

**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 EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6**

OAL Matter Number: 2019-0325-01

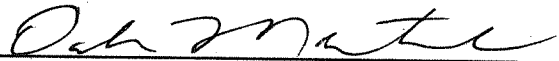
OAL Matter Type: Emergency Readopt (EE)

This is a second emergency readoption of an increase in the minimum-to-maximum initial penalty amount ranges for violations of laws related to hazardous waste control and disposal.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 4/3/2019 and will expire on 7/3/2019. The Certificate of Compliance for this action is due no later than 7/2/2019.

Date: April 3, 2019



**Dale P. Mentink
Senior Attorney**

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

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2019-0325-01EE
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For use by Office of Administrative Law (OAL) only

2019 MAR 25 P 12:25
OFFICE OF
ADMINISTRATIVE LAW

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

APR 03 2019
3:10 PM

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

Department of Toxic Substances Control

AGENCY FILE NUMBER (if any)

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 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 Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

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) 2018-0629-01, 2018-1221-07
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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 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 checked="" 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)	

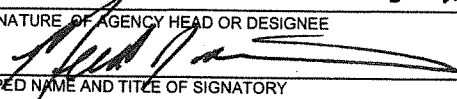
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
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5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code 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)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input 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 3/7/19
TYPED NAME AND TITLE OF SIGNATORY Meredith Williams Ph.D., Acting Director, Department of Toxic Substances Control	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

APR 03 2019

Office of Administrative Law

EMERGENCY PENALTY REGULATION READOPTION

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 <u>70,000</u> (22,500) (63,000)	20,000 <u>56,000</u> (17,500) (49,000)	15,000 <u>42,000</u> (10,500) (29,400)
	20,000 <u>56,000</u>	15,000 <u>42,000</u>	6,000 <u>16,800</u>
Moderate	20,000 <u>56,000</u> (17,500) (49,000)	15,000 <u>42,000</u> (10,500) (29,400)	6,000 <u>16,800</u> (4,000) (11,200)
	15,000 <u>42,000</u>	6,000 <u>16,800</u>	2,000 <u>5,600</u>
Minimal	15,000 <u>42,000</u> (10,500) (29,400)	6,000 <u>16,800</u> (4,000) (11,200)	2,000 <u>5,600</u> (1,000) (2,800)
	6,000 <u>16,800</u>	2,000 <u>5,600</u>	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.