

Legislative Mandates 2005

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



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***Department of Toxic Substances Control
Legislative Office
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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 second half of the 2005/2006 Legislative Session.

Some 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 mandates have more direct requirements, such as mandating DTSC to develop regulations, prepare a report, or establish a new program.

Bills that contain an urgency clause take effect on the date they are chaptered; bills without an urgency clause will take effect on January 1, 2006. 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.

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INDEX OF BILLS AFFECTING DTSC PROGRAMS BY BILL NUMBER



Bill No.	Author	Description	Chapter # & Statute	Affected Program
AB 403	La Malfa	Hazardous materials unified program agency: minor violation business plans: propane	Ch. 388, Stats 2005	HWMP
AB 721	Nunez	Metal plating facilities: pollution prevention fund	Ch. 695, Stats. 2005	HWMP, SPPT
AB 1078	Keene	Contaminated property: methamphetamine	Ch. 570, Stats 2005	SMBRP
AB 1125	Pavley	Rechargeable Battery Recycling Act	Ch. 572, Stats. 2005	HWMP
AB 1342	Cmte on Env Safety & Toxic Materials	Hazardous material	Ch. 577, Stats. 2005	HWMP, SMBRP
AB 1415	Pavley	Hazardous waste: mercury relays and switches	Ch. 578, Stats. 2005	HWMP
SB 471	Escutia	Hazardous materials release: remediation	Ch. 586, Stats. 2005	SMBRP
SB 536	Bowen	Illegal Drug Lab Cleanup Account: methamphetamine.	Ch. 587, Stats. 2005	SMBRP
SB 796	Figueroa	State government operations: accountability	Ch. 686, Stats. 2005	ALL

Legend

SMBRP Site Mitigation and Brownfield Reuse Program
HWMP Hazardous Waste Management Program
SPPT Science, Pollution Prevention, and Technology

SUMMARY OF BILLS AFFECTING DTSC PROGRAMS



AB 403, chapter 388, statutes 2005 (La Malfa) – Hazardous Materials: Unified Program Agency: Minor Violations Business Plans: Propane

RESPONSIBLE PROGRAM(S): HWMP

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Summary

AB 403 deletes the January 1, 2006 sunset date from existing provisions of law that provide Certified Unified Program Agencies (CUPA) the flexibility to treat minor violations in a more streamlined, consistent and reasonable process. It also exempts businesses from business plan requirements for on-premise propane tanks, not to exceed 300 gallons, used solely for heating purposes, unless the administering agency finds and provides notice to the business that the handling of such propane requires the submission of a business plan in response to public health, safety, or environmental concerns.

Specifics

- 1) Deletes the repeal of the definition of the term "minor violation," and the repeal of the provisions requiring the enforcement of minor violations, thereby continuing the effect of those provisions in Health and Safety Code Section 25404 indefinitely; and

- 2) Exempts businesses that handle on-premise storage of propane, not to exceed 300 gallons, used solely for the purpose of providing heat for the premises of that business from preparation and submission of the business plan and hazardous material inventory reporting requirements as specified in Health and Safety Code sections 25503.5 and 25509. The bill enables CUPAs to require the preparation and submission of a business plan if they find and provide notice to businesses that a requirement for the plan or portion thereof is necessary, in response to public health, safety, or environmental concerns.

Departmental Mandate(s)

For informational purposes only.

AB 721, chapter 695, statutes 2005 (Nunez) – Metal Plating Facilities: Pollution Prevention Fund

RESPONSIBLE PROGRAM(S): HWMP, SPPT

New Program or Requirements

Additional Requirements for an Existing Program [*see italicized font under Specifics*]

Information Only

Report to the Governor/Legislature

Summary

AB 721 requires the Business, Transportation and Housing Agency (BTH), in collaboration with the DTSC, the Air Resources Board (ARB), and the State Water Resources Control Board (SWRCB), to develop a loan guarantee program, for chrome plating facilities to assist those facilities to upgrade, replace, or purchase environmental control technologies and requires DTSC to establish a Model Shop Program in northern California, similar to the existing program in Southern California.

The bill sunsets on January 1, 2012.

Specifics

- 1) Defines the following terms for the purposes of the bill: agency, applicant, chrome plating, department, emission reduction, financial company, Financial Development Corporation, Green business program, metal plating facility, Model Shop Program, National Metal Finishing Strategic Goal Program, pollution prevention, sensitive receptor, and water board;
- 2) *Requires BTH to work with DTSC, the ARB, and the SWRCB to develop a loan guarantee program, through its existing relationship with Financial Development Corporations (FDCs) located throughout the State, to assist chrome plating facilities in upgrading, replacing, or purchasing high performance environmental control technologies that will enable that facility to meet new or exceed existing regulatory requirements, or both, and implement additional pollution prevention opportunities;*
- 3) Directs BTH in establishing the loan guarantee program to make every effort to integrate and leverage existing financing mechanisms for this new program, including the Treasurer's California Pollution Control Financing Authority California Capital Access Program (CalCAP) and the California Infrastructure and Economic Development Bank's (I-Bank) Revenue Bond program;
- 4) Requires BTH to make loan guarantee funds available to applicants that meet all of the following eligibility requirements;
- 5) Establishes the terms of the loan guarantee per applicant at one hundred thousand dollars (\$100,000) and that all loan guarantees must be secured by a reserve of at least 25 percent;

- 6) Requires BTH to carry out all of the requirements of this chapter and consult with the California Environmental Protection Agency (CalEPA), local environmental regulatory agencies, and other interested parties, as needed;
- 7) Transfers, on January 1, 2006, all moneys remaining in the Hazardous Waste Reduction Loan Account to the Chrome Plating Pollution Prevention Fund created by this bill, and appropriate funds from that Fund to BTH for expenditure pursuant to this chapter;
- 8) Requires all moneys paid on or after January 1, 2006, to the Hazardous Waste Reduction Loan Account, for a loan issued pursuant to former loan program be transferred to the Chrome Plating Pollution Prevention Fund and establishes that all interest or other increments resulting from the investment of the moneys in the Chrome Plating Pollution Prevention Fund will be deposited in that fund;
- 9) Requires BTH to expend the fund as follows: make loan guarantees; support the new Model Shop Program; and pay for administrative costs associated with the implementation of this bill. No more than five percent of moneys deposited into the fund may be used for administrative purposes;
- 10) *Requires BTH, in collaboration with the ARB, SWRCB, and DTSC, to prepare and adopt criteria and procedures for evaluating applications for loan guarantees. In developing these criteria, BTH must specifically consider proximity of the facility to sensitive receptors and residences;*
- 11) *Directs DTSC to establish a Model Shop Program in Northern California by replicating the existing Chrome Plating Model Shop Pilot Program, which is currently available only to Southern California chrome plating facilities. In selecting participants for inclusion in the Model Shop Program DTSC must consider proximity of the facility to sensitive receptors and residences and coordinate with existing enforcement activities;*
- 12) *Requires that not more than \$200,000 of the funds deposited in the Chrome Plating Pollution Prevention Account to be used for administration and to support the Model Shop Program;*
- 13) Directs BTH, on or before January 1, 2007, and every odd-numbered year thereafter, to prepare a report concerning the performance of the loan guarantee program, including the number and size of loan guarantees made, statewide distribution of applicants, level of participation and performance of each of the FDCs, characteristics of recipients, and the amount of money spent on administering the program. The report must be posted on BTH's Internet Web site and notification provided to the appropriate fiscal and policy committees of the Legislature and, upon request, to individual Members of the Legislature;
- 14) *Directs DTSC to provide, (as a supplement to the biennial report mentioned in #13 above), an evaluation of the Model Shop Program including recommendations for its improvement and expansion as well as coordination with existing enforcement activities;*

- 15) *Authorizes BTH, in collaboration with the ARB, SWRCB and DTSC, to adopt regulations to implement this bill. Provides that BTH may adopt emergency regulations to implement the loan guarantee program and the Model Shop Program;*
- 16) Sunsets the provisions of the bill on January 1, 2012, but provides that repeal does not terminate any of the rights, obligations, or authorities, for repayment of loans, outstanding as of January 1, 2012, due and payable to BTH or resolution of any cost recovery action; and
- 17) Requires all unencumbered moneys in the Chrome Plating Pollution Prevention Fund on January 1, 2012, to be transferred to the General Fund.

Departmental Mandate(s)

AB 721 requires BTH to work with DTSC, the ARB, and the SWRCB to develop a loan guarantee program to assist chrome plating facilities in upgrading, replacing, or purchasing high performance environmental control technologies that will enable that facility to meet new, or exceed existing, regulatory requirements, or both, and implement additional pollution prevention opportunities. It also requires BTH, in collaboration with the ARB, SWRCB, and DTSC, to prepare and adopt criteria and procedures for evaluating applications for loan guarantees.

DTSC is required to establish a Model Shop Program in Northern California by replicating the existing Chrome Plating Model Shop Pilot Program, which is currently available only to Southern California chrome plating facilities. In selecting participants for inclusion in the Model Shop Program, DTSC must consider proximity of the facility to sensitive receptors and residences and coordinate with existing enforcement activities. The bill requires that not more than \$200,000 of the funds deposited in the Chrome Plating Pollution Prevention Account can be used for administration of the bill, including support for the Model Shop Program.

DTSC is also required to provide, as a supplement to the biennial report required of BTH, an evaluation of the Model Shop Program including recommendations for its improvement and expansion as well as coordination with existing enforcement activities. BTH is also authorized, in collaboration with the ARB, SWRCB and DTSC, to adopt regulations to implement this bill, including regulations to implement the model shop program. Therefore, DTSC may assist in the rulemaking process.

AB 1078, chapter 570, statutes 2005 (Keene) – Contaminated Property: Methamphetamine

RESPONSIBLE PROGRAM(S): SMBRP

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Summary

AB 1078 enacts the Methamphetamine (meth) Contaminated Property Cleanup Act of 2005 and establishes interim remediation standards for meth, mercury and lead (the later two only when used in the making of meth). The standards would become inoperative when the DTSC, with guidance from the Office of Environmental Health Hazard Assessment (OEHHA), adopts a health-based target remediation standard for meth. The bill also establishes a remediation management program for local governments to use in cleaning up properties contaminated by the illegal manufacturing of meth. The bill is double joined with SB 536 (Bowen).

Specifics

- 1) Enacts the Methamphetamine Contaminated Property Cleanup Act of 2005 and codifies the State of Washington's cleanup standards for meth, lead, and mercury as the interim standards to be utilized in California only until the time that DTSC and OEHHA, adopt health-based target remediation standards to determine when a property contaminated by meth lab activity is safe for human occupancy;
- 2) Requires a local health officer to take specified actions after receiving notification from a law enforcement agency of potential contamination of property by a meth laboratory activity; and, allows the local health officer to delegate all or a portion of specified duties to a designated local agency;
- 3) Directs a local health officer, after conducting an inspection, to issue an order prohibiting the use or occupancy and to post the order on the property;
- 4) Requires a property owner who receives an order that property owned by that person is contaminated by a methamphetamine laboratory activity, or a property owner who owns property that is the subject of an order, to take specified actions, including vacating occupants and retaining a meth laboratory site remediation firm that meets certain requirements as an authorized contractor;
- 5) Directs the property owner or the property owner's authorized contractor to submit a preliminary site assessment (PSA) work plan to the local health officer for review. The local health officer must inform the property owner or contractor in writing of any deficiencies in the PSA work plan;
- 6) Requires the property owner or authorized contractor to prepare and submit a PSA report to the local health officer after the completion of the preliminary site assessment and would require the property owner to complete remediation no later than 90 days after the date that the property owner receives the order, or no

later than 95 days after the date of posting the order on the property, whichever date is later, except as extended by the local health officer;

- 7) Requires a local health officer to issue a no further action (NFA) determination if the local health officer determines that remediation is not required at a property, based on the PSA report, or, if the site has been remediated;
- 8) Requires a property owner who has not received a NFA determination to notify prospective buyers and tenants;
- 9) Authorizes a city, county, or city and county to either remediate property that is not remediated in compliance with an order issued pursuant to the act, or seek a court order to require the property owner to remediate the property. The local government may also remediate property for which the local health officer is unable to locate the property owner. The bill would require a property owner to be liable for, and pay the city or county, for costs related to the remediation, if a local government elects to remediate the contaminated property;
- 10) Authorizes a local government to impose a nuisance abatement lien if the property owner fails to pay for the costs of remediation;
- 11) Directs a local health officer to establish a written plan outlining the procedures to be followed for conducting remediation to property for the purposes of the act, including the preparation of a PSA work plan, the conduct of a preliminary site assessment to determine the extent and level of contamination in accordance with that PSA work plan, and the preparation of a PSA report containing the results of the preliminary site assessment and recommended remedial actions;
- 12) Authorizes the imposition of a civil penalty upon a property owner who does not provide notice or disclosure required by the act, or upon a person who violates an order issued by the local health officer prohibiting the use or occupancy of a property contaminated by a methamphetamine laboratory activity. The property owner is also liable for the costs for testing, remediating, and administering enforcement and oversight upon a property owner who receives an order;
- 13) Requires DTSC to conduct two public workshops, one in Northern California and one in Southern California, for the purpose of discussing with affected stakeholders the actions needed to further implement the goals of the bill; and
- 14) The bill is double joined with SB 536.

Departmental Mandate(s)

AB 1078 requires DTSC to conduct two public workshops, one in northern California and one in southern California, for the purpose of discussing with affected stakeholders the actions needed to further implement the goals of the bill.

Note that DTSC as a CUPA is exempt from the local mandates of this bill.

AB 1125, chapter 572, statutes 2005 (Pavley) – Rechargeable Battery Recycling Act

RESPONSIBLE PROGRAM(S): HWMP

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Summary

AB 1125 enacts the Rechargeable Battery Recycling Act of 2006 and requires, on and after July 1, 2006, a retailer of rechargeable batteries sold in California to have a system in place for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal with specified elements, including the take-back at no cost to the consumer of a used rechargeable battery. The bill prohibits the sale of a rechargeable battery to a consumer in California after July 1, 2006, unless the retailer of that battery complies with the act, and requires the DTSC, by July 1, 2007, and each July 1 thereafter, to survey battery handling or recycling facilities and to post on its Internet Web site the estimated amount by weight of each type of rechargeable batteries returned for recycling in California during the previous calendar year.

Specifics

- 1) Establishes the effective date of the bill as July 1, 2006. On and after that date every retailer must have in place a system for the acceptance and collection of used rechargeable batteries for reuse, recycling, or proper disposal;
- 2) Defines “retailer” as a person who makes a retail sale of a rechargeable battery to a consumer in California including a manufacturer of a rechargeable battery who sells that battery directly to a consumer. The definition of “retailer” excludes persons who sell primarily food and are listed in the Progressive Marketing Grocer’s Guidebook. In addition, retailer does not include a person who has less than one million dollars (\$1,000,000) annually in gross sales. Finally, a retailer is not subject to the requirements of the bill for the sale of rechargeable batteries that are contained in or packaged with a battery-operated device;
- 3) Defines “rechargeable battery” as a small, non-vehicular, rechargeable nickel-cadmium, nickel metal hydride, lithium ion, or sealed lead-acid battery, or a battery pack containing such types of batteries;
- 4) Provides that if the retailer sells a rechargeable battery through a catalog order, telephone order, or other methods that does not involve in-store sales, the retailer would be deemed in compliance with the bill if the retailer provides a reasonable notice either at the time of purchase or delivery to the consumer of an opportunity to return used recyclable batteries at no cost for reuse, recycling, or proper disposal. Further, the bill stipulates that the opportunity to return the rechargeable batteries would be either through the retailer’s take-back program or through participation with the Rechargeable Battery Recycling Corporation or similar take-back and recycling program;

- 5) Requires the notice stipulated above to include informational materials, including, but not limited to, Internet Web site links or a telephone number, placed on the invoice or purchase order, or packaged with the battery, that provide consumers access to obtain more information about the opportunities and locations for no-cost battery recycling;
- 6) Provides that an individual retailer location actively participating in the Rechargeable Battery Recycling Coalition's battery take-back and recycling program and that has implemented one or more of the public education components required under the bill, would be deemed in compliance with the bill;
- 7) Provides that if a retailer is participating in an existing battery recycling system that includes rechargeable batteries, in addition to any other type of batteries, and the system otherwise complies with the requirements of the bill, the retailer may continue to participate in that existing system and is not required to participate in a system that only includes rechargeable batteries;
- 8) Requires DTSC on or before July 1, 2007 and each July 1 thereafter, to survey battery handling or battery recycling facilities, or both. The survey would be a representative sample of facilities, as determined by DTSC; and
- 9) Requires DTSC to post on its Internet Web site the estimated amount, by weight, of rechargeable batteries returned for recycling in California during the previous calendar year.

Departmental Mandate(s)

The bill requires DTSC on or before July 1, 2007 and each July 1 thereafter, to survey battery handling and/or battery recycling facilities. The bill affords DTSC the flexibility to determine that the survey has a representative sample of facilities. In addition, DTSC is required to post on its Internet Web site the estimated amount, by weight, of rechargeable batteries returned for recycling in California during the previous calendar year.

AB 1342, chapter 577, statutes 2005 (Cmte. On Env. Safety & Toxic Materials) – Hazardous Materials

RESPONSIBLE PROGRAM(S): HWMP, SMBRP

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Summary

AB 1342 amends State law governing hazardous waste facility permitting requirements, which are administered by the DTSC to allow the owner or operator of a facility to make certain Class I permit modifications for minor equipment replacements or upgrades without providing *prior* notice to DTSC. The bill also requires DTSC to seek a determination from the United States Environmental Protection Agency (EPA) as to the regulatory status of facilities that store for more than ten days railcars that contain a residual heel of hazardous waste and extend until January 1, 2009, the authorization for DTSC to impose post-closure plan requirements through an enforcement order or an enforceable agreement in lieu of a post-closure permit.

In addition, AB 1342 modifies the definition of an “owner” as it relates to hazardous substance release sites to expand the site cleanup cost recovery liability exemption provided by the Health and Safety Code for owners of single-family residential properties to include owners who occupy one-half of a duplex.

Specifics

- 1) Would allow the owner or operator of a facility that has a standardized hazardous waste facilities permit to make certain changes to structures and equipment at the facility without modifying the facility’s hazardous waste permit;
- 2) Would allow the owner or operator of a facility that has a hazardous waste facilities permit or standardized hazardous waste facilities permit to make certain Class 1 permit modifications for equipment repair or upgrade without prior notification to DTSC, upon complying with specified conditions;
- 3) Authorizes DTSC to seek a determination from the EPA as to conditions under which the department may authorize a storage facility that is authorized to handle non-Resource Conservation and Recovery Act (RCRA) hazardous waste to store railcars holding a residual heel from prior loads of RCRA hazardous waste without obtaining a RCRA-equivalent hazardous waste facility permit;
- 4) Require DTSC, upon receiving a written determination from EPA, to take necessary administrative actions to authorize the activity mentioned in #3 above;
- 5) Would extend until January 1, 2009, the authorization for DTSC to impose postclosure plan requirements through an enforcement order or an enforceable agreement and would make conforming changes.
- 6) Would additionally include within the definition of “owner”, the owner of property, as defined, who occupies one-half of a duplex constructed on the property;

- 7) Would provide that no reimbursement is required by this act for a specified reason for costs mandated by the State.

Departmental Mandate(s)

The bill requires DTSC to seek a determination from the United States Environmental Protection Agency (USEPA) as to the regulatory status of facilities that store for more than ten days railcars that contain a residual heel of hazardous waste and upon receiving a written determination from the EPA, take necessary administrative actions to authorize the activity. The bill also extends until January 1, 2009, the authorization for DTSC to impose post-closure plan requirements through an enforcement order or an enforceable agreement in lieu of a post-closure.

AB 1415, chapter 578, statutes 2005 (Pavley) – Hazardous Waste: Mercury Relays and Switches

RESPONSIBLE PROGRAM(S): HWMP

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Summary

AB 1415 prohibits the sale and distribution in California of certain mercury-added measuring devices and medical equipment, and mercury-added switches and relays (individually or as product components), effective July 1, 2006. The bill applies only to new and refurbished products, and provides various self-implementing conditioned exemptions from this ban for each of the affected product types. Additionally, the bill provides a process by which a manufacturer could obtain an exemption from the mercury switch/relay ban if specified conditions are met and the manufacturer or a trade group submits an exemption request meeting specified content requirements to the DTSC.

Specifics

- 1) Defines the following terms for purposes of the bill's provisions:
 - a) *Mercury-added product*: Any product or device that contains mercury;
 - b) *Mercury relay*: A mercury-added product or device that opens or closes electrical contacts to affect the operation of other devices in the same or another electrical circuit. "Mercury relay" includes, but is not limited to, mercury displacement relays, mercury wetted reed relays, and mercury contact relays; and
 - c) *Mercury switch*: A mercury-added product or device that opens or closes an electrical circuit or gas valve. A mercury switch includes, but is not limited, to mercury float switches actuated by rising or falling liquid levels, mercury tilt switches actuated by a change in the switch position, mercury pressure switches actuated by a change in pressure, mercury temperature switches actuated by a change in temperature, and mercury flame sensors. A mercury switch does not include a mercury-added thermostat or a mercury diostat. (Mercury-added thermostats are already covered by a sales ban in existing law.)
 - d) *Mercury diostat*: A mercury switch that controls a gas valve in an oven or oven portion of a gas range;
- 2) Prohibits, effective July 1, 2006, the sale, offering for sale, or distribution for promotional purposes in California of any of the following new or refurbished mercury-added products: esophageal dilator, bougie tube, gastrointestinal tube, barometer, flow meter, hydrometer, psychrometer, manometer, pyrometer, sphygmomanometer, thermometer. This ban will not apply if: the use of the product is required under federal law or federal contract specification; or the only mercury-added component in the product is a button cell battery;

- 3) Prohibits, effective January 1, 2008, the sale, offering for sale, or distribution for promotional purposes in California of a mercury diostat or a new or refurbished oven or gas range containing a mercury diostat;
- 4) Prohibits the sale and distribution in California of new and refurbished mercury switches (other than diostats) and relays, individually or as product components, effective July 1, 2006, unless one of the following applies:
 - a) The switch or relay is used to replace a switch or relay that is a component in a larger product in use prior to July 1, 2006, and either the larger product is used in manufacturing or the switch or relay is integrated in and not physically separate from other components of the larger product.
 - b) The use of the switch or relay is required under federal law or federal contract specification.
 - c) The switch or relay contains less than one milligram (mg) of mercury, and the manufacturer of the switch or relay notifies DTSC, every three years, of its plans to operate under this exemption. The notification must be signed and dated, and include the name of the manufacturer, information about the person who is the manufacturer's contact concerning the exemption, and an identification and description of the switch or relay to which the exemption applies. The notification must also include a statement that the manufacturer certifies all of the following:
 - i) The switch or relay is hermetically sealed by the manufacturer.
 - ii) The switch or relay is intended for industrial use in test and measurement instruments or in systems for monitoring and control applications.
 - iii) There is no substantially equivalent non-mercury alternative technology for the intended use of the switch or relay, considering all aspects of electrical performance, size, power consumption, product life, and cost.
 - iv) The manufacturer, individually, or in conjunction with an industry or trade group, has developed and implemented an ongoing program for the proper end-of-life collection, transportation, and management of exempted mercury switches or relays sold in this State, including the removal of the switch or relay from the product in which it is contained. The program must include a consumer information component concerning available collection opportunities and the legal requirements for management of the mercury switch or relay once they become a waste.
 - v) The manufacturer recognizes that the exemption becomes null and void if the manufacturer fails to submit a new exemption notification every three years, or if any of the conditions specified for the exemption are no longer satisfied.
 - d) The switch or relay is contained in a refurbished imaging and therapy system utilized for medical diagnostic purposes, and the manufacturer of the switch or relay notifies DTSC of its plans to operate under this exemption. The notification must be signed and dated, and include the name of the manufacturer, information about the person who is the manufacturer's contact

concerning the exemption, and an identification and description of the imaging and therapy system to which the exemption applies. The notification must also include a statement that the manufacturer certifies all of the following:

- i) The switch or relay is integrated in, and not physically separate from, other components of the larger product.
 - ii) The larger product was initially manufactured prior to July 1, 2006.
 - iii) The manufacturer, individually, or in conjunction with an industry or trade group, has developed and implemented an ongoing program for the proper end-of-life collection, transportation, and management of mercury switches or relays contained in exempted imaging and therapy systems sold in this State, including the removal of the switch or relay from the product in which it is contained. The program must include a consumer information component concerning available collection opportunities and the legal requirements for management of the mercury switch or relay, and the products that contain the switch or relay, once they become a waste.
 - iv) The manufacturer recognizes that the exemption becomes null and void if any of the conditions specified for the exemption are no longer satisfied;
- 5) In addition to the exemptions described above, the bill exempts from the ban a product containing a mercury switch or relay, if the manufacturer of the product, or a trade group representing the manufacturer, has obtained an exemption from DTSC. The manufacturer may request an exemption for all or only limited uses of the product. An exemption granted by DTSC will apply to the sale (to the product manufacturer) of the mercury switch or relay to be contained in the product covered by the exemption.

The bill requires DTSC to grant or renew an exemption for a period of three years only if all of the following conditions are met:

- a) The product exemption request submitted by the manufacturer, or a trade group, specifies the use or uses of the product for which an exemption is requested and includes specified supporting information. A manufacturer or trade group may submit a request only for a product and use for which there is no technical feasible alternative, available at a reasonable cost, to the use of the mercury switch or mercury relay in the product for purposes of that use.
- b) The supporting information submitted by the manufacturer or trade group demonstrates that the product is eligible for the exemption.
- c) The manufacturer or trade group requesting the exemption enters into, and fulfills, an agreement to reimburse DTSC for all costs incurred in processing and responding to the exemption request.

The bill requires the following supporting information to be submitted with each exemption request:

- a) The name of the manufacturer, or the trade group and the manufacturers represented by the trade group, information about a contact person for all matters concerning the exemption.

- b) An identification and description of the product, and the use or uses of the product, for which the exemption is requested.
 - c) An identification and description of the switch or relay, including identification of the manufacturer of the switch or relay, and an explanation of the need for, and functioning of, the switch or relay in the product.
 - d) For each use for which an exemption is requested, information that demonstrates that there is no technically feasible alternative, available at a reasonable cost, to the use of the mercury switch or relay in the product for purposes of that use. This must include, but is not limited to, a description of past, current, and planned future efforts to seek or develop those alternatives, and a description of all alternatives that have been considered and an explanation of the technical or economic reasons as to why each alternative is not satisfactory.
 - e) Information that fully and clearly demonstrates that the switch or relay or the product is constructed so as to prevent the release of mercury to the environment.
 - f) A plan for the proper collection, transportation, and management of the product at the end of its useful life, including removal and proper management of the mercury switch or relay contained in the product, and information demonstrating that the manufacturer, individually, or in conjunction with an industry or trade group, is committed to and capable of implementing the plan. The plan must include an education and outreach component covering available collection opportunities and legal requirements for management of the product once it becomes a waste. An exemption would become null and void if the plan is not implemented within six months of the effective date of the exemption.
 - g) A copy of all similar exemption requests, including supporting documentation, submitted by the applicant to another state, and a copy of that state's response to the exemption request;
- 6) Requires DTSC to treat as confidential any information submitted in support of an exemption request that meets the definition of a trade secret (as defined in existing law) and that is identified as a trade secret by the manufacturer or trade group at the time the information is submitted to DTSC;
 - 7) Requires DTSC to grant or deny an exemption request no later than 180 calendar days after receiving the exemption request and all information determined by DTSC to be necessary to determine if all of the conditions specified in the bill are met. An exemption would not be deemed to be granted if DTSC fails to grant or deny the exemption request within the 180-day time limit. The applicant and DTSC may mutually agree to an extension of the time limit.

Departmental Mandate(s)

AB 1415 exempts from the mercury switch/relay ban a product containing a mercury switch or relay, if the manufacturer of the product, or a trade group representing the manufacturer, has obtained an exemption from DTSC. The manufacturer may request an exemption for all or only limited uses of the product. An exemption granted by DTSC will apply to the sale (to the product manufacturer) of the mercury switch or relay to be contained in the product covered by the exemption. DTSC is required to grant or renew

an exemption for a period of three years only if specified conditions are met. The manufacturer or trade group is required to enter into a reimbursement agreement with DTSC when requesting an exemption.

DTSC is required to treat as confidential any information submitted in support of an exemption request that meets the definition of a trade secret (as defined in existing law) and that is identified as a trade secret by the manufacturer or trade group at the time the information is submitted to DTSC.

DTSC is also required to grant or deny an exemption request no later than 180 calendar days after receiving the exemption request and all information determined by DTSC to be necessary to determine if all of the conditions specified in the bill are met. An exemption would not be deemed to be granted if DTSC fails to grant or deny the exemption request within the 180-day time limit. The applicant and DTSC may mutually agree to an extension of the time limit.

DTSC will enforce the law through inspections, record reviews, and enforcement authority that could result in civil penalties.

SB 471, chapter 586, statutes 2005 (Escutia) – Hazardous Materials Release: Remediation

RESPONSIBLE PROGRAM(S): SMBRP

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Summary

SB 471 deletes language in the California Land Environmental Restoration and Reuse Act of 2001 (CLERRA, aka SB 32) excluding from the definition of “property,” a site which has one or more full-time equivalent employees on an annualized basis. Therefore, such a site would qualify as “property” for the purposes of obtaining the liability protections afforded by CLERRA.

Specifics

CLERRA defines the term "property" as meaning real property, but excludes from that definition, a site that has one or more full-time equivalent employees on an annualized basis. The bill deletes that exclusion from the definition of property.

Departmental Mandate(s)

For informational purposes only.

SB 536, chapter 587, statutes 2005 (Bowen) – Illegal Drug Lab Cleanup Account: Methamphetamine

RESPONSIBLE PROGRAM(S): SMBRP

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Summary

With funding from the Illegal Drug Lab Cleanup Account (IDLCA), SB 536 directs the DTSC, with guidance from the OEHHA, to develop a health-based remediation standard for methamphetamine (meth) by October 1, 2007, develop sampling and analytical methods for the collection of meth residue, and develop investigation and cleanup procedures for use in the remediation of meth by October 1, 2009. Also, to the extent funds are available; the bill directs DTSC, with guidance from OEHHA, to develop health-based standards for iodine, methyl iodide, and phosphine by October 1, 2008. This bill is double joined with Assembly Bill 1078 (Keene, Liu).

Specifics

- 1) Directs DTSC to develop sampling and analytical methods for the collection of meth residue;
- 2) Requires DTSC, by October 1, 2007, using guidance developed by OEHHA, to develop a health-based target remediation standard for meth;
- 3) Directs DTSC, by October 1, 2008 and to the extent that funding is available, to develop health-based target remediation standards for iodine (a meth precursor), methyl iodide, and phosphine (meth by-products);
- 4) Authorizes DTSC, using guidance developed by OEHHA and to the extent funding allows, to develop additional health-based target remediation standards for other meth precursors and by-products;
- 5) Requires DTSC, by October 1, 2009, to adopt investigation and cleanup procedures for use in the remediation of sites contaminated by the illegal manufacturing of meth. These procedures must assure that contamination by the illegal manufacturing of meth can be remediated to meet the target remediation standards described in 2) and 3) above to protect the health and safety of all future occupants of those site;
- 6) Authorizes DTSC to use funds in the IDLCA for the purposes implementing the provisions of 1) through 5); and
- 7) Provides that this act shall only become operative if AB 1078 (Keene and Liu) of the 2005-2006 Regular Session is enacted and becomes effective on or before January 1, 2006.

Departmental Mandate(s)

DTSC must develop sampling and analytical methods for the collection of meth residue by October 1, 2007, and develop a health-based target remediation standard for meth using guidance developed by OEHHA. DTSC is also authorized to develop additional health-based target remediation standards for other meth precursors and by-products using guidance developed by OEHHA and to the extent that there is funding.

DTSC is directed to develop, by October 1, 2008 and to the extent that funding is available, health-based target remediation standards for iodine (a meth precursor), methyl iodide, and phosphine (meth by-products);

By October 1, 2009, DTSC must adopt investigation and cleanup procedures for use in the remediation of sites contaminated by the illegal manufacturing of meth. These procedures must assure that contamination by the illegal manufacturing of meth can be remediated to meet the target remediation standards that are to be developed.

DTSC is authorized to use funds in the IDLCA for the purposes implementing the provisions of 1 through 5 above.

SB 796, chapter 686, statutes 2005 (Figueroa) – State Government Operations: Accountability

RESPONSIBLE PROGRAM(S): ALL

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Summary

SB 796 requires every State agency that issues permits or licenses or accepts applications, proposals, bids, or similar requests, to post on a Web site, no later than January 1, 2007, "customer service" links that contain specified information for frequently asked questions, forms and applications, and instructions for filing complaints in electronic format via the Internet and that applicable bulletins and notices required pursuant to the Administrative Procedure Act (APA) and the Bagley-Keene Open Meeting Act and notices of all public meetings and agendas be posted on the respective government Web sites of these State agencies no later than January 1, 2007. The bill also requires, to the extent practicable, that hearings on proposed regulations be televised over the Internet via a Web cast or other technology.

The bill sunsets on January 1, 2012.

Specifics

- 1) Every State Agency that issues permits or licenses or accepts applications, proposals, bids, or similar requests shall post on a Web site, no later than January 1, 2007, "customer service" links to the following information:
 - a) A link entitled "frequently asked questions" that answers questions about how to obtain a permit or license or have an application granted and how to appeal the denial of a permit, license, or application;
 - b) A link for forms and applications and appeal-related documents that are available in a format that allows them to be downloaded and printed from the State agency's Web site; and
 - c) A link with instructions on how individuals may file complaints, including via electronic means, related to issues under the jurisdiction of the State agency;
- 2) Every State agency, to post on its homepage of its Web site, no later than January 1, 2007, a link entitled "Decisions Pending and Opportunities for Public Participation" where the link contains all of the following information:
 - a) All applicable bulletins and notices required pursuant to the bill;
 - b) Notices of all public meetings and agendas related to regulatory actions, including, but not limited to, consistency determinations, adoption of agreements, disciplinary proceedings, permit, license, or application

approvals or renewals, rate-setting, and proposed plans related to land or resource uses. This information must be posted in compliance with the APA, the Bagley-Keene Open Meeting Act, or other applicable provisions of law, but no later than 15 days before the meeting where the regulatory action is on the agenda;

- c) Instructions on how the public may submit written comments or otherwise participate in administrative procedures, meetings, and hearings with a link entitled "How to Participate;"
 - d) A link to the text of all regulations and statutes related to current bulletins and notices entitled "Laws and Regulations Relevant to Current Public Proceedings." This requirement could be met by a link to another Web site containing the proposed regulation or statute; and
 - e) A link that provides an opportunity for the public to comment on draft regulations through electronic mail or by facsimile entitled "Submit Your Comments on Draft Regulations Here.";
- 3) Every State agency, to the extent practicable using existing resources, televise via Web cast, hearings on proposed regulations.
- 4) Allows the discretion of a State governmental entity to do either of the following:
- a) Post on its Web site or the Internet information in addition to what is required to be disclosed by this bill; and
 - b) Post accurate, useful, and explanatory plain language information.
- 5) Sunsets the above provisions on January 1, 2012, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

Departmental Mandate(s)

DTSC is required to have links on its Department website to "Frequently Asked Questions", forms and applications and appeal-related documents, and instructions on how individuals may file complaints. A link is also required to "Decisions Pending and Opportunities for Public Participation" which is to include all applicable bulletins and notices and notices of all public meetings and agendas related to regulatory actions.

A link entitled "How to Participate" is also required that will give instructions on how the public may submit written comments or otherwise participate in administrative procedures, meetings, and hearings. Text of all regulations and statutes related to current bulletins and notices is to be made available through a link to "Laws and Regulations Relevant to Current Public Proceedings". A link entitled, "Submit Your Comments on Draft Regulations Here", which provides an opportunity for the public to comment on draft regulations through electronic mail or by facsimile is also required.

DTSC is also required to the extent practicable and using existing resources, to televise via Web cast, hearings on proposed regulations.

Note: DTSC currently complies with some of these requirements.