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15-DAY PUBLIC NOTICE AND COMMENT PERIOD NOTICE OF PUBLIC AVAILABILITY OF POST-HEARING CHANGES AND AVAILABILITY OF DOCUMENTS ADDED TO THE RULEMAKING FILE

Mercury Thermostat Collection and Performance Requirements

Department of Toxic Substances Control Reference Number: R-2010-03
Office of Administrative Law Notice File Number: Z-2012-0807-05

Pursuant to Government Code section 11346.8, subdivision (c), notice is hereby given that the Department of Toxic Substances Control (DTSC) has revised the text of the proposed regulations, which would implement the Mercury Thermostat Collection Act of 2008 (Article 10.2.2, of chapter 6.5 of the Health and Safety Code, hereinafter "the Act"). A written comment period has been established commencing on **February 4, 2013** and closing on **February 19, 2013**.

The proposed regulations: specify performance requirements for manufacturer-run collection programs for out-of-service mercury-added thermostats established pursuant to the Act; establish a methodology for calculating the number of out-of-service mercury-added thermostats becoming waste annually; require certain licensed contractors or their employees to provide identifying information to locations that collect out-of-service mercury-added thermostats pursuant to the Act; and require thermostat manufacturers to include certain additional information in the annual reports they submit pursuant to the Act. The management of waste mercury-containing thermostats is already regulated under DTSC's existing universal waste regulations, California Code Regulations, Title 22, Chapter 23. These proposed regulations would not impose any new waste management requirements on handlers of out-of-service mercury-added thermostats nor would they change the requirements for universal waste transporters or destination facilities.

The purpose of this notice is to provide interested parties with the opportunity to review and comment on 1) proposed changes to the originally-proposed text of these regulations and 2) additional documents that DTSC is adding to the rulemaking file. DTSC mailed the original text and made it available for public review and comment on *August 17, 2012*. A public hearing was held on **October 2, 2012** during which written and oral testimony was accepted. In addition, written comments were accepted during a 45-day public comment period, which ended on *October 2, 2012*. As noted above,

DTSC has made post-hearing changes to the proposed text. DTSC considers these changes to be “sufficiently related,” as defined in the California Code of Regulations, title 1, section 42. DTSC has also determined that these changes would have less than significant effect on the environment, including impacts from green house gases as previously described in the Notice of Exemption prepared by DTSC pursuant to the California Environmental Quality Act (CEQA).

A copy of the revised text is attached. The ~~bold/double strikethrough~~ represents text deleted from the originally proposed text and the **bold/double underline** text represents additions to the originally proposed text.

Pursuant to Government Code section 11347.1, subdivision (a), DTSC is also adding the following documents to the rulemaking file:

- [DTSC’s Economic and Fiscal Impact Analysis \(attachment to Form 399\)](#); and
- [External scientific peer review of the scientific basis of regulations prepared by Catherine M. Crespi, Ph.D. University of California, Los Angeles](#); dated November 1, 2012; and
- [External scientific peer review of the scientific basis of regulations prepared by Nicholas P. Jewell, Ph.D., University Of California, Berkeley](#), dated October 17, 2012; and
- [Links to web pages that provide examples of Recycling Rates in the State of California; Attachment A](#); and
- [California Department of Resources Recycling and Recovery: California Tire Market Report: 2010](#), June 2011.

Copies of the revised text of the proposed regulations and documents added to the rulemaking file are posted to DTSC’s Internet site at:

<http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/index.cfm> or may be obtained from Randi Wood of DTSC’s Regulations Section at (916) 322-2543.

Notice is given that any interested persons may submit comments regarding the text revisions and documents added to the rulemaking file by e-mail to regs@dtsc.ca.gov, fax (916) 323-5542, or mail to:

Randi Wood, Regulations Coordinator
Department of Toxic Substances Control
Office of Legal Affairs, Regulations Section
PO Box 806 Sacramento, CA 95812-0806

All comments must be received by DTSC by 5:00 P.M. PST on February 19, 2013.

The documents upon which DTSC has relied in developing these proposed regulations are available for public inspection between 8:00 a.m. and 5:00 p.m. at the Regulations Section, located on the 23rd Floor at 1001 I Street, Sacramento, California. Requests and inquiries concerning this matter may be directed to the Regulations Coordinator,

Ms. Randi Wood, at the address indicated above or at (916) 322-2543. If the Regulations Coordinator is unavailable, please contact Ms. Krysia Von Burg at (916) 324-2810.

Inquiries regarding technical aspects of the proposed regulations should be directed to **Neena Sahasrabudhe** of the Office of Pollution Prevention and Green Technology at **(916) 324-8660** or, if unavailable, to **Andre Algazi**, also of the Office of Pollution Prevention and Green Technology at **(916) 324-3114**. Please note: such oral inquiries are not part of the rulemaking record.