

# Legislative Mandates 2009

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



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**November 2009**

**Department of Toxic Substances Control  
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# 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 2009/2010 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, 2010. 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 Legislative and Regulatory Policy (see below). Suggested changes to this publication are also welcome.

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## INDEX OF **BILLS AFFECTING DTSC PROGRAMS BY BILL NUMBER**

<b>Bill No.</b>	<b>Author</b>	<b>Description</b>	<b>Chapter</b>	<b>Affected Program(s)</b>
AB 305	Nava	Hazardous materials: statute of limitations: penalties	Chapter 429	CUPA
AB 805	Fuentes	Automobile dismantlers: license applications	Chapter 475	CUPA
AB 1489	Smyth	Methamphetamine laboratories	Chapter 539	Enforcement
SB 143	Cedillo	California Land Reuse and Revitalization Act of 2004 sunset extension	Chapter 167	Cleanup
SB 546	Lowenthal	Used oil testing and recycling incentives	Chapter 353	Enforcement
SB 757	Pavley	Lead wheel weights	Chapter 614	Enforcement/ P2

**Legend**

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

## **SUMMARIES OF BILLS AFFECTING DTSC**





**AB 305, Chapter 429, Statutes of 2009 (Nava)** – Hazardous materials: statute of limitations: penalties

**AFFECTED PROGRAM(S):**

**DTSC as a 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/09-10/bill/asm/ab\\_0301-0350/ab\\_305\\_bill\\_20091011\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0301-0350/ab_305_bill_20091011_chaptered.pdf)

**Summary:**

AB 305 extends the statute of limitations for violations of Hazardous Material Release Response Plans (business plans) requirements and would authorize the imposition of a jail sentence in addition to a monetary fine for the violation of oil spill prevention reporting requirements.

**Specifically, This Bill:**

- Increases the statute of limitations from one to five years for civil prosecution of violations of the business plan and of risk management and prevention plan requirements.
- Allows punishment of up to one year in a county jail, or both a fine of up to \$50,000 and imprisonment for failing to report or filing a false or misleading report of an oil spill into non-marine waters.
- Makes technical changes to the current statute.
- Does not preclude prosecution or sentencing under other provisions of the law.

**Departmental Mandate(s):**

For information only.



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**AB 805, Chapter 475, Statutes of 2009 (Fuentes) – Automobile dismantlers: license applications**

**AFFECTED PROGRAM(S):** DTSC as a 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/09-10/bill/asm/ab\\_0801-0850/ab\\_805\\_bill\\_20091011\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0801-0850/ab_805_bill_20091011_chaptered.pdf)

**Summary:**

AB 805 requires the Department of Motor Vehicles to make a thorough investigation of all documents contained in automobile dismantlers' licensing applications.

**Specifically, This Bill:**

- Requires DMV to thoroughly investigate all information provided on new applications and, beginning January 1, 2011, on renewal applications, including the information documenting compliance with all permitting and regulatory requirements.

**Departmental Mandate(s):**

For information only.



**AB 1489, Chapter 539, Statutes of 2009 (Smyth) – Methamphetamine laboratories**

**AFFECTED PROGRAM(S):                      Enforcement, 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/09-10/bill/asm/ab\\_1451-1500/ab\\_1489\\_bill\\_20091011\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1451-1500/ab_1489_bill_20091011_chaptered.pdf)

**Summary:**

AB 1489 revises the existing cleanup standard for methamphetamine (meth) that health officers must use when determining if a property is safe for human habitation. The new standard is the 2009 health-based cleanup standard for meth developed collaboratively by DTSC and the Office of Environmental Health Hazard Assessment (OEHHA).

**Specifically, This Bill:**

- Modifies existing law to replace the current cleanup standard for meth of 0.10 micrograms per 100 square centimeters with the new health-based standard of 1.5 micrograms per 100 square centimeters.
- Eliminates the operative provisions of law related to DTSC’s development and adoption of a new meth cleanup standard.
- Establishes that AB 1489 does not prevent DTSC from adopting stricter health-based remediation standards than the specified standard.

**Departmental Mandate(s):**

For information only.



**SB 143, Chapter 167, Statutes of 2009 (Cedillo) – California Land Reuse and Revitalization Act of 2004 sunset extension**

**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/09-10/bill/sen/sb\\_0101-0150/sb\\_143\\_bill\\_20091011\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0101-0150/sb_143_bill_20091011_chaptered.pdf)

**Summary**

SB 143 extends the repeal date for the California Land Reuse and Revitalization Act of 2004 until January 1, 2017. This act provides qualified innocent landowners, bona fide purchasers, or contiguous property owners with immunity from liability for certain hazardous materials response costs or other damages if they clean up the property.

**Specifically, This Bill:**

- Extends the sunset and continues the program until January 1, 2017.
- Authorizes a prospective purchaser to enter into a CLRRRA agreement prior to purchasing the property.
- Prohibits a prospective purchaser who qualifies as a bona fide purchaser from receiving immunity until the site is purchased.

**Departmental Mandate(s):**

- Requires DTSC to provide prospective purchasers the option of entering into a CLRRRA agreement prior to purchasing property.



**SB 546, Chapter 353, Statutes of 2009 (Lowenthal) – Used oil testing and recycling incentives**

**AFFECTED PROGRAM(S):**

**Enforcement**

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/09-10/bill/sen/sb\\_0501-0550/sb\\_546\\_bill\\_20091011\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0501-0550/sb_546_bill_20091011_chaptered.pdf)

**Summary:**

SB 546 makes a number of changes to the used oil management programs in California, including raising the fee paid by lubricating oil manufacturers, increasing the incentive payment for recycling of used oil, authorizing an additional rerefining incentive to facilities that produce rerefined base lubricant, modifying testing requirements on used oil transporters, and establishing certification requirements for out-of-state used oil recycling facilities to receive incentive payments. SB 546 would require the California Integrated Waste Management Board (CIWMB) to contract for a comprehensive life cycle analysis of the used lubricating and industrial oil management process.

**Specifically, This Bill:**

- Increases the charge on oil manufacturers from \$0.04 for every quart or \$0.16 for every gallon of lubricating oil sold or transferred in the state, or imported into the state for use in the state, to \$0.065 and \$0.26 respectively through December 31, 2013; and to \$0.06 and \$0.24 respectively on and after January 1, 2014.
- Defines “rerefined oil” for purposes of determining eligibility for different recycling incentive payments.
- Requires testing of each truckload of used oil before it is shipped to an out-of-state rerefining facility.
- Exempts out-of-state haulers from the above requirement if they can demonstrate that they have entered into an agreement with DTSC that includes a requirement that the facility perform testing and reporting equivalent to that required of in-state facilities.

- Requires out-of-state haulers to report annually to DTSC information on their used oil transport activities for the previous year, and to submit to any audits or testing required by DTSC.
- Modifies CIWMB's certification process to specify procedures regarding used oil recycling facilities operating within California, and those operating outside California that seek incentive payments. Certification of used oil recycling facilities operating inside California would be based on a report from DTSC. Facilities operating outside California would be required to verify that they are in compliance with federal used oil requirements in order to receive certification.
- Modifies CIWMB's certification process to specify procedures regarding used oil recycling facilities that are considered rerefiners. Certification for rerefiners operating inside California, as well as those operating outside the state, would be based on a report from DTSC. Each rerefiner seeking certification from CIWMB would be required to demonstrate the following to DTSC's satisfaction:
  - The facility is in compliance with federal used oil requirements.
  - The facility produces rerefined base lubricant meeting the required specifications.
  - The facility meets California standards for used oil handling, waste classification, and disposal as specified in California law.
- Requires each out-of-state used oil recycling facility seeking incentive payments to enter into a reimbursement agreement to pay DTSC's expenses for conducting facility review and inspection activities to ascertain facilities' compliance with certification requirements.
- Restructures the current grant program by replacing block grants with an advance payment system; cities and counties would receive a single advance payment, following CIWMB approval, rather than multiple reimbursements for program efforts. The current funding formula will be changed, such that each city and/or county would apply annually for funding based on a per capita calculation.
- Allows CIWMB to increase the incentive payment provided that funds are available.
- Addresses used oil filter collection, as this has become increasingly important to program implementation goals as a means of capturing residual oil. It is estimated that approximately 11 ounces of used oil remains in each waste filter, for a combined total of one million gallons of used oil that enters the landfills or the environment each year.
- Requires the CIWMB to contract with a third-party consultant with recognized expertise to perform a comprehensive life cycle analysis of the used lubricating and industrial oil management process, from generation to collection, transportation, and reuse alternatives. The findings and recommendations must be reported to the Legislature by January 1, 2014.
  - Input must be solicited from representatives of all used oil stakeholders in defining the scope and design of the analysis and in conducting the analysis.
  - A draft report must be provided for public review and comment.

- The analysis must address the positive and negative impacts (costs and benefits) of testing requirements, the tiered fee, and the tiered incentive payments on used oil collection rates.

**Departmental Mandate(s):**

- Requires DTSC to collect information annually from out-of-state haulers on the amount of used oil transported in the previous year.
- Requires DTSC to annually inspect or to enter into testing and reporting agreements with out-of-state used oil recycling facilities that seek incentive payments to verify that these facilities meet the requirements for eligibility to receive the incentive payments.
- Requires DTSC to conduct reviews and evaluations as needed to verify that of out-of-state used oil recycling facilities that seek incentive payments meet the eligibility requirements to receive those incentive payments.
- Requires DTSC to provide information to CIWMB that the Department is either satisfied or dissatisfied that an out-of-state used oil recycling facility has substantially met the requirements for certification.



**SB 757, Chapter 614, Statutes of 2009 (Pavley) – Lead wheel weights**

**AFFECTED PROGRAM(S):** Enforcement, P2

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|---|--|
| <input checked="" type="checkbox"/> New Program or Requirements | <input 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/09-10/bill/sen/sb\\_0751-0800/sb\\_757\\_bill\\_20091011\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0751-0800/sb_757_bill_20091011_chaptered.pdf)

**Summary:**

SB 757 prohibits the manufacture, sale, or installation in California of wheel weights that contain more than 0.1% lead. DTSC has been given the responsibility of enforcing the provisions of SB 757.

**Specifically, This Bill:**

- Prohibits a person from manufacturing, installing, or selling in California any wheel weight that contains more than 0.1 percent lead by weight.
- Requires lead alternatives to be addressed through the “safer alternatives” regulations that DTSC is adopting in its implementation of recent Green Chemistry bills, if the alternative has been identified as a chemical of concern.
- Ensures that the bill’s provisions would not restrict or conflict with efforts taken by DTSC in its implementation of the Green Chemistry Initiative.
- Authorizes injunctive relief against any person who violates or threatens to violate its provisions.
- Limits enforcement to administrative or civil penalties, not criminal.
- Authorizes administrative or civil penalties up to \$2,500 per day for each violation.
- Provides a set of instructions to guide the assessment of penalty amounts.

- Requires that collected penalties be placed into the Hazardous Waste Control Account.
- Allows DTSC, upon appropriation by the Legislature, to expend the penalty funds for purposes of implementation and enforcement of SB 757.

**Departmental Mandate(s):**

- Requires DTSC to respond to and investigate instances of non-compliance with the lead wheel weight prohibition.
- Requires DTSC to review lead alternatives through the “safer alternatives” regulations, if an alternative has been identified that is a chemical of concern.