

Legislative Mandates 2012

*A compilation of new mandates and statutory
changes affecting DTSC programs*



October 2012

**Department of Toxic Substances Control
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Director**

INTRODUCTION

This publication serves to inform Department of Toxic Substances Control (DTSC) staff of new legislatively mandated activities and important statutory changes resulting from legislation enacted in the first half of the 2012/2013 Legislative Session.

Some of the described changes are provided for information only, such as noting new or revised requirements or procedures that affect applied standards or the way DTSC operates. Other changes describe more direct requirements, such as mandates upon DTSC to develop regulations, prepare a report, establish a new program, or modify an existing program.

The descriptions provided in this publication are not binding. Staff should consult the actual bill language (which can be accessed through the Internet links provided) for exact changes to the statutes.

Bills with an urgency clause take effect on the date they are chaptered; bills without an urgency clause take effect on January 1, 2013. Bills may also specify that their provisions take effect at a later date or designate a specific date by which an activity must be completed.

Questions about specific implementation plans and activities should be referred to the affected programs identified in this publication. Questions regarding the information in this publication can be referred to any of the legislative staff in DTSC's Office of Policy (see below). Suggested changes to this publication are also welcome.

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INDEX OF BILLS AFFECTING DTSC PROGRAMS BY BILL NUMBER

Bill No.	Author	Description	Chapter	Affected Program(s)
AB 1487	Committee on Budget	State government: state funds	Chapter 343	Admin
AB 1614	Monning	Fort Ord Reuse Authority	Chapter 743	Cleanup
AB 1620	Wieckowski	Hazardous waste: treatment	Chapter 190	Enforcement, CUPA
AB 2205	V. Manuel Perez	Hazardous waste: ores and mineral: geothermal waste	Chapter 253	Enforcement, CUPA
SB 1018	Senate Budget Committee	Budget trailer bill that eliminated DTSC unused/underutilized cleanup programs	Chapter 39	Cleanup, P2, Admin
SB 1099	Wright	Regulations	Chapter 295	Legal, Policy

Legend

Admin	Administrative Services
Cleanup	Brownfields and Environmental Restoration Program
CUPA	Certified Unified Program Agency
Enforcement	Enforcement & Emergency Response Program
Legal	Office of Legal Affairs
P2	Office of Pollution Prevention and Green Technology Program
Policy	Office of Policy

SUMMARIES OF BILLS AFFECTING DTSC





AB 1487, Chapter 343, Statutes of 2012 (Wieckowski) - State government: state funds

AFFECTED PROGRAM(S): Admin

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1451-1500/ab_1487_bill_20120917_chaptered.html

Summary:

AB 1487 updates and clarifies accounting expenditure reporting requirements for state funds and requires specified financial control actions by the State Controller's Office and the Department of Finance.

Specifically, this bill:

- Requires that the State Controller's (SCO) Budgetary-Legal Basis Annual Report be prepared on the same basis as the applicable Governor's Budget and the Budget Act.
- Clarifies that an additional annual report must be prepared by the SCO in accordance with generally accepted accounting principles.
- Requires the dissemination of financial reports by the SCO through print and posting to the agency's Web site.
- Requires departments and agencies to make consistent reporting to the SCO and Department of Finance (DOF) according to methods and bases provided in regulations, budget letters, or other directives of DOF.
- Provides that the adoption, amendment, or repeal of regulations, budget letters, or other directives related to the reporting requirements is exempt from the Administrative Procedure Act.
- Requires DOF and SCO to consult regarding significant changes to financial and accounting methods, unless such changes are otherwise specified in law.
- Directs DOF to implement procedures to facilitate annual reconciliation of General Fund and special fund balances provided to SCO and DOF.

Departmental Mandate(s):

- DTSC's current reporting practices are consistent with the requirements of this bill. The Department already has the required information available and can readily provide it to the SCO and DOF.



AB 1614, Chapter 1743, Statutes of 2012 (Monning) - Fort Ord Reuse Authority

AFFECTED PROGRAM(S): Cleanup

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1601-1650/ab_1614_bill_20120929_chaptered.html

Summary:

AB 1614 extends the sunset date for the Fort Ord Reuse Authority by six years, to June 30, 2020.

Specifically, this bill:

- Extends the sunset date for the authorizing statute of the Fort Ord Reuse Authority by six years, to June 30, 2020.
- Requires the governing board of the Fort Ord Reuse Authority to approve and submit a transition plan to the Monterey County Local Agency Formation Commission, either by December 30, 2018, or at least 18 months before the anticipated inoperability date.
- Repeals obsolete provisions in statute related to establishing a redevelopment agency and subventions.

Departmental Mandate(s):

- DTSC continues to be responsible for regulatory oversight of the military's cleanup activities at Fort Ord, regardless of the existence of the Reuse Authority, and will remain so until all environmental remediation is completed at the site.



AB 1620, Chapter 190, Statutes of 2012 (Wieckowski) - Hazardous waste: treatment

AFFECTED PROGRAM(S): Enforcement, CUPA

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| <input type="checkbox"/> New Program or Requirements | <input checked="" type="checkbox"/> Additional Requirements for an Existing Program |
| <input type="checkbox"/> Information Only | <input type="checkbox"/> Report to the Governor/Legislature |

Link to Legislation:

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1601-1650/ab_1620_bill_20120827_chaptered.html

Summary:

AB 1620 revises the definition of “contained gaseous material” to clarify that air filtration devices do not need authorization or a permit from DTSC as a hazardous waste treatment unit.

Specifically, this bill:

- Modifies the definition of “contained gaseous material” to eliminate the confusion created by the example that was originally included in the definition, and to expand the example of what is not contained gaseous material to include air or exhaust gas stream that is filtered or otherwise processed to remove particulates, dusts, or other air pollutants, regardless of the source. Clarifies that in addition to exhaust gas, flue gas, or other vapor stream, regardless of the source, that are not considered contained gaseous materials, so too are air with particulate, dusts or other pollutants. By clarifying that these are not contained gaseous materials, they are therefore not considered waste potentially regulated by DTSC, and therefore not subject to DTSC regulations.

Departmental Mandate(s):

- The bill clarifies a position DTSC has historically held, so no change is warranted. Although the bill makes DTSC’s historical position clear, it does not impact the regulatory status of baghouses and other particulate collection devices. These may continue to be regulated as hazardous waste storage units and subject to separate standards, depending on the unit and its operation. AB 1620 did not impact the status of these units.



AB 2205, Chapter 253, Statutes of 2012 (V. Manuel Perez) - Hazardous waste: ores and minerals: geothermal waste

AFFECTED PROGRAM(S): Enforcement, CUPA

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2201-2250/ab_2205_bill_20120907_chaptered.html

Summary:

AB 2205 melds two existing exemptions from the Hazardous Waste Control Law to clearly allow wastewater from geothermal energy facilities to be transferred to an adjacent facility for the extraction of minerals.

Specifically, this bill:

- Makes it clear that mineral extraction facilities that are affiliated with geothermal energy facilities retain the conditional exemptions from identification as hazardous waste and from hazardous waste regulations that are available to those operations separately.

Departmental Mandate(s):

- AB 2205 will require no substantive changes by DTSC. Spent brines from geothermal energy production facilities have been conditionally exempt from regulation as hazardous waste as long as they are contained within the geothermal energy plant facility and equipment. Similarly, wastes from the extraction, beneficiation, and processing of ores and minerals (which would include the mining of minerals from brines) are conditionally exempt from regulation as hazardous waste. AB 2205 allows the spent brines to be detoured through an adjacent mineral extraction facility and remain conditionally excluded from regulation as hazardous waste.



SB 1018, Chapter 39, Statutes of 2012 (Senate Budget Committee) - Budget trailer bill that eliminated DTSC unused/underutilized cleanup programs

AFFECTED PROGRAM(S): Cleanup, Admin, P2

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| <input type="checkbox"/> New Program or Requirements | <input checked="" type="checkbox"/> Additional Requirements for an Existing Program |
| <input type="checkbox"/> Information Only | <input type="checkbox"/> Report to the Governor/Legislature |

Link to Legislation:

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1001-1050/sb_1018_bill_20120627_chaptered.html

Summary:

SB 1018 repeals various underutilized or unused site cleanup and liability arbitration processes and eliminates the Registered Environmental Assessors Program. In addition, this bill changes DTSC's Pollution Prevention statutes to make the pollution prevention/source reduction activities discretionary rather than mandatory, and to align them with DTSC's Safer Consumer Products authority.

Specifically, this bill:

- Eliminates the statutes authorizing the following unused, underutilized, outdated, or duplicative programs:
 - Registered Environmental Assessor Program
 - Private Site Manager Program
 - California Expedited Remedial Action Program
 - California Land Environmental Restoration and Reuse Act
 - Hazardous Substance Cleanup Arbitration Panel
 - Hazardous Waste Property or Border Zone Property
 - Abandoned Site Assessment Program
- Makes the pollution prevention/source reduction requirements implemented by the Pollution Prevention Program discretionary.

Departmental Mandate(s):

- Modify relevant DTSC Internet web pages and printed documents and fact sheets to remove the eliminated program references.
- Communicate with Registered Environmental Assessors about the elimination of the program and any refund procedures to be implemented to refund registration fees already paid.
- Work with P2 and DTSC Executive staff to further define the activities that the Pollution Prevention Program will implement, and those that will not be. Communicate those changes to regulated businesses and CUPAs.



SB 1099, Chapter 295, Statutes of 2012 (Wright) - Regulations

AFFECTED PROGRAM(S): **Legal, Policy**

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1051-1100/sb_1099_bill_20120911_chaptered.html

Summary:

SB 1099 revises the Administrative Procedures Act to require that newly adopted regulations become effective on a quarterly basis rather than as adopted throughout the year. Also requires state agencies to provide free online access to the text of regulations being proposed.

Specifically, this bill:

- Requires state agencies, within 15 days of the Office of Administrative Law filing a state agency's regulation with the Secretary of State, to post the regulation on the agency's Internet Web site in an easily identifiable location, and maintain this posting for at least six months from the date the regulation is filed with the Secretary of State.
- Requires state agencies, within five days of this posting, to send to the Office of Administrative Law the Web site link of each regulation that the agency posts on its Web site.
- Specifies that these requirements do not apply to a state agency that does not maintain a Web site.
- Provides that unless the effective date is specifically provided, a regulation or an order of repeal shall become effective on a quarterly basis as follows:
 - 1) January 1 if the regulation or order of repeal is filed between September 1 and November 30, inclusive;
 - 2) April 1 if the regulation or order of repeal is filed between December 1 and February 29, inclusive;
 - 3) July 1 if the regulation or order of repeal is filed between March 1 and May 31, inclusive; and
 - 4) October 1 if the regulation or order of repeal is filed between June 1 and August 31, inclusive.
- Requires the Office of Administrative Law to provide on its Web site a list of and a link to the full text of each regulation filed with the Secretary of State for which the effective date is pending.
- Exempts specific regulations adopted by the Fish and Game Commission.

Departmental Mandate(s):

- DTSC's Regulations staff will update the DTSC Rulemaking Manual to reflect the procedural changes, and communicate with program staff the changes as they will affect future rulemaking efforts.
- Send a Web site link to the Office of Administrative Law within five days of posting regulations on DTSC Web site.
- Continue to provide a link to the full text of each DTSC regulation within 15 days of filing with the Secretary of State.