

AGENDA

ASSEMBLY BUDGET SUBCOMMITTEE NO. 3 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Assemblymember Fran Pavley, Chair

**WEDNESDAY, MAY 3, 2006
STATE CAPITOL, ROOM 447
8:30 A.M.**

Hearing Items

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
	CONSENT CALENDAR	2
0555	SECRETARY FOR ENVIRONMENTAL PROTECTION	3
ISSUE 1	CALIFORNIA-MEXICO BOARDER COORDINATION	3
3900	AIR RESOURCES BOARD	4
ISSUE 1	HYDROGEN HIGHWAY	4
ISSUE 2	INNOVATIVE CLEAN AIR TECHNOLOGIES GRANT PROGRAM	5
ISSUE 3	AIR QUALITY ENFORCEMENT	6
ISSUE 4	GOODS MOVEMENT	8
ISSUE 5	AIR QUALITY SUBVENTIONS	10
3910	CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD	11
3930	DEPARTMENT OF TOXIC SUBSTANCES CONTROL BOARD	
ISSUE 1	ELECTRONIC WASTE IMPLEMENTATION AND FRAUD PREVENTION	11
3910	CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD	13
ISSUE 2	LNG TRANSPORTATION FUEL DEMONSTRATION PROJECT	13
3940	DEPARTMENT OF PESTICIDE REGULATION	14
ISSUE 1	PESTICIDE MILL ASSESSMENT	14
3960	DEPARTMENT OF TOXIC SUBSTANCES CONTROL BOARD	16
ISSUE 1	TOXIC SUBSTANCES CONTROL ACCOUNT	16
	PUBLIC COMMENT	

CONSENT CALENDAR

ITEM	DEPARTMENT	SUMMARY
0555	Environmental Protection, Secretary	Redirection of \$2.1 million (multiple funds) to Centralize Administration - Cal-EPA Boards, Departments, and Offices
0555	Environmental Protection, Secretary	\$294,000 (Special Funds) for the Oversight Audits and Program Coordination - Certified Unified Program Agencies (CUPAs)
3900	Air Resources Board	\$1.1 million (motor vehicle account) for Heavy-Duty Particulate Matter - Emission Measurement In-Use Testing
3900	Air Resources Board	AB 923 clean-up language
3910	Integrated Waste Management Board	\$5.2 million(Tire Recycling Management Fund) for Tire Recycling Programs
3910	Integrated Waste Management Board	\$1.1 million (Integrated Waste Management Account) Fund Shift from the Project Recycle and Buy Recycle Programs
3910	Integrated Waste Management Board	\$108,000 for one Staff Counsel for Recycling Market Development Zone Program
3930	Department of Pesticide Regulation	Department Restructure Proposal - Budget and Organization
3960	Department of Toxic Substances Control	Hazardous Electronic Waste Management Program Funding Technical Statutory Change
3960	Department of Toxic Substances Control	Early Transfer of Military Property (McClellan Air Force Base and Fort Ord Army Base)
3960	Department of Toxic Substances Control	\$85,000 (reimbursements) AB 721 Implementation-Metal Plating Facilities
3980	Environmental Health Hazard Assessment	\$125,000 (General Fund) for AB 121 Implementation - Lead in Candy
3980	Environmental Health Hazard Assessment	\$266,000 (Safe Drinking Water and Health Assessment Fund) for Proposition 65 Workload
3980	Environmental Health Hazard Assessment	\$50,000 (Reimbursements)Dry Cleaning - Perchloroethylene Alternatives

0555 SECRETARY OF ENVIRONMENTAL PROTECTION

The Secretary for Environmental Protection is the cabinet level voice for the protection of human health and the environment. Its programs restore, protect and enhance environmental quality, and ensure public health. The Office of the Secretary coordinates the state's environmental regulatory programs and promotes the state's economic vitality. The Secretary also administers the children's environmental health, environmental justice, environmental law enforcement, environmental education, emergency preparedness and response, Certified Unified Program Agencies (CUPAs), and scientific review programs. The Secretary leads greenhouse gas emission reduction and climate change activities in state government.

ISSUE 1: CALIFORNIA-MEXICO BORDER COORDINATION

Background. There have been long standing collaborative efforts that focus on environmental issues along the California/Mexico border. Many of these programs have been funded by the General Fund and have been subject to budget reductions or redirections over the past several years. Some of the border efforts within Cal-EPA include:

- The Air Resources Board has an air monitoring program in the Tijuana area.
- The Integrated Waste Management Board has solid waste cleanup and monitoring efforts in the border zone.
- The State Water Resources Control Board (SWRCB) has a Border Affairs Unit that coordinates various border-related water quality activities.

Since 2003, the Border Affairs Unit at the SWRCB has served as the ad hoc coordinator of all agency-wide border issues.

Governor's Budget. The Governor's Budget includes the redirection of five positions and \$619,000 from Cal-EPA boards to the Secretary to support agency-wide policy and program coordination of California-Mexico border environmental efforts. Redirections include:

- One position from the ARB (\$115,000 from special funds).
- One position from the Waste Board (\$130,000 from special funds).
- Three positions from the SWRCB (\$374,000 from the General Fund).

Staff Comments. Currently, support of border issues are handled on an ad hoc basis by staff at various Cal-EPA boards. Cal-EPA indicates that an agency-level unit would be more effective in coordination, communication, and development of state policy and priorities related to border issues.

STAFF RECOMMENDATION: Approve as budgeted

3900 – AIR RESOURCES BOARD

The Air Resources Board has primary responsibility for protecting air quality in California. This responsibility includes establishing ambient air quality standards for specific pollutants, administering air pollution research studies, evaluating standards adopted by the U.S. Environmental Protection Agency and developing and implementing plans to attain and maintain these standards. These plans include emission limitations for vehicular and industrial sources established by the Board and local air pollution control districts.

ISSUE 1: HYDROGEN HIGHWAY NETWORK IMPLEMENTATION

Governor's Budget. The Air Resources board (ARB) is requesting \$6.5 million dollars (Motor Vehicle Account) to continue implementation of the Hydrogen Highway Network as established by executive order of the Governor. A portion of these funds, (\$1.5 million), will be used to leverage private funds to establish three new public fueling stations. Additionally, \$5 million will be used to leverage federal funds to operate five hydrogen fuel cell buses.

The budget also proposes to re-appropriate \$3.5 million (Motor Vehicle Account) allocated to the board in the current year. The board does not anticipate that these funds will be expended before December 31, 2006 do to various issues that need to be worked out before a hydrogen fueling station can be sited.

Background. In 2005-06, SB 76 (committee on budget) was enacted as part of the budget and provided the ARB with \$6.5 million in special funds to fund the Governor's Hydrogen Highway initiative. These funds provided funding for the:

- Establishment of up to three publicly accessible demonstration hydrogen fueling stations.
- Lease of up to 12 hydrogen-powered vehicles, and purchase up to two hydrogen-powered shuttle buses for use at airports or universities.
- Employment of three new positions to manage the effort.

The legislation also required the ARB to report every six months on its implementation efforts including funding spent and compliance with the environmental goals referenced above. The legislation also included a report due on December 31, 2006 on the status of transportation-related hydrogen activities in other states, including a discussion of siting criteria and selection of actual sites, the impact of hydrogen highway infrastructure and activities on affected communities and neighborhoods, and the development of hydrogen related business activity in California.

LAO Comments. The LAO has raised concerns that funding for the Hydrogen Highway is premature for this budget because last year's appropriation was intended to provide two year's of funding and as of February 2006, only about \$550,000 of the appropriation had been spent (for contracts and to develop fuel specifications and public outreach). Based on information provided by the Administration, the LAO expects the ARB to spend a total of approximately \$3 million in the current year, leaving \$3.5 million of the original \$6.5 million appropriation available for expenditure in the budget year. Therefore, the LAO indicates that the need for additional funding in the budget year has not been justified.

Staff Comments. The ARB has been the leader in the development of programs designed to reduce emissions from mobile sources. Mobile sources account for well over half of the emissions which contribute to ozone and particulate matter air pollution in California. Zero emission vehicles (ZEVs) and near-zero emission vehicles are a key element of California's plan for attaining health based air quality standards. The ARB has indicated to staff that this proposal is key to maintaining momentum for both the Hydrogen Highway and the Board's ZEV program. While this proposal focuses on one technology to move the ZEV program forward, the ARB should be prepared to comment on how it plans on promoting all ZEV and partial-ZEV technologies as well.

STAFF RECOMMENDATION. Leave item open and direct staff to develop a proposal that is open to other technologies as well as Hydrogen.

ISSUE 2: INNOVATIVE CLEAN AIR TECHNOLOGIES - GRANT PROGRAM

Background. The Innovative Clean Air Technologies Grant Program co-funds practical demonstrations of new or improved technologies and new technological applications that can reduce emissions of air pollutants from mobile and stationary sources. This program is generally allocated around \$1 million annually from the Air Pollution Control Fund (APCF).

Governor's Budget. The Governor's Budget includes \$2 million in APCF for a one-time expansion of the Innovative Clean Air Technologies Grant Program. The expansion would be used to accelerate the commercialization of new and innovative technologies for reducing GHG emissions.

Justification. Additional technologies are needed to meet GHG emission reduction goals. These funds will help to demonstrate new technologies that reduce GHG emissions.

STAFF RECOMMENDATION. Approve as budgeted

ISSUE 3: AIR QUALITY ENFORCEMENT

Background. In 2005, the Secretary for Cal-EPA led an agency-wide enforcement initiative to improve the management of information to better prioritize enforcement activities based on the greatest risks to the environment.

Governor's Budget. The budget includes \$5.1 million to increase ARB's enforcement efforts. The budget includes \$2.7 million from the Motor Vehicle Account (MVA) and \$2.3 million from the Air Pollution Control Fund (APCF). The MVA funds will be used to support 20 new positions and \$252,000 in contracts. The APCF funds will fund the one-time purchase of additional equipment to enhance the board's enforcement efforts. The activities proposed for funding include:

- **Heavy-Duty Diesel.** Six new field staff to enforce idling restrictions and additional scan tools to conduct field enforcement. One new position and a new vehicle for the Vehicle Emission Evaluation Training program.
- **Mobile Source.** Purchase of two additional scan tools to conduct taxi cab enforcement at the state's major airports. Seven new positions to create a new branch to focus on enforcement of on-board diagnostic systems and funding for four scan tools and laptops to assist in enforcement.
- **Fuel Enforcement.** Four new inspector positions for sampling and inspection of distribution facilities and to implement Cargo Tank Vapor Recovery regulations and funding for additional mobile laboratory equipment.
- **Consumer Products.** Two new positions to enforce the portable fuel container, consumer products, aerosol coating, and architectural coating regulations and funding to replace obsolete equipment used to determine the volatile organic compound content of consumer products.
- **Stationary Sources.** Funding for additional respiratory equipment for asbestos inspectors.
- **Training and Compliance.** Funding for equipment and contracts to augment the board's training materials.
- **Portable Emissions Measurement System.** Funding for a portable emission measurement system to be used to test the emissions system of heavy-duty trucks while in use.

Workload Justification. The board currently has 81 positions supporting its enforcement efforts. The budget proposal would provide the board with a 25 percent increase in its enforcement resources. Increased enforcement will help the board reduce emissions. The majority of the new enforcement resources are requested for mobile source programs. Justification for the increased enforcement resources are as follows:

- **Heavy-Duty Diesel.** The board currently has 34 positions staffing enforcement of heavy-duty diesel regulations. The budget requests an additional six positions (an 18 percent increase) to enforce new regulations on solid waste collection vehicles, mobile cargo handling equipment at ports, and school bus and commercial vehicle idling.
- **Mobile Source.** The board currently has 11 positions staffing enforcement of mobile source emissions regulations. The budget requests an additional seven positions (a 64 percent increase) to enforce the On-Board Diagnostic (OBD) regulation. The current smog check program has become very dependent on the OBD system. At the same time, software has been specifically designed to disable the OBD system. The board needs to increase its enforcement presence to ensure that OBD systems communicate properly with Smog Check test equipment.
- **Fuel Enforcement.** The board currently has 12 positions staffing fuel enforcement. The budget requests an additional four positions (a 33 percent increase) to enforce gaseous motor vehicle fuel regulations. Due to lack of staffing, these regulations have had minimal enforcement.
- **Consumer Products.** The board currently has seven positions staffing enforcement of consumer product regulations. The budget requests an additional two positions (a 30 percent increase) to address a significant increase in the number of violations and to implement the new portable fuel container regulation.
- **Stationary Source/Special Investigations.** The board currently has 17 positions to enforce stationary source regulations and conduct special investigations. The budget does not request any additional staffing for enforcement in this area.

STAFF RECOMMENDATION. Staff recommends that the Subcommittee adopt this budget proposal

ISSUE 4: GOODS MOVEMENT

Background. California's ports handle nearly 28 percent of the international trade goods entering and leaving the U.S. Based on projections of economic activity in the country and in the state, California's goods movement activity is expected to increase considerably in coming years. While there are economic benefits to goods movement, there are also environmental costs. For example, the ports of Los Angeles and Long Beach together contribute 10 percent of the region's nitrous oxides emissions and 25 percent of its diesel particulate matter, and residents living near the busy ports disproportionately experience the negative effects of these pollutants.

The U.S. Environmental Protection Agency and the board have adopted several regulations to reduce emissions from goods movement. However, the state has limited regulatory authority over certain aspects of goods movement, such as rail transport, that are mainly under federal jurisdiction. For this reason, the board has also taken non-regulatory actions, such as entering into voluntary memoranda of understanding with certain rail lines for the implementation of emission reduction strategies.

Governor's Budget. The budget includes \$1.7 million from the Motor Vehicle Account (MVA) to support the reduction of air emissions related to goods movement. The funding will be used to support eight new positions and \$500,000 in ongoing contracts. The funding will support the following:

- Five positions to support the development of an emissions inventory, air quality modeling, regulatory strategies and incentive strategies for reducing air pollution related to goods movement.
- One position to support outreach and technical assistance.
- Two positions to increase enforcement activities.
- \$700,000 (\$500,000 ongoing) in contract funding that will be used to support technology demonstration and development of technologies that would assist in reducing emissions from goods movement.

Workload Justification. The board indicates that it currently has redirected 28 existing positions to work on goods movement related activities. These redirections have negatively impacted and slowed down implementation of existing programs. Programs impacted include: the State Implementation Plans required to meet federal Clean Air Act standards in June 2007, the board's Diesel Reduction Plan and work related to toxic air contaminants. The board indicates that some of the current activities related to goods movement are one time and do not require ongoing staffing.

LAO Concerns. The LAO indicates that the State Constitution limits the use of MVA funds supporting the mitigation of environmental effects resulting from operation of motor vehicles on the State's public streets and highways. Those vehicles do not include ships, locomotives, or most cargo moving equipment at the ports. Therefore, the LAO recommends that the board resubmit its funding proposal so that it limits MVA funding to those mitigation activities directly related to motor vehicle use on public roadways and suggests alternative funding

sources for the mitigation of environmental effects ineligible for MVA funding. The board continues to justify its use of MVA funding by indicating that nearly all goods moved through California ports are ultimately transported on public streets by trucks.

Staff Comments. It appears to staff that the comprehensive approach taken by the board to reduce emissions from the goods movement sector has been successful in reducing emissions. Additionally, since nearly all goods shipped through the ports are moved by trucks at some point MVA funds should be eligible for funding activities related to reducing goods movement emissions.

STAFF RECOMMENDATION. Staff recommends that the Subcommittee approve this proposal.

ISSUE 5: AIR QUALITY SUBVENTIONS

Background: Local air pollution control and air quality management districts receive subvention funds to support local air program activities that cannot be funded, or can only be partially funded, with fees on stationary sources in accordance with existing statute. These funds are allocated from the Motor Vehicle Account through the budget of the California Environmental Protection Agency, under the Air Resources Board section (see budget item: 3900-101-0044). Local subvention funds were initially provided in 1972, and were increased several times to address the costs of inflation, most recently in FY 00-01. In 2002-03, these funds were reduced by one third, or \$5 million.

Staff Comments. Staff has been informed by local air quality management districts that the loss of subvention funds has had a significant impact on enforcement efforts and has forced districts to raise fees and deplete fund reserves. Additionally, Air districts have commented that new state mandates are increasing their operating costs and adding additional fiscal pressures on their revenues. It is requested that the state provide \$10 million (Motor Vehicle Account Funds) to restore subvention funding that was cut in FY 02-03 and augment subvention funds to support the substantial new mandated program costs.

STAFF RECOMMENDATION. Leave item open

3910 CALIFORNIA INTEGRATED WASTE BOARD

The California Integrated Waste Management Board promotes the following waste management practices: (1) source reduction, (2) recycling and composting, (3) reuse, and (4) environmentally safe transformation and land disposal. The Board protects public health and safety and the environment through the regulation of solid waste facilities, including landfills. Board activities include research, permitting, inspection, enforcement, public awareness, market development to promote recycling industries, and technical assistance to local agencies in development of local integrated waste management plans.

ISSUE 1: ELECTRONIC WASTE IMPLEMENTATION AND FRAUD PREVENTION

ITEM INCLUDES THE DEPARTMENT OF TOXIC SUBSTANCE'S E-WASTE PROPOSAL

Governor's Budget. The Integrated Waste Management Board (IWMB) and the Department of Toxic Substances (DTSC) have coordinated proposals related to electronic waste (e-waste) implementation:

- **CWIMB.** \$1.1 million (Electronic Waste Recycling Account) for the implementation of the Electronic Waste Recycling Act of 2003. Primarily, funds and positions requested in this proposal will be used to increase the IWMB's capacity and shorten the turn around time for the review and payment on e-waste recycling claims. Additionally, the CIWMB indicates that these positions will assist in the prevention of illegal disposal of e-waste, elimination of e-waste stockpiles, establishment of recycling goals, phasing out hazardous materials in electronic devices, increase the use of recycled materials in electronic devices, and ensure cost-free and convenient collection opportunities for the public.
- **CWIMB.** \$223,000 (Electronic Waste Recycling Account) and 3.0 permanent positions to develop fraud prevention protocols, conduct fraud investigation and provide increased compliance assistance for the regulated entities involved in the Electronic Waste Program.
- **DTSC.** \$1.1 million expenditure authority (Electronic Waste Recycling Account) and 12.0 PYs for the identification and regulation of electronic hazardous waste and ensuring that waste recyclers and processors are in compliance with the law

Background. The Electronic Waste Recycling Act of 2003 established an advanced recycling fee on covered electronic devices that took effect on January 1, 2005 to fund statewide e-waste recycling programs because of the high toxicity of electronic products containing CRTs, or "picture tubes", that were entering the waste stream. The Act established this program within two entities: The IWMB which is responsible for the electronic waste recovery and recycling payment system, manufacturer reporting, net cost reporting, public education, retailer outreach and local government coordination; and the DTSC which is responsible for the identification and regulation of electronic hazardous waste and ensuring that waste recyclers and processors are in compliance with the law.

Comments. Currently, the IWMB has six positions dedicated to the operation of this program. It is expected by the IWMB that it will receive \$75 million annually in revenue from e-waste fees which are intended to be used to reduce e-waste in the waste stream. In the current year, these revenues are expected to be minimally redistributed to recycling entities and the projected fund balance for the end of 2006-07 is \$74.8 million. With current funding levels, the IWMB is unable to adequately administer this program and achieve the original intent of the Electronic Waste Recycling act.

STAFF RECOMMENDATION. Approve as Budgeted

ISSUE 2: LNG TRANSPORTATION FUEL DEMONSTRATION PROJECT

Background. As addressed in the CWIB Climate Change proposal for the CWIMB, when released into the atmosphere, landfill gas can be 21 percent higher in greenhouse gasses than carbon dioxide. Because of its high content of methane, landfill gas can also be used as an energy source and the CWIB has identified a desire use landfill gas (LFG) as a renewable energy source for electricity production. The United State Environmental Protection Agency has indicated that 150 landfills in the United States are using LFG as an energy source

Aside from electricity generation, recent technological advances are increasing the potential for landfill gas has as a fuel source. By removing volatile organic compounds, landfill gas can be reduced to 100% methane and carbon dioxide and be used as common liquefied natural gas (LNG) in electrical generation or as transportation fuel.

Comments. Staff has been approached with a proposal to grant authority to the CIWB to fund a Natural Gas fuel demonstration project to convert landfill gas to liquefied natural gas for use as a clean transportation fuel. Staff notes that these pilot programs have been conducted elsewhere and it appears that though technology is still developing, there were notable benefits of particulate and greenhouse gas reduction – especially in communities surrounding landfills. The following budget bill language would give the CWIMB authority to operate an LNG transportation pilot program from existing funds.

- (a) Of this appropriation, an amount not to exceed \$1 million may be awarded in the from for a grant for demonstration projects that converts landfill gas to liquefied natural gas for use as a clean transportation fuel, provided that the demonstration project meets all the following conditions:
 - (1) The project shall produce at least 10,000 gallons of LNG per day.
 - (2) The project shall utilize landfill gas that is currently flared
 - (3) The project shall have obtained all applicable land use permits before award of the grant.
- (b) In no case, shall the grant exceed 15 percent of the total project cost.

STAFF RECOMMENDATION. Approve budget bill language.

3940 – DEPARTMENT OF PESTICIDE REGULATION

The Department of Pesticide Regulation protects public health and the environment by regulating all aspects of the sale and use of pesticides and by promoting reduced-risk pest management strategies. The Department ensures compliance with pesticide laws and regulations through its oversight of County Agricultural Commissioners, who enforce pesticide laws at the local level.

ISSUE 1: PESTICIDE MILL ASSESSMENT

The Department of Pesticide Regulation (DPR) is requesting four positions and \$425,000 from the DPR fund to enhance enforcement of mill assessment collections and to ensure that all sellers of pesticides are in compliance with licensing and pesticide product registration requirements. The Department estimates that uncollected mill assessments and civil penalties could be as high as \$4 million and through initial inspection and auditing activities; DPR expects that noncompliance with registration requirements is at approximately 20 percent.

Background. California assesses a fee on all pesticides (agricultural and nonagricultural) at the point of first sale in the state. This fee is paid either by the pesticide manufacturer, distributor, or retailer. The current mill assessment rate is 21 mills (2.1 cents per dollar of sales). Mill assessment revenues are the major source of funding for the state's pesticide regulatory program.

A Department audit identified that the mill assessment was not being collected on a large number of pesticide products being sold at nationwide chain stores. Furthermore, the audit discovered that these stores were also selling a large number of pesticide products that had not been registered by the Department. The Department estimated that, in 2005, the state was failing to collect at least \$4 million in mill revenues (mainly from nationwide chain stores). Legislation (AB 1011, Matthews) was enacted in 2005 to address the loophole uncovered by the Department's audit activities. The legislation expanded the pesticide broker licensing requirements to include all first sellers of pesticides in California, which required nationwide chain stores to register as pesticide brokers. By licensing these sellers, the Department anticipates that it will better be able to track the collection of the mill assessment and the products sold to ensure that unregistered pesticide products are not being sold in California.

Additional Mill Revenues Likely. The Department indicates that it has licensed ten new pesticide brokers since the new statute went into effect on January 1, 2006. The Department also indicates that it expects additional revenues from the mill assessment to be received within the budget year. However, the Governor's budget does not assume a significant increase in revenues collected from the mill assessment.

Funding Needs at the Department. The Department suffered over \$7 million in General Fund reductions to its programs over the past several years. Funding reductions negatively impacted the Department's efforts to evaluate major environmental and health impacts posed by pesticide use, to develop integrated pest management programs, and to improve the

timeliness of the pesticide registration process. Specifically, the Department suffered an \$833,000 reduction in its risk assessment program.

Risk Assessment Report. In a report submitted to the legislature in 2005, the Department indicates that it conducted risk assessments for seven active ingredients in 2004-05. In the prior year, however, only a few of these risk assessments were completed

In Senate subcommittee 2 hearings, concerns were raised that given current staffing levels, the DPR is not able make timely determinations of the environmental and health impacts posed by pesticide use. Accordingly, the Senate acted to recognize \$500,000 in additional revenues for the budget year from increased mill fee collections and apply those funds to increased risk assessment activities in the Department. At the hearing, the Department should be prepared to comment on expected mill assessment collection activity in the budget year and what expectations are for revenues in the budget and following years.

STAFF RECOMMENDATION. Staff recommends that the Subcommittee take the following actions:

- Adopt the budget proposal to augment audit resources.
- Adopt a conservative revised revenue requirement (\$500,000) for the Department of Pesticide Regulation Fund due to increased mill revenues.
- Adopt a \$500,000 increase to the department's risk assessment activities to partially backfill the General Fund reduction made to this program earlier this decade.

3960 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

The Department of Toxic Substances Control protects public health and the environment by: (a) regulating hazardous waste management activities, (b) overseeing and performing cleanup activities at sites contaminated with hazardous substances, (c) encouraging pollution prevention and the development of environmentally protective technologies, and (d) providing regulatory assistance and public education.

Issue 1: Toxic Substances Control Account

The Toxic Substances Control Account (TSCA) is the primary fund source for the Department of Toxic Substances Control's (DTSC's) site mitigation and Brownfields Reuse and Pollution Prevention Programs. Because of General Fund reduction for the support for the Site Mitigation and Brownfields Reuse Program, there is currently an approximate \$12 million gap between TSCA revenues and expenditures. The Governor's budget is proposing three actions to eliminate this gap and align revenues with expenditures.

1. Trailer bill language to expand the environmental fee to cover all businesses with fifty or more employees and eliminate the loophole that allows limit current TSCA fees to corporations. This change will increase TSCA revenue by \$5.5 million annually.
2. \$5.5 million in TSCA program reductions, \$3.1 million in Fiscal Year (FY) 2006-07 and another \$2.4 million in FY 2007/08. Additionally, \$852,000 in related reductions in the Hazardous Waste Control Account
3. The elimination of several funds that will no longer be necessary when the final principal and interest payment is made on the Hazardous Substance Cleanup Bonds, which were sold to fund the investigation and cleanup of hazardous substance release sites. Certain cost recovery revenues and penalties that are currently deposited into these funds would instead be deposited into TSCA. This change will increase TSCA revenue by \$1 million annually.

Background. The department indicates that the current environmental fee is not equitable since it only applies to corporations. Other businesses also use products that contain hazardous materials, but they are currently exempt from paying the environmental fee. Furthermore, recent law changes have resulted in a 500 percent increase in the number of limited liability companies (LLCs) in California. All of these companies are not subject to the environmental fee regardless of their size. Some examples of companies that currently do not qualify for the fee include: Bridgestone/Firestone North American Tire, Chevron Phillips Chemical Company, Chevron Shipping Company, Fox News Network, Hilton Grand Vacations Company, Martin Marietta Magnesia Specialties, Mirant Energy, MSNBC Cable, Qwest Wireless, Riverbank Oil Transfer, Touchstone Television Productions, Wal-Mart Transportation, and Westinghouse Electric.

The rate a company is charged for the Environmental Fee is based on the number of employees that are employed by a corporation in the State for more than 500 hours during

the previous calendar year for which the fee is due and ranges from \$243 dollars for companies with less than 50 employees to \$11,625 for companies with over 1,000 (this fee is adjusted annually for cost of living).

Comments. The Environmental Fee was established in 1989 to provide the legislature with a broad-based revenue source to supplement the fees it was already receiving from corporations that generate, store, transport or dispose of hazardous waste. It was intended that all companies with more than 50 employees pay into the fund under the nexus that all companies use hazardous equipment (computers, florescent lights, television, etc.) By allowing a significant portion of business with over 50 employees avoid paying into the TSCA, the DTSC revenues do not allow them to support programs necessary to implement the core statutory mandates that are required of the Department.

STAFF RECOMMENDATION: Approve as budgeted.