



DTSC Policy Branch Regulation Priorities for 2025

Session Code: Th-B1

Thursday, March 27, 2025

Liliana Cahuas, Chosu Khin, Megan Melnick, Brian Ogg, Tracy Vandewarker



**27th California Unified Program
Annual Training Conference
March 24-27, 2025**

Overview

- California-specific Regulations
- RCRA Conforming Regulations
- Q&A

Presentation Topics

- Plant Waste and Cannabis Waste Exclusion
- Conditional Exemption for Undeployed Airbags
- Pharmaceuticals Rule
- Manifest Exemption
- Industrial Ethyl Alcohol Exemption
- Definition of Waste and Requirements for Recycling

California Specific Regulations

- State criteria for hazardous waste classification
- Non-RCRA hazardous waste

Plant Waste and Cannabis Waste Exclusion

Background

- Cannabis plant waste evaluated for aquatic toxicity
 - Fish bioassay
 - Hazardous waste management
- Previous testing of plant-based products also resulted in test failure

Background

- 2022: DTSC and CUPA workgroup
 - Development of regulatory ideas and text
- 2024: AB 2643 Cannabis Cultivation: Environmental Remediation
 - Effective January 1, 2025
 - Health and Safety Code (HSC) Section 25141.5.1

Exclusion – HSC 25141.5.1

- Definitions
 - Cannabis Waste (4 CCR section 15000)
 - Plant Waste: waste of plant material that meet definitions “agricultural material”, “green material”, or “vegetative food material” (14 CCR section 17852)
- Exclusion
 - Cannabis waste and plant waste that is hazardous by aquatic toxicity (22 CCR section 66261.24(a)(6))

Definitions

Cannabis Waste

- Defined by Department of Cannabis Control
 - 4 CCR section 15000
- Any material intended for disposal that contains cannabis
- Examples
 - Cannabis goods and products
 - Concentrates

Definitions

Plant Waste

- Plant waste that meets any of the following CalRecycle definitions:
 1. Agricultural Material
 2. Green Material
 3. Vegetative Food Material

14 CCR 17852

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Definitions

Agricultural Material

- Waste of plant origin resulting from the conduct of agriculture, horticulture, silviculture...
- Not processed in a way that alters its essential character

Green Material

- Plant material that is separated at the point of generation
- Additional requirements

Examples:

- Tree and yard trimmings
- Wood waste
- Natural fiber products

Vegetative Food Material

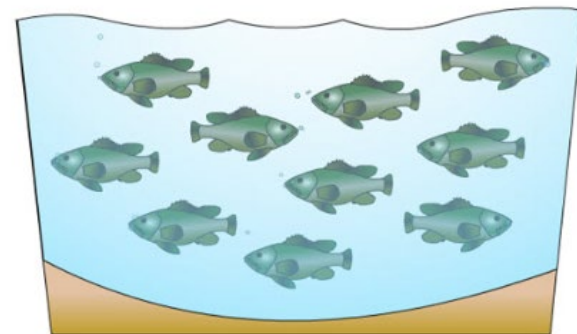
- Plant material separated from food
- No salts, preservatives, oils, or other adulterant
- Additional requirements

Examples:

- Fruits and vegetables
- Edible flowers and plants
- Outdated or spoiled produce

Hazardous Waste Characteristic - Toxicity

Plant waste and cannabis waste solely exhibiting the hazardous waste characteristic of toxicity pursuant to 22 CCR 66261.24 (a)(6)



LC₅₀ < 500 mg/l

Waste Management

- Department of Cannabis Control: Cannabis Waste
 - 4 CCR section 17223
- CalRecycle: Plant Waste
 - Division 7 of Title 14 of California Code of Regulations
 - Composting materials
 - Mandatory commercial recycling

RCRA Authorization Overview

- U.S. EPA provides the baseline hazardous waste requirements
- Implementation options:
 - Federal hazardous waste management program or
 - State hazardous waste management program (U.S. EPA authorization required)
- State authorization is a rulemaking process where U.S. EPA delegates the primary responsibility of implementing the RCRA hazardous waste program to individual states in lieu of U.S. EPA

RCRA Authorization Overview

- California is an authorized state
- Why is this important?
 - Required by California law
 - Helps keep DTSC's regulations current
 - California received RCRA grant money to maintain equivalency

Conditional Exemption for Undeployed Airbags

Airbags

- Airbag module contains a housing, cover, cushion, and **inflator**
 - Inflator is a canister containing an igniter, a booster material, and a gas generator
- Works by an electronic signaling of propellants to react for cushions to quickly inflate

Propellants in Airbags

- Chemicals
 - Sodium azide
 - Ammonium nitrate
 - Guanidine nitrate
 - Potassium nitrate
 - Potassium perchlorate
- Hazardous waste characteristics of reactivity and ignitibility
- Deployment of the airbag consumes the propellant

Background on Recalled Airbags

2015 NHTSA mandated Takata Airbag Recall

- 65-70 million airbag inflators
- At least 400 alleged injuries and 27 deaths

2015 Preservation Order

- Department of Transportation (DOT)
- Recalled inflators to be preserved

Background on Recalled Airbags (Continued)

2018 Takata bankruptcy

- Reduce number of preserved inflators

2018 U.S EPA Interim Final Rule: Safe Management of Recalled Airbags

- Exempting the collection of airbag waste from hazardous waste requirements so long as certain conditions were met

Background on Recalled Airbags (Continued)

2024 DTSC Emergency Regulations

- 180-day (March 15 – September 11, 2024)
- First 90-day (September 5 – December 4, 2024)
- Second 90-day (December 5, 2024 – March 6, 2025)

2025 DTSC Regular Rulemaking

- 45-day public comment (April 2025)
- Final rule (Winter 2025)

U.S. EPA's Interim Final Rule: Safe Management of Recalled Airbags

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DTSC's Conditional Exemption for Undeployed Airbags

Intent of the Interim Final Rule

- Response to the Takata airbag recall
- Facilitate urgent removal of defective airbag inflators
- Decrease storage time
- Dispose of properly
- Prevent recalled airbags from being diverted back into vehicles
- **Include non-Takata airbags**

Overview of the Interim Final Rule

- Adds new definitions in 40 CFR section 260.10
- Creates a conditional exemption in 40 CFR section 261.4(j) for airbag waste
- Airbag waste handler sends the waste to a RCRA designated facility **or** to an airbag collection facility
- Airbag waste handler meets all the conditions in the exemption

Definitions

Airbag Waste

- Any airbag modules or inflators that is considered hazardous waste

Airbag Waste Handler

- Any person who generates airbag waste

Airbag Waste Collection Facility

- A facility that collects and stores airbag waste for more than ten days

Conditions for Exemption

- Accumulate no more than 250 airbag modules and inflators
- Accumulate airbag waste for no longer than 180 days
- Package airbag waste in containers designated to address the risk posed by the waste
- Label airbag waste “Airbag Waste – Do Not Reuse”
- Ensure airbag waste shipments comply with all applicable DOT regulations (49 CFR sections 171 through 180)
- Maintain records for at least three years

Conditions for Exemption (Continued)

- Send airbag waste to either:
 - A collection facility in the U.S. under the control of a vehicle manufacturer or their authorized representative under the control of an authorized part administering a remedy program
 - A designated facility as defined in 40 CFR 260.10

DTSC's Regular Rulemaking

- Mirrors U.S. EPA's Interim Final Rule
- Adds definitions in CCR section 66260.10
- Adds conditional exemption in CCR section 66261.4(j)
- Applies to all undeployed airbags that are hazardous

DTSC's Regular Rulemaking Timeline

- 45-day public comment period
- Projected finalization by Winter 2025
- Lapsed period after the emergency regulations expiration and the regular rulemaking finalization
 - Airbag waste is to be managed under full hazardous waste standards

Pharmaceuticals Rule

Background

- U.S. EPA's Management Standards for Hazardous Waste Pharmaceuticals Rule and Amendment to the P075 Listing
- Waste-specific and sector-specific rule
 - RCRA hazardous waste pharmaceuticals
 - Healthcare facilities and reverse distributors
- Updates management standards for pharmaceuticals

Background

- Amendment to the Po75 Listing
 - Removes FDA approved over-the-counter nicotine replacement therapies from Po75 listing
 - Gums, patches, lozenges

Timeline

- 2021: Amendment to the Po75 Listing adopted in California
- 2024: began the formal rulemaking process for the Pharmaceuticals Rule
 - Proposed requirements
 - Discussions with healthcare facilities & CUPAs
- Estimated notice date: end of 2025/ beginning of 2026:

Manifest Exemption

Manifest Exemption

- Background summary
- Purpose of prioritization
- Regulation text from the Code of Federal Regulations
- Proposed regulatory changes

Manifest Exemption

Background Summary

- Explanation of a manifest
 - Shipping hazardous waste offsite
 - Tracking document
 - Used for verification and accountability

[illegible]

Manifest Exemption

Background Summary (continued)

- When is a manifest required?
 - Offsite transportation
- When is a manifest not required?
 - Onsite transportation

Manifest Exemption

Background Summary (continued)

- Definition of onsite, title 22 CCR §66260.10:
“the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which that person controls and to which the public does not have access, is also considered onsite property.”

Manifest Exemption

Background Summary (continued)

- The manifest exemption was included in the final Military Munitions Rule
- Applicable to all generators and TSDFs
- Criteria
 - Within or along the border of contiguous properties
 - Controlled by the same person

Manifest Exemption

Purpose of Prioritization

- Optional regulation
- Environmental impacts
- Health and safety impacts
- Stakeholders want this regulation

Manifest Exemption

Regulation text of the federal manifest exemption, title 40 CFR §262.20(f):

“The requirements of this subpart and § 262.32(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding 40 CFR 263.10(a), the generator or transporter must comply with the requirements for transporters set forth in 40 CFR 263.30 and 263.31 in the event of a discharge of hazardous waste on a public or private right-of-way.”

Manifest Exemption

Regulatory changes

- The federal equivalent found in title 40 Code of Federal Regulations §262.20(f) will be added to title 22 California Code of Regulations §66262.20(f)

Timeline

- Currently under review by CalEPA
- Public Notice anticipated Spring 2025

BREAK TIME!

Industrial Ethyl Alcohol Exemption



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Industrial Ethyl Alcohol Exemption

- COVID-19 caused a spike in the demand for alcohol-based hand sanitizer which led to increased production and importation.
- This surge was aided by the FDA's 2020 decision to temporarily allow non-medical alcohol distillers to produce hand sanitizer.
- The FDA exemption ended Dec. 31, 2021, leaving many businesses with unsellable surpluses after Mar. 31, 2022.

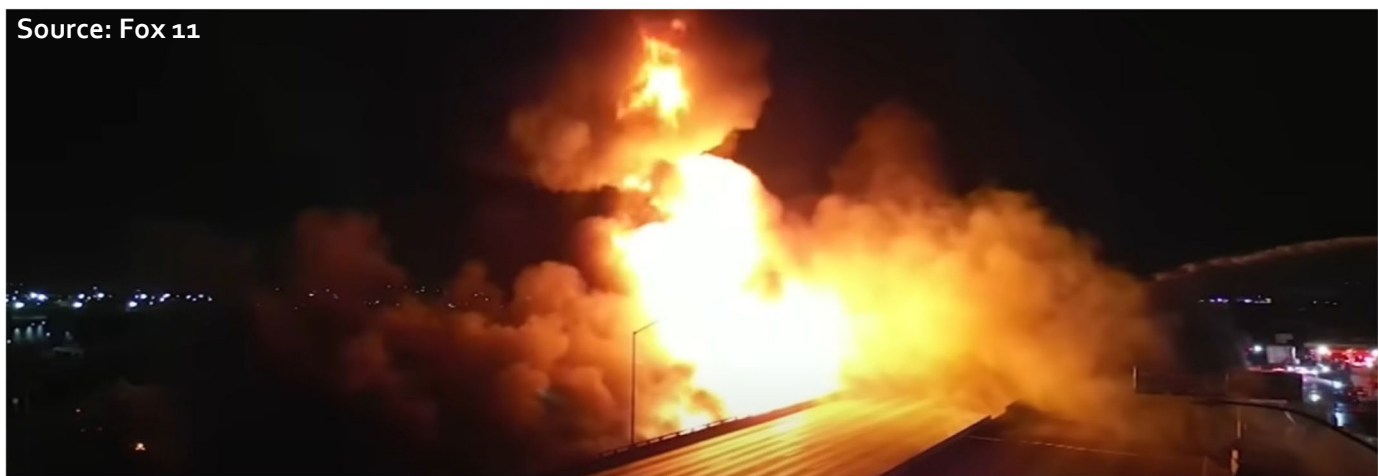
Source: KTVU Fox 2



Source: Fox 11



Source: Fox 11



Industrial Ethyl Alcohol Exemption

- Alcohol-based hand sanitizer stockpiles are a fire hazard due to the products' room temperature flash point ($\approx 66^{\circ}\text{F}$ — 77°F).
- Several significant blazes have occurred in southern CA:
 - I-10 in LA (*Nov. 11, 2023*)
 - Downtown LA (*Jan. 2, 2023*)
 - Carson (*Sept. 30, 2021*)



Industrial Ethyl Alcohol Exemption

- In addition, hand sanitizer surpluses are being illegally dumped in CA:
 - In Sept. 2023, a DTSC contractor removed 2,600 gallons from Lucerne Valley.
 - At least 23 other illegal dumping incidents have occurred in LA and Kern Counties since 2022.
 - Many similar incidents are suspected.

Industrial Ethyl Alcohol Exemption

- Alcohol-based hand sanitizers are categorized as a D001 ignitable waste under RCRA and must be incinerated.
- However, there is a nationwide hazardous waste incinerator backlog caused by multiple factors, including:
 - Labor shortages created by the pandemic.
 - A surge in manufacturing during COVID-19.
 - The closing of a large hazardous waste incinerator.

Industrial Ethyl Alcohol Exemption

- DTSC adopted the Industrial Ethyl Alcohol (IEA) Exemption in 40 CFR § 261.6(a)(3)(i) on October 7, 2024.
- This emergency rulemaking applies to ethanol generators, transporters, storage facilities, and recyclers that operate in CA.
- It exempts ethyl alcohol from most hazardous waste requirements when it is legitimately recycled.

Industrial Ethyl Alcohol Exemption

- This means that manifests, notifications, biennial reports, labeling requirements, and other regulations will not apply.
- However, the IEA Exemption will *not* affect local codes, DOT regulations, or regulations pertaining to imports and exports.
- This rulemaking will encourage generators to reduce their hand sanitizer stockpiles and bypass the incinerator backlog through recycling.

Industrial Ethyl Alcohol Exemption

- Adoption of this exemption was prompted by U.S. EPA's reinterpretation of the IEA Exemption's applicability:
 - Initially made in a May 5, 2023 response letter to an ethanol recycler that acknowledged the regulations of the TTB.
 - Restated in a memo reissued on May 9, 2023, titled "RCRA Management of Excess Alcohol-based Hand Sanitizer."

Industrial Ethyl Alcohol Exemption

- Emergency rulemakings remain in effect for a minimum of 180 days.
- However, they can be readopted 2 times after that, for a maximum of 180 additional days (90 days per readoption).
- In the meantime, DTSC is developing a regular rulemaking package that will make the IEA Exemption a permanent subsection in the CCR.

Industrial Ethyl Alcohol Exemption

**Emergency
Readoption #1**
April 8, 2025

**Emergency
Readoption #2**
July 7, 2025

**Regular Rulemaking
Adoption**
October 5, 2025

Definition of Waste and Requirements for Recycling

Definition of Waste and Requirements for Recycling

- Key Questions
- Background & History of Federal Rulemakings
- What do the Proposed Changes Accomplish?
- Proposed Regulatory Text
- Legitimate vs. Sham Recycling
- What's this mean for you?
- What's next?

Key Questions?



Question 1: What is it?

Type of recyclable material?



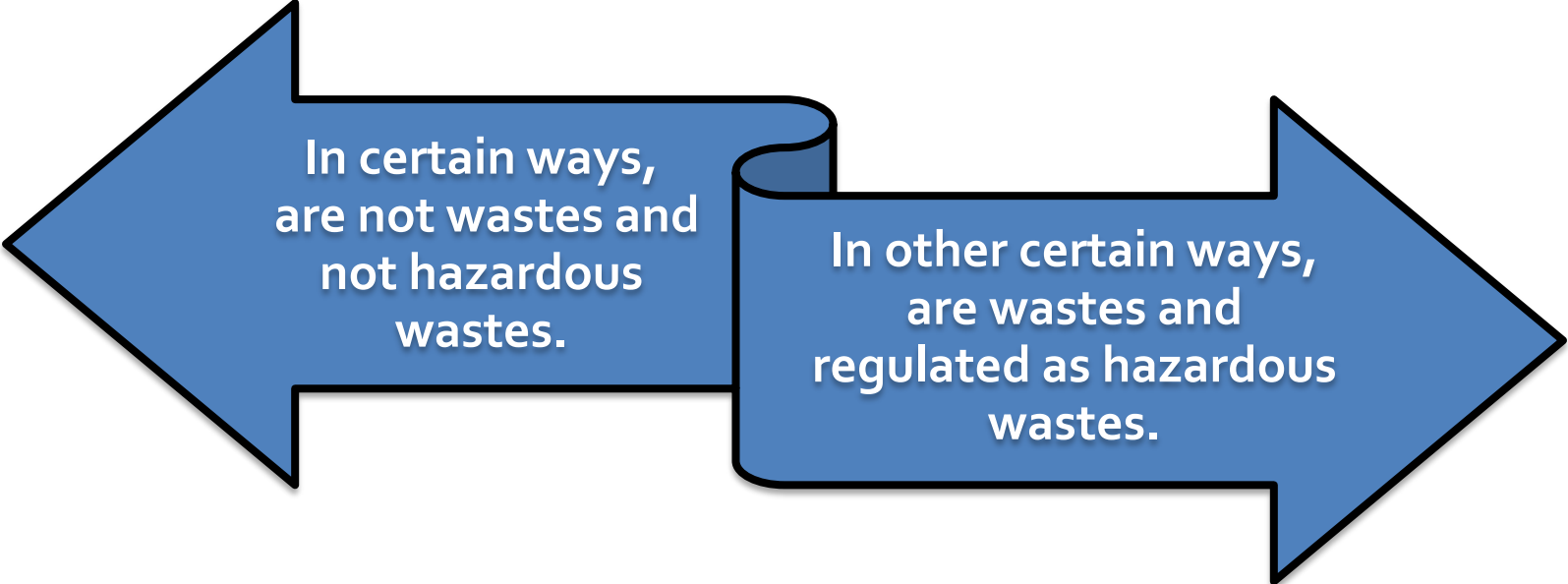
Question 2: What is going to happen to it?

Use or reuse

Reclamation

Conditions and requirements

Why Does the Type of Recycling Matter?



The diagram consists of two large blue arrows pointing in opposite directions, connected by a central horizontal bar. The left arrow points left and contains the text 'In certain ways, are not wastes and not hazardous wastes.' The right arrow points right and contains the text 'In other certain ways, are wastes and regulated as hazardous wastes.' The central bar has a slight 3D effect, suggesting the arrows are part of a continuous path or a comparison.

In certain ways,
are not wastes and
not hazardous
wastes.

In other certain ways,
are wastes and
regulated as hazardous
wastes.

Background - U.S. EPA Definition of Solid Waste

Date	Federal Register	Description
1985	50 FR 614 January 4, 1985	<p>Amended existing Definition of Solid Waste (DSW) and set up recycling requirements for solid wastes.</p> <ul style="list-style-type: none">• Definition of scrap metal and scrap metal exemption. Required to be recycled.• Definition of accumulative speculatively and reclamation.• Types of secondary materials (40 CFR 261.4, Table 1).• Concept of sham recycling and “legitimate expectation of being recycled.”
2008	73 FR 64668 October 30, 2008	<p>Revises DSW.</p> <ul style="list-style-type: none">• Adds generator-controlled exclusion to 40 CFR 261.4(a)(23) for hazardous secondary material recycled under the control of the generator.• Adds transfer-based exclusion to 40 CFR 261.4(a)(24) and (25) for secondary material transferred to a third party for recycling.• Codifies the definition of legitimate recycling with first three factors mandatory and fourth factor optional.

Background - U.S. EPA Definition of Solid Waste

Date	Federal Register	Description
2015	80 FR 1694 January 13, 2015	Revises the 2008 Rule. <ul style="list-style-type: none">• Replaces the transfer-based exclusion with the verified recycler exclusion.• Makes all four factors mandatory for legitimate recycling.• Adds remanufacturing exclusion.
2018	83 FR 24664 May 30, 2018	Due to two court cases, DSW is amended. <ul style="list-style-type: none">• Removes verified recycler exclusion (except certain provisions).• Reinstate transfer-based exclusion to the 2008 version.• Adds provisions to 2015 rule for containment and emergency preparedness.• Makes fourth legitimate factor as optional (reinstated to 2008 version).

What do the Proposed Changes Accomplish?

- Add and amend regulations concerning the definition of waste.
- Modify general and specific requirements related to the recycling of hazardous wastes.
- Recycling will be legitimate, safe, and done in a protective manner.
- Apply the recycling requirements to both RCRA and non-RCRA hazardous waste to simplify the program, make them clearer, and more consistent.

Proposed Regulatory Text

- Modify definition of “accumulated speculatively.”
Consistent with the definition in 40 CFR § 261.1(c)(8)
- Adopt definition of “sham recycling.”
Consistent with the definition in 40 CFR § 261.2(g)
- Require Emergency Preparedness, Contingency Planning
and Emergency Response


Proposed Regulatory Text

- Scrap Metal
 - Add scrap metal to 22 CCR 66261.2, Table 1, to be consistent with 40 CFR 261.2, Table 1
 - Modify scrap metal exemption [22 CCR 66261.6(a)(3)]
- Adopt Legitimacy Factors
 - RCRA and non-RCRA recyclable materials
- Non-substantive changes

Legitimate Recycling vs. Sham Recycling



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Is there a process
to evaluate if
recycling is
legitimate?

Yes!
Where?

Four
Legitimacy
Factors in
40 CFR §260.43

Legitimate Recycling – 40 CFR 260.43

- Factor 1: Materials must provide a useful contribution to the recycling process or to a product or intermediate.
- Factor 2: Recycling must produce a valuable product or intermediate.
- Factor 3: Materials must be managed as valuable commodities.
- Factor 4: Products of recycling must be comparable to legitimate products or intermediates. No Toxics Along for the Ride.

Sham Recycling

Disposal of hazardous waste in guise of recycling!

40 CFR § 261.2(g):

A hazardous secondary material found to be sham recycled is considered discarded and a solid waste. Sham recycling is recycling that is not legitimate recycling as defined in § 260.43.

Legitimate:

Lead-contaminated foundry sands reused in foundry molds.



Sham:

Lead-contaminated foundry sands reused as playground sand.



What does this mean for you, CUPAs?

When you inspect a generator....

- Can they show they meet the legitimacy criteria?
- Accumulated speculatively?
Start date on drums and containers?
- Emergency preparedness and contingency planning?

Ask questions to ensure the recycling is legitimate, is done in a protective manner, and meets all the conditions of the exclusion or exemption.

Resources

U.S. EPA

- [Hazardous Waste: Legitimate Recycling versus Sham Recycling](#)
- [Hazardous Secondary Material \(HSM\) Recycling Checklist, July 2024](#)
- RCRA Online #11426, U.S. EPA Memo, Sylvia Lowrance, April 26, 1989
<https://archive.epa.gov/epawaste/hazard/web/pdf/11426.pdf>

Key U.S. EPA Definition of Solid Waste Rulemakings ([Federal Register](#))

- January 4, 1985, 50 Federal Register 614
- October 30, 2008, 73 Federal Register 64668
- January 13, 2015, 80 Federal Register 1694
- May 30, 2018, 83 Federal Register 24664

What's next?

- Timeline
- Outreach efforts

Any Questions?



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Presenter Contact Information

- Liliana Cahuas: Liliana.Cahuas@dtsc.ca.gov
- Chosu Khin: Chosu.Khin@dtsc.ca.gov
- Megan Melnick: Megan.Melnick@dtsc.ca.gov
- Brian Ogg: Brian.Ogg@dtsc.ca.gov
- Tracy Vandewarker: Tracy.Vandewarker@dtsc.ca.gov

