

Legislative Mandates 2019

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



January 2020

**Department of Toxic Substances Control
Meredith Williams, Ph.D.
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 2019–2020 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 (they are so noted in this report) take effect on the date they are chaptered; bills without an urgency clause take effect on January 1, 2020. 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 staff in DTSC's Office of Legislation and Regulatory Review (see below). Suggestions for ways to improve this publication are also welcome.

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INDEX OF BILLS AFFECTING DTSC PROGRAMS BY BILL NUMBER

Bill No.	Author	Description	Chapter Number	Affected Program(s)
AB 142	Garcia, C.	Lead-acid batteries: Lead Acid Battery Recycling Facility Investigation and Cleanup (LABRIC) Program.	860	Site Mitigation
AB 181	Maienschein	Advance payment: cost reimbursement.	797	Site Mitigation
AB 1596	ESTM	Fentanyl or Other Illicit Drug Contaminated Property Posting Act of 2019.	691	HWMP
AB 1597	ESTM	Hazardous waste: transportation: electronic manifests.	133	HWMP; OEIM
SB 317	Caballero	Prohibited chemical toilet additives.	367	SCP; ECL
SB 519	Bradford	Underground storage tanks trust fund; orphan sites.	480	Site Mitigation
SB 552	Archuleta	Hazardous waste: household hazardous waste: door-to-door collection programs.	481	HWMP
SB 647	Mitchell	Metal-containing jewelry threshold limits.	379	HWMP; ECL
SB 726	Caballero	Household hazardous waste: materials exchange programs.	485	HWMP

List of Acronyms and Abbreviations

CUPA	Certified Unified Program Agency
ECL	Environmental Chemistry Laboratory
HWMP	Hazardous Waste Management Program
OEIM	Office of Environmental Information Management
SCP	Safer Consumer Products and Workplaces Program
Site Mitigation	Site Mitigation and Restoration Program
SWRCB	State Water Resources Control Board

SUMMARIES OF BILLS AFFECTING DTSC





AB 142 (Garcia, C.) Chapter 860, Statutes of 2019 – Lead-acid batteries.

AFFECTED PROGRAM(S): Site Mitigation

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

[AB 142 Bill Text](#)

Summary:

Assembly Bill 142 extends the Manufacturer Battery Fee indefinitely, increasing it from \$1 to \$2 on April 1, 2022 and makes other changes to the Lead-Acid Battery Recycling Act (Act) of 2016, including establishing a number of prerequisite requirements for the use of the Lead Acid Battery Cleanup Fund for investigation or site evaluation work.

Specifically, this bill:

- Removes the sunset date of April 1, 2022 from the Manufacturer Battery Fee and instead increases the fee to \$2 per battery after that date.
- Requires DTSC to establish a Lead-Acid Battery Recycling Facility Investigation and Cleanup Program (LABRIC) to identify areas of the state that are eligible for the expenditure of moneys from the Lead-Acid Battery Cleanup Fund (Fund) to pay for certain activities.
- Narrows the definition of “lead-acid battery recycling facility” to exclude any facility designed and operated for the primary purpose of recovering lead from materials other than used lead-acid batteries.
- Limits DTSC’s use of the Fund to only investigate sites reasonably suspected of being contaminated by the operation of a lead-acid battery recycling facility.
- Further limits Fund expenditures to only clean up contamination that DTSC determines with reasonable certainty to have been contaminated by releases from a lead-acid battery recycling facility. The Act confines reasonable certainty to DTSC concluding the contamination in a specific area is directly attributable to releases from the facility.
- Increases administrative requirements for public notification and public comment on sites DTSC proposes to investigate, evaluate, or clean up under the LABRIC program.
- Establishes a time-limit of two years for DTSC to designate a site as a former lead-acid battery recycling facility. DTSC can issue a new notice based on new evidence.
- Authorizes expenditure of moneys from the Fund to repay the \$176.6 million General Fund loan or any other loan provided to DTSC to clean up the Exide remediation site only after specified activities have been fully funded.

Departmental Mandate(s):

- DTSC is required to formally establish the LABRIC Program (DTSC already established the LABRIC Program in the Site Mitigation and Brownfields Reuse Program with resources provided through a Budget Change Proposal in Fiscal Year 2017/2018).
- Charges DTSC's LABRIC Program with identifying areas of the state that are eligible for the expenditure of moneys from the Fund to pay for site investigation and cleanup activities.
- To be authorized to spend Lead-Acid Battery Cleanup Fund money, DTSC is required to demonstrate:
 - The sites to be investigated are reasonably suspected of being contaminated by the operation of a lead-acid battery recycling facility; and
 - The sites to be cleaned up are determined with reasonable certainty to have been contaminated by releases from a lead-acid battery recycling facility.
- DTSC is required to adhere to the following prescribed procedures:
 - For sites to be investigated or evaluated, DTSC is required to:
 - Provide public notice of the initiation of the investigation or site evaluation of any area reasonably suspected to have been contaminated by the operation of a lead-acid battery recycling facility. The public notice is required to include
 - A summary of the information relied on by DTSC
 - Copies of any information or documents in DTSC's possession regarding the facility, if subject to disclosure pursuant to the California Public Records Act
 - Accept comments from the public and review comments or information submitted at any time after publishing the public notice until DTSC completes its investigation.
 - Designate any site that has been public noticed within two years. Failure to designate a site as being contaminated by releases from the operation of a lead-acid battery recycling facility within two years automatically withdraws the public notice and removes DTSC's authorization to spend additional Lead-Acid Battery Cleanup Fund moneys. DTSC can extend the deadline for an additional 30 days. DTSC can issue a new public notice for the same site only if new evidence is presented.
 - Upon completion of an investigation or site evaluation conducted pursuant to subdivision, for DTSC to spend Lead Acid Battery Cleanup Fund moneys on cleaning up a site, the site must be designated as being contaminated by releases from the operation of a lead-acid battery recycling facility. When DTSC proposes to designate a site, DTSC is required to:
 - Provide notice and an opportunity for comment on the proposed designation of a site as being contaminated by releases from the operation of a lead-acid battery recycling facility. The notice and opportunity for comment are to be consistent with procedures included within the Administrative Procedure Act.
 - Establish with reasonable certainty that the contamination is directly attributable to the operation of a lead-acid battery recycling facility based on all reasonably available information, including information provided by the public
 - The proposed designation is to include:

- An explanation of the basis for DTSC's designation.
 - A summary of the evidence DTSC relied on to reach the proposed designation.
 - Any information DTSC discovered or received that might suggest the site was not involved in lead-acid battery recycling or that the contamination was not directly attributable to releases from the lead-acid battery recycling facility.
 - Copies of any information or documents DTSC reviewed or relied on during the investigation and evaluation of the site.
- Accept comments from the public consistent with the procedures included within the Administrative Procedure Act. For any information provided by the public, DTSC is required to investigate and respond to any reasonable information that might suggest the area was not contaminated by the operation of a lead-acid battery recycling facility, or that the facility in question was not involved in the recycling of lead-acid batteries.



AB 181 (Maienschein) Chapter 797, Statutes of 2019 – Hazardous waste: cost reimbursement.

AFFECTED PROGRAM(S): Cleanup

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

[AB 181 Bill Text](#)

Summary:

Assembly Bill 181 exempts federally owned facilities from the 25% advance payment requirement for processing hazardous waste facility permit applications, permit modification requests, and variance requests.

Specifically, this bill:

- Exempts federally owned facilities from the 25% advance payment requirement in reimbursement agreements for processing hazardous waste facility permit applications, permit modification requests, and variance requests.
- Eliminates obsolete provisions from statute.

Departmental Mandate(s):

- Inform DTSC staff (and modify procedures, if necessary) regarding the exemption for facilities owned by the federal government from paying a 25% advance payment as part of their Fee-For-Service agreements negotiated with DTSC for review of permit applications, permit modifications, or variances.



AB 1596 (ESTM) Chapter 691, Statutes of 2019 – Hazardous substances: contaminated property: fentanyl cleanup.

AFFECTED PROGRAM(S): **HWMP**

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Link to Legislation:

[AB 1596 Bill Text](#)

Summary:

Assembly Bill 1596 adds fentanyl to the Methamphetamine Contaminated Property Act of 2005 (Act) to set interim cleanup standards for fentanyl contaminated property.

Specifically, this bill:

- Expands the operative provisions and authorities granted in the Act to also include fentanyl and fentanyl-contaminated sites.
- Establishes an interim cleanup standard for fentanyl.
- Makes the interim standard provisions inoperative on the date a state or federal agency adopts a health-based standard.

Departmental Mandate(s):

- AB 1596 is self-implementing.
- Inform DTSC staff (and modify procedures, if necessary) regarding the new provisions related to illegal fentanyl laboratories.



AB 1597 (ESTM) Chapter 133, Statutes of 2019 – Hazardous waste: transportation: electronic manifests.

AFFECTED PROGRAM(S): **HWMP, OEIM**

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

[AB 1597 Bill Text](#)

Summary:

Assembly Bill 1597 allows hazardous waste shipments to be tracked using the United States Environmental Protection Agency (US EPA) electronic manifest (e-Manifest) system.

Specifically, this bill:

- Makes changes to the Hazardous Waste Control Law to conform the provisions of that law to the federal US EPA regulations implementing the e-Manifest system and would delete obsolete provisions.

Departmental Mandate(s):

- Inform DTSC staff (and modify procedures, if necessary) regarding the new provisions related to manifests.
- Federal law had already pre-empted DTSC's state law requirements
- AB 1597 facilitates DTSC making conforming changes to its regulations.
- After its regulations are modified, DTSC will be able to seek and obtain authorization for the federal manifest requirements.



SB 317 (Caballero) Chapter 367, Statutes of 2019 – Hazardous waste: waste facilities: prohibited chemicals.

AFFECTED PROGRAM(S): SWRCB, SCP

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

[SB 317 Bill Text](#)

Summary:

Senate Bill 317 bans the sale and use of recreational vehicle RV chemical toilet deodorizers containing any of 14 designated biocidal chemicals and makes enforcement of its provisions contingent upon appropriation.

Specifically, this bill:

- Prohibits the sale, distribution, or use of products containing any of 14 designated chemicals for use in a recreation vehicle after January 1, 2021. These chemicals include:
 - bronopol
 - dowicil
 - formalin
 - formaldehyde
 - glutaraldehyde
 - paraformaldehyde
 - para-dichlorobenzene
 - benzene
 - toluene
 - xylene
 - ethylene glycol,
 - 1, 1, 1-trichloroethane
 - trichloroethylene
 - perchloroethylene
- Requires an owner or operator to certify compliance with the requirement to post that notice as part of any waste discharge requirement or as a condition of a waiver of any waste discharge requirement.
- Tasks SWRCB to investigate methods to detect and quantify the prohibited chemicals in septic systems, onside wastewater treatment systems, or subsurface disposal systems.
- Requires the owner or operator of a recreational vehicle park or campground to post signs informing users of the ban.

- Provides that enforcement of these requirements is contingent upon an appropriation by the Legislature for that purpose.

Departmental Mandate(s):

- Inform DTSC staff (and modify procedures, if necessary) regarding the new provisions related to chemical toilet deodorizers.
- SB 317 makes DTSC's enforcement of the new requirements contingent upon DTSC receiving an appropriation of funds by the Legislature. Until funds are appropriated, DTSC is not obligated to enforce the new requirements.



SB 519 (Bradford) Chapter 480, Statutes of 2019 – Hazardous substances: underground storage tanks.

AFFECTED PROGRAM(S): Cleanup

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

[SB 519 Bill Text](#)

Summary:

Senate Bill 519 expands eligibility for grant funds from the State Water Resources Control Board's (SWRCB) Site Cleanup Subaccount Program (SCAP) to water replenishment districts and DTSC.

Specifically, this bill:

- Authorizes funds in the SCAP to additionally pay for reasonable and necessary expenditures incurred by a water replenishment district or DTSC:
 - To identify surface or groundwater contamination sources; or
 - To remediate harm or threat of harm caused by surface or groundwater contamination, as specified.

Departmental Mandate(s):

- Inform DTSC staff (and modify procedures, if necessary) regarding the new provisions related availability of SCAP funds for orphan sites.
 - DTSC has many orphan sites that may be candidates for SCAP grants.
 - To receive SCAP grants for orphan sites, DTSC will need to apply to SWRCB.



SB 552 (Archuleta) Chapter 481, Statutes of 2019 – Hazardous waste: household hazardous waste: door-to-door collection program: residential pickup services.

AFFECTED PROGRAM(S): **HWMP**

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| <input type="checkbox"/> Information Only | <input type="checkbox"/> Report to the Governor/Legislature |

Link to Legislation:

[SB 552 Bill Text](#)

Summary:

Senate Bill 552 indefinitely extends requirements that allow a public agency or its contractor to operate a door-to-door household hazardous waste collection program or a household hazardous waste residential pickup program.

Specifically, this bill:

- Repeal obsolete provisions authorizing a facility operator to submit an electronic report in lieu of a copy of each manifest and requiring a transporter to submit a copy of the manifest to DTSC for shipments to out-of-state receiving facilities.
- Indefinitely extends the operation of the provisions related to door-to-door household hazardous waste collection programs and household hazardous waste residential pickup programs that are in effect only until December 31, 2019.
- Incorporate changes also proposed by SB 726 (Caballero) that are amending some of the same sections of law and include double-joining language.

Departmental Mandate(s):

- SB 552 creates no new requirements. The requirements related to household hazardous waste collection facilities, door-to-door household hazardous waste collection programs or household hazardous waste residential pickup programs will continue to be enforced by the Certified Unified Program Agencies.



SB 647 (Mitchell) Chapter 379, Statutes of 2019 – Hazardous substances: metal-containing jewelry.

AFFECTED PROGRAM(S): **HWMP**

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

[SB 647 Bill Text](#)

Summary:

Senate Bill 647 expands the scope of the Metal-Containing Jewelry Law and makes it more stringent by raising the age threshold for children’s jewelry and lowering lead and cadmium content standards for all jewelry.

Specifically, this bill:

- Revises the definition of “children” to persons under 15 years of age.
- For adult jewelry, reduces the lead limit for electroplated metal, unplated metal, and dye or surface coating to 0.05% (500 ppm) by weight.
- For children’s jewelry, reduces the:
 - Total lead limit to less than 0.01% (100 ppm) by weight.
 - Surface coating lead limit to less than 0.009% (90 ppm) by weight.
 - Surface coating cadmium limit to less than 0.0075% (75 ppm) by weight.
- Requires certifications to include additional detail including, among other things, when and where the jewelry was tested.
- Authorizes DTSC to establish guidance for determining what component parts in children’s jewelry are considered inaccessible.
- Authorizes the use of additional specified test methods to determine compliance with the standards for lead in children’s jewelry, including the American Society for Testing and Materials method F963-11 *Standard Consumer Safety Specifications for Toy Safety*, for testing lead in children’s jewelry.
- Requires laboratories to use the Consumer Product Safety Commission method CPSC-CH-E1004-11 to test for cadmium in surface coating of children’s jewelry.
- Aligns testing procedures with the lower permissible limits of lead and jewelry.
- Makes technical changes to eliminate reference to the class structure for jewelry material and differentiates provisions related to adult and children’s jewelry.
- Makes the effective date of the lower metal limits for adult jewelry June 1, 2020.

Departmental Mandate(s):

- Inform DTSC staff (and modify procedures, if necessary) regarding the new provisions related to the Metal-Containing Jewelry Law requirements, including its allowable limits of lead and cadmium in jewelry.



SB 726 (Caballero) Chapter 485, Statutes of 2019 – Hazardous waste: public agencies: materials exchange program.

AFFECTED PROGRAM(S): **HWMP**

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

[SB 726 Bill Text](#)

Summary:

Senate Bill 726 authorizes the distribution of reusable household products to a broader range of recipients, including commercial entities.

Specifically, this bill:

- Updates the definition of a conditionally exempt small quantity generator to conform to recent changes to federal regulations.
- Defines a “materials exchange program” as a program conducted at any household hazardous waste collection facility that makes reusable household hazardous products and materials available to recipients.
- Enhances and clarifies the contents of quality assurance plans that govern a public agency’s operation of a materials exchange program.
- Expands the definition of “recipient” to include not only those that receive reusable household hazardous products at the location of a household hazardous waste collection facility, but also anyone, including a commercial entity, that accepts the products for use elsewhere and has a known market or disposition for it.
- Clarifies that hazardous waste can be transported by a registered hazardous waste transporter to a household hazardous waste collection facility from any type of solid waste facility or operation, including load check or transfer station programs.
- Creates operating requirements for a public agency to conduct a materials exchange program.
- Incorporates changes also proposed by SB 552 (Archuleta) that are amending some of the same sections of law and include double-joining language.

Departmental Mandate(s):

- The requirements related to household hazardous waste collection facilities and materials exchange programs will continue to be enforced by the Certified Unified Program Agencies.
- Inform DTSC staff (and modify procedures, if necessary) regarding the new provisions related to materials exchange program