## Lead-Acid Battery Cleanup Fund
### Annual Report to the Legislature 2020

### Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Summary</td>
<td>3</td>
</tr>
<tr>
<td>1. Introduction</td>
<td>6</td>
</tr>
<tr>
<td>2. Amendment of the Act through Assembly Bill 142</td>
<td>7</td>
</tr>
<tr>
<td>3. Summary of LABRIC Program Actions</td>
<td>9</td>
</tr>
<tr>
<td>3.1 Fiscal Year 2018-2019</td>
<td>9</td>
</tr>
<tr>
<td>3.2 Fiscal Year 2019-2020</td>
<td>9</td>
</tr>
<tr>
<td>4. Coordination Between LABRIC Program and DTSC’s Site Mitigation and</td>
<td>11</td>
</tr>
<tr>
<td>Restoration Program</td>
<td></td>
</tr>
<tr>
<td>5. LABRIC Site Identification and Prioritization</td>
<td>13</td>
</tr>
<tr>
<td>5.1 Framework for Site Identification and Prioritization</td>
<td>13</td>
</tr>
<tr>
<td>5.2 Attribution Studies</td>
<td>14</td>
</tr>
<tr>
<td>5.3 Current DTSC Site-Specific Screening Activities</td>
<td>15</td>
</tr>
<tr>
<td>5.3.1 Bercovich/Sunset Smelting and Refining Company, Oakland</td>
<td>15</td>
</tr>
<tr>
<td>5.3.2 Berg Iron &amp; Metal, Los Angeles</td>
<td>16</td>
</tr>
<tr>
<td>5.3.3 C&amp;S Battery and Lead Company/Smelter Supply Company, West</td>
<td>16</td>
</tr>
<tr>
<td>Sacramento</td>
<td></td>
</tr>
<tr>
<td>5.3.4 Western Lead Products Company, Commerce</td>
<td>17</td>
</tr>
<tr>
<td>5.4 Status Updates on Site Screening</td>
<td>17</td>
</tr>
<tr>
<td>5.4.1 Sites for Further Screening for Fund Use</td>
<td>17</td>
</tr>
<tr>
<td>5.4.2 Sites Not Qualified for Fund Use</td>
<td>18</td>
</tr>
<tr>
<td>5.4.3 Sites for Future Consideration/Prescreening</td>
<td>20</td>
</tr>
<tr>
<td>6. Community and Interagency Coordination</td>
<td>20</td>
</tr>
<tr>
<td>6.1 Community Outreach</td>
<td>20</td>
</tr>
<tr>
<td>6.2 Public Transparency</td>
<td>21</td>
</tr>
<tr>
<td>7. Inspection Strategy for Battery Dealers and Manufacturers</td>
<td>21</td>
</tr>
<tr>
<td>8. Other Related Activities</td>
<td>22</td>
</tr>
<tr>
<td>8.1 West Oakland Urban Metals Study</td>
<td>22</td>
</tr>
<tr>
<td>8.2 Webpage Development</td>
<td>22</td>
</tr>
</tbody>
</table>
8.3 Coordination with the California Department of Tax and Fee Administration (CDTFA) .......................................................................................................................................................................................... 23

9. Fund Status .............................................................................................................................................................................................................. 23
   9.1 Revenues ........................................................................................................................................................................................................ 23
   9.2 Expenditures, Transfers, and Loans .............................................................................................................................................. 23
Executive Summary

The Department of Toxic Substances Control’s (DTSC) Lead-Acid Battery Recycling Facility Investigation and Cleanup (LABRIC) program presents this second annual report on the program to the Legislature. The Lead-Acid Battery Recycling Act of 2016 (Act) requires DTSC to report annually to the Legislature on the status of the Fund and the progress achieved with the Fund appropriations. This report also fulfills the reporting requirement included in Provision 1 of Item 3960-001-3301 of the 2018 Budget Act. This report summarizes the program’s activities and accomplishments since submission of the first report dated February 2018, which covers the time period from February 2018 through June 30, 2020. This report also provides key information about the LABRIC program’s anticipated future actions.

Assembly Bill 142

During this reporting period, Assembly Bill (AB) 142 was signed into law (C. Garcia, Chapter 860, Statutes of 2019), broadly amending the Lead-Acid Battery Recycling Act of 2016 (Act). In order to conform to the new law, DTSC needed to make several changes in the implementation of the LABRIC program. DTSC is working to implement the changes AB 142 mandated, while still adhering to the Act’s commitment to investigate and clean up contamination from lead-acid battery recycling facilities.

DTSC also notes that the Legislature recently passed, and the Governor signed, AB 2104 (C. Garcia, Chapter 276, Statutes of 2020). AB 2104 made a number of changes to the procedural requirements that were added to the Act by AB 142. These changes are described in more detail later in the report.

Summary of LABRIC Program Actions

The 2018 report identified four potential lead-acid battery recycling facilities. During this reporting period, the LABRIC program continued to identify facilities reasonably suspected to have been contaminated by lead-acid battery recycling operations. During fiscal years 2018-2019 and 2019-2020, 39 facilities were identified for further screening. Eleven facilities were suspected of being either lead-acid battery recycling facilities, as defined in the Act, or as a facility in need of further assessment. This report describes the screening process and provides updates on the four facilities identified in the 2018 report.

DTSC has accomplished significant work while implementing this new program, including hiring and establishing a team of engineers, scientists, and other specialists, reviewing information on nearly 50 sites, developing a site investigation contract to conduct sampling that will start this year, creating new protocols and guidance documents to run the program, and working on two legislative revisions to the initial Act. DTSC has not expended any money on clean-up activities to-date. Future reports will
list those expenditures as required by statute. In addition, we will continue to keep the legislature and public informed through annual reports, legislative hearings, briefings and public meetings about the progress made in implementing the program and on our expenditures from the fund.

Coordination Between LABRIC and Other DTSC Programs

The LABRIC program staff continues to coordinate with DTSC staff working on the Quemetco lead acid battery recycling facility and cleanup of the residential areas around the now-shuttered Exide facility. Staff meet regularly to promote consistency among DTSC cleanup activities related to lead-acid battery recycling facilities.

LABRIC Site Identification and Prioritization

The LABRIC program staff have completed and continue to develop protocols that define each step of the site identification and prioritization process for determining whether a facility is eligible for use of LABRIC Fund moneys. The LABRIC program is also developing a lead attribution study to create a methodology for differentiating the various sources of lead contamination at and surrounding LABRIC facilities. Differentiating various sources of lead is one way the LABRIC program will determine, with “reasonable certainty,” that lead contamination is attributable to a facility known to have been a lead-acid battery recycling facility, thereby allowing access to Fund moneys for area cleanups. DTSC will provide additional details about the progress on developing this study in future reports.

Community and Interagency Coordination

Community outreach and public transparency are essential to the successful implementation of the LABRIC program. For example, DTSC collaborated with Alameda County and US EPA Region 9 with the West Oakland Urban Metals Study and continues to collaborate with other communities and stakeholders.

Inspection Strategy for Battery Dealers and Manufacturers

The LABRIC program has developed a strategy to ensure dealer and manufacturer compliance with the Act. The inspection strategy focuses on ensuring that dealers of lead-acid batteries display a notice as specified by the Act, charge refundable deposits on replacement lead-acid batteries, and receive used lead-acid batteries. The LABRIC program will also be verifying that manufacturers of lead-acid batteries meet necessary labeling requirements. In September 2019, the LABRIC program provided a courtesy reminder to more than 6,000 battery dealers and manufacturers registered with the California Department of Tax and Fee Administration that DTSC will perform inspections throughout the state. The LABRIC program will be monitoring dealer and manufacturer compliance with certain requirements of the Act and has committed to inspect and
conduct outreach to at least 50 lead-acid battery dealers and manufacturers annually, once inspections begin.

Other Related Activities

To provide timely and accurate information to the public, DTSC developed a public LABRIC program webpage which provides an overview and updates on the activities of the LABRIC program.

Fund Status


Our Commitment

The mission of DTSC’s cleanup program is to protect California's people and environment from the harmful effects of toxic substances by restoring contaminated resources, including investigating and cleaning up areas around lead acid battery facilities. Investigating and cleaning up urban lead contamination is a complex process that can also interrupt busy people’s daily lives. We are honored to help people who are concerned that lead and other heavy metals from such facilities may have contaminated their yards and neighborhood, endangering their health. We are scientists, engineers, geologists, toxicologists and other professionals who are public servants dedicated to helping people throughout California, including people who live in environmental justice communities. We will use the LABRIC program to help people by investigating and cleaning up contamination to help protect public health and revitalize communities.
1. Introduction

This report describes the Department of Toxic Substances Control’s (DTSC) actions to develop and implement the Lead-Acid Battery Recycling Facility Investigation and Cleanup (LABRIC) program. DTSC is implementing the LABRIC program pursuant to the Lead-Acid Battery Recycling Act of 2016 (Act) to identify lead-acid battery recycling facilities and to investigate, characterize, and clean up lead contamination resulting from the operation of those facilities.

Pursuant to the Act, DTSC is required to report annually to the Legislature on the status of the Fund and the progress achieved with the Fund appropriations. DTSC issued the first Lead-Acid Battery Cleanup Fund Report to the Legislature in Spring 2018. This second annual report (Report) summarizes LABRIC program actions since submission of the first Report to the Legislature. This report provides key information about anticipated future actions of the LABRIC program and summarizes the activities of the California Department of Tax and Fee Administration (CDTFA) related to the Act.

The Act created the Lead-Acid Battery Cleanup Fund (Fund), which provides 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. The Fund also provides resources that could be appropriated for administration of the Fund and for DTSC’s administration and implementation of the Act. The Act specifies that Fund moneys could also be appropriated to repay certain loans. One such loan was the 2016 General Fund loan for investigation and cleanup of sensitive land-use properties surrounding the former Exide Technologies, Inc. (Exide) lead-acid battery recycling facility located in the city of Vernon. In addition, loans made for purposes of investigating and cleaning up any area of the state reasonably suspected of being contaminated by the operation of a lead-acid battery recycling facility could be repaid with moneys appropriated from the Fund.

Assembly Bill 142 became immediately effective on October 13, 2019 and amended the Act broadly. The amendment is discussed in Section 2 of this Report: “Amendment of the Act through Assembly Bill 142.”

Given the requirements of the amended Act, the LABRIC program plans to conduct the following steps to identify and manage sites eligible for the use of Fund moneys. These steps are also shown on the flowchart presented in Figure 1:

1. Identify potential Lead-acid battery recycling facility sites to be screened for eligibility for Fund expenditures under the Act.
2. Screen sites for Fund use based on available evidence.
3. Prioritize sites based on factors suggesting potential exposure likelihood or at-risk populations.

4. Using the results of the prioritization, conduct investigation or site evaluation at areas reasonably suspected to have been contaminated by the operation of a lead-acid battery recycling facility.

5. Conduct cleanup, remedial action, removal, monitoring, or other response actions at any area of the state that is determined with reasonable certainty to have been contaminated by releases from the operation of a facility known to have been a lead-acid battery recycling facility. Refer sites with contamination but not eligible for use of Fund moneys to DTSC’s Site Mitigation and Restoration Program or other state, federal, or local entities.

2. Amendment of the Act through Assembly Bills 142 and 2104

AB 142 was signed into law on October 13, 2019, and became effective immediately. This bill broadly amended the Act. Among other things, AB 142 modified the definition of “lead-acid battery recycling facility” to exclude facilities “designed and operated for the primary purpose of recovering lead from materials other than used lead-acid batteries.” This change in the definition of a facility requires DTSC to develop a new process for researching and identifying facilities, which DTSC must apply as it revisits its prior work for each facility.

The bill instituted a new standard to use moneys from the Fund for the “cleanup, remedial action, removal, monitoring, or other response actions.” Specifically, AB 142 required DTSC to “conclude that the contamination in a specific area was directly attributable to releases from” a lead-acid battery recycling facility. Given urban lead’s ubiquitous nature, various sources, and uneven and shifting distribution, this new standard on the use of funds to cleanup lead poses a challenge to the current analytical capabilities of lead attribution.

AB 142 also imposed extensive additional public notice and comment requirements, which include, among other things, public records disclosures. One such requirement mandates that DTSC provide “copies of any information or documents currently in the department’s possession regarding the facility” if the information is subject to California’s broad Public Records Act. DTSC anticipates the procedural requirements placed on it by AB 142 will be more time-consuming and resource intensive than under the former Act, while recognizing that public transparency is central to government activity.

In addition, AB 142 limited to two years the time DTSC may use Fund monies for investigation or evaluation of a site under an initial public notice. Only one three-month extension is allowed. If DTSC does not make its designation of the site as determined
with reasonable certainty to have been contaminated by releases from the operation of a facility known to have been a lead-acid battery recycling facility within two years from when it provided the public notice, that notice will be deemed to have been withdrawn. In that case, DTSC must stop further investigation or evaluation of the site using Fund moneys. Concurrently, the law requires DTSC to accept and review comments or submitted information until the investigation is completed, as well as to investigate and respond to any reasonable (Act-specified) information provided by the public on DTSC’s proposed designation of a site as determined with reasonable certainty to have been contaminated by releases from the operation of a facility known to have been a lead-acid battery recycling facility. This presents several difficulties, including the potential need to continuously respond to claims by entities that operated lead-acid battery recycling facilities, which are submitted to DTSC as time on the public notice runs out. The requirement to respond to comments in combination with the attribution requirements severely restricts DTSC’s ability to operate within the timelines mandated by AB 142. DTSC is determining how to best implement the changes to the Act made by AB 142, while adhering to the law’s intent of protecting people by timely investigating and cleaning up contamination from lead-acid battery recycling facilities.

The Act was further amended in 2020 by AB 2104, which becomes effective on January 1, 2021. This bill responded to various implementation concerns of AB 142, by clarifying some of the terms and procedural requirements that were originally enacted. Of note, AB 2104 made the following changes to the Act:

1. DTSC will no longer be required to provide copies of all information and documents it reviewed during investigation and evaluation of a site. Instead, DTSC will provide only copies of that information it relied on during its investigation and evaluation.

2. The public comment period will be limited to 90 days after DTSC issues its public notice, rather than at any time during its investigation, allowing DTSC to focus its efforts on the investigation.

3. For information DTSC receives from anyone commenting on DTSC investigation and cleanup public notices that indicates that a site was not contaminated by the operation of a lead-acid battery recycling facility or that the facility was not involved in the recycling of lead-acid batteries, DTSC need only evaluate and respond to information it finds reliable.

4. DTSC is allowed to extend the two-year deadline to complete an investigation in increments of three months, not to exceed one year, for a total of three years to complete an investigation.
These changes, and the effect of the changes, will be reflected in the next report submitted to the legislature.

3. Summary of LABRIC Program Actions

3.1 Fiscal Year 2018-2019

The LABRIC program staff presented a program framework and sought input from the public, including people in communities potentially impacted by lead-acid battery recycling facilities, at workshops held in June 2018 in Oakland and July 2018 in Commerce. Several workshop participants at the July 2018 Commerce workshop commented that the LABRIC program should prioritize resources to expedite ongoing lead-acid battery recycling facility and residential cleanup measures at areas impacted by the former Exide facility in Vernon, and the Quemetco, Inc. (Quemetco) facility in the City of Industry. Other stakeholders recommended that DTSC should provide more documentation demonstrating the eligibility of lead-acid battery recycling facilities recommended for further investigation under the LABRIC program and for funding eligibility consistent with the provisions of the Act. Early in Fiscal Year (FY) 2018-19, LABRIC program staff began preparing policies and protocols needed to establish the new LABRIC program. The status of these documents is summarized in the Framework for Site Evaluation and Prioritization section below.

The FY 2018-19 budget provided funding to expand the LABRIC program’s capacity to investigate and clean up areas of the state contaminated by the operations of lead-acid battery recycling facilities. The Legislature appropriated approximately $6.7 million from the Fund to further develop and implement the LABRIC program and augment its capacity to evaluate, investigate, remediate, monitor, and conduct response actions at sites that qualify for funding under the Act.

In early FY 2018-19, the LABRIC program began recruiting a team of engineers, scientists, and other specialists to plan and execute a comprehensive statewide process for identifying, investigating, and cleaning up LABRIC sites. At the same time, the LABRIC program was working to procure contracts for investigation and other response actions for the Berg Iron & Metal facility in Los Angeles. This facility was one of four facilities identified for initial screening. The “Current DTSC Site-Specific Evaluations” section of this report describes these types of activities in more detail.

3.2 Fiscal Year 2019-2020

The Legislature appropriated approximately $8.8 million from the Fund for LABRIC program operation for FY 2019-2020. AB 142 was passed by the Legislature and later approved by the Governor on October 13, 2019. This bill broadly amended the Act and subsequently impacted LABRIC program activities. The LABRIC program is revising,
updating, and developing additional policies and protocols to comply with AB 142’s new
requirements.

During FY 2018-2019 and 2019-2020, the LABRIC program screened candidate lead-
acid battery recycling facilities to determine eligibility and documented findings in
screening reports. Subsequently, AB 142 modified the definition of “lead-acid battery
recycling facility” to exclude facilities “designed and operated for the primary purpose
of recovering lead from materials other than used lead-acid batteries.” The LABRIC
program is re-evaluating available information to ensure that previously identified
potential LABRIC sites are still eligible for Fund use under this new definition.

Furthermore, AB 142 instituted a different standard to appropriate moneys from the
Fund for “cleanup, remedial action, removal, monitoring, or other response actions.” The
new standard requires that DTSC have “reasonable certainty” about an area to use
Fund moneys for these specific activities. As a tool to help meet this new standard, the
LABRIC program is developing a lead attribution methodology to assist in identifying the
source of lead contamination at LABRIC sites. DTSC will provide additional details
about the progress on developing this methodology in future reports.

The LABRIC program continued site identification in 2019-2020 and screened 39 sites
identified in the 2018 Report to the Legislature. The status of site identification activities
is summarized in Section 5.4 of this report. Meanwhile, the LABRIC program also
expanded the effort to discover additional sites by reassessing sites in DTSC’s
EnviroStor database. See the flowchart in Figure 1 for the process LABRIC used to
screen sites including the 39 sites.

In addition, the LABRIC program is in the process of developing a screening and
scoring methodology for prioritizing potential lead-acid battery recycling facilities for
further investigation. This methodology should be developed by the end of calendar
year 2020 and will be used first to screen each of the potential facilities to determine if
they meet the definition of a lead-acid battery recycling facility and second, to determine
whether there is onsite or offsite contamination resulting from the operation of a lead-
acid battery recycling facility. If so, a scoring system is applied to create a numeric
prioritization value. The LABRIC program will use the scores to rank each site to
determine which sites have the highest priority for further investigation and potential
cleanup.

The Act requires, among other things, that dealers of lead-acid batteries display notice
of specific aspects of the Act, charge refundable deposits on replacement lead-acid
batteries, and receive used lead-acid batteries. Manufacturers of lead-acid batteries are
required to meet certain labeling requirements. The LABRIC program has committed to
inspect 50 lead-acid battery dealers and manufactures every year. In early 2019, the
LABRIC program began developing policy and procedures to conduct these inspections.

4. Coordination Between LABRIC Program and DTSC’s Site Mitigation and Restoration Program

Various urban lead investigations and cleanups provide many of the same benefits to communities, such as the removal of lead contaminated soils. Many of the same basic tools and approaches are used when conducting urban lead investigations and cleanups, but undertaking lead related investigations and cleanups also pose difficulties in applying traditional investigation and cleanup techniques. Some of these difficulties include conducting sampling and analysis techniques that differentiate between various sources of lead, the need for rapid and targeted cleanups when high levels of lead are found during sampling, community outreach and coordination, and the logistical difficulties of cleaning up residential yards, schools and other properties. For these reasons, among others, the LABRIC program consistently coordinates with the DTSC Site Mitigation and Restoration Program (SMRP) teams working on the Quemetco investigation and Exide investigation and cleanup.
Figure 1. Generalized LABRIC Site Process Flowchart

LABRF: Lead-Acid Battery Recycling Facility; DTSC: Department of Toxic Substances Control; SMRP: Site Mitigation & Restoration Program; AB 142: Assembly Bill 142


**Site Designation per AB 142: In order to use Fund moneys for cleanup DTSC must designate a site as determined with reasonable certainty to have been contaminated by releases from the operation of a facility known to have been a lead-acid battery recycling facility.

***Although this site is not a LABRF under the Act, contamination is present onsite and/or offsite.
LABRIC program staff and staff working on Quemetco and Exide meet regularly to discuss experiences including the development of sampling objectives and plans, sampling techniques, attribution methodologies, contracting and other tools applicable to each program. This coordination helps to provide consistency among the cleanup activities DTSC oversees or undertakes.

Coordination is also important because the LABRIC program will result in work for DTSC’s Site Mitigation and Restoration Program. The LABRIC program will sample areas surrounding lead-acid battery recycling facilities, in some cases possibly extending a mile or more away from a facility to determine if a signature from the facility can be found. Such extensive sampling along parkways and other rights of way will help identify areas with high lead levels. Although DTSC is still evaluating the effects of AB 142, it appears that the LABRIC program may not use Fund moneys to undertake emergency cleanup until it has met the new “reasonable certainty” requirement of the Act. Therefore, the program must rely on local governments, DTSC’s Site Mitigation and Restoration Program, or other entities to conduct the needed cleanups where such contamination is found.

DTSC’s Site Mitigation and Restoration Program is developing an approach to estimate the funds potentially needed to pay for quick action under these circumstances. DTSC will need to refine this approach as it collects more data. However, DTSC recognizes the need to help address the public health threats discovered as it samples for lead and other contaminants in communities across the state.

5. LABRIC Site Identification and Prioritization

5.1 Framework for Site Identification and Prioritization

The LABRIC program has developed and is developing a series of documents to define each step of the site identification and prioritization process for determining whether a site is eligible for investigation and cleanup using Fund moneys. These documents will include information, methodology, criteria, and lines of evidence to establish eligibility of a site for investigation, cleanup, or other response action. The documents include:

- A framework document shared at the June and July 2018 public workshops to discuss and solicit public input for implementation of the LABRIC program.

- Individual screening reports for summarizing site-specific information and industry practices and the rationale used by the LABRIC program to determine the eligibility of proposed LABRIC sites for use of Fund resources for investigation, cleanup, and other response actions.

- A screening criteria methodology for scoring, ranking and prioritizing lead-acid battery recycling facilities in environmental justice communities that are already
overburdened by multiple sources of contamination. The methodology relies on data from readily obtainable sources of information, such as CalEnviroScreen, which identifies pollution burden and vulnerability in communities, U.S. Census data on income, the age of housing stock that is likely to have lead-based paint, and other socioeconomic and environmental health indicators.

The LABRIC program is currently drafting the documents listed above and reevaluating their scope and content in view of the passage of AB 142. The LABRIC program will finalize the site screening criteria document and release and post the materials on DTSC’s public LABRIC program webpage by the third quarter of calendar year 2020.

Additionally, the LABRIC program is developing memorandums that will identify sites that have been researched and determined not to qualify for use of Fund moneys under the facts known at that time.

5.2 Attribution Studies

Pursuant to California Health and Safety Code section 25215.5(b)(1)(A), moneys in the Fund shall be expended for the investigation or site evaluation of any area of the state that is reasonably suspected to have been contaminated by the operation of a lead-acid battery recycling facility. In addition, pursuant to California Health and Safety Code section 25215.5(b)(1)(B), moneys in the Fund shall be expended for “cleanup, remedial action, removal, monitoring, or other response actions to address contamination directly attributable to releases from a facility known to have been a lead-acid battery recycling facility at any area of the state that, pursuant to Section 25215.51, [DTSC] determines with reasonable certainty was contaminated by releases from the operation of that lead-acid battery recycling facility.”

It is difficult to distinguish between the different sources of lead contamination found in an urban environment. DTSC is developing a study to design an attribution methodology that provides differentiation of various sources of lead contamination at LABRIC sites (e.g., lead-acid battery recycling facility releases, deteriorated lead-based paint, leaded-gasoline exhaust or other releases). The LABRIC program has devoted significant time to researching state, federal, and academic expertise and technical capacities to differentiate such sources of lead.

Identification of the source(s) of lead contamination is important for conducting cleanup activities at LABRIC sites and protecting local communities. In order to enhance the development of methods to determine source(s) of lead contamination, the LABRIC program has discussed lead attribution studies with various experts. LABRIC staff have also reviewed numerous documents and research papers provided by these experts. This review showed that the determination of lead attribution is a scientifically complex, research-oriented study. As such, the LABRIC program is evaluating using professional
services from researchers and professional analytical laboratories to assist in completing the attribution study methodology.

5.3 Current DTSC Site-Specific Screening Activities

DTSC continues to work on identification and screening of existing and former lead-acid battery recycling facilities in California. This includes reviewing information regarding previous investigations conducted on secondary lead smelting operations. Secondary lead smelting uses recycled lead metal materials (e.g., lead-acid batteries and other scrap metals) while primary lead smelting predominantly uses lead ore. Hence, DTSC’s site screening focuses on secondary lead smelting operations.

In keeping with this focus, DTSC identified four potential lead-acid battery recycling facilities to focus on in the 2018 Report to the Legislature for the program’s initial round of sites to screen:

1. Bercovich/Sunset Smelting and Refining Co., Oakland
2. Berg Iron & Metal, Los Angeles
3. C&S Battery & Lead Co./Smelter Supply Co., West Sacramento
4. Western Lead Products Co., Commerce

Site-specific updates of these LABRIC program activities are provided below.

5.3.1 Bercovich/Sunset Smelting and Refining Company, Oakland

The former Sunset Smelting and Refining Company (Sunset Smelting) (also known as Bercovich or Mark Aboudi Property), located at 1639 18th Street in Oakland, is identified as a potential lead smelter in U.S. EPA’s Lead Smelter Strategy Report, September 2017. Sunset Smelting operated at the site from approximately 1914 to 1962. Lead refining operations at Sunset Smelting used kettles for melting lead to manufacture products for sale.

Lead contamination was found at the site and in soil in residential yards surrounding the site. Areas of lead contamination at the former Sunset Smelting facility are covered by an asphalt and concrete cap; a land use covenant on the property requires ongoing operation and maintenance activities to ensure the protectiveness of the cap. Contaminated soil from some residential properties near the site was removed by United States Environmental Protection Agency (U.S. EPA) Region 9 with DTSC support in June 2018.

The LABRIC program has completed the screening of the site and has found no evidence supporting the disassembly or reclamation of lead-acid batteries to produce elemental lead or lead alloys. As such, Bercovich does not meet the definition of a
lead-acid battery recycling facility under Health & Safety Code section 25215.1(g), and therefore is not eligible for Fund use under the currently known facts by DTSC.

5.3.2 Berg Iron & Metal, Los Angeles

The former Berg Iron & Metal (also known as Berg Metals Corp. or Los Angeles Food Center), located at 2652 Long Beach Avenue in Los Angeles, is identified as a potential lead smelter in U.S. EPA’s Lead Smelter Strategy Report, September 2017. The 1946 Standard Metal Directory identifies Berg Metals Corp. as a “Battery Lead Smelter” manufacturing products that include “pig and hard lead.” Berg Metals Corp. operated at the site from approximately 1937 to 1958. Metal smelting operations, including lead smelting, occurred at the site during this period. Soil contaminated with lead is present at the site and is covered with an asphalt and concrete cap. In 2018, a restriction on land use was recorded with Los Angeles County. The property owner is required to monitor and maintain the asphalt and concrete that is covering the lead contamination in perpetuity while the contamination remains in place.

In September 2019, prior to the enactment of AB 142, the LABRIC program determined that Berg Metals Corp. qualified for Fund use and executed a contract for soil sampling in nearby neighborhoods and public rights-of-way reasonably suspected to have been contaminated by the operation of the former facility. With the enactment of AB 142 in October 2019, the definition of “lead-acid battery recycling facility” was amended to exclude facilities “designed and operated for the primary purpose of recovering lead from materials other than used lead-acid batteries.” DTSC has suspended the contract implementation and planned soil sampling until it re-evaluates available information to determine the eligibility of Berg Metals Corp. for Fund use under the new definition of “lead-acid battery recycling facility” as amended by AB 142.

5.3.3 C&S Battery and Lead Company/Smelter Supply Company, West Sacramento

The former C&S Battery and Lead Company (aka Sacramento Stucco Site), located at 860 Riske Lane in West Sacramento, is identified as a potential lead smelter in U.S. EPA’s Lead Smelter Strategy Report, September 2017. It operated as a battery reclamation plant from approximately 1973 to 1978. In 1979, the company was ordered by California’s Division of Occupational Safety and Health (Cal/OSHA) to shut down operations at the plant due to high blood lead levels in workers and repeated failures to abate workplace hazards. A subsequent owner and a railroad company adjacent to the site conducted investigations and cleanups in 1979-1980 to meet the cleanup standards. However, the cleanup standards have changed since that time; the standards used in 1979-1980 would no longer be considered protective for use by residential populations, especially children.
The City of West Sacramento is implementing its Bridge District Specific Plan. The site, which has a concrete pad covering the contaminated soil, is in the planned “Core neighborhood” as it is identified in the Specific Plan. The Core neighborhood has both commercial and residential development interests. Cleanup of contamination from past operations of this lead-acid battery reclamation facility at the location of the former facility and in the surrounding area may prepare it for future uses that align with the City of West Sacramento’s redevelopment objectives.

The LABRIC program is still in the processing of evaluating the site for eligibility for Fund moneys under the Act.

5.3.4 Western Lead Products Company, Commerce

Western Lead Products Company (Western Lead), located at 4530 East Pacific Way in Commerce, operated at the site from approximately 1948 to 1959. This site is approximately one mile from the former Exide facility and is located within the Exide Preliminary Investigation Area. A former railroad spur runs along the southern boundary of the property. Western Lead produced lead oxide sold to battery manufacturers, powdered lead used in ceramic glazing, and red-lead pigment for paint. Soil contaminated with lead is present at this site. A restriction on land use (excluding the railroad easement) has been recorded with Los Angeles County. A neighborhood northeast of the Western Lead site was sampled in 2016 and 2017 as part of the former Exide facility residential area investigation.

The LABRIC program has completed the screening of the site and has found no evidence supporting the disassembly or reclamation of lead-acid batteries to produce elemental lead or lead alloys. Therefore, Western Lead does not meet the definition of a lead-acid battery recycling facility under Health & Safety Code section 25215.1(g), and is not eligible for Fund use based on the facts currently known by DTSC.

5.4 Status Updates on Site Screening

The LABRIC program researched 49 potential lead-acid battery recycling facilities including the four sites discussed in Section 5.3, the remaining 35 sites identified in the 2018 Report to the Legislature, and 10 additional sites from the 2016 supplemental Eckel’s list, as well as other sources. The status of the sites researched are detailed in Section 5.4.1 and 5.4.2.

5.4.1 Sites for Further Screening for Fund Use

The LABRIC program’s research revealed that the sites below either preliminarily qualified as lead-acid battery recycling facilities as defined in the Act or need further assessments. The LABRIC program will further screen the eligibility of these sites for
potential investigation or site evaluations using Fund moneys in the future. These sites are identified below:

- Alco Pacific Inc., 16908 South Broadway St., Carson
- ASARCO Selby, Shoreline & Marsh, adjacent to Carquinez Strait, Crockett
- Cook Battery, 139 Hill Ave., Oakley
- Crossroads Investors III LLC, 24250 Adams Ave., Murrieta
- Eastern Smelting and Refining Co., 2220 East 11th St., Los Angeles
- Western Lead Products Co., 2182 East 11th St., Los Angeles
- Federated Metals Div. (ASARCO), 75 Folsom St., San Francisco
- Federated Metals Div. (ASARCO), 1217 East 6th St., Los Angeles
- Federated Metals Div. (ASARCO), 4010 East 26th St., Vernon
- Morris P Kirk & Sons, 4050 Horton St., Emeryville
- Ben Chersky and Sons, 3500 Emery St., Los Angeles

5.4.2 Sites Not Qualified for Fund Use

The LABRIC program determined, based on its research, that several sites below, originally identified in U.S. EPA’s Lead Smelter Strategy Report, dated September 2017, do not qualify as “lead-acid battery recycling facilities” as amended by AB142. The LABRIC program reviewed available information and based on that review found no evidence supporting that the facility disassembled lead-acid batteries or reclaimed lead-acid batteries or their components to produce elemental lead or lead alloys. Therefore, the LABRIC program will conduct no additional assessment at these sites. Should later conditions or information warrant, the LABRIC program may reexamine these sites for eligibility for Fund use. These non-qualifying sites will be referred to DTSC’s Site Mitigation and Restoration Program or other state, federal, or local entities for further evaluation, and could become orphan sites if referred to the Site Mitigation and Restoration Program and no responsible party is identified. These orphan sites will require additional Site Remediation Account (SRA) funding to conduct investigation and cleanup. The sites not currently qualified for Fund use are identified below:

- Aaron Ferer and Sons, 2300 East 11th St., Los Angeles
- Asher Metal Co., 584 4th St., San Francisco
- Atlas Iron and Metal Co., 10047 South Alameda St., Los Angeles
• Atlas Lead Co., Inglewood
• Bercovich 2nd Street, 127 2nd St., Oakland
• Berg Metals Corp (same as Bondrat), 1200 Minnesota, San Francisco
• Bunker Hill, 1336 16th St., Oakland
• Bunker Hill, 660 Market Street, San Francisco
• California By-Products, 5717 District Blvd., Vernon
• California Smelting and Refining Co., 1549 Fishburn Ave., Los Angeles
• Cook Metal Co., 6250 West Slauson Ave., Culver City
• Electric Auto-Lite Battery Corp., (now Verdese Carter Park), 98th and Bancroft Avenues, Oakland
• Electric Babbitt Metals (Los Angeles Smelting), 739 North Main St., Los Angeles
• Electric Smelting Co., 91 Federal St., San Francisco
• Exide Visalia (now Facility Partners LLC), 8127 West Goshen Ave., Visalia
• Finn, John, Metal Works, 384 2nd St., San Francisco
• Goldberg Metal Refining, 14700 South Avalon Boulevard, Gardena
• Gollan Type Metal Co., 1220 Pennsylvania Ave., San Francisco
• H. Kramer and Co., 1 Chapman Way, El Segundo
• International Lead Co., 413 Molino St., Los Angeles
• J. Chersky and Sons (Universal Smelting and Refining), 441 West Florence Ave., Inglewood
• Liberty Manufacturing, 2233 East 16th St., Los Angeles
• Liberty Metal Co., 2003 Bay St., Los Angeles
• Magnolia Metal Co., 660 3rd St., San Francisco
• Mars Metal Corp., 541 Tunnel Avenue, Brisbane
• Mobile Smelting Co., 11813 South Alameda St., Los Angeles
• Morris P Kirk & Sons (National Lead), 736 Fulton St., Fresno
• National Lead Co., 4825 San Leandro St., Oakland
• Northwest Lead Co., 444 Market Street, San Francisco
• Roto Metals Inc., 980 Harrison St., San Francisco
• Sonken-Galamba Corp., 1439 West 178th Street, Gardena
• United American Metals Corp of California, 785 Bryant St., San Francisco
• W.P. Fuller & Co., 450 Grand Ave., South San Francisco
• Secondary Metal Department (ASARCO), 405 Montgomery, San Francisco

5.4.3 Sites for Future Consideration/Prescreening

The LABRIC program expanded site discovery efforts by searching various sources including databases for sites that could potentially qualify as lead-acid battery recycling facilities under the Act. EnviroStor is currently one of the databases being searched for potentially qualifying sites. Search criteria used when reviewing EnviroStor included keywords such as “battery storage,” “battery reclamation,” “metal reclamation,” “recycling of scrap metal,” and “lead.” The LABRIC program will research reasonably obtainable information to determine whether further screening of these sites for Fund use is appropriate.

6. Community and Interagency Coordination

6.1 Community Outreach

DTSC’s experience at sites across the state demonstrates that community outreach is essential to the successful implementation of the LABRIC program. To give stakeholders and members of communities an early opportunity to take part in the development of a framework for the LABRIC program’s implementation of the Act, DTSC solicited public input on a preliminary framework at the public workshops held by DTSC in June and July 2018. Other agencies also made presentations at these workshops, including U.S. EPA Region 9 (at both workshops) and Alameda County (at the Oakland workshop).

Alameda County’s representative discussed the County’s Healthy Homes lead abatement program and grant funding opportunities that could be used in conjunction with DTSC and U.S. EPA residential cleanup efforts. U.S. EPA’s representative discussed the agency’s collaboration with DTSC on the investigation of lead contamination and subsequent U.S. EPA-funded time-critical removal actions on residential properties surrounding the former Bercovich/Sunset Smelting and Refining facility, one of the four sites the LABRIC program recommended for further investigation and potential cleanup in the 2018 Report to the Legislature.
Alameda County and U.S. EPA Region 9 both offered to continue their collaboration with DTSC on the West Oakland Urban Metals Study, discussed below, and the investigation and cleanup of the Bercovich/Sunset Smelting and Refining site and surrounding impacted residential properties.

Participants at the Commerce workshop encouraged use of the Fund and LABRIC program resources to augment and accelerate work on properties impacted by the former Exide facility. The Los Angeles County Department of Public Health and the Los Angeles County Supervisor’s Office participated in the workshop and offered to coordinate with DTSC on the investigation and cleanup of properties contaminated with lead in Los Angeles County such as offering to provide information, blood lead testing, and other resources to community members. DTSC will also explore the potential to coordinate LABRIC program activities with other local, state, and federal governmental entities to increase the resources available to address other sources of contamination that may be associated with LABRIC sites such as lead-based paint (e.g., Alameda County lead-based paint abatement program).

6.2 Public Transparency

During the 2018 LABRIC workshops, DTSC sought input and comments from the public and stakeholders to enhance the overall effectiveness and transparency of the LABRIC program. Participants at both workshops recommended that DTSC establish a broader coalition of local stakeholders and maintain more routine outreach efforts. In addition, participants at both workshops sought a better understanding and requested greater transparency with respect to the LABRIC program’s selection and prioritization of sites for further investigation and potential cleanup.

The LABRIC program provided outreach activities for the former Berg Metals site by engaging community residents and stakeholders regarding offsite soil sampling that started on March 12, 2019. The LABRIC Public Participation Specialist contacted state and local elected offices, schools, recreational areas and the local school district about the offsite sampling activities. The LABRIC team also posted 50 work notices throughout the sampling area to notify residents about the activities. After receiving the results from the sampling activities, members of the LABRIC team met with various local stakeholders to share the results and garner support to initiate interim mitigation measures. Further work has been placed on hold while the LABRIC program assesses the effects of AB 142 on this site.

7. Inspection Strategy for Battery Dealers and Manufacturers

In September 2019, the LABRIC program provided a courtesy reminder to more than 6,000 battery dealers and manufacturers registered with CDTFA that DTSC will be performing inspections throughout the state. The LABRIC program received 20 emails
from registrants with a variety of questions on topics such as signage requirements, fee payment processes, and contact information updates. The LABRIC program staff worked closely with registrants to answer their questions and coordinated with CDTFA as appropriate.

The LABRIC program will be monitoring dealer and manufacturer compliance with certain requirements of the Act. These requirements include dealers displaying notice of specific aspects of the Act (by sign or on receipts), charging refundable deposits on replacement lead-acid batteries, and receiving used lead-acid batteries, while manufacturers of lead-acid batteries must meet certain labeling requirements. The LABRIC program has committed to inspect and conduct outreach to at least 50 lead-acid battery dealers and manufacturers annually once inspections begin.

8. Other Related Activities

8.1 West Oakland Urban Metals Study

U.S. EPA Region 9 and LABRIC were partnering on this study to better understand the presence of lead and other metals in California urban neighborhood soils as Bercovich/Sunset Smelting and Refining is located inside this study area. The West Oakland Urban Metals Study involves sampling surface soil for lead and other metals at multiple locations. As part of the joint efforts, in June 2018, U.S. EPA Region 9 collected soil matrix samples at about 200 locations throughout West Oakland for analysis for selected metals to characterize soils and document metals concentrations and distributions of urban contaminants. Since DTSC has determined that the Bercovich/Sunset Smelting and Refining site does not meet requirements to use Fund moneys, the West Oakland Urban Metals Study was transferred to DTSC’s Site Mitigation and Restoration Program.

8.2 Webpage Development

To provide timely and accurate information to the public, DTSC developed a LABRIC program webpage, which provides an overview and updates on the activities of the LABRIC program. The webpage also identifies and provides links to sites being screened by the LABRIC program, including the four sites DTSC identified in the 2018 Report to the Legislature for further investigation and potential cleanup. These site-specific pages provide the background, up-to-date environmental data, plans for public engagement, and the regulatory status of these projects. The LABRIC program will continue to update the webpage as new information becomes available.
8.3 Coordination with the California Department of Tax and Fee Administration (CDTFA)

The Act establishes two fees on the sale of replacement lead-acid batteries, the Manufacturer Battery Fee and the California Battery Fee, each in the amount of $1 per lead-acid battery sold. Both fees shall increase to $2 on April 1, 2022. Pursuant to the Act, CDTFA is responsible for the administration of the lead-acid battery fees. CDTFA is entitled to reimbursement as necessary from the Fund for costs incurred in the administration of the Fund.

The LABRIC program has developed a compliance assistance and inspection strategy for the more than 6,000 battery dealers and manufacturers registered with CDTFA, based on the latter’s outreach database. These efforts will focus on registration, notification, and routine inspection of lead-acid battery dealers and manufacturers subject to the Act.

9. Fund Status

9.1 Revenues


9.2 Expenditures, Transfers, and Loans

In FY 2018-2019, DTSC incurred $2.2 million in expenditures related to the implementation and administration of the LABRIC program for personal services and operating expenses. CDTFA expended $1.4 million for costs related to the collection and administration of the California battery fee in FY 2018-2019. Additionally, in FY 2018-2019, (1) the Lead Acid Battery Cleanup Fund made a $16.7 million loan repayment to the General Fund as an installment on the $176.6 million General Fund loan for the Exide residential cleanup; and (2) the Lead Acid Battery Cleanup Fund loaned $923,000 to the Hazardous Waste Control Account to hire a Third-Party Quality Assurance contractor to oversee the Exide Closure Plan implementation. In FY 2019-2020, DTSC expended approximately $3.1 million for the continued implementation of the LABRIC program while CDTFA reported expenditures of approximately $1.5 million.

In FY 2020-2021, the Budget Act appropriates $10 million to DTSC for the continued operation of the program and $2.1 million to CDTFA.