

**State of California
Office of Administrative Law**

In re:
Department of Toxic Substances Control

Regulatory Action:

Title 22, California Code of Regulations

Adopt sections:

Amend sections: 66272.62

Repeal sections:

**NOTICE OF APPROVAL OF CERTIFICATE OF
COMPLIANCE**

**Government Code Sections 11349.1 and
11349.6(d)**

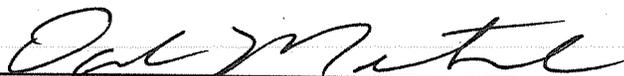
OAL Matter Number: 2019-0603-01

**OAL Matter Type: Certificate of Compliance
(C)**

This action makes permanent the emergency regulatory increases in the minimum-to-maximum initial penalty amount ranges for violations of laws related to hazardous waste control and disposal.

OAL approves this regulatory action pursuant to section 11349.6(d) of the Government Code.

Date: June 24, 2019



**Dale P. Mentink
Senior Attorney**

For: Holly Pearson
Acting Director

Original: Barbara A. Lee, Director
Copy: Shawn Cox

NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2019-0129-06	REGULATORY ACTION NUMBER 2019-0603-01C	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

JUN 24 2019
1:38 PM

2019 JUN -3 P 2:31
OFFICE OF
ADMINISTRATIVE LAW

AGENCY WITH RULEMAKING AUTHORITY
Department of Toxic Substances Control

AGENCY FILE NUMBER (if any)
R-2018-01

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2019, 06-2	PUBLICATION DATE 2/8/2019	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Determining the Initial Penalty for Each Violation	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2018-0629-01ER, 2018-1221-07EE, 2019-0325-01EE
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 66272.62
TITLE(S) 22	REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Shawn Cox	TELEPHONE NUMBER 916-322-7527	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) shawn.cox@dtsc.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 4/29/19
TYPED NAME AND TITLE OF SIGNATORY Meredith Williams, PhD, Acting Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 24 2019

Office of Administrative Law

PROPOSED REGULATION TEXT

AMEND SECTION 66272.62 TO READ AS FOLLOWS:

§ 66272.62. Determining the Initial Penalty for Each Violation.

(a) The Enforcement Agency shall determine an initial penalty for each violation, considering potential harm and the extent of deviation from hazardous waste management requirements. The Enforcement Agency shall use the matrix set forth in Subsection 66272.62(d) to determine the initial penalty for each violation.

...

(d) The matrix set forth in this subsection shall be used to determine the initial penalty for a violation. The Enforcement Agency shall select a penalty amount from the range provided in the matrix cell that corresponds to the appropriate extent of deviation and the potential harm categories. The numbers in parenthesis in each cell of the following matrix are the midpoints of the range.

Determination of Initial Penalty Matrix (in dollars)

<i>Extent of Deviation</i>	<i>Potential Harm</i>		
	Major	Moderate	Minimal
Major	25,000 70,000 (22,500) (63,000)	20,000 56,000 (17,500) (49,000)	15,000 42,000 (10,500) (29,400)
	20,000 56,000	15,000 42,000	6,000 16,800
Moderate	20,000 56,000 (17,500) (49,000)	15,000 42,000 (10,500) (29,400)	6,000 16,800 (4,000) (11,200)
	15,000 42,000	6,000 16,800	2,000 5,600
Minimal	15,000 42,000 (10,500) (29,400)	6,000 16,800 (4,000) (11,200)	2,000 5,600 (1,000) (2,800)
	6,000 16,800	2,000 5,600	0

Note: Authority cited: Sections 25150 and 58012, Health and Safety Code. Reference: Sections 25187, 25188, 25189, and 25189.2, Health and Safety Code; and Section 11425.50, Government Code; and 40 CFR Section 19.4.