
Independent Review Panel

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

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Report for Independent Review Panel on Pending Legislation Pertaining to DTSC

June 8, 2017

The following legislation includes measures that may be of interest to the Independent Review Panel (IRP) and is not meant to be a comprehensive list of DTSC-tracked bills. IRP support staff prepared this report independently of the Department.

AB 97 (Ting) Budget Act of 2017

Introduced: 1/10/17

Last amend: 5/22/17

Status: 5/26/17 Conference Committee.

Summary: Expresses intent of Legislature to enact statutory changes relating to the Budget Act of 2017. Expected to contain the budget for 2017-18 after reconciliation of the Senate and Assembly budget versions.

AB 245 (Gomez) Hazardous waste: facilities

Introduced: 1/30/17

Last amend: 1/30/17

Status: 5/10/17-S. Referred to Com. on ENVIRONMENTAL QUALITY.

Summary: Would require DTSC, within 90 days of receiving a renewal application for a hazardous waste facilities permit, to hold a public meeting for specified purposes relating to the renewal in or near the community in which the hazardous waste facility is located. Would require the department to review the financial assurances required to operate a hazardous waste facility at least once every 5 years. If the department's review finds the financial assurances for a facility to be inadequate, the bill would require the department to notify the owner or operator of the facility and would require the owner or operator to update and adopt adequate financial assurances within 90 days. Would require the department, under specified circumstances, to request an owner or operator of a hazardous waste facility to submit to the department for review and approval a written cost estimate to cover activities associated with a corrective action based on available data, history of releases, and site activities, as specified. The bill would require the owner or operator to submit the corrective action cost estimate within 60 days of the department's request. The bill would require the owner or operator, within 90 days of the approval or the imposition of a corrective action cost estimate, as specified, to fund the cost estimate or enter into a schedule of compliance for assurances of financial responsibility for completing the corrective action.

AB 246 (Santiago) Hazardous waste: facilities: permits

Introduced: 1/30/17

Last amend: 3/9/17

Status: 6/1/17-S. In Senate. Read first time. To Com. on RULES for assignment.

Summary: This bill would, as a condition for a new hazardous waste facilities permit or a renewal of a hazardous waste facilities permit, require an applicant to install and maintain a fence-line monitoring system to measure and record emissions along the border of the facility. The bill would provide that this requirement applies only for a permit to operate a hazardous waste facility that treats or disposes of hazardous waste.

AB 247 (Garcia, C.) Public health: childhood lead poisoning: Lead Advisory Taskforce

Introduced: 1/30/17

Last amend: 3/28/17

Status: 5/30/17-S. Read first time. To Com. on RLS. for assignment.

Summary: Would require, by April 1, 2018, the Office of Environmental Health Hazard Assessment to convene a Lead Advisory Taskforce, with a prescribed membership, to review and advise, as provided, regarding policies and procedures to reduce childhood lead poisoning in the state. The bill would require the taskforce to publish on OEHHA's Internet Web site a recommended regulatory agenda on or before April 1, 2020, that would identify sources of lead and ensure that regulatory standards are protective of health in the state, as specified, and to update the regulatory agenda on or before April 1, 2022. These provisions would become inoperative on April 1, 2022.

AB 248 (Reyes) Hazardous waste: facilities: permits.

Introduced: 1/30/2017

Last amend: 5/26/17

Status: 5/30/17-S. In Senate. Read first time. To Com. on RLS. for assignment.

Summary: Existing law, as part of the hazardous waste control law, requires a facility handling hazardous waste to apply for and obtain a hazardous waste facilities permit from DTSC. Existing law requires that a hazardous waste facilities permit be for a fixed term not to exceed 10 years for certain facilities. Existing law requires the owner or operator of a facility intending to extend the facility's permit to submit a complete Part A application for a permit renewal before the fixed term of the permit expires, and, at any time following the submittal of the Part A application, to submit a complete Part B application, or any portion of that application, and other relevant information, if requested by the department. Existing law provides that when a complete Part A renewal application and any other requested information has been submitted before the end of the permit's fixed term, the permit is deemed extended until the application is approved or denied and the owner has exhausted all applicable rights of appeal. This bill would require, for a hazardous waste facilities permit that will expire on or before July 1, 2020, the owner or operator of a facility intending to extend the term of that permit to submit a Part A and Part B application for a permit renewal at least 6 months before the fixed term of the permit expires. The bill would require, for a hazardous waste facilities permit that will expire after July 1, 2020, the owner or operator to submit a Part A and Part B application for a permit renewal at least 2 years before the fixed term of the permit expires. The bill would provide that if a Part A and Part B renewal application and any other requested information has been submitted at least 6 months or at least 2 years, as applicable, before the end of the permit's fixed term, the permit is deemed extended until the application is approved or denied and the owner has exhausted all applicable rights of appeal. The bill would also require the department, no later than 90 days after receiving an application for a hazardous waste facilities permit, to post on its Internet Web site a timeline with the estimated dates of key milestones in the application review process, to note on its Internet Web site that these dates are estimates, and to update the dates as needed.

AB 249 (Gomez) Hazardous waste: civil penalties

Introduced: 1/30/17

Last amend: 1/30/17

Status: 5/10/17-S. Referred to Com. on ENVIRONMENTAL QUALITY.

Summary: Existing law permits DTSC or an agency authorized to implement and enforce certain laws relating to hazardous materials, known as a unified program agency, to enforce the Hazardous Waste Control Law. Existing law authorizes the department or a unified program agency to issue an order that requires a violation to be corrected and imposes an administrative penalty when there is a violation of the hazardous waste control laws, laws regulating hazardous substances, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to those laws. Under existing law, a person who does not comply with the order is subject to a civil penalty of not more than \$25,000 for each day of noncompliance. In lieu of an administrative penalty, existing law makes any person who intentionally or negligently makes a false statement or representation for purposes of compliance with the hazardous waste control laws, violates a provision of the hazardous waste control laws, disposes or causes the disposal of a hazardous waste at an unauthorized site, or treats or stores a hazardous waste at an unauthorized site liable for a civil penalty not to exceed \$25,000, as specified. This bill would increase these administrative and civil penalties to \$37,500 and would make nonsubstantive changes in these provisions.

AB 421 (Santiago) Hazardous substances: liability: responsible parties

Introduced: 2/9/17

Last amend: 2/9/17

Status: 5/1/17-A. Failed deadline pursuant to Rule 61(a)(2). Last location was Com. on JUD.

Summary: Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, imposes liability for hazardous substance removal or remedial actions. Existing law provides that a cost incurred by the DTSC or regional board in carrying out or overseeing a response or a corrective action under the act or under the hazardous waste control laws is recoverable pursuant to state or federal law by the Attorney General, upon the request of the department or regional board, from the liable person or persons. The act defines "responsible party" and "liable person" for its purposes to mean those persons described in a specified provision of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, which includes persons who are, in specified ways, responsible for the disposal of hazardous substances. This bill would require that, for purposes of that definition, for a cause of action that accrued on or after January 1, 1982, "disposal," as it is used in that federal provision, includes emissions into the air.

AB 483 (Bocanegra) Airports: pollution

Introduced: 2/13/17

Last amend: 4/18/17

Status: 5/1/17-A. Failed deadline pursuant to Rule 61(a)(2). Last location was Com. on E.S. & T.M.

Summary: This bill would require DTSC and the State Air Resources Board to conduct or require to be conducted specified tests of the soil and air quality at general aviation noncommercial airports that meet specified criteria. The bill would require the state board to coordinate the air quality testing with air districts. The bill would require the department, no later than July 1, 2019, to submit a specified report to the Legislature and post that report on its Internet *Website*. The bill would require the state board and the appropriate air district to compile and post a specified annual report on their Internet Web sites.

AB 816 (Kiley) California Environmental Protection Agency: Natural Resources Agency: Web casts of public meetings and workshops

Introduced: 2/15/17

Last amend: 2/15/17

Status: 5/30/17-S. In Senate. Read first time. To Com. on RLS. for assignment.

Summary: This bill would require that each department, board, and commission of the Natural Resources Agency, except as specified, and each department, board, and office of the California Environmental Protection Agency Web cast all onsite public meetings, in a manner that enables listeners and viewers to ask questions and provide public comment by telephone or electronic communication commensurate with those attending the meeting. The bill would require the agencies to make the recording of a Web cast available online for no less than 3 years for subsequent viewing by interested members of the public.

AB 958 (Ting and Quirk) Hazardous materials: perfluoroalkyl and polyfluoroalkyl substances

Introduced: 2/16/17

Last amend: 5/26/17

Status: 6/5/17-S. In Senate. Read first time. To Com. on RLS. for assignment.

Summary: The hazardous waste control laws require DTSC to regulate the handling and management of hazardous materials and hazardous waste. Existing law, known as the Green Chemistry program, requires the department to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered as being chemicals of concern, and to adopt regulations that establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by a chemical of concern, as specified. Existing law requires the regulations adopted to specify the range of regulatory responses that the department may take following the completion of the alternatives analysis. Under its regulatory authority, the department has adopted the 2015–17 Priority Product Work Plan, which describes categories from which the department will select priority products for which safer alternatives are to be evaluated. A violation of the hazardous waste control laws is a crime. This bill would prohibit a person or entity from manufacturing, selling, or distributing in commerce any product that contains perfluoroalkyl or polyfluoroalkyl substances with eight or more carbon atoms. The bill would require the department to revise the 2015–17 Priority Product Work Plan, and subsequent work plans, as necessary, to include food contact substances containing perfluoroalkyl or polyfluoroalkyl substances for consideration and evaluation as potential priority products under the Green Chemistry program. The bill would require the department, on or before January 1, 2020, to begin adoption of Green Chemistry regulations for those food contact substances.

AB 1179 (Kalra) Hazardous waste facilities: inspections

Introduced: 2/17/17

Last amend: 4/17/17

Status: 6/1/17-S. In Senate. Read first time. To Com. on RLS. for assignment.

Summary: Existing law requires the DTSC, and a local health officer or local public officer designated by the Director of Toxic Substances Control, to enforce the standards in the hazardous waste control law and the regulations adopted by the department to implement that law, except as specified. Existing law authorizes a representative of the department or the local officer or agency authorized to enforce the hazardous waste control law to, among other things, enter and inspect a factory, plant, construction site, disposal site, transfer facility, or an establishment or any other place or environment where hazardous wastes are stored, handled, processed, disposed of, or being treated to recover resources.

This bill would require the department to adopt regulations establishing inspection frequencies for permitted hazardous waste treatment, storage, and disposal facilities, hazardous waste generators, and hazardous waste transporters, as specified. The bill would require the inspection frequency for a hazardous waste land disposal facility to be no less than 2 times per calendar year and, for any other permitted hazardous waste treatment, storage, or disposal facility, no less than once per calendar year.

AB 1180 (Holden) Hazardous materials: motor vehicle tires that contain zinc oxide substances

Introduced: 2/17/17

Last amend: 5/30/17

Status: 6/1/17-S. In Senate. Read first time. To Com. on RLS. for assignment.

Summary: Existing law, known as the Green Chemistry program, requires DTSC to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered as being chemicals of concern. Existing law requires the department to adopt regulations that establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by chemicals of concern, as specified. Existing law requires the regulations adopted to specify the range of regulatory responses that the department may take following the completion of the analysis of alternatives. Under its regulatory authority, the department has adopted the 2015–17 Priority Product Work Plan, which describes categories from which the department will select priority products for which safer alternatives are to be evaluated. This bill would require the department to revise the 2015–17 Priority Product Work Plan, and subsequent work plans, as necessary, to include motor vehicle tires that contain zinc oxide substances for consideration and evaluation as potential priority products under the Green Chemistry program. The bill would require the department, on or before January 1, 2021, to begin adoption of Green Chemistry regulations for those motor vehicle tires.

AB 1212 (Dahle) Hazardous materials: chemicals of concern

Introduced: 2/17/17

Last amend: 2/17/17

Status: 5/1/17-A. Failed deadline pursuant to Rule 61(a)(2). Last location was from printer, pending referral.

Summary: Existing law requires the DTSC to adopt, by January 1, 2011, regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered chemicals of concern. These regulations are required to establish an identification and prioritization process that includes specified considerations, including the volume of the chemicals in commerce in the state. This bill would make nonsubstantive changes to these provisions.

AB 1316 (Quirk) Public health: childhood lead poisoning: prevention

Introduced: 2/17/17

Last amend: 5/2/17

Status: 5/30/17-S. In Senate. Read first time. To Com. on RLS. for assignment.

Summary: Existing law, the Childhood Lead Poisoning Prevention Act of 1991, required the State Department of Public Health (formerly the State Department of Health Services) between July 1, 1992, and July 1, 1993, to adopt regulations establishing a standard of care, at least as stringent as the most recent United States Centers for Disease Control and Prevention screening guidelines, whereby all children are evaluated for risk of lead poisoning by health care providers during each child's periodic health assessment. The standard of care, among others, is required to be that, upon evaluation, those children determined to be at risk for lead poisoning, according to the regulations, are required to be screened. Existing law creates the Childhood Lead Poisoning Prevention Fund consisting of fees imposed

on manufacturers and other persons formerly, presently, or both formerly and presently engaged in the stream of commerce of lead or products containing lead, or who are otherwise responsible for identifiable sources of lead that have significantly contributed historically, currently contribute, or both have significantly contributed historically and contribute currently to environmental lead contamination. The moneys in the fund are required to be expended, upon appropriation by the Legislature, for the purposes of the act. This bill would require that the regulations establishing a standard of care include a risk assessment for determining whether a child is at risk for lead poisoning that considers the most significant risk factors, as specified, and would clarify that the lead screening would not be paid for by funds from the Childhood Lead Poisoning Prevention Fund. The bill would also make conforming changes, technical changes, and delete obsolete provisions.

AB 1439 (Committee on Environmental Safety and Toxic Materials) Hazardous materials: reporting

Introduced: 2/17/17

Last amend: 3/22/17

Status: 5/10/17-S. Referred to Com on ENVIRONMENTAL QUALITY.

Summary: Existing law requires DTSC to implement a procedure for the electronic reporting of all hazardous waste facilities permit modifications, to the extent the Secretary for Environmental Protection determines that the procedure is compatible with the electronic reporting standards adopted by the secretary. This bill would repeal this provision. Existing law authorizes the department to require a person submitting a report or data to submit the report or data in an electronic format. This bill would additionally authorize the department to require a person submitting a workplan, schedule, notice, request, application, or other document for purposes of compliance with certain laws and regulations to submit the document in an electronic format.

AB 1441 (Committee on Environmental Safety and Toxic Materials) Hazardous waste: transportation: manifests

Introduced: 2/17/17

Last amend: 2/17/17

Status: 5/10/17-S. Referred to Com. on ENVIRONMENTAL QUALITY.

Summary: (1) Existing law, which is part of the hazardous waste control law, imposes various manifest requirements for transporting hazardous waste, including, among others, requiring any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest and be subject to transporter registration requirements. A violation of the hazardous waste control law is a crime. This bill would authorize specified manifest requirements for transporting hazardous waste, including requirements to give, provide, send, forward, or return to another person a copy of a manifest, to sign a manifest or manifest certification by hand, or to keep or retain a copy of a manifest, to be satisfied through the use of the United States Environmental Protection Agency electronic manifest (e-Manifest) system, once it comes online. (2) Existing law authorizes certain requirements to submit a hazardous waste transportation manifest to be satisfied by instead submitting an electronic report to the DTSC. This bill would repeal the authorization to submit electronic reports on and after the date the United States Environmental Protection Agency electronic manifest (e-Manifest) system comes online. (3) Existing law requires a person who submits to the DTSC an incomplete or improperly completed hazardous waste transportation manifest to resubmit the manifest accompanied by a fee of \$20. This bill would, on and after the date the United States Environmental Protection Agency electronic manifest (e-Manifest) system comes online, require a person who enters incomplete or erroneous information into the e-Manifest system to, upon notification, correct the information in the e-Manifest system and submit a fee of \$20 to the department. (4) Existing law requires the DTSC to annually expend

\$1,050,000, commencing with the 1999–2000 fiscal year, upon appropriation by the Legislature, from the hazardous waste transportation manifest fees deposited in the Hazardous Waste Control Account to implement pollution prevention measures. This bill would repeal that requirement. (5) This bill would make other changes related to hazardous waste transportation manifest laws and would delete obsolete provisions.

AB 1516 (Cunningham) Maintenance of the codes

Introduced: 2/17/17

Last amend: 2/17/17

Status: 6/7/17-S. Read second time. Ordered to Consent Calendar.

Summary: Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes. This bill would make nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature, including changes to DTSC website posting requirements made in Chapter 10 of the Statutes of 2016.

AB 1649 (Muratsuchi) Interagency Task Force on Refinery Safety

Introduced: 2/17/17

Last amend: 5/26/17

Status: 5/26/17-S. In Senate. Read first time. To Com. on RLS. for assignment.

Summary: Existing law establishes the California Environmental Protection Agency under the supervision of the Secretary for Environmental Protection, consisting of various boards, offices, and departments, and vests the agency with authority over various environmental matters. This bill would create the Interagency Task Force on Refinery Safety, with a specified membership, including DTSC, to be managed by the California Environmental Protection Agency as the lead agency. The bill would provide that the purpose of the task force shall be to examine ways to improve public and worker safety through enhanced oversight of refineries, and to strengthen emergency preparedness in anticipation of any future refinery incident. The bill would require the task force to seek to better coordinate each participating agency's individual functions and to facilitate information sharing among participating agencies, with the goal of ensuring that refineries comply with all regulatory requirements, move toward inherently safer systems, and continue to improve and enhance protection for workers, communities, and the environment.

SB 258 (Lara) Cleaning Product Right to Know Act of 2017

Introduced: 2/8/17

Last amend: 3/20/17

Status: 5/31/17-A. In Assembly. Read first time. Held at desk.

Summary: Existing law regulates the existence of, and disclosure of, specified chemicals and components in consumer products, including phthalates and bisphenol A. This bill would require a manufacturer of a cleaning product, as defined, that is manufactured or sold in the state on or after January 1, 2018, to disclose ingredients or contaminants of concern contained in and health impact information related to the cleaning product on the product label, post the cleaning product ingredient information on the manufacturer's Internet Web site, and include specified information on the cleaning product's label concerning ingredients or contaminants of concern contained in the cleaning product, including Internet Web sites where more information may be found. The bill would require CalEPA to develop a pictogram to communicate those potential health concerns. The bill would prohibit a manufacturer from manufacturing or selling a cleaning product in the state unless the product complies with these provisions. The bill would require an employer to identify a cleaning product and list the ingredients or contaminants of concern of the product in the manner described above on any container

used in the workplace into which a cleaning product is transferred. The bill references the list of chemicals identified as candidate chemicals that exhibit a hazard trait or an environmental or toxicological endpoint and that meets the criteria specified in regulations adopted by DTSC and is published on the department's Internet Web site pursuant to those regulations.

SB 774 (Leyva) Hazardous substances: California Toxic Substances Board

Introduced: 2/17/17

Last amend: 3/23/17

Status: 6/1/17-A. In Assembly. Read first time. Held at desk.

Summary: This bill would create in CalEPA the California Toxic Substances Board, which would succeed to and be vested with all of the powers, duties, purposes, responsibilities, and jurisdiction of the department and the Director of Toxic Substances Control. The bill would provide for the membership of the board, the salary and terms of the board members, and the duties, powers, and requirements of the board. The bill would create the position of executive officer of the board, appointed by the Governor and confirmed by the Senate, with specified powers and duties, and would require that the board be divided into at least 3 divisions, with a deputy director or division chief appointed by the board for each division, as specified.