

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: February 19, 2014

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Gerry F. Miller   
Chief Legislative Analyst

Council File No: 14-0002-S9  
Assignment No: 14-01-0044

SUBJECT: Resolution (Huizar - Fuentes) to SUPPORT SB 812 (De Leon) and SB 712 (Lara)

CLA RECOMMENDATION: Adopt Resolution (Huizar - Fuentes) to include in the City's 2013 -2014 State Legislative Program SUPPORT for SB 812 (De Leon) which would establish stringent Department of Toxic Substances Control (DTSC) permit renewal requirements for the continued operation of hazardous waste facilities, and require a time certain by when permit renewal applications are to be decided; and SUPPORT for SB 712 (Lara) which would require the DTSC to issue a final permit or a final denial of application by December 31, 2015 to hazardous waste facilities operating under an interim permit.

SUMMARY:

Resolution (Huizar - Fuentes), introduced on January 22, 2014, states that the Exide Technologies Battery Recycling Plant (Exide Plant) in Vernon has a history of pollution concerns. This includes recent findings of emissions with high arsenic levels that can significantly increase cancer risks among plant workers and residents near the plant. The Exide Plant is also known to have deteriorated systems for the handling and disposal of contaminated wastewater.

The Resolution indicates that in an attempt to address these pollution concerns, the South Coast Air Quality Management District (SCAQMD) and the state's DTSC have imposed enforcement actions on the Plant. These actions included temporary curtailment of plant operations; and new emission restrictions on toxic air contaminants for large battery recycling facilities in the region.

However, ongoing concerns remain about the efficacy of regulations given that the Exide Plant has operated with an interim permit from DTSC since December 1981.

The Resolution follows that on June 11, 2013, The City Council adopted a Resolution (Huizar -

Alarcon; CF# 13-0630) that urged the DTSC and the state legislature to conduct a full investigation to determine how a plant with known pollution problems had been allowed to operate for 31 years with a temporary permit.

The Resolution states that SB 812 would seek to address concerns about DTSC permitting by establishing stringent permit renewal requirements for the continued operation of hazardous waste facilities in the state; and require the DTSC to approve or deny permit renewal applications within 36 months of the expiration of a facility's permit or the permit renewal is deemed denied.

In addition, the Resolution follows that SB 712 would seek to require DTSC to issue a final permit or a final denial of application by the year 2015 to hazardous waste facilities operating under an interim permit. Both measures seek to ensure public health and safety as it relates to DTSC permitting. Therefore, the Resolution requests that the City support SB 812 and SB 712.

**BACKGROUND:**

Existing state law requires facilities handling hazardous waste to obtain a permit from the DTSC. In addition, it requires an owner/operator of a facility intending to renew the facility's permit to submit a completed permit renewal application to the DTSC prior to the expiration of the permit.

Existing state law also allows a hazardous waste facility to continue to operate under a grant of interim status pending a DTSC review and consideration of a permit application.

*SB 812*

SB 812 seeks to alter state law to ensure public safety by establishing deadlines for the submission of permit renewal applications to the DTSC including deadlines for the processing of such applications. Specifically, SB 812 seeks to implement the following:

- Require that permit renewal applications for hazardous waste facility permits be submitted at least two years prior to the expiration date of the permit;
- Require the DTSC to approve or deny the permit renewal application within 36 months or the permit is deemed denied;
- Provide that the interim status granted on or after January 1, 2015, terminates no later than five years from the date the interim status is granted.

*SB 712*

In terms of hazardous waste facilities that have been operating under an interim permit for many years, SB 712 seeks to implement the following:

- Require the DTSC to take final action prior to December 31, 2015 on a permit renewal application for a facility operating under an interim permit issued on or prior to January 1, 1986;

- Provide that any interim permit status granted for a hazardous waste facility shall terminate five years from the date on which the status was granted;
- Allows the DTSC to temporarily suspend the operation of a facility operating under an interim permit in order to protect public health/safety or the environment.

#### *Exide Plant*

Exide Technologies is an American manufacturer of lead-acid batteries, including automotive batteries and industrial batteries. Exide Technologies also conducts battery recycling services. The equipment used in the battery recycling process includes machines to break batteries apart and separate different materials. The process consists of furnaces and kettles to melt metals; and related storage tanks and conveying equipment.

The Exide Plant in Vernon, California is one of two secondary lead smelting facilities in the state which recovers lead from recycled automotive batteries. It has over 100 employees and recycles 23,000 to 41,000 batteries daily and has an average production of 100,000 to 120,000 tons of lead per year. Exide also recovers lead from lead bearing plant scrap and secondary materials, primarily from lead-acid battery manufacturers.

In March 2013, the SCAQMD found that the Exide Plant's emissions contained high levels of arsenic, which contribute to an increased cancer risk to those at and around the facility. Surrounding communities including Maywood, Huntington Park, Commerce, and Boyle Heights.

The standard at which the SCAQMD requires the public to be notified of increased risks is an expectation of 10 cases per million people. The SCAQMD announced that as a result of its findings, Exide would be required to prepare a risk reduction plan to reduce its harmful emissions, and to hold meetings in the affected communities notifying them of the risks they had been exposed to.

Upon publication of the SCAQMD's findings, the City's Energy and the Environment Committee held a hearing on the matter. At that hearing, the SCAQMD noted that it planned on requiring a strict risk reduction plan and a number of public meetings in affected communities.

Subsequent to the SCAQMD's findings and the City's Committee hearing on Exide, the DTSC ordered that operations at the plant be suspended, citing unsafe conditions related to deteriorated systems for the handling and disposal of contaminated wastewater. As a result, operations at the plant were temporarily suspended (April 2013) by the DTSC; however, Exide appealed the action and the plant was allowed to resume operations.

The DTSC then entered into an agreement with Exide that required Exide to spend \$7.7 million for a new water runoff system and improvements to reduce arsenic emissions.

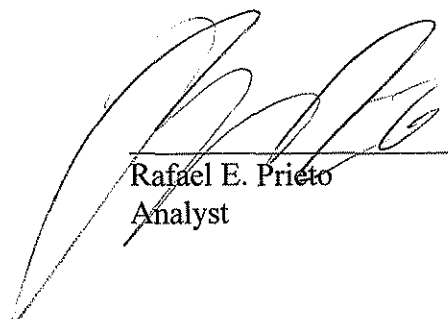
In December 2013, the DTSC released reports showing that high lead and arsenic levels had been detected in several residential areas around the plant. The DTSC is continuing to monitor the matter.

DEPARTMENTS NOTIFIED

Bureau of Sanitation

BILL STATUS

SB 812	1/17/14	Amended in the Senate
	1/28/14	Approved in the Senate; ordered to the Assembly
SB 712	1/17/14	Amended in the Senate
	1/23/14	Approved in the Senate; order to the Assembly



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Rafael E. Prieto  
Analyst

Attachments: 1. Resolution (Huizar - Fuentes)

RESOLUTION

RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state, or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the Exide Technologies battery recycling plant in Vernon has a history of pollution concerns, including recent findings of emissions with high arsenic levels that significantly increased cancer risk levels affecting workers at and residents around the plant; and unsafe conditions related to deteriorated systems for the handling and disposal of contaminated wastewater; and

WHEREAS, upon learning of the increased cancer risk levels, the Energy and the Environment Committee, then chaired by Councilman Jose Huizar, held a public hearing at which it requested the City Attorney, Bureau of Sanitation, and Chief Legislative Analyst to report back on what remedies -legal and otherwise - the City has against Exide in this matter; and

WHEREAS, to attempt to address these pollution concerns, state agencies including the South Coast Air Quality Management District (SCAQMD) and the State Department of Toxic Substances Control (DTSC) have taken actions recently, including temporary curtailments of operations at the plant and new restrictions on emissions of toxic air contaminants from large battery recycling facilities in the region; and

WHEREAS, ongoing structural concerns remain about the efficacy of regulations given that the Exide facility had operated on an interim permit from DTSC since December 1981; and

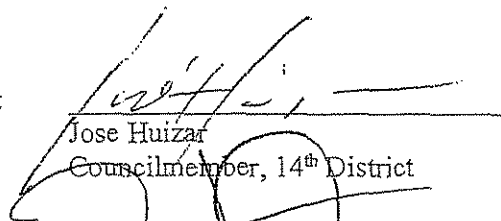
WHEREAS, the City Council on June 11, 2013, adopted a resolution by Councilmember Huizar (CF# 13-0630) that included a call for a full investigation to determine how a plant with known pollution problems had been allowed to operate for 31 years on a temporary permit; and

WHEREAS, SB 812 would seek to address concerns about DTSC permitting by establishing a fixed term of 10 years for a permit for the operation of hazardous waste facilities in California and requiring the approval or denial of an application for the renewal of a permit within 36 months of the expiration of the facility's permit; and

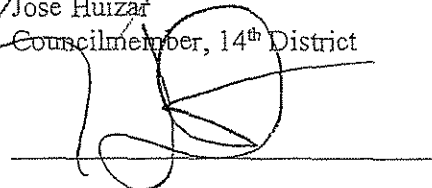
WHEREAS, SB 712 would seek to address concerns about DTSC permitting by requiring DTSC to issue a final permit or a final denial of application to certain hazardous waste facilities operating under an interim permit by July 1, 2015,

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2013-2014 State Legislative Program support for SB 712 and SB 812, to set time limitations on DTSC interim permits, to require a time certain by when applications for permit renewals to be decided, and to establish a fixed term for hazardous waste facility permits.

PRESENTED BY:

  
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Jose Huizar  
Councilmember, 14<sup>th</sup> District

SECONDED BY:

  
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JAN 20