

March 9, 2026

Board of Environmental Safety
P.O. Box 806
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Sacramento, CA 95814
E-mail: BESinfo@bes.dtsc.ca.gov
Via Email

Re: Comments of Communities for a Better Environment on the Board of Environmental Safety's Evaluation of the Department of Toxic Substances Control for Fiscal Year 2024-2025.

Dear Board of Environmental Safety,

Communities for a Better Environment ("CBE") submits these comments to aid the Board of Environmental Safety ("BES," "the Board") in its evaluation of the Department of Toxic Substances Control ("DTSC," "the agency") for Fiscal Year ("FY") 2024-2025.

CBE is a statewide environmental justice organization¹ that organizes in some of California's most overburdened communities, including Southeast Los Angeles ("SELA"), Wilmington, East Oakland, and Richmond.² CBE builds people's power in communities of color and low-income communities to achieve environmental health and justice by preventing and reducing pollution and building green, healthy, and sustainable communities and environments. SELA is comprised of multiple cities, including Huntington Park, Bell, Maywood, Bell Gardens, Cudahy, South Gate, Lynwood, and unincorporated Walnut Park and Florence-Firestone.³ Residents are heavily impacted by proximity to industrial land uses and legacy contamination,

¹ Cmtys. for a Better Env't, *About Us: Mission & Vision*, <https://www.cbecal.org/about-us/> (last visited March 6, 2026).

² U.S. Env't Prot. Agency, *What is the Definition of "Overburdened Community" That is Relevant for EPA Actions and Promising Practices?*, (defining overburdened communities as "minority, low-income, tribal and indigenous populations or communities in the United States that potentially experience disproportionate environmental harms and risks due to exposures or cumulative impacts or greater vulnerability to environmental hazards," that "may be attributable to an accumulation of negative and lack of positive environmental, health, economic, or social conditions within these populations or communities."), <https://www.epa.gov/caa-permitting/what-definition-overburdened-community-relevant-epa-actions-and-promising-practices> (last visited March 6, 2026); *see also* Off. of Env't Health Hazard Assessment, *SB 535 Disadvantaged Communities*, (May 2022) (designating "the 25% highest scoring census tracts in CalEnviroScreen 4.0 [...] census tracts with high amounts of pollution and low populations, and federally recognized tribal areas" as "disadvantaged communities"), <https://oehha.ca.gov/calenviroscreen/sb535>.

³ Cmtys. for a Better Env't, *Southeast LA: Fighting for Environmental Justice in Southeast Los Angeles*, <https://www.cbecal.org/community-organizing/southeast-la/> (last visited March 6, 2026).

which includes lead soil contamination,⁴ volatile organic compound (“VOC”) air pollution,⁵ and per- and polyfluoroalkyl substances (“PFAS”) in drinking water.⁶ Additionally, residents experience cumulative impacts from poor air quality,⁷ lack of green space, and urban heat island effect.⁸

BES was created to improve DTSC’s transparency and accountability, while its Board was intended to represent the general public interest, protect public health, and reduce risks of toxic exposure in disproportionately burdened and vulnerable communities.⁹ To reflect these responsibilities and to paint a more accurate picture of DTSC’s annual work, CBE asks that the Board (1) review the evaluation structure and identify how priorities set by fenceline communities can be incorporated early into the Board’s analysis; (2) expand the evaluation of Priority 3; and (3) acknowledge DTSC’s failings in regard to Priority 4’s Hazardous Waste Management Plan (“HWMP”).

I. The Board of Environmental Safety’s Evaluation Structure.

The evaluation authority granted to BES under California’s Health and Safety Code is much more expansive than what is included in the Board’s FY 2024-2025 analysis. Moving forward, BES should incorporate community priorities and criteria to reflect this broad review power.

A. The Plain Language and Legislative History of California Health and Safety Code, Section 25125, et. seq., Provides for an Expansive Evaluation of Department of Toxic Substances Control Activities.

The BES website currently describes its authority to evaluate DTSC under Health and Safety Code, Section 25125.7, as a “report of the department’s performance as compared to its objectives, *including, but not limited to*, the performance of the director,” however, it’s Fiscal Year 2024-2025 Evaluation *solely* reviews the agency’s performance as compared to the

⁴ Dep’t of Toxic Substances Control, *Exide Residential Cleanup*, <https://dtsc.ca.gov/residential-cleanup/> (last visited March 6, 2026).

⁵ See Joshua B. Fisher, Ambar Rivera, Ava Cison, Ashley Agatep, Kainani Tacazon, Sophia Spiegelman, Alison McKenery, Rio E. Fisher, Reginald Archer, & Jason Douglas, *Satellites, Urban Heat, and Environmental Justice: Community as the Bridge Between Analysis and Action*, Environmental Justice, (Feb. 2026), <https://journals.sagepub.com/doi/10.1177/19394071251413391> [<https://doi.org/10.1177/19394071251413391>].

⁶ Julie Von Behren, Peggy Reynolds, Paul M. Bradley, James L. Gray, Dana W. Kolpin, Kristin M. Romanok, Kelly L. Smalling, Catherine Carpenter, Wendy Avila, Andria Ventura, Paul B. English, Rena R. Jones, & Gina M. Solomon, *Per- and Polyfluoroalkyl Substances (PFAS) in Drinking Water in Southeast Los Angeles: Industrial Legacy and Environmental Justice*, 953 Sci. Total Environ. 176067 (Nov. 2024), <https://www.sciencedirect.com/science/article/pii/S0048969724062235?via%3Dihub> [<https://doi.org/10.1016/j.scitotenv.2024.176067>].

⁷ California Air Res. Bd., *Southeast Los Angeles*, (“Sources impacting the community include major freeways such as interstates 710 and 105, the Alameda Corridor, industrial facilities that routinely process chemicals, warehouses, manufacturers, auto body shops, and three Superfund sites.”), <https://ww2.arb.ca.gov/capp/com/cip/southeast-los-angeles> (last visited March 7, 2026).

⁸ Fisher, *supra* note 5.

⁹ Bd. of Env’t Safety, *Welcome to the Board of Environmental Safety*, <https://bes.dtsc.ca.gov/> (last visited March 6, 2026).

director’s annual priorities.¹⁰ Although important, the director’s priorities that are set in accordance with Section 25125.2(b)(4)¹¹ should not be the only objectives considered in BES’s evaluation under Section 25125.7.¹² Instead, the director’s priorities are meant to serve as one component of a variety of materials that the Board considers in its evaluation.¹³

This reading of the statute is supported by similar language in Section 25125.9, in which an update on DTSC’s “performance as compared to its objectives” be provided to the Assembly and Senate “*including, but not limited to*, metrics established pursuant to paragraph (4) of subdivision (b) of Section 25125.2, the department’s progress in implementing any reform measures, and any other information the committees request.”¹⁴ Likewise, it is only with a more expansive review of DTSC’s activities that the Board can accurately evaluate how well the agency is doing its job.¹⁵

Furthermore, in the Senate Floor Analysis of Senate Bill (“SB”) 158 in June of 2021, the Senate described what would become Section 25125.7 as, “requiring the Director of DTSC to appear before the Board as requested and requiring the Board to prepare an annual performance review of DTSC and the Director.”¹⁶ and expansion of criteria that the BES considers is permissible.

B. Moving Forward, the Board of Environmental Safety Should Also Incorporate Priorities and Criteria Set by Communities into its Review.

CBE requests that the Board immediately begin working closely with community groups—particularly overburdened, fenceline communities—in crafting a more comprehensive structure for how it will engage in future evaluations of DTSC to ensure accountability and transparency. One action that can help facilitate this is using the Environmental Justice Advisory Council (“EJAC”)¹⁷ to hold listening sessions with the public to touch different sectors,

¹⁰ Bd. of Env’t Safety, *BES Evaluation of DTSC for Fiscal Year 2024-2025*, <https://bes.dtsc.ca.gov/evaluation-fy2024-25/> (last visited March 6, 2026) (emphasis added); Cal Health & Saf Code § 25125.7 (“The board shall annually prepare and transmit to the Secretary for Environmental Protection an annual review of the department’s performance as compared to its objectives, including, but not limited to, the performance of the director.”).

¹¹ See Cal Health & Saf Code § 25125.2(b)(4) (“Review and consider for approval the director’s annual priorities for each program under the department and, after consulting with the director, adopt clear performance metrics for the department and each of the department’s programs. The board’s responsibilities under this paragraph shall be conducted at a public hearing. The director shall provide annual updates on progress toward meeting the priorities and performance metrics.”).

¹² See Cal Health & Saf Code § 25125.7.

¹³ See also Cal Health & Saf Code § 25125.9.

¹⁴ *Id.* (emphasis added).

¹⁵ Compare *id.* with Cal Health & Saf Code § 25125.7.

¹⁶ Off. of Senate Floor Analyses, *Senate Rules Committee Unfinished Business: SB 158*, 1, 2 (June 2021) (citation modified), https://www.leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=20210220SB158#.

¹⁷ See *id.* at 5 (“Environmental Justice Council. Authorizes funds be used to assist in the development of a forum that represents communities across the state impacted by DTSC’s programs, to provide environmental justice advice, consultation, and recommendations to the director of DTSC and the Board.”); Dep’t of Toxic Substances Control, *Environmental Justice Advisory Council*, (“The EJAC will provide independent environmental justice advice, consultation, and recommendations to DTSC and BES to help safeguard communities impacted by exposure to toxic substances”), <https://dtsc.ca.gov/environmental-justice-advisory-council/> (last visited March 7, 2026).

communities, and areas. Currently, there are many places where voices are being overlooked. EJAC can potentially fill this role by communicating with residents and developing additional criteria for BES to consider in its evaluation. This can be one of a variety of steps taken to paint a more accurate picture of DTSC’s work and ensure greater degrees of accountability.

Regarding Director Katie Butler’s Annual Priorities for FY 2025-2026, it is concerning that “Promot[ing] Equity” is not re-listed as a priority,¹⁸ given DTSC’s troubling history responding to environmental concerns in disadvantaged communities. This is more reason for the Board to undertake a more expansive review of DTSC’s work, or lack thereof.

II. Expanding the Evaluation of Priority 3 to Promote Equity in a Transformative Manner.

During FY 2024-2025, DTSC did take notable steps toward increasing equitable outcomes pertaining to the Exide cleanup under Priority 3, Deliverable 3.4, however, more work is still needed.¹⁹ Additionally, other sites in SELA undergoing cleanup processes, did not see the same degree of care to ensure that the outcomes were equitable. These experiences enabled CBE to identify obstacles in achieving just outcomes.

A. Exide Cleanup Progress.

Although further work is needed, CBE appreciates DTSC’s continued efforts directed toward cleaning up contamination caused by the former Exide facility. Progress on residential and parkway cleanup, oversight from the third-party monitor, and continued communication with the working group are steps in the right direction. Additional funding for the cleanup will help with remediation efforts and retrospective sampling will help evaluate current remediation methods for soil contamination. CBE anticipates continued cleanup progress during the 2025-2026 FY.

Additionally, the following recommendations are of great importance to residents: increased efforts to clean properties, like multi-family homes, that face owner participation barriers;²⁰ contingency planning if the site is not listed on the National Priorities List (“NPL”);²¹ and a framework of DTSC’s role if the site is listed on the NPL.²²

¹⁸ Compare Dep’t of Toxic Substances Control, *Director’s Annual Priorities Fiscal Year 2025-2026*, 1, 1-6 (Aug. 2025) (listing the following priorities: Consistent, Timely, and Equitable Enforcement; Community Engagement; Science, Technology, and Policy Innovation; and Per- and Polyfluoroalkyl Substances), https://bes.dtsc.ca.gov/wp-content/uploads/sites/42/2025/08/FY2526_DirectorsPriorities_AUG2025Revision.pdf with Dep’t of Toxic Substances Control, *Fiscal Year 2024-2025 Priorities: December 2024 Refresh*, 1, 1-8 (Dec. 2024) (listing the following priorities: Strengthen Enforcement; Institutionalize Community Engagement; Promote Equity; and Drive Sustainability and Climate Resilience), https://bes.dtsc.ca.gov/wp-content/uploads/sites/42/2025/02/FY2024-25_Priorities_Refresh_TypoFixes_ada.pdf.

¹⁹ Bd. of Env’t Safety, *Department of Toxic Substances Control: Fiscal Year 2024-2025 Evaluation*, 1, 19-23 (Jan. 2026), https://bes.dtsc.ca.gov/wp-content/uploads/sites/42/2026/02/DTSC-2024-2025-Evaluation-BES_ada.pdf.

²⁰ See *id.* at 20 (“owner reluctance”).

²¹ See *id.* at 21 (Jan. 2026) (“ensuring cleanup momentum is not lost.”), https://bes.dtsc.ca.gov/wp-content/uploads/sites/42/2026/02/DTSC-2024-2025-Evaluation-BES_ada.pdf.

²² See *id.* at 22 (“including oversight responsibilities, state/federal coordination protocols, and community engagement mechanisms.”).

B. Other Cleanups and Obstacles Preventing Just Outcomes.

CBE has identified the following three obstacles that make it more difficult for DTSC and communities to arrive at the most equitable cleanup outcomes possible: (1) use of agreements under the California Land Reuse and Revitalization Act (CLRRA) that complicate prospects for residential testing and remediation; (2) long timelines for Technical Assistant Grant (“TAG”) approval; and (3) lack of implementing alternative cleanup approaches beyond dig-and-haul.

1. California Land Reuse and Revitalization Act Agreements.

CLRRA processes encourage streamlined environmental approaches to contaminated properties for site reuse or redevelopment.²³ Such approaches on contaminated land do not benefit fence-line communities and complicate prospects for residential remediation. CLRRA agreements have the potential to create circumstances in which adjacent industrial properties are stuck pointing fingers at each other, making it more difficult for fence-line communities to engage and acquire timely residential remediation. As a result, concerns of residents may be left behind and their options become more limited. This is inequitable because fence-line communities are often already overburdened. BES should evaluate concerns arising from CLRRA agreements.

2. Technical Assistance Grant Approval Timelines.

DTSC's TAG Program is supposed to facilitate greater community engagement in the cleanup process of contaminated sites by providing funding for independent Technical Advisors that can effectively communicate technical information to the community.²⁴ This type of grant is crucial in ensuring equitable outcomes, however, the current timeline that DTSC takes to review and approve TAG cleanup grants is considerably long. A lot of time goes by before applicants find out whether they have funding approval. In some instances, the approval comes after cleanup under a CLRRA agreement is already completed. This delay makes it more difficult for those applying for TAG to monitor contamination levels before, during, and after cleanup. This disrupts the community's ability to stay informed and engage in cleanup matters. BES should evaluate concerns arising from lengthy TAG approval.

3. Lack of Implementing Alternative Cleanup Approaches Beyond Dig-and-Haul.

Prioritizing equity should involve DTSC using cleanup approaches beyond dig-and-haul (“dig-and-dump”). Methods like bioremediation have the potential to generate more equitable outcomes. Bioremediation does not require the same degree of soil disturbance as dig-and-dump,

²³ Dep't of Toxic Substances Control, *California Land Reuse and Revitalization Act (CLRRA) Quick Reference Guide*, <https://dtsc.ca.gov/brownfields/california-land-reuse-and-revitalization-act-clrra-quick-reference-guide/> (last visited March 7, 2026).

²⁴ See Dep't of Toxic Substances Control, *Technical Assistance Grant (TAG)*, <https://dtsc.ca.gov/tag/> (last visited March 7, 2026).

and it does not result in contaminated soil being dumped elsewhere.²⁵ BES should evaluate opportunities where such methods could have taken place and recommendations for future use.

III. Incomplete Evaluation of Priority 4, Deliverable 4.3.

DTSC’s Hazardous Waste Management Plan was a disappointment to overburdened, fence-line communities across California. The plan failed for many reasons, including its inability to center environmental justice communities,²⁶ failure to prioritize source reduction, and dangerous proposal of pathways that lead to deregulation.²⁷ The HWMP was supposed to foster “a more sustainable and circular economy,”²⁸ but instead, it failed to provide preventative public health protections.

BES’s current evaluation neither acknowledges how DTSC notably removed explicit mention of environmental justice in the HWMP,²⁹ nor acknowledges how exemptions and exclusions will weaken California’s standards by narrowing which waste is defined as

²⁵ See Doug Bierend, ‘Solar-Powered Vacuum Cleaners’: The Native Plants that Could Clean Toxic Soil, *The Guardian* (Apr. 2024), https://www.theguardian.com/us-news/2024/apr/14/native-plants-fungi-soil-bioremediation?CMP=share_btn_url; see Ctr. for Creative Land Recycling, *Functional Fungi: How Mycelium Can Help Remove Soil Contamination*, (Apr. 2024), <https://www.cclr.org/project-highlights/functional-fungi>.

²⁶ Contrast Dep’t of Toxic Substances Control, *2025 Hazardous Waste Management Plan: Recommendations for a Modern Program*, 1, 1-36 (Oct. 2025) (removing all mention of “environmental justice,” “equity”/“equitable,” and “disadvantaged,” and only using the word “Vulnerable” in reference to the Cleanup in Vulnerable Communities Initiative), https://dtsc.ca.gov/wp-content/uploads/sites/31/2025/10/2025-Hazardous-Waste-Management-Plan_accessible.pdf with Dep’t of Toxic Substances Control, *2025 Draft Hazardous Waste Management Plan: A Modern Approach to a Circular Economy*, 1, 1-52 (March 2025) (dedicating Goal 1 toward, “promoting environmental justice initiatives,” and mentioning “environmental justice,” “equity”/“equitable,” “vulnerable,” and “disadvantaged” multiple times), https://dtsc.ca.gov/wp-content/uploads/sites/31/2025/04/Draft-2025-Haz-Waste-Mgmt-Plan-with-Appendices_ADA.pdf; see also Bd. of Env’t Safety, *Board Meeting*, at 1:26:39-1:28:12, 3:43:11-3:45:02, 4:09:28-4:11:10 (Nov. 2025) (acknowledging important pieces missing that impact environmental justice communities) <https://youtu.be/t9HmotZFUUc?si=oSugO-td995cVYml>.

²⁷ See Dep’t of Toxic Substances Control, *2025 Hazardous Waste Management Plan: Recommendations for a Modern Program*, 1, 19 (Oct. 2025) (using Recommendation 1.2 to review federal recycling exemptions and exclusions), https://dtsc.ca.gov/wp-content/uploads/sites/31/2025/10/2025-Hazardous-Waste-Management-Plan_accessible.pdf; see also Bd. of Env’t Safety & Dep’t of Toxic Substances Control, *2025 Hazardous Waste Management Plan Virtual Webinar* *Virtual*, at 12:34-14:23 (Oct. 2025) (indicating on webinar that DTSC wants to determine whether any federal exemptions or exclusions might be applicable in California), <https://youtu.be/jdQ1Z6lQ19w?si=gi0aFSYZrhMWb4WE>; see also Bd. of Env’t Safety, *Board Meeting*, at 1:13:09-1:15:43, 3:51:20-4:08:51, 4:12:06-4:33:04 (Nov. 2025) (adding language that did not adequately alleviate community concerns) <https://youtu.be/t9HmotZFUUc?si=oSugO-td995cVYml>.

²⁸ Bd. of Env’t Safety, *Department of Toxic Substances Control: Fiscal Year 2024-2025 Evaluation*, 1, 23, 26 (Jan. 2026), https://bes.dtsc.ca.gov/wp-content/uploads/sites/42/2026/02/DTSC-2024-2025-Evaluation-BES_ada.pdf.

²⁹ Contrast Dep’t of Toxic Substances Control, *2025 Hazardous Waste Management Plan: Recommendations for a Modern Program*, 1, 1-36 (Oct. 2025) (removing all mention of “environmental justice”), https://dtsc.ca.gov/wp-content/uploads/sites/31/2025/10/2025-Hazardous-Waste-Management-Plan_accessible.pdf with Dep’t of Toxic Substances Control, *2025 Draft Hazardous Waste Management Plan: A Modern Approach to a Circular Economy*, 1, 1-52 (March 2025) (dedicating Goal 1 toward, “promoting environmental justice initiatives,” and mentioning “environmental justice” multiple times), https://dtsc.ca.gov/wp-content/uploads/sites/31/2025/04/Draft-2025-Haz-Waste-Mgmt-Plan-with-Appendices_ADA.pdf; see also Bd. of Env’t Safety, *Board Meeting*, at 1:26:39-1:28:12, 3:43:11-3:45:02, 4:09:28-4:11:10 (Nov. 2025) (acknowledging important pieces missing that impact environmental justice communities) <https://youtu.be/t9HmotZFUUc?si=oSugO-td995cVYml>.

hazardous.³⁰ Most importantly, it does not reflect upon how DTSC deliberately failed to listen to the concerns of community members, despite multiple attempts at public engagement. DTSC and BES received an outpouring of public comments from concerned residents.³¹ BES's evaluation does not acknowledge that valid concerns were inadequately addressed.

IV. Conclusion.

In conclusion, CBE asks that the Board (1) review the evaluation structure and identify how priorities set by frontline communities can be incorporated early into the Board's analysis; (2) expand the evaluation of Priority 3; and (3) acknowledge DTSC's failings in regard to Priority 4's Hazardous Waste Management Plan. Taking these necessary steps in evaluating DTSC will result in a more accurate picture of the agency's annual work. Thank you for your consideration of these comments.

Sincerely,
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³⁰ See Dep't of Toxic Substances Control, *2025 Hazardous Waste Management Plan: Recommendations for a Modern Program*, 1, 19 (Oct. 2025) (using Recommendation 1.2 to review federal recycling exemptions and exclusions), https://dtsc.ca.gov/wp-content/uploads/sites/31/2025/10/2025-Hazardous-Waste-Management-Plan_accessible.pdf; see also Bd. of Env't Safety & Dep't of Toxic Substances Control, *2025 Hazardous Waste Management Plan Virtual Webinar* *Virtual*, at 12:34-14:23 (Oct. 2025) (indicating on webinar that DTSC wants to determine whether any federal exemptions or exclusions might be applicable in California), <https://youtu.be/jdQ1Z6lQ19w?si=gi0aFSYZrhMWb4WE>; see also Bd. of Env't Safety, *Board Meeting*, at 1:13:09-1:15:43, 3:51:20-4:08:51, 4:12:06-4:33:04 (Nov. 2025) (adding language that did not alleviate community concerns) <https://youtu.be/t9HmotZFUUc?si=oSugO-td995cVYml>.

³¹ See Bd. of Env't Safety, *Board Meeting*, at 1:39:40-3:25:05 (Nov. 2025), <https://youtu.be/t9HmotZFUUc?si=oSugO-td995cVYml>; see Bd. of Env't Safety & Dep't of Toxic Substances Control, *2025 Hazardous Waste Management Plan Virtual Webinar* *Virtual*, at 32:15-1:02:20 (Oct. 2025), <https://youtu.be/jdQ1Z6lQ19w?si=gi0aFSYZrhMWb4WE>; see Bd. of Env't Safety, *Hazardous Waste Management Plan Hearing #4*, at 1:40:13-2:50:05 (July 2025), <https://youtu.be/875kL7azO8M?si=CvZZ9Iwn9xV0h3qH>.