



APR 01 2008

Honorable Denise Moreno Ducheny, Chair  
Senate Budget and Fiscal Review Committee

Attn: Mr. Danny Alvarez, Staff Director (2)

Honorable John Laird, Chair  
Assembly Budget Committee

Attn: Mr. Christopher W. Woods, Chief Consultant (2)

**Amendment to Budget Bill Items 3900-001-0044 and 3900-001-6054, Support, California  
Air Resources Board**

**Trade Corridors Emission Reduction Incentive Program**

It is requested that Item 3900-001-6054 be revised by shifting \$747,000 from Operating Expenses and Equipment to Personal Services and that Item 3900-001-0044 be amended to reflect this change. The proposal will allow the California Air Resources Board (Air Board) to fund 7.0 positions to fully and effectively administer the Trade Corridors Emission Reduction Incentive Program (Trade Corridors Program). This request also includes Trailer Bill Language (TBL) to provide an option for a state-run loan assistance program (Attachment A). The TBL will permit the Air Board to enhance its efforts to assist the state to meet federally-required air quality standards through the Trade Corridors Program.

The implementing legislation contained in Chapter 181, Statutes of 2007 (SB 88), related to the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 requires all air quality funds to be administered through local agencies, rather than allowing the Air Board to directly administer the funds. This arrangement increases the on-going staff workload for program implementation and oversight, requiring 7.0 additional positions, which have been administratively established in the current year. Also, we note that bond funding authorized in the current year, and proposed for the budget year, is more than double the originally proposed amount, which has also increased the Air Board's workload.

The effect of my requested action is reflected on the attachment.

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If you have any questions or need additional information regarding this matter, please call Ken DaRosa, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL C. GENEST  
Director  
By:

**/s/ Fred Klass**

VINCENT P. BROWN  
Chief Deputy Director

Attachment

cc: Honorable Tom Torlakson, Chair, Senate Appropriations Committee  
Attention: Mr. Bob Franzoia, Staff Director  
Honorable Bob Dutton, Vice Chair, Senate Budget and Fiscal Review Committee  
Attention: Mr. Seren Taylor, Staff Director  
Honorable Mark Leno, Chair, Assembly Appropriations Committee  
Attention: Mr. Geoff Long, Chief Consultant  
Honorable Roger Niello, Vice Chair, Assembly Budget Committee  
Attention: Mr. Peter Schaafsma, Staff Director  
Honorable Alan Lowenthal, Chair, Senate Budget and Fiscal Review Committee No. 2  
Honorable Ira Ruskin, Chair, Assembly Budget Subcommittee No. 3  
Ms. Elizabeth Hill, Legislative Analyst (4)  
Ms. Diane Cummins, Senate President pro Tempore's Office  
Mr. Craig Cornett, Assembly Speaker's Office (2)  
Mr. Ivan Altamura, Chief of Staff, Assembly Republican Leader's Office  
Mr. Eric Jarvis, Assistant Secretary for Fiscal Affairs, Office of the Secretary for  
Environmental Protection  
Ms. Marie Stephans, Chief, Administrative Services Division, Air Resources Board  
Ms. Judy Tanimoto, Chief, Financial Services Branch, Administrative Services Division, Air  
Resources Board

## Attachment A

### *Amend Health and Safety Code Section 39625.02 by adding the following:*

39625.02. (a) As used in this chapter and in Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, the following terms have the following meanings:

(1) "Administrative agency" means the state agency responsible for programming bond funds made available by Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code, as specified in subdivision (c).

(2) Unless otherwise specified in this chapter, "project" includes equipment purchase, right-of-way acquisition, and project delivery costs.

(3) "Recipient agency" means the recipient of bond funds made available by Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code that is responsible for implementation of an approved project.

(4) "Fund" shall have the meaning as defined in subdivision (c) of Section 8879.20 of the Government Code.

(b) Administrative costs, including audit and program oversight costs for the agency administering the program funded pursuant to this chapter, recoverable by bond funds shall not exceed 5 percent of the program's costs.

(c) The State Air Resources Board is the administrative agency for the Goods Movement Emission Reduction Program pursuant to paragraph (2) of subdivision (c) of Section 8879.23 of the Government Code.

(d) The administrative agency may not approve project fund allocations for any project until the recipient agency provides a project funding plan that demonstrates that the funds are expected to be reasonably available and sufficient to complete the project. The administrative agency may approve funding for useable project segments only if the benefits associated with each individual segment are sufficient to meet the objectives of the program from which the individual segment is funded.

(e) Guidelines adopted by the administrative agency pursuant to this chapter and Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2 of the Government Code are intended to provide internal guidance for the agency and shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Government Code), and shall do all of the following:

(1) Provide for audit of project expenditures and outcomes.

(2) Require that the useful life of the project be identified as part of the project nomination process.

(3) Require that project nominations have project delivery milestones, including, but not limited to, start and completion dates for environmental clearance, land acquisition, design, construction bid award, construction completion, and project closeout, as applicable.

(f) (1) As a condition for allocation of funds to a specific project under Chapter 12.49 (commencing with Section 8879.20), the administrative agency shall require the recipient agency to report, on a semiannual basis, on the activities and progress made toward implementation of the project. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance. The purpose of the report is to ensure that the project is being executed in a timely fashion, and is within the scope and budget identified when the decision was made to fund the project. If it is anticipated that project costs will exceed the approved project budget, the recipient agency shall provide a plan to the administrative agency for achieving the benefits of the project by either downscoping the project to remain within budget or by identifying an alternative funding source to meet the cost increase. The administrative agency may either approve the corrective plan or direct the recipient agency to modify its plan.

(2) Within six months of the project becoming operable, the recipient agency shall provide a report to the administrative agency on the final costs of the project as compared to the approved project budget, the project duration as compared to the original project schedule as of the date of allocation, and performance outcomes derived from the project compared to those described in the original application for funding. The administrative agency shall forward the report to the Department of Finance by means approved by the Department of Finance.

(g) The state board is authorized to allocate funds directly to other state agencies to operate loan programs consistent with section 39625.3. Not more than five percent of funds appropriated by the Legislature under this chapter shall be available for this purpose.

(h) As part of the public process prescribed by subsection 39626(c), the state board shall provide sufficient opportunity for the public to review and comment on any loan programs proposed to be funded pursuant to subdivision (g) of section 39625.02.

(i) Funds allocated pursuant to subdivision (g) of section 39625.02 shall be distributed pursuant to the guidelines adopted by the state board under Section 39626. The guidelines shall limit the administrative costs available to any other state agency that receives funds to operate a loan program to five percent or less of the total funds allocated to that other state agency.



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Senate Budget and Fiscal Review Committee

Attention: Mr. Danny Alvarez, Staff Director (2)

Honorable John Laird, Chair  
Assembly Budget Committee

Attention: Mr. Christopher W. Woods, Chief Consultant (2)

**Amendment to Budget Bill Items 3910-001-0387 and 3910-001-3065, Support, California Integrated Waste Management Board**

It is requested that Item 3910-001-3065 be revised to include a loan provision for the Electronic Waste Recycling and Recovery Account (EWRRA) and that Item 3910-001-0387 be amended to reflect this change. This provision will allow the California Integrated Waste Management Board (Waste Board) to make a loan to the EWRRA from its other special funds to address cash flow issues.

Because of the popularity of the E-Waste Program, greater participation has lead to increased expenditures in advance of the Waste Board's ability to augment revenue. At the current level of fees and payments, the Waste Board anticipates the EWRRA fund balance will be exhausted by August 2008. Fee increases will not go into effect until January 1, 2009. However, there are sufficient fund balances within the Waste Board's other funds to make a loan to the EWRRA to meet program obligations until the anticipated revenue adjustments are realized.

The provisional language specifies a repayment schedule for these loans.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Ken DaRosa, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL C. GENEST  
Director  
By:

/s/ Vincent P. Brown

VINCENT P. BROWN  
Chief Deputy Director

Attachment

cc: On following page

APR 01 2008

-2-

cc: Honorable Tom Torlakson, Chair, Senate Appropriations Committee  
Attention: Mr. Bob Franzoia, Staff Director  
Honorable Bob Dutton, Vice Chair, Senate Budget and Fiscal Review Committee  
Attention: Mr. Seren Taylor, Staff Director  
Honorable Mark Leno, Chair, Assembly Appropriations Committee  
Attention: Mr. Geoff Long, Chief Consultant  
Honorable Roger Niello, Vice Chair, Assembly Budget Committee  
Attention: Mr. Peter Schaafsma, Staff Director  
Honorable Alan Lowenthal, Chair, Senate Budget and Fiscal Review Committee No. 2  
Honorable Ira Ruskin, Chair, Assembly Budget Subcommittee No. 3  
Ms. Elizabeth Hill, Legislative Analyst (4)  
Ms. Diane Cummins, Senate President pro Tempore's Office  
Mr. Craig Cornett, Assembly Speaker's Office (2)  
Mr. Ivan Altamura, Chief of Staff, Assembly Republican Leader's Office  
Mr. Mark Leary, Executive Director, Integrated Waste Management Board  
Mr. Tom Estes, Admin Deputy Director, Integrated Waste Management Board  
Ms. Suzanne Blihovde, Budget Officer, Integrated Waste Management Board

## Attachment A

Loan provision BBL to be added to Item 3910-001-3065 of the 2008-09 Budget Bill:

1. Notwithstanding any other provision of law, upon approval and order of the Director of Finance, the California Integrated Waste Management Board may borrow sufficient funds from special funds that otherwise provide support for other programs for the board for cash flow purposes for this account. Any such loans are to be repaid by June 30, 2010 with interest at the rate earned by the Pooled Money Investment Account.



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Honorable John Laird, Chair  
Assembly Budget Committee

Attention: Mr. Christopher W. Woods, Chief Consultant (2)

### **Addition of Budget Bill Items 3940-011-0193 and 3940-490, Support, State Water Resources Control Board**

#### **Cleanup and Abatement Account**

It is requested that Item 3940-011-0193 be added to transfer \$3.2 million from the Waste Discharge Permit Fund (WDPF) to the State Water Pollution Cleanup and Abatement Account (CAA), a subaccount of the State Water Quality Control Fund. The CAA is funded by fines and penalties on waste discharge violators and is continuously appropriated. The account provides funds for water quality improvement projects undertaken by the State Water Resources Control Board (Water Board) when there are no responsible parties available to be used for the purpose of cleaning up waste or abating its effects on the water of the state. Budget Bill language to facilitate the transfer is included (Attachment A).

Existing statute levies administrative fines on waste dischargers for failure to file required discharge monitoring reports. These funds are directed to the WDPF and are statutorily designated to be used for waste clean-up or to abate the effects of water pollution. However, because statute also requires that these funds be separately accounted for, a new subaccount in the WDPF would be necessary in order to expend these fines for the purpose of clean-up and abatement activities. This subaccount would duplicate the purpose of the existing CAA. The requested funds transfer will allow the Water Board to use all available funding to administer the CAA and protect water quality.

Additionally, this request includes trailer bill language to direct future administrative fines into the CAA rather than the WDPF (Attachment B).

#### **Instream Flow Contracts**

It is requested that Item 3940-490 be added to extend the liquidation period to June 30, 2009 for funds originally appropriated by Item 3940-001-0235, Budget Act of 2005 (Attachment C). This extension will allow the Division of Water Rights to complete contract work related to Instream Flows as directed by Chapter 943, Statutes of 2004 (AB 2121). The Water Board anticipates that \$500,000 will remain encumbered at the end of fiscal year 2007-08.



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AB 2121 requires the Water Board to adopt principles and guidelines for maintaining instream flows and necessitates the development of new water quality control policy. This liquidation extension is needed as a result of delays in the completion of the proposed policy, and to allow adequate public comment from interested parties.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Ken DaRosa, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL C. GENEST  
Director  
By:

/s/ Fred Klass

VINCENT P. BROWN  
Chief Deputy Director

Attachment

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Ms. Elizabeth Hill, Legislative Analyst (4)  
Ms. Diane Cummins, Senate President pro Tempore's Office  
Mr. Craig Cornett, Assembly Speaker's Office (2)  
Mr. Ivan Altamura, Chief of Staff, Assembly Republican Leader's Office  
Mr. Tom Howard, Chief Deputy Director, Water Resources Control Board  
Mr. Esteban Almanza, Deputy Director of Administration, Water Resources Control Board  
Mr. Bill Damian, Budget Officer, Water Resources Control Board

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**Attachment A**

3940-011-0193 – For transfer by the Controller from the Waste Discharge  
Permit Fund to the Cleanup and Abatement Account, a subaccount  
of the State Water Quality Control Fund..... 3,200,000

## Attachment B

***Amend Water Code Section 13385.1:***

13385.1. (a) (1) For the purposes of subdivision (h) of Section 13385, a "serious violation" also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.

(2) Paragraph (1) applies only to violations that occur on or after January 1, 2004.

(b) (1) Notwithstanding any other provision of law, moneys collected pursuant to this section for a failure to timely file a report, as described in subdivision (a), shall be deposited in the ~~Waste Discharge Permit Fund~~ State Water Quality Control Fund and separately accounted for in that fund ~~the Cleanup and Abatement Account~~.

(2) The funds described in paragraph (1) shall be expended by the state board, ~~upon appropriation by the Legislature~~, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in responding to significant water pollution problems.

(c) For the purposes of this section, paragraph (2) of subdivision (f) of Section 13385, and subdivisions (h), (i), and (j) of Section 13385 only, "effluent limitation" means a numeric restriction or a numerically expressed narrative restriction, on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants that may be discharged from an authorized location. An effluent limitation may be final or interim, and may be expressed as a prohibition. An effluent limitation, for those purposes, does not include a receiving water limitation, a compliance schedule, or a best management practice.

**Attachment C**

3940-490 – Reappropriation, State Water Resources Control Board. Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citation is extended to June 30, 2009:

0235 – Public Resources Account, Cigarette and Tobacco Products Surtax Fund

(1) Item 3940-001-0235, Budget Act of 2005 (Chs. 38 and 39, Stats. 2005),

(1) 20 –Water Rights



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Honorable John Laird, Chair  
Assembly Budget Committee

Attention: Mr. Christopher W. Woods, Chief Consultant (2)

**Amendment and Addition of Various Budget Bill Items, Support, Department of Toxic Substances Control**

**Cleanup Loans and Environmental Assistance to Neighborhoods Loan Authority**

It is requested that Item 3960-001-1003 be added in the amount of \$70,000 to fund a contract for loan services, including financial analysis and loan underwriting, for the Cleanup Loans and Environmental Assistance to Neighborhoods (CLEAN) program.

The CLEAN program provides low-interest loans to conduct environmental assessments of urban brownfields and to remove hazardous materials where redevelopment is feasible. The contract for loan services is necessary in order for the Department of Toxic Substances Control (Toxics) to provide new loans. The CLEAN Loan Account (Account) currently has \$3.3 million available for new loans. The Account generates all of its funding through loan payments and interest earned.

**Imperial County—Calexico Office Move**

It is requested that Item 3960-001-3084 be increased by \$338,000 and that Item 3960-001-0014 be amended to reflect this change to provide funding for the relocation and lease of Toxics' Calexico office, which houses the Imperial County Certified Unified Program Agency (CUPA). Funds are to be used for one-time moving expenses and ongoing lease costs.

The Calexico Office is currently housed in a building shared with the Employment Development Department (EDD). The EDD has notified Toxics that the space will not be available after November 1, 2008, when the office will be permanently closed. Prior to the closure date Toxics must secure new office space.

**Trailer Bill Language**

Trailer Bill Language (Attachment A) is proposed to amend the Health and Safety Code to create the Revolving Loans Fund for Toxics' deposit of funds from the Federal Revolving Loan Fund (RLF). The Federal RLF Grant Program requires that all advances of grant money be deposited into an interest bearing account. The pending legislation creates a fund to receive Federal RLF deposits and operate the State RLF Grant Program.

Toxics has been awarded \$3.0 million in federal funding for brownfield loans and grants over a five-year period. In order to comply with the federal grant cooperative agreement, an interest bearing account must be established for the deposit of grant advances and program income. The State RLF Grant Program funding revolves by using loan repayments, including interest, to provide new loans and grants. Furthermore, once the original award has been spent, additional federal funds can be requested.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Ken DaRosa, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL C. GENEST

Director

By:

/s/ Fred Klass

VINCENT P. BROWN

Chief Deputy Director

Attachment

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Ms. Elizabeth Hill, Legislative Analyst (4)  
Ms. Diane Cummins, Senate President pro Tempore's Office  
Mr. Craig Cornett, Assembly Speaker's Office (2)  
Mr. Ivan Altamura, Chief of Staff, Assembly Republican Leader's Office  
Ms. Maureen Gorsen, Director, Department of Toxic Substances Control  
Ms. Vicki Vandergriff, Deputy Director of Administration, Department of Toxic Substances Control  
Ms. Odette Madriago, Fiscal Officer, Department of Toxic Substances Control

## Attachment A

### Fiscal Year 2008-09 Revolving Loans Fund Finance Letter Trailer Bill Language

Article 8.6 is added to Chapter 6.8 of the Health and Safety Code

25395.35 Unless the context otherwise requires, the following definitions govern the construction of this Article:

- (a) "Fund" means the Revolving Loans Fund.
- (b) "Department" means the Department of Toxic Substances Control.
- (c) "Federal Act" means the Small Business Liability Relief and Brownfields Revitalization Act of 2002 (Public Law 107-117, 115 Stat. 2536, "the Brownfield Law")

25395.36 (a) The Revolving Loans Fund is hereby created in the State Treasury, and, notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated without regard to fiscal years to the department for expenditure in accordance with this chapter. The department is the state agency responsible for administering the fund.

- (b) The following moneys shall be deposited in the fund:
  - (1) Moneys transferred to the fund from the Federal Trust Fund.
  - (2) The amounts collected for loan services.
  - (3) Interest payments.
  - (4) Principal repayments.
  - (5) Notwithstanding Section 16475 of the Government Code, any interest earned upon the moneys deposited in the fund.
- (c) Moneys in the fund shall be used only for the permissible purposes allowed by the federal act, including providing financial assistance for the following purposes:
  - (1) Loans for the cleanup of eligible brownfield sites.
  - (2) Subgrants to cleanup eligible brownfield sites.
- (d) Any repayment of fund moneys, including interest payments, and all interest earned on, or accruing to, any moneys in the fund, shall be deposited in the fund and shall be available, in perpetuity, for expenditure for the purposes and uses authorized by the federal act.



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Honorable John Laird, Chair  
Assembly Budget Committee

Attention: Mr. Christopher W. Woods, Chief Consultant (2)

**Amendment to Budget Bill Item 3980-001-0001 and Reimbursements, Support, Office of Environmental Health Hazard Assessment**

It is requested that Item 3980-001-0001 be amended by increasing Reimbursements by \$625,000 in to provide the Office of Environmental Health Hazard Assessment (OEHHA) additional reimbursement authority. This additional authority will allow the OEHHA to enter into an agreement with the California Department of Food and Agriculture (CDFA) to fund the OEHHA's scientific guidance and support of the CDFA's Light Brown Apple Moth eradication efforts. The request also proposes 3.0 positions on a three-year limited term basis to address the increased workload associated with the OEHHA's physician training, health information development, and data collection on aerial spraying and the use of pheromones in this pest management effort.

The effect of my requested action is reflected on the attachment.

If you have any questions or need additional information regarding this matter, please call Ken DaRosa, Principal Program Budget Analyst, at (916) 324-0043.

MICHAEL C. GENEST  
Director  
By:

/s/ Vincent P. Brown

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Mr. Craig Cornett, Assembly Speaker's Office (2)  
Mr. Ivan Altamura, Chief of Staff, Assembly Republican Leader's Office  
Joan Denton, Ph.D., Director, Office of Environmental Health Hazard Assessment  
Mr. Alan Hirsch, Chief Deputy Director, Office of Environmental Health Hazard  
Assessment  
Ms. Margie Leary, Deputy Director of Administration, Office of Environmental Health  
Hazard Assessment