

The Board of Supervisors

County Administration Building
651 Pine Street, Room 107
Martinez, California 94553-1293

John M. Gioia, 1st District
Candace Andersen, 2nd District
Diane Burgis, 3rd District
Karen Mitchoff, 4th District
Federal D. Glover, 5th District

Contra Costa County



David J. Twa
Clerk of the Board
and
County Administrator
(925) 335-1900

May 22, 2018

The Honorable Al Muratsuchi
State Assembly
Capitol Office, Room 2179
P.O. Box 942849
Sacramento, CA 94249-0066

SUBJECT: AB 3138 ESTM COMMITTEE
POSITION: SUPPORT

Dear Assemblymember Muratsuchi:

Contra Costa County *supports* the passage of AB 3138. Chapter 6.95, Article 2 of Division 20 of the Health and Safety Code, the California Accidental Release Prevention (CalARP) Program requires businesses that handle the most toxic and flammable hazardous materials to prepare a Risk Management Plan (RMP). The RMP has four program levels where the lowest program level applies to businesses that do not present an offsite impact to the community and the highest program level applies to petroleum refineries. The RMP is required to state how that business is complying with their prevention elements that are required by regulations and the businesses are required to follow their RMP.

Currently, Health and Safety Code, Section 25540(a) sets a maximum penalty of \$2,000 per violation per day and Section 25540(b) sets a maximum penalty of \$25,000 per day when a business knowingly violates the provisions in Article 2. The penalties set by Section 25540(a) are too low to provide a deterrent to the CalARP Program requirements and especially the regulations that apply to businesses that handle the most hazardous chemicals. Section 25540(b) requirement "knowingly" is many times after the fact of a major release that impacts the community.

AB 3138 will increase the penalties up to \$25,000 per day per violation. The actual penalty is determined by meeting the requirements of California Code of Regulations, Title 27, Section 15200 that specifies that graduated based penalties are to be established based on the severity of the violation and Health and Safety Code Chapter 6.11 Section 25404.1.1(b) for penalties amounts take into consideration a number of factors such as nature, circumstances, extent and gravity of the violation.

Contra Costa County Health Services Hazardous Materials Program is the Certified Unified Program Agency for all of Contra Costa County. As the CUPA, the Hazardous Materials Programs regulate businesses that are subject to the CalARP Program, Hazardous Waste Control Law, the Underground Storage of Hazardous Substances, the Aboveground Petroleum Storage Act and the Hazardous Materials Business Plan programs.

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Please contact Randy Sawyer, Chief Environmental Health and Hazardous Materials Officer for Contra Costa County at (925) 335-3210 or randy.sawyer@hsd.cccounty.us if you or your staff have any questions regarding our position.

Sincerely,

Karen Mitchoff,
Chair, Contra Costa County Board of Supervisors

cc: Randy Sawyer