

## Regional Update

# 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**

##### **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. The regulations will include setback criteria for new or modified facility permits to protect sensitive sites including schools, daycare centers, and hospitals. DTSC has released draft regulatory concepts and is now meeting with stakeholder working groups to collect further input. DTSC is also collaborating with a University of California research team for policy guidance and to provide a scientific review of community vulnerability indicators.

DTSC anticipates public workshops on revised regulatory language in summer 2019, and issuing a formal public notice commencing the 45-day public comment period for this regulation in late fall 2019.

##### **Universal Waste Management of Photovoltaic Modules (DTSC Reference Number R-2017-04)**

This proposed regulation will allow universal waste handlers to manage end-of-life photovoltaic modules (PV modules) as universal 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. They will also 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 spring 2019.



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### **Conditional Exclusion for Chemically Treated Metal Shredder Residue (DTSC Reference Number R-2017-05)**

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 incorporating the comments received into the proposed regulatory language prior to public notice.

DTSC anticipates holding additional workshops regarding the management of metal shredding facilities in fall 2019.

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

This proposed regulation will amend DTSC's current regulations used to calculate administrative penalties, which references the previous statutory maximum of \$25,000 per day, per violation. Statute was recently changed to increase the maximum administrative and civil penalty for hazardous waste violations from \$25,000 to \$70,000 per day, per violation. DTSC had recently adopted emergency regulations to implement the changes. This proposed regulation will make the recently adopted emergency regulation requirements permanent.

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

### **Listing Laundry Detergents with Nonylphenol Ethoxylates as a Priority Product (DTSC Reference Number R-2019-01)**

This regulation proposes to adopt Laundry Detergents with Nonylphenol Ethoxylates as a Priority Product under DTSC's Safer Consumer Products Program.

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

### **Listing Carpets and Rugs with Perfluoroalkyl and Polyfluoroalkyl Substances (PFASs) as a Priority Product (DTSC Reference Number R-2019-02)**

This regulation proposes to adopt Carpets and Rugs with Perfluoroalkyl and Polyfluoroalkyl Substances (PFASs) as a Priority Product under DTSC's Safer Consumer Products Program.

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



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## **Listing Paint and Varnish Strippers and Graffiti Removers Containing 1-Methyl-2-pyrrolidone (NMP) as a Priority Product (DTSC Reference Number R-2019-03)**

This regulation proposes to adopt Paint and Varnish Strippers and Graffiti Removers Containing 1-Methyl-2-pyrrolidone (NMP) as a Priority Product under DTSC's Safer Consumer Products Program.

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

## **Revisions to the Procedures to Assess Administrative Penalties (DTSC Reference Number R-2019-04)**

This proposed regulation will modify and update the procedures used to calculate administrative penalties.

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

## **Geospatial Electronic Data (DTSC Reference Number R-2019-05)**

This proposed regulation will require the submittal of data that includes chemicals and concentrations as well as their corresponding sampling locations in electronic format. This requirement will facilitate the data's incorporation into geographical information systems.

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

## **Nonsubstantive Rulemaking Projects**

### **Generator Improvement Rule (DTSC Reference Number R-2017-07)**

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 the Office of Administrative Law (OAL) in late spring 2019.



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## *Approved Regulations*

### **Regular Rulemaking Projects**

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

This regulation allows CRT glass to be legally recycled in ways other than with glass manufacturing and lead smelting. This regulation also allows CRT glass to be legally disposed, sending CRT glass that contains lead (the funnel glass) to a permitted hazardous waste landfill. Also it will allow CRT glass that contains other regulated metals—including barium (the panel glass)—to be sent to other approved landfills that meet conditions identified in the regulations.

DTSC received a notice of approval from OAL for this regulation on October 22, 2018. The regulation became effective immediately on that date.

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

This regulation established and updated 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. This regulation includes requirements for community involvement profile data, financial responsibility, training of facility personnel, and a health risk assessment for hazardous waste facility operations. This regulation also includes a Violations Scoring Procedure (VSP) to be used to assess a facility's compliance history and to determine whether the number and types of violations observed at a facility warrant permit denial or revocation, or other mandatory requirements for facilities.

DTSC received a notice of approval from OAL for this regulation on October 24, 2018. The regulation became effective on January 1, 2019.



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

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

DTSC received a notice of approval from OAL for this regulation on December 4, 2018. The regulation became effective on January 1, 2019.

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

This regulation allows DTSC to use enforceable documents—instead of a hazardous waste post-closure facility permit—at facilities that have hazardous waste left in place and need or already have a 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 received a notice of approval from OAL for this regulation on October 31, 2018. The regulation became effective on January 1, 2019.

## *Emergency Rulemaking Project*

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

This regulation amends DTSC's regulations used to calculate administrative penalties which reference the previous statutory maximum of \$25,000 per day, per violation. Statute was recently changed to increase the maximum administrative and civil penalty for hazardous waste violations from \$25,000 to \$70,000 per day, per violation.

DTSC received a notice of approval from OAL for an extension of this emergency regulation on January 3, 2019. The emergency regulation expires on April 3, 2019.

