

Lead-Acid Battery Cleanup Fund Report to the Legislature 2018



Prepared by the
Department of Toxic
Substances Control

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Introduction

This report summarizes actions taken by the Department of Toxic Substances Control (DTSC) to develop and implement the ***Lead-Acid Battery Recycling Facility Investigation and Cleanup Program*** (LABRIC Program). DTSC is implementing the LABRIC Program to identify, characterize, and clean up lead contamination that DTSC believes resulted from the operation of lead-acid battery recycling facilities.

The LABRIC Program was established pursuant to Assembly Bill 2153 (Chapter 666, Statutes of 2016), which became the Lead-Acid Battery Recycling Act of 2016 (Act). This Act created the Lead-Acid Battery Cleanup Fund (Fund) to provide resources, upon appropriation by the Legislature, for the investigation and cleanup of areas of the state reasonably suspected of being contaminated by the operation of lead-acid battery recycling facilities. In addition, money from the Fund is also appropriated to repay loans from the General Fund for the investigation and cleanup of the communities surrounding the Exide Battery Recycling Facility. The Act requires DTSC to report annually to the Legislature the status of the Fund and the accomplishments achieved with Fund appropriations.

This is the first annual report pursuant to the Act. The report covers actions by DTSC and the California Department of Tax and Fee Administration (CDTFA) to implement the Act. It describes the LABRIC Program and provides key information about anticipated future activities. The report also includes a summary of revenues to the Fund.

Summary of Actions Taken

Actions by DTSC

DTSC is currently implementing ongoing investigation and cleanup activities at the two largest battery recycling facilities in California: Quemetco Inc., in the City of Industry, and Exide Technologies Inc., in the City of Vernon. In addition, in Fiscal Year (FY) 2017-18, the Legislature appropriated \$610,000 for DTSC to evaluate 14 former lead smelter sites in California that may qualify for investigation and remediation pursuant to the Act, and to develop the framework for the LABRIC Program. These actions are described in the following sections.

Ongoing DTSC Investigation and Cleanup Actions

Pursuant to a federal Resource Conservation and Recovery Act (RCRA) Facility Investigation (RFI) Workplan, DTSC is overseeing soil sampling on commercial and residential properties in the communities immediately adjacent to the Quemetco facility.¹ Quemetco's consultant has submitted a report documenting the results of soil sampling on properties within a quarter-mile of the facility. Based on these results and further evaluation of all other available information, DTSC will determine if additional characterization is needed.

The Exide Technologies (Exide) battery recycling facility in Vernon, California, ceased operation in 2014. In March of 2015, DTSC informed Exide that its Permit would be denied and ordered Exide to proceed with Final Closure. Exide submitted a letter of Intent to Close and submitted a Draft Closure Plan at the end of May

¹ Information about the Quemetco facility and the off-site soil investigation is available on EnviroStor at: https://www.envirostor.dtsc.ca.gov/public/hwmp_profile_report?global_id=CAD066233966&starttab=



2015. After revisions, the Draft Closure Plan and Draft Environmental Impact Report were public noticed in December 2015 for a 105-day public comment period. In December of 2016, DTSC finalized the Closure Plan and certified the Environmental Impact Report after reviewing and responding to comments in writing and revising the Closure Plan as applicable. In November 2017, Exide began implementing Phase 1 of closure with DTSC oversight.

In November 2014, Exide was ordered to follow the contamination and to sample residential properties beyond the surrounding industrial area. Exide sampled a total of 341 properties. In July 2015, DTSC conducted a preliminary analysis of all available data and estimated that Exide's operations may have contaminated residential properties up to 1.7 miles away from the facility. The area covered by a 1.7-mile radius from the facility is known as the Preliminary Investigation Area (PIA). In April 2016 the Governor requested, and the Legislature authorized, the expenditure of \$176.6 million for soil sampling and cleanup in the PIA.

Since August 2016, DTSC has overseen soil sampling at about 8,500 properties in communities around the former Exide facility and, as of May 7, 2018, soil cleanup at 330 properties (including residences, schools, day-care centers, and child care centers). On April 24, 2018, DTSC negotiated a contract with one of the Zone Remediation Contractors to accelerate the cleanup of 215 properties with the highest lead levels and greatest risk of exposure to sensitive populations, while procuring a separate contract to complete the cleanup of the remaining properties, bringing the total number of properties to be cleaned to 2,500. To support this cleanup project DTSC has also negotiated a Project Labor Agreement, a collective bargaining agreement that promotes local hiring, ensures the efficient and timely completion of work, and provides job training and long-term economic benefits to affected communities.

The job training included in the Project Labor Agreement is provided through DTSC's Workforce for Environmental Restoration in Communities program, established by Assembly Bill 118 (Santiago) and Senate Bill 93 (De Leon) to train underemployed residents of the communities surrounding Exide. The first phase of the program trained 49 residents to become Certified Lead Sampling Technicians to safely sample soil for lead in their communities. The contractors performing the sampling activities hired WERC graduates, who were also residents living in the communities surrounding Exide. The WERC program continues to provide training for skilled jobs in soil remediation, lead hazard control, interior home cleaning, landscaping, and health education, with the goal of hiring these graduates for cleanup of the remaining properties.

DTSC is working with Exide to investigate on-site and off-site industrial contamination. DTSC is also working with the Attorney General to identify other potentially responsible parties and ensure Exide and others responsible for the contamination are held accountable.²

Current DTSC Site Evaluations and Prioritization

DTSC is working with U.S. Environmental Protection Agency Region 9 (EPA Region 9) to evaluate previous and current lead-acid battery recycling facilities in California. This evaluation is focused on 39 former lead smelter sites identified from a comprehensive review of site investigation and cleanup records maintained by both EPA Region 9 and DTSC, including DTSC's EnviroStor database, as well as the so-called "Ghost Smelters" identified in a USA Today article. The information includes documentation of previous investigations into secondary lead smelting operations, which are smelting operations that use recycled lead metal (e.g. from batteries and other scrap metals) and not pure lead ore.

² Information about the former Exide facility, the facility closure, the off-site soil investigation, and the residential cleanup, is available at:

<http://www.dtsc.ca.gov/HazardousWaste/Projects/UpdateExideSuspension.cfm>



Based on an initial review of the 39 sites, DTSC selected 18 potentially contaminated sites for a more thorough assessment, using available information to determine if further investigation, cleanup, or other appropriate actions are needed to protect public health. DTSC also evaluated areas around these sites to assess potential health impacts to schools, parks, and residential properties. Based on assessment of their potential threat to the public health and environment, DTSC prioritized four of the 18 sites for investigation and potential remedial action in FY 2018-19. The four sites and recommended response actions are listed in Table 1. As more research and investigation is conducted and additional information and funding becomes available, and based on public input as described in the following section, DTSC will continue to augment the initial list of 39 sites and use it to prioritize areas impacted by lead-acid battery recycling facilities for future investigation and potential remedial action.

Table 1- Sites Recommended for Investigation and Cleanup in FY 2018-19

Site Name Address	Evaluation Recommendations	Cost Estimate
A. Bercovich / Sunset Smelting and Refining Co. 1639 18th St. Oakland CA 94607	Perform sampling in the community to determine the nature and extent of contamination from the smelter facility and evaluate sampling results in the pilot study for prioritization of sites. Based on the sampling results and investigation, perform a removal action to remove contaminated soil that poses a potential threat to public health and the environment.	Sampling cost for 50 properties, estimated at \$2,000 per property, is \$100,000. Removal Action Cost for 25 properties, estimated at \$60,000 per property, is approximately \$1,500,000.
Smelter Supply Co. / C&S. Battery & Lead Co. 860 Riske Lane West Sacramento CA 95691	Perform sampling in the community to determine the nature and extent of contamination from the smelter facility. Based on the sampling results and investigation, perform a removal action to remove contaminated soil that poses a potential threat to public health and the environment.	Sampling cost for 50 properties, estimated at \$2,000 per property, is \$100,000. Removal Action Cost for 25 properties, estimated at \$60,000 per property, is approximately \$1,500,000.
Berg Metals Corp. 2652 Long Beach Ave. Los Angeles CA 90058	Perform sampling in the community to determine if contamination from the smelter facility poses a potential threat to public health and the environment and if a removal action is required. Evaluate sampling results in the pilot study for prioritization of sites.	Sampling cost for 100 properties, estimated at \$2,000 per property, is \$200,000.
Western Lead Products 4530 E. Pacific Way Commerce, CA 90040	Perform sampling in the community to determine if contamination from the smelter facility poses a potential threat to public health and the environment and if a removal action is required.	Sampling cost for 300 properties, estimated at \$2,000 per property, is approximately \$600,000.



Proposed Comprehensive Framework for Site Evaluation and Prioritization

To enhance the evaluation and prioritization process, DTSC will consider additional information that can assist with characterizing the lead hazards in areas with contamination from lead-acid battery recycling facilities. For instance, areas where children have elevated blood lead levels may indicate that exposure to lead contamination is greater in these communities. Similarly, the threat of lead contamination from former lead-acid battery facilities may be more significant in neighborhoods where the housing stock contains lead-based paint or there are other sources of lead emissions. DTSC intends to use Fund monies to clean up contamination from lead-acid battery facilities while leveraging federal and local resources to help address multiple sources of lead exposure. The goal is to utilize Fund monies in a manner that provides the greatest health benefit to the people of California, particularly communities impacted by contamination from lead-acid battery recycling facilities.

DTSC developed a draft framework for the LABRIC Program based on statutory requirements and established policies and procedures from DTSC's Site Mitigation and Restoration Program (Cleanup Program). The framework describes the process DTSC proposes to use to investigate and clean areas reasonably suspected of being contaminated by the operation of lead-acid battery recycling facilities, and includes public participation input and methods designed to enhance cleanup effectiveness and protection of public health and the environment.

Specifically, the framework document includes a series of questions designed to prompt public input on key elements of the LABRIC Program to ensure it is responsive to community and stakeholder needs. In late May and/or in June 2018, DTSC will conduct two public workshops, one in Southern California and one in Northern California, to share the proposed framework for the LABRIC Program with the public and to receive their suggestions and other input to finalize the program's implementation plan. The framework also reflects DTSC's commitment to engage with environmental justice communities impacted by elevated lead from industrial activities.

The LABRIC Program will use the framework to guide the prioritization of limited funding for further investigation and cleanup efforts at sites already evaluated as well as sites selected for evaluation in future fiscal periods. To assist with development of criteria for prioritization, DTSC and EPA Region 9 are conducting a pilot study to determine urban lead levels in communities such as West Oakland, and assess the extent of contamination from former lead-acid battery recycling facilities that operated in those communities. The results of these investigations and studies will be incorporated into U.S. EPA's Lead Spot GIS, which graphically illustrates lead-emitting sources and concentrations of lead in soil.

To identify disadvantaged communities potentially contaminated by lead-acid battery recycling facilities, DTSC and EPA Region 9 will overlay the sites and the Lead Spot GIS layer onto CalEnviroScreen 3.0, which shows environmental justice communities in California. CalEnviroScreen 3.0 is a screening tool developed by the Office of Environmental Health Hazard Assessment of the California Environmental Protection Agency. CalEnviroScreen analyzes the relative burdens in California from environmental pollution and then considers socioeconomic factors to identify environmental justice communities. Combining these two tools will enhance DTSC's ability to identify environmental justice communities that are potentially exposed to lead emitting sources or high concentrations of lead in soil.³

DTSC is also preparing a compliance assistance and inspection strategy for the approximately 5,000 battery dealers registered with CDTFA. Depending on available resources, the strategy will build on outreach already

³ More about CalEnviroScreen 3.0 is available at: <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-30>



conducted by CDTFA, and will focus on registration, proper notification, and proper assessment and management of the funds collected pursuant to the Act.

Actions by CDTFA

The Act establishes two surcharges on the sale of lead-acid batteries, the Manufacturer Battery Fee and the California Battery Fee, each in the amount of \$1 per lead-acid battery sold. Pursuant to the Act, CDTFA is responsible for the administration of the lead-acid battery fees in coordination with DTSC. CDTFA is entitled to reimbursement as necessary from the Fund for costs incurred in the administration of the Fund.

Programming and Accounting

The fees became effective as of April 1, 2017. In preparation for collection of the fees, CDTFA developed and implemented changes to its assessment and accounting systems.

Outreach and Compliance Assistance

CDTFA was also appropriated funds to conduct initial industry outreach to manufacturers and dealers to educate them on the Act's requirements pertaining to the Manufacturer Battery Fee and the California Battery Fee, and to register them with CDTFA for the payment of those fees. CDTFA has prepared industry guidance in the form of Frequently Asked Questions (FAQs) and has posted a Lead-Acid Battery Fee Guide on CDTFA's website. CDTFA has also issued public discussion papers and obtained stakeholder input on proposed regulations that it drafted to implement the Act. The regulations address definitions, exclusions, recordkeeping requirements, and exclusion certificates for the sale of batteries not subject to the Act's fees. Information related to CDTFA's activities can be found at the CDTFA website at <https://www.cdtfa.ca.gov/industry/lead-acid-battery-fees.htm>.

Fund Status

Revenues

The Act requires manufacturers and sellers of lead-acid batteries to collect and remit a \$1 fee (\$2 in aggregate) on each lead-acid battery sold in California. These fees are remitted to CDTFA and deposited into the Lead-Acid Battery Cleanup Fund. The Legislature may appropriate from the Fund for defined purposes, including:

1. The investigation and cleanup of sites contaminated with lead that is reasonably suspected to have been released from a lead-acid battery recycling facility;
2. The administration of the Fund and implementation of the Act; and
3. Repayment of the General Fund loan to DTSC for the investigation and cleanup of lead contamination around the former Exide facility in Vernon, California.

The fees are assessed and remitted to the Fund in the month they are received.

Fees Remitted to the Fund

Since the fees became effective on April 1, 2017, CDTFA collected revenue only for the last quarter in FY 2016-17. During that period, CDTFA deposited approximately \$3.9 million into the Fund and \$9.4 million for the first three quarters of FY 2017/18. The fund balance as of March 30, 2018 was \$13.4 million.



Expenditure Authority

The FY 2017-18 enacted budget included an appropriation from the Fund of \$610,000 for DTSC to begin implementation of the program and \$800,000 for CDTFA to implement and manage the collection of the fees.

In addition to the administrative costs, the Legislature appropriated \$10 million to repay the General Fund loan for the Exide residential cleanup, and \$1.2 million to repay the loan from the California Tire Recycling Management Fund for start-up costs, and loaned \$1.4 million from the Fund to the Hazardous Waste Control Account to cover reimbursable costs for a quality assurance contractor to oversee Exide closure activities.



Appendix A – LABRIC Site List

U.S. EPA and DTSC Joint Site Assessment Status

ECKEL#	Name	City Name	Status
449	Bercovich, A., Co. a/k/a Sunset Smelting and Refining Co.	Oakland	On-Site Assessment Complete. Off-Site Reassessment Ongoing, Investigation and Removal Action Required
173	Smelter Supply Co. A/k/a C and S Battery and Lead Co.	W Sacramento	On-Site Assessment Complete. Additional Off-Site Investigation and Removal Action Required
164	Berg Metals Corp.	Los Angeles	On-Site Assessment Complete. Additional Off-Site Investigation Required to determine if a removal action is required
NA	Western Lead Products	Commerce	On-Site Assessment Complete, Removal Action complete (Site capped). Additional Off-Site Investigation Required to determine if a removal action is required
170	Electric Smelting Co.	San Francisco	On-Site Assessment Complete. Further Off-Site Investigation Required
437	Cook Metal Co.	Culver city	On-Site Assessment Complete. Further Off-Site Investigation Required
438	Kramer, H. and Co.	El Segundo	On-Site Assessment Complete. Further Off-Site Investigation Required
441	J. Chersky and Sons a/k/a Universal Smelting and Refining Co.	Inglewood	On-Site Assessment Complete. Further Off-Site Investigation Required
443	California By-Products	Los Angeles	On-Site Assessment Complete. Further Off-Site Investigation Required
446	California Smelting and Refining Co.	Los Angeles	On-Site Assessment Complete. Further Off-Site Investigation Required
447	Electric Babbitt Metals a/k/a Los Angeles Smelting Co.	Los Angeles	On-Site Assessment Complete. Further Off-Site Investigation Required
451	Berg Metals Corp. [found by FOIA]	San Francisco	On-Site Assessment Complete. Further Off-Site Investigation Required
452	Bondrat Metals Corp.	San Francisco	On-Site Assessment Complete. Further Off-Site Investigation Required
454	Finn, John, Metal Works	San Francisco	On-Site Assessment Complete. Further Off-Site Investigation Required
455	Gollan Type Metal Co.	San Francisco	On-Site Assessment Complete. Further Off-Site Investigation Required
456	Magnolia Metal Co.	San Francisco	On-Site Assessment Complete. Further Off-Site Investigation Required
460	United American Metals Corp. of California	San Francisco	On-Site Assessment Complete. Further Off-Site Investigation Required
165	Electric Babbitt Metals a/k/a Los Angeles Smelting Co.	Los Angeles	On-Site Assessment Complete. Further Off-Site Investigation Required
160	Morris P. Kirk and Son (National Lead)	Emeryville	On-Site Assessment Complete. Further State Evaluation Required
161	Morris P. Kirk and Son (National Lead)	Fresno	On-Site Assessment Complete. Further State Evaluation Required
162	Atlas Lead Co.	Inglewood	On-Site Assessment Complete. Further State Evaluation Required
163	Aaron Ferer and Sons	Los Angeles	On-Site Assessment Complete. Further State Evaluation Required
166	Federated Metals Div. (ASARCO)	Los Angeles	On-Site Assessment Complete. Further State Evaluation Required
167	Federated Metals Div. (ASARCO)	Los Angeles	On-Site Assessment Complete. Further State Evaluation Required
168	International Lead Co.	Los Angeles	On-Site Assessment Complete. Further State Evaluation Required
169	Bunker Hill Co.	San Francisco	On-Site Assessment Complete. Further State Evaluation Required
171	Federated Metals Div. (ASARCO)	San Francisco	On-Site Assessment Complete. Further State Evaluation Required
172	Secondary Metal Dept. (ASARCO)	San Francisco	On-Site Assessment Complete. Further State Evaluation Required



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ECKEL#	Name	City Name	Status
439	Goldberg Metal Refining	Gardena	On-Site Assessment Complete. Further State Evaluation Required
440	Sonken-Galamba Corp.	Gardena	On-Site Assessment Complete. Further State Evaluation Required
442	Ben Chersky and Sons	Los Angeles	On-Site Assessment Complete. Further State Evaluation Required
444	Liberty Metal Co.	Los Angeles	On-Site Assessment Complete. Further State Evaluation Required
445	Mobile Smelting Co.	Los Angeles	On-Site Assessment Complete. Further State Evaluation Required
448	Bercovich, A., Co.	Oakland	On-Site Assessment Complete. Further State Evaluation Required
450	Bunker Hill Co.	Oakland	On-Site Assessment Complete. Further State Evaluation Required
453	Asher Metal Co.	San Francisco	On-Site Assessment Complete. Further State Evaluation Required
457	Mars Metal Corp.	Brisbane	On-Site Assessment Complete. Further State Evaluation Required
458	Northwest Lead Co.	San Francisco	On-Site Assessment Complete. Further State Evaluation Required
459	Roto Metals Inc.	San Francisco	On-Site Assessment Complete. Further State Evaluation Required