

Legislative Mandates 2013

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



October 2013

**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 2013–2014 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, 2014. 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 Legislation (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 Number	Affected Program(s)
AB 324	Bloom	Glass beads	230	HWMP, ECL
AB 440	Gatto	Hazardous materials: releases: local agency cleanup	588	Cleanup
AB 501	Nazarian	Brake pads	392	HWMP, SCP&W, ECL
AB 1329	V. Manuel Perez	Hazardous waste	598	HWMP
SB 4	Pavley	Oil and gas: well stimulation	313	HWMP
SB 429	Hernandez	San Gabriel Basin Water Quality Authority Act	214	Cleanup
SB 483	Jackson	Hazardous materials: business and area plans	419	CUPA

Legend

Admin	Administrative Services
OEIM	Office of Environmental Information Management
Cleanup	Brownfields and Environmental Restoration Program
CUPA	Certified Unified Program Agency
HWMP	Hazardous Waste Management Program
ECL	Environmental Chemistry Lab
Legal	Office of Legal Affairs
SCP&W	Safer Consumer Products and Workplaces Program

SUMMARIES OF BILLS AFFECTING DTSC





AB 324 (Bloom) Chapter 230, Statutes of 2013 – Glass beads: lead and arsenic

AFFECTED PROGRAM(S): HWMP, ECL

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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 checked="" type="checkbox"/> Report to the Governor/Legislature |

Link to Legislation:

http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0301-0350/ab_324_bill_20130906_chaptered.htm

Summary:

Assembly Bill (AB) 324 extends the sunset date, from January 1, 2015 to January 1, 2020, of the statute that prohibits the sale and manufacture of glass blasting beads in California, if the beads contain lead or arsenic above specified limits. In addition, AB 324 revises the testing methodology for determining the content of arsenic or lead in glass beads, and authorizes the Department of Toxic Substances Control (DTSC) to require any person who manufactures, sells, or offers for sale glass beads to provide to the Department specified information relating to documentation and information about the manufacturer or supplier of those glass beads.

Specifically, this bill:

- Extends the sunset date for prohibiting the sale and manufacture of glass blasting beads in California, if the beads contain lead or arsenic above specified limits, from January 1, 2015 to January 1, 2020.
- Revises the laboratory test methods for determining the content of arsenic or lead in glass beads.
- Gives DTSC additional enforcement authority to collect information and samples from manufacturers and sellers of glass blasting beads.

Departmental Mandate(s):

- Any person who manufactures, sells, or offers for sale glass beads is required to provide DTSC with specified information about the those glass beads.
- DTSC shall, no later than January 1, 2019, prepare an evaluation of available existing research and data to determine whether the standard of 75 ppm or more of arsenic, or 100 ppm or more of lead, is an appropriate and protective standard. DTSC shall submit its findings to the Legislature. If DTSC determines that not enough data exists to complete this evaluation, DTSC shall notify the Legislature and recommend a process for conducting the evaluation.



AB 440 (Gatto) Chapter 588, Statutes of 2013 – Hazardous materials: releases: local agency cleanup

AFFECTED PROGRAM(S): **Cleanup**

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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://leginfo.ca.gov/pub/13-14/bill/asm/ab_0401-0450/ab_440_bill_20131005_chaptered.htm

Summary:

AB 440 authorizes a local agency (a county, city, or housing authority) to take any action, similar to that under the Polanco Redevelopment Act, to remedy or remove a release of hazardous materials on or under a “blighted property” within a “blighted area”. The bill outlines notification, designation, and public participation requirements for these actions. The bill also distinctly outlines a process for the resolution of disputes regarding property already under voluntary cleanup agreements overseen by DTSC or the State Water Resources Control Board (Water Board). The bill immunizes the local agency that remedies or removes a hazardous material release from liability under specified state laws, if the action is in accordance with an approved cleanup plan.

Specifically, this bill:

- Allows counties, cities, or housing authorities to clean up a property that the local agency has found to be within a blighted area, if there is no responsible party for the property, the responsible party fails to agree within 60 days of request to clean up the property, or fails to follow through in an appropriate and timely manner. The local agency must submit a cleanup plan to DTSC or the Water Board for approval.
- Provides immunity from further liability for the hazardous material release that was the subject of the cleanup to the local agency, any person who enters into an agreement with the local agency to develop the property, any person who subsequently acquires the property, any persons who financed the redevelopment activities, and any parties responsible for the toxic material release prior to, or not included in, a cleanup agreement.
- Authorizes local agencies to recover cleanup costs from the responsible party or parties for the property. The local agencies have to reimburse DTSC or the Regional Water Quality Control Board for the costs incurred in reviewing or approving cleanup plans submitted by a local agency.
- Requires a public participation process when local governments are developing a cleanup plan.

- Clarifies when the local agency must contact DTSC or the appropriate regional board prior to issuing a cleanup notice for property on the National Priority List or under a current voluntary cleanup agreement or order under state law. DTSC or the Regional Water Quality Control Board has 30 days to object. If there is objection, the bill prescribes a process for resolution through the site designation committee.

Departmental Mandate(s):

- Requires DTSC or the Water Board to approve cleanup plans for any property on which a local agency would like to oversee cleanup.
- Establishes a collaborative process and an arbitration process for when a local agency wants to clean up a property under a current voluntary cleanup agreement with DTSC or the Water Board.



AB 501 (Nazarian) Chapter 392, Statutes of 2013 – Vehicles

AFFECTED PROGRAM(S): **HWMP, SCP&W**

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/13-14/bill/asm/ab_0501-0550/ab_501_bill_20130927_chaptered.htm

Summary:

AB 501 clarifies that sellers of brake pads and motor vehicles that are equipped with brake pads containing cadmium, chromium, lead, mercury, or asbestiform fibers in amounts exceeding existing statutory limits may continue to sell their existing products until the end of 2023, for the purpose of depleting inventory. Additionally, the bill allows motor vehicle dealers to continue to sell brake pads not meeting the 2014 standard for new brake pads, as long as they were installed on a vehicle before it was acquired by the dealer.

This bill also makes changes to the Vehicle Code and other sections of the law that do not impact DTSC. These statutory changes are not addressed in this summary.

Specifically, this bill:

- Clarifies that sellers of brake friction materials and motor vehicles equipped with brake pads containing those prohibited materials may continue to sell off their existing products until the end of 2023, for the purpose of depletion of inventory.
- Authorizes motor vehicle dealers to continue to sell or offer for sale brake friction material not certified as compliant with the chemical standards, if the brake friction material was installed on a vehicle before the dealer acquired the vehicle.

Departmental Mandate(s):

- The changes effected by AB 501 are consistent with the way DTSC is implementing current law. For purposes of DTSC's activities, this bill does not change enforcement efforts for DTSC.



AB 1329 (V. Manuel Perez) Chapter 598, Statutes of 2013 – Hazardous waste

AFFECTED PROGRAM(S): **HWMP**

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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://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1329

Summary:

AB 1329 requires DTSC to prioritize an enforcement action affecting communities that have been identified by Cal/EPA as being the most impacted environmental justice communities.

Specifically, this bill:

- Requires DTSC to prioritize an enforcement action affecting communities that have been identified by the California Environmental Protection Agency as being the most impacted environmental justice communities.
- Prohibits a person from transporting hazardous waste, as specified, if the final destination of the transported hazardous waste is a domestic facility outside the jurisdiction of the state, unless certain conditions apply to the facility, including whether the facility is subject to a cooperative agreement, as specified.

Departmental Mandate(s):

- DTSC will identify and consider the environmental justice status of a community as a factor in the prioritization of its inspection, enforcement, and complaint response activities.



SB 4 (Pavley) Chapter 313, Statutes of 2013 – Oil and gas: well stimulation

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

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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 checked="" type="checkbox"/> Report to the Governor/Legislature |

Link to Legislation:

http://leginfo.ca.gov/pub/13-14/bill/sen/sb_0001-0050/sb_4_bill_20130920_chaptered.htm

Summary:

SB 4 requires the Division of Oil, Gas, and Geothermal Resources (DOGGR) to adopt rules and regulations for the process of hydraulic fracturing, along with other well stimulation techniques, by January 1, 2015, in consultation with DTSC and other relevant Departments. Along with the regulations adopted, SB 4 requires DTSC to enter into a formal agreement with DOGGR that delineates respective authority, responsibility, and notification and reporting requirements associated with well stimulation techniques.

Specifically, this bill:

- Creates a consultation process for DOGGR to adopt rules and regulations specific to well stimulation treatments such as hydraulic fracturing.
- Requires all relevant state agencies and departments, on or before January 1, 2015, to enter into formal agreements with DOGGR that clearly delineate respective authority, responsibility, and notification and reporting requirements associated with well stimulation treatments and well stimulation treatment-related activities, in order to promote regulatory transparency and accountability.
- Allows for the disclosure of trade secret information to a government officer or employee in connection with his/her official duties or to a contractor with a government entity if, in the opinion of DOGGR, disclosure is necessary and required for satisfactory performance of a contract or to protect health and safety.
- Authorizes, subject to appropriation by the Legislature, DOGGR’s fee authority to be used to fund costs associated with well stimulation treatments. These costs include rulemaking and scientific studies required to evaluate the treatment, inspections, and any air and water quality sampling, monitoring, and testing performed by public entities and the costs of the State Water Board and the regional water quality control boards for its groundwater monitoring program.

Departmental Mandate(s):

- Requires DTSC to consult with DOGGR on regulations for hydraulic fracturing and other well stimulation treatments.

- Requires DTSC to enter into a formal agreement with DOGGR outlining any roles and responsibilities for the oversight of well stimulation techniques such as hydraulic fracturing.



SB 429 (Hernandez) Chapter 214, Statutes of 2013 – San Gabriel Basin Water Quality Authority Act.

AFFECTED PROGRAM(S): **Cleanup**

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

Link to Legislation:

http://leginfo.ca.gov/pub/13-14/bill/sen/sb_0401-0450/sb_429_bill_20130906_chaptered.htm

Summary:

The San Gabriel Basin Water Quality Authority coordinates the improvement of groundwater quality and site cleanup in the San Gabriel Basin. The Authority’s charter currently has a sunset date of July 1, 2017. This bill extends the sunset date for the San Gabriel Basin Water Quality Authority Act from July 1, 2017 to July 30, 2030.

Specifically, this bill:

- Extends the sunset date for the San Gabriel Basin Water Quality Authority Act from July 1, 2017 to July 30, 2030.

Departmental Mandate(s):

- None; the extension of this sunset date means that DTSC will continue to work with the San Gabriel Basin Water Quality Authority on groundwater cleanup projects. DTSC is responsible for the state’s cost-share on two groundwater cleanup projects within the San Gabriel Valley Area One Superfund site.



SB 483 (Jackson) Chapter 419, Statutes of 2013 – Hazardous materials: business and area plans.

AFFECTED PROGRAM(S): CUPA

New Program or Requirements

Additional Requirements for an Existing Program

Information Only

Report to the Governor/Legislature

Link to Legislation:

http://leginfo.ca.gov/pub/13-14/bill/sen/sb_0451-0500/sb_483_bill_20130928_chaptered.htm

Summary:

SB 483 updates the area and business plan requirements for hazardous materials management. This bill requires the inspection program to include the onsite inspections of businesses while also adjusting to the program’s information management system. Lastly, the bill requires the unified program agency to provide access for agencies that have certain shared responsibilities to information collected in the statewide information management system.

Specifically, this bill:

- Requires the inspection program that is part of the unified program to include the onsite inspection of businesses and deletes the requirement to institute a data management system. Requires the CUPA to provide to agencies that have certain shared responsibilities access to information collected in the statewide information management system and requires handlers to submit certain information to that system.
- Requires that businesses submit their plans in electronic format to the California Environmental Reporting System (CERS).
- Deletes obsolete provisions and makes general conforming changes.

Departmental Mandate(s):

- DTSC serves as the CUPA for Trinity and Imperial Counties, and will make conforming changes and updates as appropriate.