Market Development Zones, non-profit organizations, business associations, individual businesses, manufacturers, school districts, and many others - to identify barriers and opportunities, and solve problems. Success depends on our ability to act both locally and regionally, forge links and coalitions with key stakeholders, and use our financial resources to assist our stakeholders.

Over the last several years, CalRecycle has experienced an increase in reporting needs and information technology needs. In part due to new programs created by legislation (Carpet and Paint Program),

migration of programs from other departments (Office of Education and the Environment from CalEPA to CalRecycle), implementation of new funds, grants, and loan program relating to greenhouse gas emission goals, and general increase in the complexity of various functions requiring additional attention and detail.

The department reports that there has been a marked increase in the amount of workload associated with reporting and analysis of cash flows, as well as the ongoing integration of data from various programmatic systems throughout the department. In response to a finding and adverse audit opinion in the most recent Financial Integrity and State Manager's Accountability Act and individual Beverage Container Recycling Fund audits, the department has had to devote significant resources to properly handle accounts receivable transactions for revenues. Both the number of external audits and detail being requested has increased significantly. Financial information systems have gotten more granular in response to increased statewide, programmatic, audit, and reporting needs. As CalRecycle has become more complex, there are more unexpected and immediate projects such as wildfire response, legislative inquiries, special payments and levy offsets, and other critical projects that cause other projects to stop.

In addition to overtime, staff has been redirected from other ongoing tasks to respond to immediate needs. According to the department, even with these efforts, backlog of basic processes continues to be excessive; for example, there are several fiscal months of expenditures which require review and clean-up, approval of purchase orders which delays payments to grantees, and an accumulation of contract approvals.

**Staff Recommendation.** Approved as budgeted.

## **Issue 2 – Bonzi Sanitary Landfill Closure Funding**

**Governor's Proposal.** The Governor's budget proposes \$4.2 million, one-time, from the Integrated Waste Management Account (IWMA) to fund the closure of the inactive Bonzi Sanitary Landfill. The budget also requests that the annual transfer from the IWMA to the Solid Waste Disposal Site Cleanup Trust Fund be reduced from \$5 million to \$800,000 for 2017-18 to provide funds for this proposal.

**Background.** The Bonzi Sanitary Landfill, located in Modesto, was a solid waste disposal facility that stopped accepting waste in November 2009. The site has a history of groundwater contamination and landfill gas migration violations. There have been numerous enforcement actions against the operator-owner, starting in 1984, addressing inadequate financial assurances, groundwater contamination, violations of state minimum standards, and failure to comply with permit conditions.

Although Bonzi ceased operations in 2009, it did not properly close pursuant to state regulations. After a landfill stops receiving waste, it must begin preparing for post closure maintenance according to an approved plan. An approved closure plan is a prerequisite of a facility's operating permit. The post closure maintenance plan identifies steps needed to ensure the integrity of containment features and how to monitor compliance with applicable performance standards.

The Bonzi Landfill is also registered as a superfund site by the US EPA, which means this site poses potential risk to human health and/or environment due to contamination by one or more hazardous waste.

Since the facility ceased accepting waste in 2009, the State and Regional Water Quality Control Board, the Central Valley Regional Water Quality Control Board, and CalRecycle have been working together to compel the current owner, the Bonzi Trust, to fully fund the closure and post closure maintenance trust fund and to bring the facility into regulatory compliance. The California Attorney General's office placed an injunction on the Bonzi Trust and its Trustees in 2009, to collect on the remaining and available assets to address financial assurance deficiencies. In March 2010, the Bonzi Trustees notified CalRecycle and the Regional Water Quality Control Board that they were financially unable to continue critical operations and maintenance activities at the site.

In 2012, CalRecycle, in consultation with the State and Regional Water Quality Control Board, as well as the Bonzi Trust, determined that to reduce the ongoing environmental and health and safety impacts associated with the site, CalRecycle would fund one-time remedial actions at the site by spending \$1.9 million from the Solid Waste Disposal Site Cleanup Trust Fund. These actions included consolidation of waste, constructing an intermediate cover, improving site drainage, and making improvements to the landfill gas collection system. These actions also had the effect of reducing the expanse of actions required to close the site.

The California Attorney General's office has determined, for now and the foreseeable future, all enforcement options to access funds to cover the cost associated with closing the site have been exhausted. Moreover, all Trust assets have been identified and no additional financial resources are available.

In short, the Trust's assets can support approximately \$7 million in site-related costs. However, projected combined costs for closure and post-closure maintenance are estimated between \$11.2 million and \$14.2 million.

CalRecycle believes that the sooner the site is closed there is more potential to keep the post-closure costs down. Any post-closure maintenance costs not covered by the Trust would fall to the state. Therefore, funding site closure via this proposal will minimize the state's long-term obligation and risk.

**Staff Recommendation.** Approve as budgeted.

## 3900 Air Resources Board (ARB)

The ARB has primary responsibility for protecting air quality in California. This responsibility includes establishing ambient air quality standards for specific pollutants, maintaining a statewide ambient air-monitoring network in conjunction with local air districts, administering air pollution research studies, evaluating standards adopted by the U.S. Environmental Protection Agency, and developing and implementing plans to attain and maintain these standards. These plans include emission limitations for vehicular and other mobile sources and industrial sources established by the board and local air pollution control districts. The ARB also has the responsibility, in coordination with the Secretary for Environmental Protection, to develop measures to reduce greenhouse gas emissions to 1990 levels by 2020 and at least 40 percent below 1990 levels by 2030, pursuant to AB 32 (Nunez), Chapter 488, Statutes of 2006, and SB 32 (Pavley), Chapter 249, Statutes of 2016.

The Governor's budget proposed \$410.1 million for the ARB in 2017-18. The ARB's primary sources of funds are the Motor Vehicle Account and the Air Pollution Control Fund, \$137.5 million and \$125.2 million, respectively, are proposed from these sources in the budget year. The large reduction in funding from 2016-17 to 2017-18 is mainly due to a large Greenhouse Gas Reduction Fund appropriation in 2016-17.

### 3-YR EXPENDITURES AND POSITIONS

		Positions			Expenditures		
		2015-16	2016-17	2017-18	2015-16*	2016-17*	2017-18*
3500	Mobile Source	676.6	659.9	680.9	\$402,035	\$247,136	\$224,149
3505	Stationary Source	262.2	271.3	271.3	35,716	40,295	39,440
3510	Climate Change	177.7	186.4	195.4	180,971	486,133	67,766
3515	Subvention	-	-	-	75,887	79,111	78,793
9900100	Administration	260.2	244.8	248.8	16,000	50,285	51,311
9900200	Administration - Distributed	-	-	-	-16,000	-50,285	-51,311
<b>TOTALS, POSITIONS AND EXPENDITURES (All Programs)</b>		<b>1,376.7</b>	<b>1,362.4</b>	<b>1,396.4</b>	<b>\$694,609</b>	<b>\$852,675</b>	<b>\$410,148</b>

Dollars in Thousands

### Issue 1 – ARB Southern California Consolidation Project

**Governor's Proposal.** The Governor's budget proposes \$413.1 million in lease-revenue bond authority for the construction phase to consolidate and relocate ARB's existing motor vehicle and engine emissions testing and research facilities that are currently located in Southern California.

In addition, an April 1<sup>st</sup> Finance Letter proposes a fund shift in the amount of \$82.6 million from the lease revenue bond funds proposed in the Governor's budget to the Air Pollution Control Fund (APCF). This request reflects a partial shift of debt financing to cash funding for the construction phase of this project.

**Background.** This project will be located on land in Riverside County near the University of California Riverside (UCR). The existing ARB facilities no longer meet ARB's programmatic requirements, nor do they allow ARB the space necessary to perform the testing required to meet current air quality and climate change mandates. The total project cost is estimated to be \$419.5 million.

The existing southern California Haagen-Smit Laboratory (HSL) facilities and infrastructure are insufficient to meet existing and future equipment, fuel, and emissions testing needs. In addition, the HSL facilities are not energy efficient and the HSL property is too small to modify and consolidate testing operations. California will not be able to meet existing and future air quality State Implementation Plan (SIP) and climate change emission reduction mandates unless the existing emissions testing and research capabilities are increased.

For fiscal year 2015-16, the ARB requested and received \$6.4 million for this project. The funding was dedicated to assessing the suitability of proposed new sites (\$0.2 million), developing performance criteria (\$5.7 million) for this project, and evaluating the feasibility of achieving zero net energy (ZNE) for the project (\$0.5 million).

In March 2016, ARB completed the site selection review process and the board recommended a site near the intersection of University Avenue and Iowa Avenue in Riverside. The site is located near the UCR on property owned by UCR. The Regents of the University of California (UC) have agreed to transfer the property to the state at no cost. On November 14, 2016, the State Public Works Board approved the transfer of the property. ARB is working with the Department of General Services (DGS) and UC Office of the President to complete the transfer of property to the state. ARB is also working closely with DGS on the development of the performance criteria and evaluation of ZNE. ARB expects to complete these tasks in 2016-17.

HSL was originally designed to support 40 staff and encompassed about 54,000 square feet. HSL now encompasses all or part of five leased buildings adjacent to the original HSL, with approximately 400 staff. In addition, ARB also operates a small heavy-duty testing facility located at the Los Angeles County Metropolitan Transit Authority (MTA) facility about 10 miles away in Los Angeles. ARB operates that facility under a memorandum of understanding (MOU) with MTA. Given the limited size of HSL, ARB currently conducts the testing of heavy-duty diesel engines and trucks at the MTA facility. This location does not meet existing and future heavy-duty testing needs that are so critical to the continued reduction of diesel particulate matter and support of the Sustainable Freight Initiative.

ARB will not be able to effectively meet current and future federal air quality mandates under the Clean Air Act and statutory climate change requirements without additional emissions testing and research capabilities. These capabilities are needed for support of new fuels and vehicles in development and various stages of commercialization to transform the state's transportation system. Over the next twenty years, California will need to build upon its successful efforts to meet these critical climate and air quality goals, including:

- Climate Goals:
  - By 2020, the Global Solutions Warming Act of 2006 requires California to reduce its GHG emissions to 1990 levels. This is a reduction of approximately 15 percent below emissions expected under a "business as usual" scenario.
  - By 2030, SB 32 (Pavley), Chapter 249, Statutes of 2016, now requires California to reduce its GHG emissions to 40 percent below 1990 levels.
  - By 2050, California has set a goal of reducing GHG emissions to 80 percent below 1990 levels.
- Air Quality Goals:
  - By 2023, California must achieve the federal 8-hour ozone air quality standard of 80 parts per billion (ppb) in all regions of California.



- By 2025, California must achieve the federal annual PM<sub>2.5</sub> air quality standard of 12 micrograms per cubic meter (µg/m<sup>3</sup>) in all regions of California.
- By 2031, California must achieve the more stringent federal 8-hour ozone standard of 75 ppb in all regions of California.
- By 2037, California must achieve the more stringent federal 8-hour ozone standard of 70 ppb in all regions of California.

Planning for a new facility began in 2006 with an initial study of the needs, size, and requirements of a new facility. This study was expanded and released in January 2015 to include a broad range of changes and new regulatory and other workload requirements, including the added mission to develop and implement climate change mitigation strategies." In May 2016, DGS entered into a contract with Harley Ellis Devereaux (HED) to be the master architect for the project. Since then, ARB has been working with DGS and HED to develop the detailed performance criteria and establish revised cost estimates for the project.

As part of a court settlement with Volkswagen (VW), the ARB will receive approximately \$154 million in civil penalties that will be deposited into the APCF. Of this amount, \$82.6 million is proposed for this project. By reducing the amount financed for this project, the state will reduce total debt service costs by an estimated \$66 million.

**Legislative Analyst's Office (LAO).** The LAO recommends the Legislature consider the following modifications to the ARB proposal to shift \$83 million in construction funding for the new lab (out of total construction costs of \$413 million) from lease revenue bonds to VW civil penalties deposited in the APCF:

- **Allocate Additional VW Civil Penalties to Construction Costs.** The Administration proposes to use \$83 million of the expected \$154 million in VW civil penalty revenue to reduce the amount of lease-revenue bonds. The LAO recommends the Legislature consider using all of the VW civil penalties to reduce the amount of lease-revenue bonds issued to finance the project. Under the LAO's approach, less VW penalty revenue would be available to fund some of ARB's anticipated regulatory activities over the next several years. However, even without the VW penalties available in future years, the LAO points out that the APCF is projected to have a slight operating surplus and a large fund balance (over \$150 million in 2018-19).
- **Consider Using VW Penalties to Offset Motor Vehicle Account (MVA) Costs.** The Administration's January budget planned to make annual debt service payments from three funds—MVA (65 percent), APCF (20 percent), and the Vehicle Inspection Repair Fund (15 percent). The Administration proposes to use the VW penalty revenue to eliminate only the APCF portion of debt service payments. As discussed above, the APCF is projected to be balanced over the long term and have a large fund balance. The LAO recommends that the Legislature consider using the penalty revenues to offset costs for the other two funds. In particular, the Legislature might want to use the penalty revenues to offset costs from the MVA, which is barely balanced over the next few years and could face a modest operational shortfall in certain years.

**Staff Recommendation.** Hold open.

**Issue 2 – Implementation of the Volkswagen Consent Decree**

**Governor’s Proposal.** The Governor’s budget proposes \$2.3 million (including contract funding of \$125,000, annually, for five years) and 14 positions to administer and implement the provisions of the Volkswagen Consent Decree entered by the court on October 25, 2016. Of the \$2.3 million, \$1.8 million and 11 positions will be funded from the Air Pollution Control Fund, to be repaid by state penalty fees from Volkswagen, and \$490,000 and three positions will be funded by reimbursements from Volkswagen’s Environmental Mitigation Trust Fund pursuant to Appendix D of the consent decree.

Additionally, an April 1<sup>st</sup> Finance Letter proposes \$25 million in local assistance from the Air Pollution Control Fund, which the ARB will receive as part of the Second Partial Consent Decree with Volkswagen filed in the United States District Court for the Northern District of California on December 20, 2016. Under the terms of this consent decree, Volkswagen is required to make a payment of \$25 million to the ARB by July 1, 2017 to support the zero-emission vehicle related aspects of the Enhanced Fleet Modernization Program Plus-Up program or the zero-emission vehicle-related aspects of similar vehicle replacement programs in California.

**Background.** The Governor’s budget proposal would enable ARB to fulfill its obligations under the consent decree. Appendix B of the consent decree requires implementation of vehicle recalls requiring evaluation and testing of reengineered engine and emission controls as well as ongoing monitoring of recall implementation. Appendix C of the consent decree requires ARB review and approval of VW’s ZEV Investment Plans as well as coordination and review of investments throughout implementation. Appendix D of the consent decree requires the Lead Agency, acting on behalf of the State (Beneficiary), to develop and administer projects funded by the Environmental Mitigation Trust that deploy zero- and near zero emission heavy-duty vehicles and equipment to reduce Nitrogen Oxide (NOx) emissions. ARB expects that the Governor will identify California’s Lead Agency to implement Appendix D. Since ARB is the probable choice as Lead Agency, this proposal would enable ARB to fulfill its obligations in implementing Appendix D. Should ARB not be designated as the Lead Agency, this portion of the request would be revised.

On December 20, 2016, a Second Partial Consent Decree between the State of California and Volkswagen was filed in the United States District Court for the Northern District of California for violations of the Clean Air Act caused by a "defeat device" in 3-liter diesel passenger cars sold by Volkswagen, Audi and Porsche. One of the provisions of the consent decree requires Volkswagen to pay \$25 million to ARB to support ZEV-related programs. Specifically, provision 12 of the consent decree states:

"Volkswagen shall further contribute to the availability of Zero Emission Vehicles in California by making a payment of \$25,000,000 to ARB no later than July 1, 2017. Such payment shall be used, in the discretion of ARB, to support the ZEV-related aspects of the EFMP Plus Up program, or the ZEV-related aspects of similar vehicle replacement programs, in California in FY 2017-2018 or later years."

The consent decree funding will support and expand vehicle retirement and replacement programs such as EFMP and EFMP Plus-up, which ARB has funded since FY 2014-15 with Cap-and-Trade auction proceeds from the Greenhouse Gas Reduction Fund (GGRF). This proposal will provide ARB the authority to expend this new funding from Volkswagen.

**Legislative Analyst's Office.** The LOA recommends that the Legislature approve a portion of the ARB's proposal to administer and implement the VW Consent Decree request—ten positions and \$1.6 million—related to testing and monitoring VW's vehicle modifications. The LAO recommends the Legislature withhold action on the remaining four positions related to overseeing ZEV investment plans and administering programs funded from the Mitigation Trust, pending additional information on the Legislature's role in directing these funds and how the funds will fit into the state's broader ZEV and air quality strategies. After the Legislature has had an opportunity to evaluate this information and determine the extent to which ARB's plans are consistent with the authority and direction provided to ARB by the courts and the Legislature, it could act on the Governor's proposal accordingly. The LAO also recommends reducing the ARB's budget by \$1.2 million from the Air Pollution Control Fund and two positions because the ARB no longer has workload associated with litigating VW civil penalties.

**Staff Comment.** On March 22 Electrify America released the CA ZEV Cycle 1 Investment Plan. Although some concerns have been raised, the Legislature does now have more information regarding the ZEV investment plan than at the time of the LAO's analysis.

**Staff Recommendation.** Hold open.

### Issue 3 – Implementation of Oil and Gas Methane Regulation

**Governor's Proposal.** An April 1<sup>st</sup> Finance Letter proposes \$2.6 million, in 2017-18, and \$1.8 million ongoing thereafter, to support implementation of ARB's Oil and Gas Methane Regulation (Greenhouse Gas Standards for Crude Oil and Natural Gas Facilities). This request includes two positions and \$2.3 million (including \$2 million in contract funds) in 2017-18, and \$1.8 million (including \$1.5 million in contract funds) ongoing, from the Cost of Implementation Account. In addition, this proposal requests onetime equipment costs of \$285,000 from the Oil, Gas, and Geothermal Administrative Fund.

**Background.** This proposal addresses several mandates for ARB, including its overall mission to protect public health and reduce greenhouse gases. In addition, the activities funded by this proposal will enable enforcement of the Oil and Gas Methane Regulation, thereby fulfilling the commitment in the initial AB 32 (Nunez) Chapter 488, Statutes of 2006 Scoping Plan and its first update to adopt an "Oil and Gas Extraction GHG Emissions Reduction" measure.

The oil and gas regulation was first envisioned in the 2008 climate change Scoping Plan, and was given added importance after the massive natural gas leak at the Aliso Canyon storage facility. Recent research has identified methane "super emitters" as significant contributors to emissions from the oil and gas sector. Similarly, research shows that a large fraction of emissions is produced by a small fraction of sources. These emissions are unpredictable; therefore regular ground-based inspections are essential to identify and limit emissions. ARB proposed a regulation to the board in July 2016 to reduce methane from oil and gas operations, and the board voted to adopt the regulation at the March 2017 board meeting. The anticipated reductions in methane (a climate super-pollutant), and the co-benefits of reducing volatile organic compounds and toxics, are important for meeting California's climate and air quality goals.

This proposal will provide resources to assist districts to implement the regulation. ARB anticipates entering into contracts with air districts for a variety of activities, including setting up registration and permitting programs, training, equipment, designing and creating reporting databases, and other costs

to establish the program. ARB staff assumes most local air districts will choose to take the lead in implementing and enforcing the regulation, with ARB playing a backstop role, as they are more familiar with operators, conduct inspections nearby or at the same sites and in many instances have been regulating such sources for decades. However, even if districts decide to implement and enforce this regulation, there is an annual cost for ARB to manage the reporting and inspection requirements in the regulation. In addition, ARB will purchase equipment that will be shared among the districts.

Progress and outcomes will be measured by the number of inspections conducted, emissions avoided, equipment turnover, and compliance percentages. The proposal is also expected to result in increased knowledge of emissions and impacts and inform any further necessary actions to reduce emissions.

**Legislative Analyst's Office.** The LAO recommends the Legislature reduce ARB's request for Cost of Implementation Account funds from \$2.3 million to \$1.9 million in 2017-18 and from \$1.8 million to \$1.6 million ongoing. The LAO suggests that this action would make the budget allocation for contracts with local air districts more consistent with available cost estimates. ARB estimated costs for the major component of the request—contracts with local air districts—were \$1.6 million in 2017-18 and \$1.3 million in 2018-19. These estimates were based on the estimated number of equipment components and idle wells that will be subject to the regulation and the cost of monitoring each. However, the ARB rounded the estimated costs up to \$2 million in 2017-18 and \$1.5 million ongoing to account for uncertainty in the estimates. Although the LAO acknowledges that implementation costs are uncertain, if the actual costs are found to be higher than estimated once the air districts begin implementing the regulation, the ARB can submit a request for additional resources at that time.

**Staff Recommendation.** Approve as budgeted.

#### **Issue 4 – Mobile Source Heavy-Duty In-Use Program Improvements**

**Governor's Proposal.** The Governor's budget proposes \$2.2 million (including \$500,000 in ongoing contract funding, and \$1 million in one-time local assistance) and five positions from the Motor Vehicle Account. The \$500,000 contract funding will be used to procure heavy-duty vehicles and remove engines to facilitate testing, and the \$1 million in local assistance funding will be used to fund a pilot heavy-duty diesel engine repair program for low-income truck owners with high emitting trucks operating in disadvantaged communities.

**Background.** Inspection programs, such as the light duty smog check, are critical components to establish clean vehicles in the field. Since 2007, heavy-duty diesel engines (HDDE) come equipped with on-board diagnostics, which includes a malfunction indicator light that notifies the driver when the engine or emission control system is in need of repair. The current heavy-duty vehicle inspection program is not robust enough to enforce timely repair of broken or malfunctioning components. Even if the malfunction indicator light is illuminated, truckers may not take their vehicles out of service for a repair unless it is causing extreme drivability problems.

In 2014, ARB conducted a large-scale field investigation and documented the HDDE data review in the Evaluation of Particulate Matter Filters in On-Road Heavy-Duty Diesel Vehicle Applications (May 2015). In this report, ARB found that HDDEs' had high warranty rates, durability issues, and defective parts in the field. ARB also committed to several areas of program improvement that included holding engine manufacturers accountable by enacting new in-use measures to better enforce engine

certification standards, enhancing certification programs, and developing stronger vehicle inspection programs.

It is critical that ARB fulfill its commitment to improve the HDDE program since key planning documents such as the California Sustainable Freight Action Plan, Greenhouse Gas Scoping Plan and State Implementation Plan rely on transforming the entire heavy-duty fleet to newer cleaner technologies. Additional resources are needed to make the HDDE in-use program more robust. Currently, there is no heavy-duty compliance testing being conducted by ARB. Therefore, the number of heavy-duty recalls is minimal. As a comparison, in-use compliance for light-duty vehicles has resulted in recalls affecting over three million cars and trucks to fix such things as defective components and software updates.

**Staff Recommendation.** Approve as budgeted.