

#E-200

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

Pre-Print RECOMMENDATION

Hazardous Substance Account Recodification Act:
Conforming Revisions

Note: This is a pre-print report. The Law Revision Commission has approved the substance of this report, but minor editorial changes may be made prior to final publication.

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(As subsequently revised in December 2021
to reflect 2021 legislative and statutory changes)

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SUMMARY OF RECOMMENDATION

At the request of the Legislature, the Law Revision Commission prepared a recommendation that proposes to recodify Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

The proposed recodification would relocate the substance of Chapter 6.8 to Part 2 of a new division (Division 45) of the Health and Safety Code. This change requires renumbering the provisions of Chapter 6.8.

Many provisions throughout the codes cross-refer to Chapter 6.8 or its contents. If the recodification is enacted, these cross-references will need to be revised to reflect to the recodified numbering scheme.

This recommendation proposes the necessary conforming revisions.

This recommendation was prepared pursuant to Resolution Chapter 46 of the Statutes of 2020 and subsequently updated pursuant to Resolution Chapter 108 of the Statutes of 2021.

HAZARDOUS SUBSTANCE ACCOUNT RECODIFICATION ACT: CONFORMING REVISIONS

1 In 2018, the Legislature directed the Law Revision Commission to conduct a
2 strictly nonsubstantive clean-up of “Chapter 6.5 (commencing with Section 25100)
3 and Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and
4 Safety Code, and related provisions, to improve the organization and expression of
5 the law.”¹

6 The Commission decided to proceed with this work in phases, first undertaking
7 work on Chapter 6.8. The Commission has prepared a separate recommendation
8 presenting a complete draft of a proposed recodification of the provisions of Chapter
9 6.8.

10 The proposed recodification would relocate the substance of Chapter 6.8 to Part
11 2 of a new division (Division 45) of the Health and Safety Code. This change
12 requires renumbering the provisions of Chapter 6.8. The numbers for all of the
13 sections within Chapter 6.8 will change,² some of the sections (particularly the long
14 ones) would be split into two or more sections (in some cases, a section would be
15 recodified as multiple sections within a single article), and substantively similar
16 provisions would be placed together in a logical order.

17 Many provisions throughout the codes cross-refer to Chapter 6.8 or its contents.
18 If the recodification is enacted, these cross-references will need to be revised to
19 reflect to the recodified numbering scheme.

20 This recommendation proposes the necessary conforming revisions. In general,
21 they are quite straightforward. A few key points are explained below.

22 **Nonsubstantive Reform**

23 In directing the Commission to study Chapter 6.8, the Legislature specified that
24 the Commission’s recommended legislation “shall not make any substantive
25 changes to the law.”³ The Commission took care to adhere to that limitation in
26 preparing its proposed recodification of Chapter 6.8.⁴

1. 2018 Cal. Stat. res. ch. 158 (SCR 91 (Roth)); see also 2020 Cal. Stat. res. ch. 46 (ACR 173 (Gallagher)); 2021 Cal. Stat. res. ch. 108 (ACR 24 (Chau)).

2. Chapter 6.8 would be recodified as Health and Safety Code Sections 78000-81050.

3. 2020 Cal. Stat. res. ch. 46.

4. For a description of specific measures the Commission took to prevent any substantive change, see *Hazardous Substance Account Recodification Act*, 48 Cal. L. Revision Comm’n Reports __ (2021), pp. 2-6 (hereafter, “Recodification Recommendation.”).

Any California Law Revision Commission document referred to in this recommendation can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

1 The Commission took similar care in preparing the conforming revisions
2 presented in this recommendation. In particular, the proposed legislation would only
3 update the cross-references to Chapter 6.8 and its contents and make other minor
4 technical revisions, such as:

- 5 • Elimination of gendered pronouns.⁵
- 6 • Insertion of subdivision or paragraph labels (where this would not create any
7 ambiguity or necessitate additional conforming revisions).⁶
- 8 • Other revisions to conform to legislative drafting conventions.⁷
- 9 • Correction of obsolete or erroneous cross-references. Each such correction is
10 noted in the accompanying Comment.⁸
- 11 • A few miscellaneous technical revisions.⁹

12 Consistent with the limited scope of its legislative mandate, the Commission did not
13 consider, and is not proposing, any other kinds of changes to the provisions affected
14 by this recommendation.¹⁰

15 Due to their bulk, the conforming revisions in this recommendation might be
16 introduced as a separate bill, instead of being included in the same bill as the
17 recodification of Chapter 6.8. For this reason, the conforming revisions are proposed
18 to be statutorily defined as part of the “Hazardous Substance Account
19 Recodification Act.”¹¹ Including these revisions in that term is important, because
20 the proposed recodification includes the following provision:

21 78010. Nothing in the Hazardous Substance Account Recodification Act is
22 intended to substantively change the law contained in former Chapter 6.8
23 (commencing with 25300) of Division 20. The act is intended to be entirely
24 nonsubstantive in effect. Every provision of this part and every other provision of

5. See, e.g., proposed amendment of Health & Safety Code § 25198.3 *infra*.

6. See, e.g., proposed amendment of Educ. Code § 17213.1 *infra*. For an example of a situation where the Commission deliberately refrained from inserting labels, see proposed amendment of Gov’t Code § 53313 *infra*.

7. See, e.g., proposed amendments of Civ. Code §§ 851, 853 (eliminating uses of the word “such,” which is disfavored in legislative drafting except in certain phrases); proposed amendments of Health & Safety Code §§ 25220, 25250.54, 57010 *infra* (replacing “Internet Web site” with “internet website”).

8. See proposed amendment of Civil Code § 853 *infra*; proposed amendments of Health & Safety Code §§ 25178, 25404.1 *infra*.

9. See, e.g., proposed amendment of Educ. Code § 17213.1 *infra*; proposed amendment of Health & Safety Code § 25262 *infra*.

10. Accordingly, readers of this recommendation should not infer that the Commission has evaluated and approved language that would not be changed by this recommendation.

11. See proposed Health & Safety Code § 78000(b) (defining “Hazardous Substance Account Recodification Act”) in the Recodification Recommendation, *supra* note 4.

1 this act, *including, without limitation, every cross-reference in every provision of*
2 *the act*, shall be interpreted consistent with the nonsubstantive intent of the act.¹²

3 This provision underscores the nonsubstantive nature of the recodification as a
4 whole and the updated cross-references in particular. It will help to ensure that the
5 courts and others interpret the recodification accordingly.

6 **Contingent and Deferred Operation**

7 On the assumption that the conforming revisions will be introduced as a separate
8 bill, this recommendation includes an uncodified provision that would make the
9 conforming revisions operative only if the recodification bill is enacted and becomes
10 operative.¹³ The operation of this legislation is also deferred to match the deferred
11 operation date proposed for the recodification legislation.¹⁴

12 The Commission will insert the appropriate bill number in this uncodified
13 provision after the recodification bill is introduced.

14 **Subordination Clause**

15 This recommendation also includes a subordination clause, in case one or more
16 of the code provisions in this recommendation is also amended in a substantive
17 manner by another bill.¹⁵ The subordination clause would ensure that the substantive
18 reform overrides the conforming revision, regardless of which bill is chaptered first.
19 Although the conforming revision would be nullified by the substantive reform, it
20 could be reintroduced the following year. With the deferred operative date, the
21 conforming revision could still be enacted prior to the recodification taking effect.
22 Even if a conforming revision is not enacted prior to the recodification taking effect,
23 the proposed recodification includes a provision that ensures that the outdated cross-
24 reference would be understood as a cross-reference to the recodified provision until
25 the relevant conforming revision could be enacted.¹⁶

12. See proposed Health & Safety Code § 78010 in the Recodification Recommendation, *supra* note 4 (emphasis added).

13. See proposed uncodified provision on contingent and deferred operation (at the end of the proposed legislation) *infra*.

14. See proposed uncodified provision on contingent and deferred operation *infra* and proposed uncodified provision on operative date in the Recodification Recommendation, *supra* note 4.

15. See proposed uncodified subordination clause (at the end of the proposed legislation) *infra*.

16. See proposed Health & Safety Code § 78015(b) in the Recodification Recommendation, *supra* note 4 (“A reference in a statute or regulation to a previously existing provision that is restated and continued in this part shall, unless a contrary intent appears, be deemed a reference to the restatement and continuation.”).

