



## DTSC Regulation Adoption Activities

The Department of Toxic Substances Control (DTSC), as with other state agencies, develops regulations under one of three available sets of procedures: regular rulemaking; emergency rulemaking; or changes without regulatory effect (nonsubstantive) rulemaking. More information about each of these sets of procedures can be found at the website of the Office of Administrative Law (OAL):

[https://oal.ca.gov/rulemaking\\_process/](https://oal.ca.gov/rulemaking_process/)

DTSC uses the procedures required for regular rulemakings unless conditions warrant the use of either emergency or nonsubstantive rulemaking procedures.

## DTSC Rulemaking Projects Under Development

### Regular Rulemaking Projects

- *Universal Waste Management of Photovoltaic Modules (DTSC Reference Number R-2016-01)*

This proposed regulation will allow universal waste handlers to manage end-of-life photovoltaic modules (PV modules) as universal waste. This allowance will be limited to those PV modules that are identified as California-only hazardous waste. Universal waste handlers who collect and treat the PV modules, including dismantling and shredding them, will be allowed to manage them using specified universal waste handling requirements and will be required to notify DTSC of the ultimate disposition of the PV modules and to fulfill other annual reporting requirements.

DTSC anticipates issuing a formal public notice and starting the 45-day public comment period for this regulation in the fall of 2018.

- *Listing Paint Strippers or Varnish Strippers Containing Methylene Chloride as a Priority Product (DTSC Reference Number R-2016-05)*

This proposed regulation adopts Paint Strippers or Varnish Strippers Containing Methylene Chloride as a Priority Product under DTSC's Safer Consumer Products Program.

DTSC anticipates submitting the final regulation package to OAL by October 19, 2018.





# Quarterly Meeting

- *Criteria for the Issuance of a Hazardous Waste Facility Permit Decisions - Cumulative Impacts (DTSC Reference Number R-2017-01)*

This proposed regulation will integrate cumulative impacts on communities surrounding permitted facilities into permit decisions.

DTSC anticipates beginning pre-APA workshops for this regulation in the fall of 2018.

- *Penalty Calculations (DTSC Reference Number R-2018-01)*

This proposed regulation will make recently adopted emergency regulation requirements permanent. It will incorporate changes to statute that increased the maximum administrative and civil penalty for hazardous waste violations from \$25,000 to \$70,000 per day per violation. The proposed regulation will amend DTSC's regulations used to calculate administrative penalties, which references the previous statutory maximum of \$25,000 per day per violation.

DTSC anticipates issuing a formal public notice and starting the 45-day public comment period for this regulation in the fall of 2018.

- *Conditional Exclusion for Chemically Treated Metal Shredder Residue (DTSC Reference Number R-2018-02)*

This proposed regulation will conditionally exclude chemically treated metal shredder residue (CTMSR) from regulation as a hazardous waste (i.e., allow it to be disposed as nonhazardous waste) if it is managed according to conditions specified in the regulations. DTSC is proposing these new regulations to add safeguards that will provide enhanced protection for human health, safety, and the environment. DTSC held an informal public workshop on June 26, 2018, to present information on the proposed CTMSR regulations to the public and other stakeholders.

DTSC anticipates holding additional workshops regarding the management of metal shredding facilities in the Fall of 2018.

- *Geographical Submittal of Information Electronic Data (DTSC Reference Number TBD)*

This proposed regulation will require information to be submitted to DTSC in a format that will facilitate sharing of information and collaboration across all DTSC programs, as well as with federal, state, and local agencies. The regulations will





## Quarterly Meeting

require electronic data to be submitted that includes sampling locations and corresponding chemicals and concentrations at those locations. Currently DTSC staff transfer data manually to an electronic format for plotting and analysis. Electronic data collection will improve DTSC's ability to incorporate geospatial analysis of submitted data.

DTSC anticipates issuing a formal public notice and starting the 45-day public comment period for this regulation in the winter of 2019.

### **DTSC Final Rulemaking Projects Being Reviewed by OAL**

- *Disposition Options for Universal Waste Cathode Ray Tubes (DTSC Reference Number R-2014-07)*

This proposed regulation will finalize emergency regulations that have been in place since 2012. DTSC's emergency regulations expanded the options available to universal waste handlers for managing Cathode Ray Tubes (CRTs) and CRT glass. In addition to glass manufacturing and lead smelting, the emergency regulations have allowed CRT glass to also be legally recycled in other ways, or to be lawfully disposed. If a universal waste handler chooses to dispose of CRT glass, then CRT glass that contains lead (the funnel glass) must be sent to a permitted hazardous waste landfill. CRT glass that contains other regulated metals, including barium (the panel glass), may be sent to other approved landfills that meet conditions identified in the regulations. This proposed regulation will permanently establish the option to legally dispose of CRT glass, as well as to recycle it.

DTSC submitted the final regulation package to OAL on September 10, 2018. OAL has 30 days to review the final regulation package. Since these regulations are finalizing emergency regulations, the emergency regulations will remain in place while the Office of Administrative Law completes its review of the final rulemaking package.

- *Hazardous Waste Facility Permitting Criteria (DTSC Reference Number R-2016-03)*

This proposed regulation establishes and updates criteria DTSC must use in determining whether to issue a new or modified hazardous waste facility permit or to renew a hazardous waste facility permit. The proposed regulation includes requirements for community involvement profile data, financial responsibility, training of facility personnel, and a health risk assessment for hazardous waste





# Quarterly Meeting

facility operations. The proposed regulation also includes a Violations Scoring Procedure (VSP), to be used to assess a facility's compliance history and determine whether the number and types of violations observed at a facility warrant permit denial or revocation or other mandatory requirements for facilities.

DTSC submitted the final regulation package to OAL on September 12, 2018. OAL has 30 days review the final regulation package.

- *Federal Post-Closure Rule (DTSC Reference Number R-2017-02)*

This proposed regulation will allow DTSC to use enforceable documents at facilities that have hazardous waste left in place and need or already have a hazardous waste post-closure facility permit. The rule allows the use of alternative mechanisms, such as an agreement, order, plan, or other document issued consistent with a corrective action order or a remedial action order issued by DTSC.

DTSC submitted the final regulation package to OAL on September 21, 2018. OAL has 30 days to review the final regulation package.

## **Nonsubstantive Rulemaking Projects**

- *Generator Improvement Rule (DTSC Reference Number R-2018-04)*

This proposed regulation will adopt the mandatory requirements of U.S. EPA's Hazardous Waste Generator Improvement Rule and will reorganize DTSC's hazardous waste generator requirements to conform to the organization of the corresponding federal regulations.

DTSC anticipates submitting this regulation to OAL in the fall of 2018.

## **Approved Regulations**

### **Regular Rulemaking Project**

- *Toxicity Criteria (DTSC Reference Number R-2016-08)*

This regulation specifies the toxicity criteria to be used when DTSC conducts human health risk assessments, calculates screening levels, and determines remediation goals based on human health risk. If a contaminant's toxicity criterion





# Quarterly Meeting

is not specifically identified in the regulation, the regulation requires the federal toxicity criteria to be used.

DTSC received a notice of approval from OAL on September 6 (OAL file number 2018-0723-01S). The regulation became effective on September 4, 2018.

## **Nonsubstantive Rulemaking Project**

- *Imports and Exports of Hazardous Wastes (DTSC Reference Number R-2018-03)*

This regulation conforms California's regulations governing the export and import of hazardous wastes from and into the United States to federal regulations. The regulation also enables electronic submittal to the U.S. Environmental Protection Agency of all related documents, such as export notices and export annual reports and electronic validation of consent in the Automated Export System.

DTSC received a notice of approval from OAL on August 20, 2018 (OAL file number 2018-0709-02N).

## **Emergency Rulemaking Project**

- *Penalty Calculations (DTSC Reference Number R-2018-01)*

This emergency regulation incorporates recently enacted statute that increased the maximum administrative and civil penalty for hazardous waste violations from \$25,000 to \$70,000 per day per violation. The regulation amends DTSC's regulations used to calculate administrative penalties, which reference the previous statutory maximum of \$25,000 per day per violation.

DTSC received a notice of approval from OAL for this emergency regulation on July 5, 2018 (OAL file number 2018-0629-01). The emergency regulation expires on January 3, 2019.

