

1992

Report on the 1991-92 Legislative Session

Senate Committee on Toxics and Public Safety Management

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California Legislature
Senate Committee
on
Toxics and Public Safety Management

CHARLES M. CALDERON
CHAIRMAN

**Report on the
1991-92
Legislative Session**



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I.

HAZARDOUS WASTE MANAGEMENT

HIGHLIGHTS:

Each year of the 1991-92 session, significant legislation was enacted in every single subcategory of hazardous waste management. The major bills are highlighted at the beginning of each subcategory.

A. FACILITY PERMITTING

HIGHLIGHTS:

In 1991, two major permitting bills were signed: **AB 158 (Roybal-Allard)**, requiring disclosure of a permit applicant's past violations of the law at any of the applicants other facilities, and **AB 240 (Peace)**, providing for a cooperative agreement process to help ensure that facilities constructed on Indian Lands are built and operated to state standards.

In 1992, the entire hazardous waste facility permitting system was comprehensively changed by **AB 1772 (Polanco, Wright, and Lempert)**. That bill establishes a five-tiered permitting system designed to match the stringency of permitting and regulatory requirements imposed upon a facility to the risks posed by that facility.

SUMMARY OF BILLS:

AB 158 (Roybal-Allard)

Requires an applicant for permits issued by the Department of Toxic Substances Control (DTSC) or a local air quality management district to disclose in its permit application certain past violations of hazardous waste or air pollution laws. Air districts are granted the authority to deny a permit to an applicant on the basis of its past compliance history. (**Chapter 1209, Statutes of 1991, 10/14/91**)

AB 240 (Peace)

Creates a "cooperative agreement" process between the state and individual Indian tribes for the siting and operation of hazardous waste and solid waste facilities on Indian lands. Provides that the Secretary of Cal-EPA cannot enter into such a cooperative agreement unless the appropriate Cal EPA boards and departments find that the rules governing the operation of the project on Indian lands provide protection which is functionally equivalent to that provided by state regulations. (Chapter 805, Statutes of 1991, 10/11/91)

AB 304 (Wright)

Makes various adjustments to hazardous waste facility permit fees and to requirements for household hazardous waste programs. Also exempts local governments which operate household hazardous waste from the permit requirements for corrective action to clean-up contamination at the site where the household hazardous waste collection program takes place. (Chapter 1124, Statutes of 1991, 10/14/91)

AB 646 (Wright)

Although signed into law in 1991, this bill has been almost wholly supplanted by AB 1772 (see below). The bill modified the permitting requirements applicable to two types of hazardous waste treatment operations: silver reclamation in film processing labs and industrial waste water treatment of inorganic metal solutions. (Chapter 1125, Statutes of 1991, 10/14/91)

AB 1613 (Lempert)

Phases out the "interim status" permitting category which was granted to facilities which were "grandfathered" into the state's permitting scheme when it was first adopted a decade ago. Such grandfathered facilities lose their "interim status", and are required to receive a regular hazardous waste facility permit by July 1, 1993. (Chapter 719, Statutes of 1991, 10/9/91)

AB 1772 (Polanco)

When it was first referred to this committee in 1991, AB 1772 was authored by Assembly Member Jones, and it made a number of technical changes to hazardous waste management laws. In 1992, the bill was amended to make Assembly Member Polanco the author. That version of the bill redefined "hazardous waste treatment" in a manner which would have exempted about 80 percent of the on-site hazardous waste treatment facilities from the highly controversial "permit-by-rule" method of permitting such facilities. In the final version, which passed through the committee and was signed, Assembly Members Lempert and Wright were added as authors, since the permitting structure in this version was based upon the structure proposed in AB 3574 (Wright) and AB 3541 (Lempert). The final version also incorporated the proposals in AB 2447 (Wright), AB 2767 (Wright), and AB 2497 (Hannigan).

This bill comprehensively reforms the system of permitting hazardous waste facilities which are not required to obtain a permit under federal law, creating five "tiers" of permitting and authorization to operate. These tiers are:

- * "Conditional Exemption", for which simple methods of treating on-site the lowest risk hazardous waste streams qualify. Facilities subject to this tier are exempted from regulation as treatment facilities, provided that they notify DTSC of their existence, pay it 50 dollars per year, demonstrate compliance with other applicable environmental laws, and close their treatment unit in a safe manner.

- * "Conditional Authorization", for which most methods of treating dilute waste waters, and other low risk treatment methods, qualify. Facilities subject to this tier may operate without obtaining a permit provided they meet certain operating conditions. Unlike the permit-by-rule program, to which the facilities would otherwise have been subject, there is no requirement to conduct a waste analysis, to procure third party liability insurance, to conduct extensive training of employees, to provide secondary containment of pipes and drains which meet a leak detection test, etc. Most significantly, the environmental assessment requirements for conditionally authorized facilities are streamlined, and the facilities are required to clean-up contamination identified in such assessments only if that contamination presents a substantial hazard to human health or the environment.

* "Permit-by-Rule", which continues to apply to some on-site treatment facilities which either use a higher risk treatment method, or treat higher concentration waste streams. The only change in the requirements of permit-by-rule is that the same streamlined environmental assessment procedures developed for the conditionally authorized facilities apply to facilities which remain in the permit-by-rule program.

* "Standardized Permits", which apply to off-site treatment facilities which are not required by federal law to obtain a permit. These are "streamlined" permits designed to quickly bring into compliance a number of industries from which DTSC has failed to require permits. The "streamlined" nature of these permits refers principally to the speedier process developed for receiving a permit; most of the extensive substantive requirements applicable to fully permitted facilities still apply.

* "Full permits", which must be obtained only by facilities required under federal law to receive a permit. There were no changes made to this "tier". (Chapter 1345, Statutes of 1992, 9/30/92.)

AB 2299 (Tanner)

Allows the storage of hazardous waste for more than 144 hours without being required to obtain a storage facility permit if that hazardous waste is being stored by a responder to an emergency spill. (Chapter 293, Statutes of 1992, 7/22/92.)

AB 2447 (Wright)

Would have delayed until January 1, 1994 the requirement that facilities subject to the permit-by-rule program provide financial assurances for third party damages. The provisions of this bill were incorporated into AB 1772 (see above.) (Remained on the Senate Inactive File)

AB 2497 (Hannigan)

Would have exempted from the permit-by-rule program most dry cleaning operations. The provisions of this bill were incorporated into AB 1772 (see above.) (Vetoed by Governor, 9/30/92)

AB 2618 (Peace)

Corrects erroneous cross-references in the law related to solid and hazardous waste sites on Indian Lands. **(Chapter 113, Statutes of 1992, 7/2/92)**

AB 2767 (Wright)

Would have expanded to all facilities subject to the permit-by-rule program those provisions of AB 646 of 1991 (see above) related to land use decisions by local governments. The provisions of this bill were incorporated into AB 1772 (see above.) **(Held in the Senate T. & P.S.M. Committee)**

AB 3172 (Lempert)

Allows up to 400 kilograms of hazardous waste treatability samples to be collected, transported, and analyzed without being required to comply with manifesting, transportation, or hazardous waste facility permitting requirements as long as specified regulatory conditions are complied with. Also deletes an unnecessary provision from the law enacted by AB 1613 of 1991 (see above). **(Chapter 1343, Statutes of 1992, 9/30/92)**

AB 3287 (Campbell)

Would have corrected an erroneous cross-reference in the law related to solid and hazardous waste sites on Indian lands. **(Rescinded from Enrollment and put on the Assembly Inactive File)**

AB 3574 (Wright)

Would have created a "tiered permitting structure" as a method of reforming both the permit-by-rule program, and the rest of the hazardous waste facility permitting system. A combination of the proposal in this bill, and the proposal in AB 3541 (Lempert) served as the basic framework of the compromise proposal which was ultimately housed in AB 1772 (see above.) **(Incorporated in AB 1772 in the Senate T. & P.S.M. Committee)**

B. ENFORCEMENT

HIGHLIGHTS:

In 1991, the most significant enforcement bill signed was **SB 966 (Bergeson)**, which establishes a five-year-long pilot program of delegating significant state enforcement authority to eight local agencies.

In 1992, the most significant enforcement bill signed was **SB 2057 (Calderon)**, which grants to DTSC essentially the same authority to enforce the provisions of the State Superfund law which it has to enforce the provisions of the general hazardous waste management laws.

SUMMARY OF BILLS:

AB 3541 (Lempert)

Authorizes the DTSC to conduct consultative inspections to assist persons in complying with hazardous waste control requirements. Provides a limited immunity from being cited for violations during a consultative inspection which is requested by a facility.

While it was being considered by this committee, this bill also contained a comprehensive proposal to reform the permit-by-rule program. That proposal was combined with the similar one which was contained in AB 3574 (see above), and became the framework for the compromise proposal which was ultimately housed in AB 1772 (see above.) (**Chapter 1117, Statutes of 1992, 9/29/92**)

AB 3631 (Umberg)

Grants to arson investigators significant new authority to carry out local hazardous waste enforcement activities when they discover violations of hazardous waste laws. (**Chapter 1231, Statutes of 1992, 9/30/92**)

SB 669 (Morgan)

Provides that for parties settling a violation of a hazardous waste law, the Department of Health Services (now DTSC) shall provide upon request, a written explanation of the violation as well as a description of the nature and severity of the violation, and of any mitigating circumstances. (**Chapter 885, Statutes of 1991, 10/14/91**)

SB 966 (Bergeson)

Authorizes the Department of Health Services (now DTSC) to delegate to local health officers in not more than eight counties, as part of a five-year pilot program, the department's authority to issue schedules for compliance or correction for violations of hazardous waste laws and regulations, and to impose civil penalties. (Chapter 886, Statutes of 1991, 10/14/91)

SB 2057 (Calderon)

Among other things (see "Waste Classification/Recycling", and "Contaminated Site Cleanups", below), this omnibus bill grants significant new authority to DTSC to enforce the Hazardous Substances Act ("State Superfund"). Essentially, DTSC is granted the same authority to enforce provisions of the HSA which it has to enforce provisions of the Hazardous Waste Control Act, which contains the general hazardous waste management laws. This authority includes the ability to issue administrative penalties and to seek injunctions. (Chapter 1344, Statutes of 1992, 9/30/92)

C. Fees

HIGHLIGHTS:

In 1991, the most significant fee-related bill signed was **SB 194 (Torres)**, which made a number of changes to the hazardous waste fee system, including several changes designed to encourage clean-up of contaminated sites.

In 1992, the hazardous waste fee structure was dramatically altered by **SB 1469 (Calderon)**. The most important changes were those which significantly reduced both the amount of the disposal fees, and the differential between the fees paid to dispose in-state and out-of state (the fee to dispose of waste out-of-state was eliminated). The reduction in the differential was designed to decrease the incentive to dispose of hazardous waste in California's neighboring states.

SUMMARY OF BILLS:

AB 476 (Costa)

Specifies that local expenditure of revenue generated by the existing hazardous waste facility gross receipts taxes will be excluded in calculating the level of financial support the state will give to local agencies for various programs imposed by the state. This exclusion does not apply to calculations related to allocations of Highway Users Tax Fund money. (**Chapter 1073, Statutes of 1991, 10/14/91**)

AB 604 (Kelley)

Exempts from various hazardous waste fees a government agency that investigates or cleans-up hazardous waste releases which are caused by another person. (**Chapter 1122, Statutes of 1991, 10/14/91**)

AB 619 (Statham)

Would have provided that the disposal fee and the Superfund Tax for ash generated by a particular cogeneration facility in Lassen County and submitted for disposal by January 1, 1991, was to be calculated as if the ash was disposed of during the 1985 calendar year. (**Held in Senate T. & P.S.M. Committee**)

AB 968 (Jones)

Would have exempted from the requirement to pay a disposal fee a person who disposes of hazardous waste generated by removing that waste from a contaminated site, provided that the waste was disposed within three years of either the date the hazardous waste was initially discovered or the date the person took ownership of the property as long as that person was not responsible, and had never been affiliated with the person responsible for the original release. **(Held in the Senate T. & P.S.M. Committee)**

AB 1713 (Wright)

Revises the conditions under which the Department of Health Services (now DTSC) may adjust the fees for overseeing the cleanup of hazardous waste sites and amends the state hazardous waste control laws in order to provide better conformity with the federal Resource Conservation and Recovery Act. **(Chapter 1126, Statutes of 1991, 10/14/91)**

AB 1991 (Filante)

Extends until January 1, 1993 the special fee rate for solid hazardous waste which results from approved treatment methods and/or achieves specified levels of volume reduction and/or removal of volatile organic compounds. **(Chapter 1127, Statutes of 1991, 10/14/91)**

AB 2769 (Speier)

Would have exempted schools which must dispose of asbestos-containing materials from the requirement to pay generator and disposal fees. **(Held in the Senate Appropriations Committee)**

AB 3516 (Sher)

Would have changed the basis for calculating the disposal fee by specifying that the fee is to be determined on the basis of a waste's characteristics at the time of actual disposal. Under present law, the fee is calculated on the basis of a waste's characteristics at the time of submittal to a disposal facility, regardless of whether or not the waste is treated in a manner which makes it non-hazardous after it is submitted to the facility but before it is actually disposed. **(Held in the Senate Appropriations Committee)**

SB 194 (Torres)

Makes the following changes to the procedures for paying various fees which help fund the activities of DTSC: (1) Includes the fee for hazardous waste property and border zone property determination within those fees collected by the Board of Equalization; (2) Provides a lien on a responsible party's real property for costs incurred in the cleanup of toxic waste; (3) Changes the existing hazardous waste facility fee from a "tax bill" basis to a "return" basis; (4) Limits the liability of any response action contractor, in specified cases only to the costs attributable to his/her actions; (5) Provides clarification of the term "public agency", and (6) Makes a number of technical changes and corrections to the hazardous waste fee provisions. (Chapter 1123, Statutes of 1991, 10/14/92)

SB 1469 (Calderon)

Makes the following changes to the amounts of fees which help fund the activities of DTSC: (1) Reduces the amount of the disposal fee from 105 dollars per ton for waste disposed in California to 42 dollars per ton, and eliminates the 42 dollar per ton fee for disposing of waste outside of California; (2) Increases the present nominal fee for hazardous waste manifests to 12 dollars per manifest, except that the first four manifests purchased by a company employing less than 100 employees is free, and companies which recycle used oil can be charged no more than 5,000 dollars per year for manifests; (3) Establishes a fee for receiving an EPA identification number which varies from 150 dollars to 250 dollars per number, depending upon the size of the company, except no company may be charged more than 5,000 dollars per year for such numbers, and companies with less than 50 employees are exempted from the fee; (4) Changes the fee schedule for payment of the "corporate environmental fee", increasing the amount paid by corporations with between 75 and 100 employees, and the amount paid by those with between 250 and 500 employees; (5) Requires DTSC to adjust its fees and its billing procedures for the fees paid to reimburse DTSC's costs in providing permit review and oversight of contaminated site clean-ups, based upon a set of criteria related to efficiency and accountability. (Chapter 852, Statutes of 1992, 9/21/92)

D. Waste Classification / Recycling

HIGHLIGHTS:

In 1991, the most significant waste classification-related bill signed was **AB 1899 (Frizelle)**, makes a number of changes to the complicated provisions in law which exempt certain recyclable materials from being regulated as hazardous wastes. These changes exempt from being regulated as hazardous waste, under specified conditions, used oil which is recycled, and certain petroleum-based wastes and residues which are reprocessed.

In 1992, the most significant waste classification-related bill signed was **SB 2057 (Calderon)**, which in addition to the enforcement provisions described above, exempted from regulation as a hazardous waste chlorofluorocarbons which are recycled.

SUMMARY OF BILLS:

AB 213 (Tanner)

Provides that mining wastes are exempt from regulation under the hazardous waste program only if they are wastes derived from the mining or processing of ores or minerals. (**Chapter 174, Statutes of 1991, 7/29/91**)

AB 1475 (Tanner)

Imposes additional reporting requirements on recyclers of hazardous waste who claim exemption from regulation. Further provides that a statewide form be developed by the California Conference of Directors of Environmental Health for the reporting by recyclers. (**Chapter 715, Statutes of 1991, 10/9/91**)

AB 1772 (Jones)

In its original form, this bill made a number of technical changes to the hazardous waste laws, particularly to the definition of "non-RCRA hazardous waste", designed to ensure conformity with federal law. That version of the bill was held in this committee, and an entirely different proposal was placed into the bill (see "Facility Permitting", above).

AB 1899 (Frizzelle)

Makes a number of changes to the complicated provisions in law which exempt certain recyclable materials from being regulated as hazardous wastes. These changes exempt from being regulated as hazardous waste, under specified conditions, used oil which is recycled, and certain petroleum-based wastes and residues which are reprocessed. (Chapter 1173, Statutes of 1991, 10/14/91)

AB 2178 (Brulte)

Prohibits disposal of liquid latex paint without authorization, and permits latex paint to be recycled if specified conditions are met. (Chapter 364, Statutes of 1991, 8/30/91)

AB 3690 (Gotch)

Requires DTSC to enact a regulation when it classifies a waste as being hazardous based not on its specific objective waste classification criteria, but based on a little-used "catch-all" provision. That provision allows a waste to be classified as "hazardous" if it "has been shown through experience or testing to pose a hazard to human health or the environment." (Chapter 1058, Statutes of 1992, 9/29/92)

AB 3789 (Woodruff)

Delays the use of the presently used test for corrosivity as a method of determining whether or not cement kiln dust is a hazardous waste, and provides for an industry-financed study to develop a reliable test for determining if cement kiln dust is corrosive. (Chapter 1125, Statutes of 1992, 9/29/92)

SB 2057 (Calderon)

Among other things (see "Enforcement", above, and "Contaminated Site Cleanup," below), this omnibus bill exempts from regulation as a hazardous waste chlorofluorocarbons which are recycled. (Chapter 1344, Statutes of 1992, 9/30/92)

E. Incineration / "Land Ban" / Treatment Standards

HIGHLIGHTS:

In 1991, the most significant incineration-related bill signed was **SB 50 (Torres)**, which repeals regulatory exemptions which had been granted for incinerator ash.

In 1992, the most significant incineration and land ban - related bill signed was **SB 1726 (Calderon)**, which delays for two more years the land ban for those waste streams for which the ban had not yet become effective. During this two-year period, DTSC is required to re-evaluate, and possibly establish new, treatment standards for those wastes for which incineration is identified as a treatment method.

SUMMARY OF BILLS:

AB 3454 (Conroy)

Would have extended the date by which the department is required to prohibit the land disposal of hazardous waste to May 8, 1994.
(Held in the Senate T. & P.S.M. Committee)

SB 50 (Torres)

Repeals the exemption from regulation for ash resulting from the simple incineration of solid waste materials, and repeals, effective September 30, 1992, the exemption for ash resulting from the burning of solid waste in a waste-to-energy facility.
(Chapter 1218, Statutes of 1991, 10/14/91)

SB 611 (Calderon)

When it was passed out of this committee in 1991, it required generators of hazardous waste who were disposing of waste out-of-state to certify that that waste had been treated to the standards which have been adopted pursuant to the California "land ban" program. That version of the bill was never taken to a vote on the Senate Floor.

Instead, the bill was amended on the Senate Floor into the version which became law. That version authorizes the suspension of the "land ban" until January 1, 1993 for the following hazardous wastes if DTSC finds there is not adequate treatment capacity: (1)

Non-RCRA wastes for which treatment standards are scheduled to go into effect on May 3, 1992 and (2) RCRA wastes which have been granted a variance from treatment standards by EPA. The bill also requires generators of those hazardous wastes to report to DTSC by January 1, 1993 on the measures they are taking to reduce generation of those wastes and the schedules they have established to implement those measures. (Chapter 33, Statutes of 1992, 4/8/92)

SB 1535 (Calderon)

Would have repealed the authority of DTSC to plan and construct a model incineration facility. Also would have required the Department to submit a report on the statewide capacity for the incineration of hazardous waste, and on the impacts of hazardous waste incineration. (Vetoed by Governor, 9/26/92)

SB 1582 (Leonard)

Would have required the California Environmental Protection Agency to test all material listed as hazardous waste pursuant to the regulations adopted by the department for alternative means of disposal, other than disposal in a hazardous waste landfill, including incineration and chemical destruction. (Held in the Senate T. & P.S.M. Committee)

SB 1726 (Calderon)

Delayed the "land ban" by an additional two years for the same wastes to which the delay in SB 611 (see above) applied. Required DTSC to re-evaluate the treatment standard for those wastes for which incineration was identified as a treatment method. Authorized DTSC to change the treatment standards for those wastes, provided that the new standard was as protective of human health and the environment as the previous standard. (See Hazardous Materials Management: Source reduction/Pollution Prevention, below, for a description of the other part of this bill.) (Chapter 853, Statutes of 1992, 9/21/92)

SB 1798 (Roberti)

Would have changed the procedures whereby generators of hazardous waste could obtain a variance from the "land ban" program. (Held in the Senate T. & P.S.M. Committee)

F. Studies and Reporting Requirements

HIGHLIGHTS:

The most important reporting bill signed during the two-year session was **SB 1524 (Killea)**, which is designed to help eliminate redundant and unnecessary reporting requirements imposed upon industry.

SUMMARY OF BILLS:

AB 2370 (Cannella and Umberg)

Establishes a task force to review the impact of environmental regulations on the dry cleaning industry. (**Chapter 347, Statutes of 1992, 7/27/92**)

AB 2481 (Brulte)

Combines many of DTSC's various individual requirements to report to the Legislature into the Department's required Biennial Report to the Legislature, and eliminates an outdated reporting requirement imposed upon the State Water Resources Control Board. (**Chapter 321, Statutes of 1992, 7/23/92**)

AB 2780 (Brulte)

Would have required the California Environmental Protection Agency to identify the differences that exist between the state and federal hazardous waste programs and report to the Legislature by January 31, 1994 on (1) the costs those differences impose on persons regulated by the state program, (2) the benefits those differences provide and (3) any recommendations for legislative action. (**Held in the Senate T. & P.S.M. Committee**)

SB 1524 (Killea)

Requires the office of Emergency Services to adopt a single comprehensive hazardous materials reporting form by January 1, 1994. This bill also makes various requirements of the Department of Toxic Substances Control, the Air Resources Board and the California Environmental Protection Agency related to the streamlining of reporting processes and forms. (**Chapter 684, Statutes of 1992, 9/14/92**)

II.

HAZARDOUS MATERIALS MANAGEMENT

HIGHLIGHTS:

In 1991, the most significant hazardous materials management bill signed was **SB 48 (Thompson)**, enacted in response to the devastating Southern Pacific spill on the Sacramento River at Cantara Loop. The bill enacts a number of provisions designed to both prevent such spills, and to ensure that there is adequate capability to quickly respond to these emergencies.

In 1992, the most significant hazardous materials bills signed related to toxic air contaminants: **AB 2728 (Tanner)**, and **SB 1731 (Calderon)**. AB 2728 modifies the AB 1807 (of 1984) air toxics emissions inventory program to ensure consistency with the 1990 amendments to the federal Clean Air Act, and requires the Air Resources Board to identify and designate various substances as toxic air contaminants, and to establish prescribed toxic control measures. SB 1731 establishes the methods to be followed by facilities regulated by the air toxics "hot spots" program when preparing health risk assessments, and establishes procedures for reducing toxic chemical emissions from facilities which pose a significant risk.

Equally as significant as the passage of these important bills was the failure to pass **SB 51 (Torres)**. This failure means that the thousands of code sections affected by the new California Environmental Protection Agency, and its three newly transformed constituent agencies, DTSC, the Department of Pesticide Regulation, and the Office of Environmental Assessment, remain out-of-date. More importantly, its failure means no significant progress was made in developing a coordinated, multimedia approach to source reduction and pollution prevention programs.

There was, however, one significant source reduction measure signed, **SB 1726 (Calderon)**. In addition to its provisions related to the land ban program (see above), this bill requires companies to formulate numeric hazardous waste generation reduction goals, and to submit a progress report every two years reporting on the extent to which they have achieved those goals.

SUMMARY OF BILLS:

A. Source Reduction and Pollution Prevention

AB 1519 (Lee)

In its original version, would have required industrial users of hazardous materials to provide detailed information about the amount and type of hazardous materials they used. This version was held in the Senate T. & P.S.M. Committee, but an entirely different version became Chapter 1228, Statutes of 1992, 9/30/92 (see "Contaminated Site Cleanup", below).

SB 51 (Torres)

Would have codified the effect on existing law of Governor's Reorganization Plan No. 1 of 1991 (GRP No. 1), which created the California Environmental Protection Agency. In addition, for most of its existence, this bill would have created in that Agency an Office of Pollution Prevention and an Office of Hazardous Materials Data Management, and would have specified that the Office of Pollution Prevention implement a multimedia pollution prevention program designed to require industries to incorporate in their facility and production planning efforts to reduce the generation of hazardous wastes, and the release of toxic pollutants into the air and water. The Office of Hazardous Materials Data Management would have implemented requirements virtually identical to those in the original version of AB 1519 (see above.) In late 1992, the bill was amended to require a much more modest multimedia pollution prevention program, without creating new offices. **(Held in the Assembly Env. S. & T.M. Committee)**

SB 251 (Roberti)

(See also "Toxic Air Contaminants", below). Would have enacted the Toxic Air Pollution Prevention Act of 1991 to reduce and prevent the generation and release into the environment of toxic air contaminants. **(Failed passage in the Senate Appropriations Committee)**

SB 1133 (Roberti)

For the purposes of determining if a facility is subject to the requirements of the SB 14 (of 1989) source reduction program, clarifies the method of identifying all routinely generated aqueous hazardous waste streams which result from the ongoing operations at a hazardous waste site. (Chapter 538, Statutes of 1991, 10/7/91)

SB 1726 (Calderon)

In addition to its provisions delaying the "land ban" for certain types of hazardous waste (see Hazardous Waste: Incineration, etc. above), requires generators of the wastes which benefit from this delay to prepare a source reduction evaluation and audit, even if they are not already required to do so under the provisions of SB 14 of 1989. Requires DTSC to develop a checklist which can be used to facilitate easy compliance with this new source reduction requirement. For every business subject to the SB 14 requirements, requires the formulation of numeric goals to be achieved by the business's source reduction plan, and requires submission to DTSC of a progress report on the extent to which those goals have been achieved every two years. Establishes in law a statewide goal of reducing the generation of hazardous wastes by five percent per year until the year 2000. (Chapter 853, Statutes of 1992, 9/21/92)

B. Toxic Air Contaminants

AB 2728 (Tanner)

Modifies the AB 1807 (of 1984) air toxics emissions inventory program to ensure consistency with the 1990 amendments to the federal Clean Air Act, and requires the Air Resources Board to identify and designate various substances as toxic air contaminants, and to establish prescribed toxic control measures. Allows Board and local air districts to adopt regulations which impose monitoring requirements, establish permit systems, and to establish, implement, and enforce programs to avoid federal pre-emption. (Chapter 1161, Statutes of 1992, 9/30/92)

AB 2729 (Tanner)

Would have authorized the California Air Resources Board to initiate proceedings to designate a pesticide as a toxic air contaminant, if the Department of Pesticide regulation failed to take action within a specified period of time to so designate a pesticide which met the Department's own criteria for the designation of toxic air contaminants. If the Board designated a pesticide as a toxic air contaminant, would have required the Department to identify the appropriate control measures for the pesticide (see also "Pesticides", below). (Held in the Senate Appropriations Committee)

SB 251 (Roberti)

Would have enacted the Toxic Air Pollution Prevention Act of 1991 to reduce and prevent the generation and release into the environment of toxic air contaminants (see also Source Reduction/Pollution Prevention, above). (Failed passage in the Senate Appropriations Committee)

SB 274 (Killea)

Removes the public notification provision for air permits when the air district finds that the modification of a source will reduce emissions of air contaminants near schools. (Chapter 107, Statutes of 1991, 7/10/91)

SB 1378 (McCorquodale)

Requires that the fees imposed by local air quality districts to fund the administration of the state air toxic "hot spots" laws be higher for facilities which emit more toxic air contaminants, and lower for facilities which emit fewer toxic air contaminants. (Chapter 194, Statutes of 1992, 7/14/92)

SB 1731 (Calderon)

Establishes the methods to be followed by facilities regulated by the air toxics "hot spots" program when preparing health risk assessments, and establishes procedures for reducing toxic chemical emissions from facilities which pose a significant risk. Requires Air resources Board a local air districts to utilize uniform risk assessment guidelines. Allows facilities to submit to air districts supplemental information concerning the health risks associated with their facility. Requires development of a program for reducing emissions when a facility exceeds the significant risk level, as defined by the local district. **(Chapter 1162, Statutes of 1992, 9/29/92)**

C. Transportation Safety / Spill Prevention and Response

AB 103 (Tanner)

Would have required manufacturers to submit a comprehensive report to the Office of Emergency Services concerning the health and environmental affects of a sudden release of a hazardous substance or a pesticide. Manufacturers would have also been required to submit this report to all direct purchasers of the hazardous substance who purchase at one time an amount equal to or greater than the quantities which trigger having to prepare emergency response plans. **(Held in the Senate Appropriations Committee)**

AB 718 (Elder)

Modifies the required method of inspection of piping within refined products bulk loading facilities. Consolidates the Intrastate Pipeline Operations Account and the Interstate Pipeline Operations Account as one sub-account under the Hazardous Liquid Pipeline Safety Fund. Provides for the adoption of federal pipeline regulations and standards without the review by the Office of Administrative Law. **(Chapter 395, Statutes of 1991, 9/12/91)**

AB 3504 (Boland)

Requires that the amount deposited in the Hazardous Spill Prevention Account in the Railroad Accident Prevention and Response Fund shall not exceed \$3,000,000 in any fiscal year. **(Held in the Senate T. & P.S.M. Committee)**

AJR 4 (Elder)

Memorializes the president and Congress to amend the Hazardous Liquid Pipeline Safety Act of 1979 to authorize the federal Department of Transportation to extend to its state agents, such as the State Fire Marshal, full enforcement authority over interstate pipelines within a state. **(Chapter 62, Statutes of 1991, 7/16/91)**

SB 48 (Thompson)

Directs the Office of Environmental Health Hazard Assessment to identify a list of commodities by category that pose potential threats to the public property and the environment when transported on railroad lines in California, and report them to

the California Public Utilities Commission (CPUC) and the Legislature by July 1, 1992. It provides for the assessment of railroad user fees to support CPUC rail safety activities. Further requires each railroad which transports hazardous materials in California to provide specified information to the Office of Emergency Services, and it enacts a comprehensive program for railroad safety and emergency planning and response. (Chapter 766, Statutes of 1991, 10/10/91)

SB 123 (Torres)

Requires the California Highway Patrol to expand cargo tank regulations, increases penalties for speeding or driving recklessly while hauling flammable liquid, and reduces the maximum driving time allowed for haulers of flammable liquid. (Chapter 1043, Statutes of 1991, 10/14/91)

SJR 28 (Marks)

Memorializes the President and Congress to require: (1) the United States Department of Transportation to adopt an emergency regulation to immediately reclassify metam sodium as a hazardous substance to be transported only in appropriately placarded double-wall rail tank cars and to investigate and review other chemical compounds for similar reclassification; (2) require the Federal Railroad Administration to increase enforcement of rail speed limitations, and (3) require the National Transportation Safety Board to investigate conditions on the 20-mile section of track between Dunsmuir and Mount Shasta. (Chapter 125, Statutes of 1991, 9/26/91)

D. Pesticides (NOTE: Most legislation concerning the use of pesticides is under the jurisdiction of the Agriculture and Water Resources Committee)

SB 926 (Petriss)

Would have required the Director of the Department of Pesticide Regulation to compile a list of school-use pesticides that contain ingredients known to cause cancer or reproductive harm or is identified as a high-hazard pesticide to be made available to schools and child day care facilities at schools. (Vetoed by Governor, 9/26/92)

AB 103 (Tanner)

Would have required manufacturers to submit a comprehensive report to Office of Emergency Services of the health and environmental affects of a sudden release of a hazardous substance or a pesticide. Manufacturers would have also been required to submit this report to all direct purchasers of the hazardous substance who purchase at one time an amount equal to or greater than the quantities which trigger having to prepare emergency response plans (see also "Transportation Safety/Spill Prevention and Response", above). (Held in the Senate Appropriations Committee)

AB 2292 (Hannigan)

Extends the length of, and expands the scope of, the agricultural waste collection program, which authorizes counties to operate a program to collect banned, unregistered, or outdated pesticides. Extends the life of the program until January 1, 1994, and extends the list of eligible participants in this immunity program from just farmers to a variety of other private and public pest control product users. (Chapter 591, Statutes of 1992, 9/8/92)

AB 2729 (Tanner)

(See also "Toxic Air Contaminants", above). Would have authorized the California Air Resources Board to initiate proceedings to designate a pesticide as a toxic air contaminant, if the Department of Pesticide Regulation failed to take action within a specified period of time to so designate a pesticide which met the Department's own toxic air contaminant criteria. If the Board designated a pesticide as a toxic air contaminant, would have required the Department to identify the appropriate control measures for the pesticide. (Held in the Senate Appropriations Committee)

E. Acutely Hazardous Materials: Risk Management Prevention Plans (RMPPs)

AB 928 (Archie-Hudson)

Revises the requirements of RMPPs to ensure greater consideration of the impact of acutely hazardous materials being handled in close proximity to schools and health care facilities. (Chapter 1183, Statutes of 1991, 10/14/91)

AB 1131 (Campbell)

Adds specified data to the items required in an RMPP, including a map noting the location of the facility, specified populations and the levels of expected exposure. Requires the administering agency to make the RMPP available to the public for review and comment within 15 days of determining that it is complete. (Chapter 816, Statutes of 1991, 10/11/91)

AB 1493 (Hansen)

Would have specified that the schools that must be considered in an RMPP are elementary and secondary schools only. (Held in the Senate T. & P.S.M. Committee)

F. Community Right-to-Know / Emergency Response Plans

SB 428 (Hart)

Exempts businesses that use lubricating oils (engine and transmission oils and hydraulic fluids) from the requirement to conduct a hazardous materials inventory and prepare a business plan if, they handle any type of oil in amounts of 55 gallons or less (one barrel or less) and the total amount of all types of oils does not exceed 275 gallons. (Chapter 504, Statutes of 1992, 8/17/92)

SB 1469 (Calderon)

(See "Hazardous Waste Management: Fees" above, for a complete description of the final version of this bill). The version of this bill which passed out of the Senate would have levied a 100 dollar fee on businesses who are required to submit a business plan. That provision was deleted from the bill when it was in the Assembly. (Chapter 852, Statutes of 1992, 9/22/92)

G. General Risk Assessment

AB 2976 (Tanner)

Would have required the Office of Environmental Health Hazard Assessment, within the limits of available resources, to perform a variety of tasks related to resolving the differences in methods used by the different Cal EPA boards and departments in interpreting toxicological effects, and determining the potential toxicity of various substances. (Remained on Senate Inactive File)

III.

CONTAMINATED SITE CLEANUP / STATE SUPERFUND

(NOTE: Some State Superfund legislation, relating to liability issues, comes under the jurisdiction of the Judiciary Committee.)

HIGHLIGHTS:

1991-92 was not a very active session for State Superfund legislation in this committee.

The most significant Superfund-related bill signed in 1991 was **SB 194 (Torres)**, which makes a number of changes in the hazardous waste fee structure, many of which are designed to encourage site cleanup.

The most significant bill in this category signed in 1992 was **SB 2057 (Calderon)**, which grants to DTSC significant new State Superfund enforcement authority, including the ability to administratively order a responsible party to pay the costs incurred by DTSC in cleaning up that responsible party's contaminated site.

SUMMARY OF BILLS:

AB 143 (O'Connell)

Permits community facilities districts to finance the acquisition, improvement, rehabilitation or maintenance of public or private property for purposes of hazardous waste cleanup. (**Chapter 29, Statutes of 1991, 5/17/91**)

AB 189 (Tanner)

Requires the State Department of Health Services (now DTSC) and the State Water Resources Control Board to each develop a set of policies and procedures that they will follow in supervising the cleanup of contaminated sites by responsible parties. (**Chapter 292, Statutes of 1991, 8/1/91**)

AB 1519 (Lee)

Provides that in purchasing property for the Cypress freeway reconstruction project, Caltrans shall not deduct from the purchase price the cost of removal of hazardous substances for the property, if the DTSC, the San Francisco Bay Regional Water Quality Control Board, and the Alameda County Department of Health all found that the contamination does not pose a substantial hazard to human health or the environment. (See "Hazardous Materials Management: Source Reduction/Pollution Prevention" for a description of the form this bill was in when it was considered by the committee in 1991. In 1992, the bill was amended to cover this very different subject). (Chapter 1228, Statutes of 1992, 9/30/92)

AB 2967 (Floyd)

Requires the DTSC to prepare and submit to the Governor and the Legislature by January 1, 1994, a plan for carrying out an abandoned site survey of urban counties in the state. (Chapter 550, Statutes of 1992, 8/24/92)

SB 194 (Torres)

Makes the following changes to the procedures for paying various fees which help fund the activities of DTSC: (1) Includes the fee for hazardous waste property and border zone property determination within those fees collected by the Board of Equalization; (2) Provides a lien on a responsible party's real property for costs incurred in the cleanup of toxic waste; (3) Changes the existing hazardous waste facility fee from a "tax bill" basis to a "return" basis; (4) Limits the liability of any response action contractor, in specified cases only to the costs attributable to his/her actions; (5) Provides clarification of the term "public agency", and (6) Makes a number of technical changes and corrections to the hazardous waste fee provisions. (See also "Hazardous Waste Management: Fees", above). (Chapter 1123, Statutes of 1991, 10/14/92)

SB 1410 (Boatwright)

Appropriates \$1.4 million as specified to DTSC for the purpose of continuing removal and remedial actions at the ASARCO hazardous substance release site in Contra Costa County. (Chapter 891, Statutes of 1992, 9/23/92)

SB 1985 (Thompson)

Defines "household hazardous waste collection program", for the purposes of clarifying the existing local agency exemptions from liability for costs incurred in cleaning up contamination resulting from the operation of such programs. Provides that these programs would also be exempt from fees which can be imposed on potentially responsible parties for the costs incurred by the state for oversight of clean-up operations. (Chapter 363, Statutes of 1992, 7/27/92)

SB 2057 (Calderon)

Among other things (see Hazardous Waste Management: Enforcement. and Hazardous Waste Management: "Waste Classification/Recycling", above), this omnibus bill grants significant new authority to DTSC to enforce the Hazardous Substances Act ("State Superfund"). Essentially, DTSC is granted the same authority to enforce provisions of the HSA which it has to enforce provisions of the Hazardous Waste Control Act, which contains the general hazardous waste management laws. This authority includes the ability to issue administrative penalties and to seek injunctions. Also grants DTSC the authority to administratively order recalcitrant responsible parties to pay the costs incurred by DTSC in cleaning-up their contaminated sites for them. (Chapter 1344, Statutes of 1992, 9/30/92)

IV.

UNDERGROUND AND ABOVEGROUND STORAGE TANKS

HIGHLIGHTS:

The storage tank-related bills signed during the 1991-2 session were all relatively minor refinements and adjustments to the existing statutory provisions.

SUMMARY OF BILLS:

AB 1057 (Sher)

Extends to all vaulted tanks statewide an existing exemption to the state's underground storage tank laws that applies only to tanks located in San Diego County. (Chapter 627, Statutes of 1991, 10/8/91)

AB 1359 (Cortese)

Requires each tank tester applicant to have completed at least six months of field experience prior to qualifying for licensure. (Chapter 708, Statutes of 1991, 10/9/91)

AB 1699 (Kelley)

Gives top priority for payment of claims under the Underground Storage Tank Cleanup Fund to owners of underground petroleum tanks located on residential property. (Chapter 1033, Statutes of 1991, 10/14/91)

AB 1731 (Sher)

Deletes the provision of law which authorizes the State Water Resources Control Board to grant categorical variances from specific underground storage tank design, installation and monitoring requirements. (Chapter 724, Statutes of 1991, 10/9/91)

AB 1954 (Becerra)

Expands the definition of an "unauthorized release" from an underground storage tank to include spills or overfills that occur while the hazardous substance is being placed into the tank, or spills or overfills due to the use of improper equipment. (Chapter 1138, Statutes of 1991, 10/14/91)

AB 3089 (Sher)

Provides for the clean-up of obsolete provisions in the state underground storage tank laws. (Chapter 654, Statutes of 1992, 9/14/92)

AB 3180 (Woodruff)

Creates the Leaking Underground Storage Tank Cost Recovery Fund for deposit of amounts recovered from parties responsible for the clean-up of leaking underground storage tanks. The revenues deposited into the fund may be expended, upon appropriation by the Legislature, to fund site clean-ups. (Chapter 1215, Statutes of 1992, 9/20/92)

AB 3188 (Hauser)

Transfers the Underground Storage Tank Clean-up Fund from the General Fund to the State Treasury, and makes other clarifying changes to the Underground Tank Storage Cleanup Trust Fund Act. (Chapter 1290, Statutes of 1992, 9/30/92)

SB 49 (Torres)

Increases the fees paid by the owners or operators of aboveground petroleum storage tanks to the State Water Resources Control Board and modifies various provisions of the Board's aboveground tank inspection program. (Chapter 1128, Statutes of 1991, 10/14/91)

SB 853 (Keene)

Would have allowed businesses which are not petroleum marketers to elect to not pay the underground tank fees if they meet certain conditions. Would have also allowed local governments to elect to not pay the underground tank fee and thereby not be eligible to seek future funding from the underground tank account for cleanup

cost. Would have limited the third party costs that arise from an underground tank release which are compensable by the Underground Tank Cleanup Fund to only the following: medical expenses, lost wages or business income, actual remediation cost, and the fair market value of third party property that is permanently unsuitable for use because of the release from the underground tank. **(Failed passage in the Senate T. & P.S.M. Committee)**

SB 1356 (Leroy Greene)

Exempts a public agency requesting pre-payment or reimbursement of funds for the clean-up of an underground petroleum storage tank from the requirement to obtain multiple bids if the contract services are provided by a specified licensed contractor.
(Chapter 679, Statutes of 1992, 9/14/92)

V.

WATER QUALITY / DRINKING WATER SAFETY

(NOTE: Some water quality legislation is under the jurisdiction of the Agriculture and Water Resources Committee)

HIGHLIGHTS:

1991-92 was not a very active session for water quality legislation in this committee. During the session, the most significant piece of water quality legislation considered by this committee and signed into law was **SB 1081 (Hart)**, which significantly increases the penalties for illegal discharge of hazardous materials into the waters of the state.

SUMMARY OF BILLS:

AB 381 (Costa)

Requires the Department of Health Services, at the request of four specified water districts, to grant a "variance" from the state's drinking water standard for fluoride levels, up to a specified limit. These variances will be valid for up to 30 years. (**Chapter 1070, Statutes of 1991, 10/14/91**)

AB 473 (Tanner)

Authorizes the \$1.1 million dollars which was appropriated for the design, purchase, and installation of a water treatment system for the Valley County Water District, to also be expended for associated operation and maintenance costs. (**Chapter 447, Statutes of 1991, 9/26/91**)

AB 614 (Hayden)

Would have directed the State Water Resources Control Board to establish standards for the discharge of toxic pollutants to marine waters, and would have required the Office of Environmental Health Hazard Assessment to submit a plan for an aquatic pollution health risk assessment program. (**Remained on the Senate Inactive File**)

AB 1098 (Harvey)

Defines the term "well" to include water wells, cathodic protection wells and monitoring wells. (Chapter 200, Statutes of 1991, 7/29/91)

AB 2019 (Kelley)

Corrects an erroneous cross-reference in the laws governing the issuance of waste discharge requirements to hazardous waste injection well operators. (Chapter 19, Statutes of 1992, 3/26/92)

AB 3085 (Sher)

Repeals the authority of the Department of Health Services to levy a fee for the costs of reviewing a Safe Drinking Water Plan, and the authority of the water system to recover its costs from its customers. (Chapter 1103, Statutes of 1992, 9/29/92)

SB 52 (Torres)

Would have created the Main San Gabriel Basin Water Quality Authority, granting that new entity wide-ranging powers to prevent the spread of contamination in the San Gabriel Valley aquifer, and to raise revenue to clean-up that contamination. NOTE: SB 1679 (Russell) (Chapter 776, Statutes of 1992), which was referred to Agriculture and Water Resources Committee, creates a similar entity, but endows it with a more modest set of powers. (Failed passage in the Assembly W. & M. Committee)

SB 84 (Torres)

Would have required persons who generate hazardous wastes that contain volatile organic compounds (VOCs) to pay a tax based on the amount of hazardous waste generated. Would have required the Board of Equalization to set the tax annually at a level sufficient to generate \$20 million in revenue. Also would have required the Department of Health Services (now DTSC) to (1) identify sources of hazardous wastes that contain VOCs which have been found to contaminate groundwater or which present a threat to groundwater in the state; and (2) report to the BOE on the amount of wastes containing VOCs that have been generated and the number of generators that produce the waste. (Failed passage in the Senate Appropriations Committee)

SB 685 (Calderon)

Would have required solid waste landfill owners or operators to pay a fee to the State Water Resource Control Board for the cost of reviewing the Solid Waste Assessment Test (SWAT) reports. Would have required the Board by July 1, 1993 to report to the Legislature on the progress made toward implementing the program and the adequacy of the fee levels established. (Held in the Assembly Nat. Res. Committee)

SB 1081 (Hart)

Provides that the fines for persons convicted of unlawful discharge of hazardous materials into the waters of the state are to be based on the amount of materials discharged, and not recovered and properly disposed of. The bill authorizes the Department of Fish and Game to employ legal counsel and authorize the expenditure for these legal counsel costs from fines and forfeitures deposited into the Fish and Game Preservation Fund. (Chapter 1193, Statutes of 1991, 10/14/91)

SB 1525 (Killea)

Extends the repeal date of the San Diego Interagency Water Quality Panel from January 1, 1993 to January 1, 1998. The bill also expands the membership of the panel and the number of executive committee members. (Chapter 1087, Statutes of 1992, 9/29/92)

SB 1559 (Johnston)

Requires owners/operators of surface impoundments which were granted exemptions from the provisions of the Toxic Pits Control Act of 1984 to close those surface impoundments unless a Mine Waste Expert Panel convened by a Regional Water Quality Control Board finds that there is enough information to weigh the risks and benefits posed by the impoundment, and finds that the benefits of operating the impoundment outweigh the risks to public health, safety, and the environment which are posed by the impoundment. (Chapter 697, Statutes of 1992, 9/15/92)

VI.

LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

HIGHLIGHTS:

Although the controversy surrounding the proposal to site a disposal facility for low-level radioactive waste in Ward Valley, near Needles, generated an extraordinary amount of interest and controversy, in the end, there was no legislation signed into law. Governor Wilson vetoed the two important bills which reached his desk.

AB 2500 (Sher) would have required a number of conditions to be placed on the licensing of the facility in order to protect the state from financial liability and in order to prohibit the acceptance of out-of-compact waste at the facility. **AB 3798 (Katz)** would have required generators of tritium to reuse and recover that waste, to the maximum extent feasible.

SUMMARY OF BILLS:

AB 2500 (Sher)

Would have required a number of conditions to be placed on the licensure of the proposed Ward Valley low-level radioactive waste disposal facility in order to protect the state from financial liability and in order to prohibit the acceptance of out-of-compact waste at the facility unless certain conditions are met. These conditions would have included requirements that the facility operator obtain the maximum amount of liability insurance available, and that both the facility operator and each generator of waste disposed at the facility enter into an indemnity agreement with the state. The facility operator and each generator would also have been made jointly and severally liable for damage caused by the facility. **(Vetoed by Governor, 9/30/92)**

AB 2684 (Peace)

Would have made technical and nonsubstantive changes to the existing law requiring California, as host state under the Southwestern Low-Level Radioactive Waste Compact, to adopt and impose surcharges of specified amounts in order to fund various state activities under the Compact. **(Held in the Senate T. & P.S.M. Committee)**

AB 3295 (Woodruff)

Would have designated the California Environmental Protection Agency as the lead agency for the licensure of specified sources of radiation, including the licensure of a Low-level Radioactive Waste disposal facility. The Department of Health Services would have remained as the lead agency for licensure of sources of ionizing radiation. **(Held in the Senate Appropriations Committee)**

AB 3798 (Katz)

Would have required generators of tritiated radioactive waste, which would contribute the vast majority of the radioactivity which would be present at the proposed Ward Valley disposal facility, to recover and reuse the tritium contained in such waste, to the maximum extent feasible. **(Vetoed by Governor, 9/29/92)**

AB 3811 (T.Friedman)

Would have required the Department of Health Services to hold an adjudicatory hearing on a license application for a low-level radioactive waste facility upon the request of an affected person. **(Held in the Senate Appropriations Committee)**

SB 596 (Alquist)

Would have required that an action challenging any final order or decision of any state or local agency regarding a regional low-level radioactive waste disposal facility to be brought pursuant to the procedures for obtaining a writ of administrative mandamus. Would have also conferred exclusive jurisdiction to hear such an action to the California Supreme Court. **(Failed passage in the Senate T. & P.S.M. Committee)**

SB 1439 (Alquist)

Would have required a licensee or license applicant for the handling of radioactive materials to provide financial surety, in the amount and type established by regulations established by the Department of Health Services. **(Held in the Senate Appropriations Committee.)**

VII.

MEDICAL WASTE MANAGEMENT

HIGHLIGHTS:

Some important, but mainly technical refinements were made to the Medical Waste Management Act of 1990 by **AB 3427 (Filante)**.

SUMMARY OF BILLS:

AB 961 (Alpert)

Enacts a number of technical clarifications to the Medical Waste Management Act of 1990. (**Chapter 54, Statutes of 1992, 5/14/92**)

AB 3427 (Filante)

Among the many mostly technical refinements this bill makes to the Medical Waste Management Act of 1990 are the following: (1) Provides that paraphernalia used during chemotherapy, and formaldehyde-soaked tissue samples, will be regulated as medical waste, rather than as hazardous waste; (2) Requires that containers used to transport medical waste be certified by the California Highway Patrol, and requires that transfers from one disposal truck to another take place only at a permitted medical waste transfer station; (3) Allows recyclable medical waste containers to be recycled rather than incinerated, with the concurrence of the local health officer; (4) Requires facilities which do treat their hypodermic needles by sterilizing them rather than incinerating them to take the extra steps needed to prevent the sharp end of the needles from sticking people who may later come into contact with the waste. (**Chapter 878, Statutes of 1992, 9/23/92**)

SB 1517 (Leslie)

Would have prevented the State Department of Health Services from issuing a permit for an off-site medical waste treatment facility unless the Department receives verification that all local land use, air, and solid waste permits had been issued to the facility. (**Failed passage in the Assembly Health Committee**)

VIII.

DISASTER RELIEF, RESPONSE, AND PREVENTION

HIGHLIGHTS:

This very active two-year period for disasters was also a busy session for disaster-related legislation, with a number of bills signed, and a number of bills vetoed. The most significant bill signed into law during the two-year session was AB 2049 (Isenberg), which, although it was not considered by this committee, contained a proposal almost identical to that in SB 231 (no author) which did pass out of the committee. This measure repeals the California Earthquake Residential Earthquake Recovery Act, and ensures that claims arising before the repeal of the Act will be repaid.

SUMMARY OF BILLS:

A. Disaster Assistance

AB 65 (Tanner)

Extends by one year the expenditure period for disaster relief to school districts for costs resulting from the October, 1987 Whittier-Narrows earthquake. (Chapter 34, Statutes of 1991, 5/28/91).

AB 1966 (Areias)

Authorizes the Governor to issue emergency orders and regulations to address problems of distributing food or other emergency necessities during a state of emergency. (Chapter 1186, Statutes of 1991, 10/14/91)

AB 3687 (Hauser)

Would have provided for the inclusion of the Office of Historic Preservation and the State Historical Building Safety Board in the disaster assistance system. (Vetoed by Governor, 9/12/92)

ABX 34 (Hauser)

Would have increased the state share of eligible costs for the 1992 earthquakes in Humboldt, Riverside and San Bernardino Counties from 75 to 100 percent. **(Vetoed by Governor, 9/17/92)**

SB 231 (no author) / AB 2049 (Isenberg)

SB 231 passed out of this committee, and failed passage on the Senate Floor in 1991. Then, in 1992, AB 2049, which was never formally considered by this committee, but which contained almost identical provisions, did pass out of the legislature, and was signed into law.

AB 2049 repeals the Green, Hill, Areias, Farr California Residential Earthquake Recovery Act. Provides for payment of claims arising before the repeal, and would have provides that moneys previously appropriated to the Department of Insurance for administering the program would be used to terminate it. Requires refunding of the remaining funds to policyholders on a pro rata basis; Would have provided that the General Fund is not liable for specified costs; Requires the Auditor General to conduct a fiscal and management audit of the implementation, administration and plans for termination of the program and continues in existence an advisory committee to report to the Legislature by July 1, 1993 on establishing a state earthquake recovery program. **(Chapter 1251, Statutes of 1991)**

SB 373 (Dills)

Repeals the provision that provides, for purposes of disaster assistance associated with the October 17, 1989 Loma Prieta earthquake, a private nonprofit organization that is eligible for disaster assistance under specified provisions of federal law shall also be eligible for and may receive state assistance in the manner described for other applicants under the Natural Disaster Assistance Act. **(Failed passage in the Senate T. & P.S.M. Committee)**

SB 505 (Mello)

Would have extended eligibility to local agencies to receive the 75% share of state eligible costs in matching funds for implementation of hazard mitigation plans required by federal law. Also would have authorized the Director of the Office of Emergency

Services to suspend the 75% match requirement and allocate state funds to pay 100% of the cost of an eligible project if he/she determines a local agency is financially unable to meet the matching requirements due to having exhausted its financial resources because of disaster expenditures. **(Vetoed by Governor, 10/14/91)**

SB 1293 (Petrus)

Revises the Natural Disaster Assistance Act funding criteria by increasing the state share for eligible disaster response and reconstruction projects from 75% to up to 100% for costs associated with the Oakland/Berkeley fire. **(Chapter 519, Statutes of 1992, 8/18/92)**

B. Disaster Response Planning

AB 100 (Elder)

Enacts the California Oil Refinery and Chemical Plant Safety Preparedness Act of 1991 for the purposes of achieving additional cooperation and coordination between local fire and safety agencies and refinery or chemical plant operators in controlling and mitigating the effects of catastrophic releases of hazardous chemicals, fire or explosion. (Chapter 924, Statutes 1991, 10/14/91)

AB 198 (Elder)

Corrects an error in the portion of the California Oil Refinery and Chemical Plant Safety Preparedness Act relating to fee collection. (Chapter 68, Statutes of 1992, 5/27/92)

AB 957 (Areias)

Requires the Office of Emergency Services to develop model guidelines for use by local governments which choose to establish a disaster registry program. (Chapter 366, Statutes of 1991, 9/3/91)

AB 2920 (Lee)

Requires the California Integrated Waste Management Board in cooperation with the Office of Emergency Services to develop a plan to assist in diverting disaster debris from landfills. (Chapter 436, Statutes of 1992, 8/4/92)

AB 3539 (Lempert)

Would have required the Office of Emergency Services to develop emergency operation procedures for each mutual aid region, and to conduct emergency exercises in each region every two years. (Vetoed by Governor 9/26/92)

SB 803 (Marks)

Would have required the Office of Emergency Services to conduct a study on necessary emergency procedures to assist people with disabilities during a natural disaster. (Vetoed by Governor, 9/30/92)

SB 1841 (Petris)

Makes several changes to the emergency management system designed to ensure better coordination of operations during and after a major disaster, as follows: 1) Requires the Office of Emergency Services, in coordination with state agencies and local emergency management agencies, to establish a standardized emergency management system by December 1, 1993; 2) Sets a schedule for implementation of the emergency management system; 3) States the Legislature's intent that there be a statewide system of fire hydrants so that all firefighters can respond to a fire at any location in the state and requires the State Fire Marshal to establish uniform color coding of fire hydrants and standardized coupling sizes by January 1, 1994; 4) Provides that by December 1, 1996, every local agency, city, county, city and county, and special district must comply with the uniform fire hydrant regulations in order to be eligible for any mutual aid fire cost funding available under disaster assistance programs; 5) Exempts the City and County of San Francisco from statewide regulations requiring uniform fire coupling sizes for fire hydrants because of its water system; and 6) Requires water agencies with more than 10,000 connections to revise their disaster assistance plans to ensure the plans are sufficient to meet potential disaster scenarios. (Chapter 1069, Statutes of 1992, 9/29/92)

C. Earthquake Safety

AB 209 (Cortese)

Appropriates \$481,000 from the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 to the Seismic Safety Commission for the administration and disbursement of research funds. (Chapter 346, Statutes of 1991, 8/30/91)

AB 247 (Cortese)

Renumbers provisions in the California Earthquake Hazards Reduction Act and the Seismic Safety Commission Act to provide for a more logical sequence of statutes and more room for the codification of newly enacted provisions of law. (Chapter 188, Statutes of 1991, 7/29/91)

AB 1091 (Klehs)

Requires the disclosure of designated seismic hazards, allows the disclosure to be included on the real estate contract and receipt for deposit, and allows the notice to also be posted in any other location determined to be necessary by the county. (Chapter 250, Statutes of 1991, 7/29/91)

AB 1700 (Farr)

Requires the Office of Emergency Services and other state agencies to assist businesses in economic recovery; delays by six months the Seismic Safety Commission's requirement to publish a homeowner's guide to earthquake safety, authorizes local government to use the Municipal Improvement Act of 1913 to make necessary loans to bring buildings into compliance with seismic safety standards; and makes various changes to provisions relating to small water systems. (Chapter 18, Statutes of 1992, 3/26/92)

AB 1873 (Bentley)

Deletes the exemption granted to certain local governments from the requirement to collect and deposit a fee in the Strong-Motion Instrumentation Fund administered by the Department of Conservation. Requires the first \$50,000 in dam fees currently collected by the Department of Water Resources to be allocated to the Strong-Motion Instrumentation Program for the instrumentation of dams. (Chapter 1096, Statutes of 1991, 10/14/91)

AB 1968 (Areias)

Requires publication of an earthquake safety guide for delivery to purchasers of certain commercial buildings. (Chapter 859, Statutes of 1991, 10/14/91)

SB 1245 (Alquist)

Requires the Department of Conservation to grant no more than five awards to commercialize technologies that predict earthquakes or mitigate their impact, and provide for a funding mechanism in a newly created fund to implement this bill. (Chapter 901, Statutes of 1991, 10/14/91)

SB 1390 (Alquist)

Allows structures located within the jurisdiction of the City of Berkeley or the City of Oakland which were damaged by the East Bay Fire to be exempted from the Alquist-Priolo Special Studies Zones Act. (Chapter 506, Statutes of 1992, 8/17/92)

SB 1895 (Alquist)

Would have required counties and cities to collect a building permit fee that would be sent to the Controller and deposited into the California Earthquake Hazards Reduction Fund created by the bill. (Held in the Senate T. & P.S.M. Committee)