

MEMORANDUM 2024-44

**Recodification of Toxic Substances Statutes:
Cumulative Draft of Material Previously Approved**

In the current phase of this study, the Commission,¹ pursuant to legislative directive,² is preparing a nonsubstantive recodification of [Chapter 6.5 \(commencing with Section 25100\) of Division 20 of the Health and Safety Code](#).

This memorandum presents a cumulative draft of recodified provisions of Chapter 6.5 that the Commission has previously provisionally approved for inclusion in a future tentative recommendation in the study. The primary purpose of the cumulative draft, which will be presented to the Commission on a continuing basis, is to provide a reference for Commissioners and other interested persons indicating the current status of the proposed recodification. Unless otherwise indicated in the accompanying memorandum, presentation of a cumulative draft will normally not require any decision from the Commission.

Each time the Commission provisionally approves a new set of recodified provisions, the staff will update the cumulative draft to include the newly approved provisions and will thereafter present the cumulative draft at the next Commission meeting at which this study is on the meeting agenda.³

Respectfully submitted,

Steve Cohen
Staff Counsel

1. Any California Law Revision Commission document referred to in this memorandum 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.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See [2024 Cal. Stat. res. ch. 138 \(ACR 169 \(Kalra\)\)](#). Earlier in the study, Commission recommendations recodifying former Chapter 6.8 of Division 20 were submitted to and thereafter enacted by the Legislature. See [Hazardous Substance Account Recodification Act \(Pre-Print\)](#) (Feb. 2021), [2022 Cal. Stat. ch. 257](#); [Hazardous Substance Account Recodification Act: Conforming Revisions \(Pre-Print\)](#) (Feb. 2021), [2022 Cal. Stat. ch. 258](#).

3. The recodified provisions of Chapter 6.5 most recently approved by the Commission, and added to this cumulative draft, were presented to the Commission on August 15, 2024, in the [First Supplement to Memorandum 2024-36](#).

CUMULATIVE DRAFT OF PROPOSED DIVISION 44 OF THE HEALTH & SAFETY CODE

Note. This is a work in progress. The material shown below may be changed. For a tentative outline and discussion of the proposed organization of new Division 44 of the Health & Safety Code, see Memorandum 2020-13, Exhibit pp. 3-5, and Memorandum 2023-33, pp. 2-3. All the proposed provisions would be located in the Health & Safety Code. All references are to the Health & Safety Code, unless otherwise indicated.

Comments. A draft of an official Commission “Comment” follows each proposed code section in the recodification. Those Comments will be included in any final recommendation. The Comments are drafted as if the existing code sections have been repealed and replaced with the proposed legislation. Thus, existing code sections are referred to as “former” sections.

The Comments indicate the source of each recodified code section and describe how the recodified code section compares with prior law. Courts have routinely held that the Commission’s Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation.

Notes. Some provisions in this draft are followed by a “Note.” Notes are typically intended to be temporary and will not be part of the Commission’s final recommendation. Notes are drafted to reflect the state of the law today. Thus, the sections in the proposed legislation are referred to as “proposed” sections.

Notes serve to flag issues requiring special attention or treatment. Where a Note serves as a prompt for public comment, it will typically be continued in the Commission’s tentative recommendation as a Note calling for comment. However, where, for instance, the Commission decides against a proposed restatement and reverts to existing statutory language, the Note describing the proposed restatement would not be continued in future drafts.

Cross-references. In some places, the provisions proposed for recodification in this draft cross-refer to provisions contained in Chapter 6.5. Where the cross-referenced provision has not yet been included in the recodification draft, the cross-reference is unchanged and is shown in bold text. Bracketed text designates cross-references that have been updated in form, but still need to be updated to reflect the recodified section number.

As new Division 44 is drafted, these references will be updated to reflect the new numbering scheme. Where the cross-referenced material is contained in this draft, the cross-reference was updated to reflect the recodified section number.

Where a proposed section or Commission Comment is drafted to refer to a section of the recodified law that has not yet been included in the draft, the text refers to “Section [XXXXXX].” These references will be updated when the relevant provision is drafted.

Tables. There is a “disposition table” at the end of the proposed recodification. It summarizes, in tabular form, the disposition of every provision of the existing code Chapter 6.5 that has been included in this draft.

There is also a “derivation table” at the end of the proposed recodification. It summarizes, in tabular form, the statutory derivation of every new code provision in this draft.

Substantive Issues for Possible Future Study. As part of the Legislature’s assignment to the Commission to conduct this study, the Legislature directed the Commission to “include a list of substantive issues that the commission identifies in the course of its work, for possible future study.” That list appears in this document following the disposition and derivation tables.

Public comment. The Commission welcomes public comment on any issue relating to the content of this draft or to any other aspect of this study. Comments should be directed to Steve Cohen (scohen@clrc.ca.gov).

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DRAFT LEGISLATION

1 **Health & Safety Code §§ 60000-[XXXXX] (added). Toxics Reduction and Management**
2 SEC. _____. Division 44 (commencing with Section 60000) is added to the Health
3 and Safety Code, to read:

4 **DIVISION 44. TOXICS REDUCTION AND MANAGEMENT**

5 **Notes. (1)** The proposed title of this division, “Toxics Reduction and Management,” is intended
6 to concisely describe the contents of Chapter 6.5 of Division 20. **The Commission welcomes**
7 **comments on whether an alternative title would better describe the contents for Chapter 6.5**
8 **of Division 20 for users of this law.**

9 (2) The provisional outline for this recodification project would recodify the entirety of Chapter
10 6.5 (commencing with Section 25100) of Division 20 in this proposed division. The provisions
11 contained in this draft, particularly those that cross-refer to the division, will require reconsideration
12 and possible adjustment if provisions of Chapter 6.5 of Division 20 are recodified in a different
13 location.

14 **PART 1. GENERAL PROVISIONS**

15 **CHAPTER 1. FINDINGS AND DECLARATIONS**

16 **§ 60000. Legislative findings**

17 60000. The Legislature finds that:

18 (a) Increasing quantities of hazardous wastes are being generated in the state, for
19 which the generators of the hazardous waste must provide safe disposal.

20 (b) Long-term threats to public health and to air and water quality are posed by
21 the landfill disposal of many types of untreated hazardous wastes and by the
22 inappropriate handling, storage, use, and disposal of hazardous wastes.

23 (c) Extensive technology exists for the safe treatment, neutralization, and
24 destruction of many types of hazardous wastes prior to disposal.

25 (d) Numerous opportunities exist to reduce the amount of hazardous waste
26 generated in the state and to conserve resources through the application of existing
27 source reduction and recycling technology.

28 (e) The people of the state face immense costs as a result of improper hazardous
29 waste handling and disposal practices.

30 **Comment.** Section 60000 continues former Section 25100 without substantive change.

31 See Sections 60205 (“handling”), 60210 (“hazardous waste”), 60325 (“recycling”), 60350
32 (“storage”), 60365 (“treatment”).

33 **§ 60005. Legislative declarations**

34 60005. The Legislature therefore declares that:

35 (a) In order to protect the public health and the environment and to conserve
36 natural resources, it is in the public interest to establish regulations and incentives

1 which ensure that the generators of hazardous waste employ technology and
2 management practices for the safe handling, treatment, recycling, and destruction
3 of their hazardous wastes prior to disposal.

4 (b) In order to assist the generators of hazardous waste in meeting the
5 responsibility for the safe disposal of hazardous waste it is necessary to establish the
6 Hazardous Waste Management Council.

7 (c) The Legislature further declares that in order to protect the public of this state
8 and particularly the communities where hazardous wastes are treated and disposed,
9 it is essential to assure full compensation of all people injured or damaged by
10 hazardous wastes. It is therefore necessary that the Hazardous Waste Management
11 Council, created pursuant to Section 25206, make recommendations regarding a
12 system of insurance and mechanisms establishing liability to achieve this result, as
13 required by subdivision (e) of Section 25208.

14 (d) It is in the best interest of the health and safety of the people of the State of
15 California for the state to obtain and maintain authorization to administer a state
16 hazardous waste program in lieu of the federal program pursuant to Section 3006 of
17 Public Law 94-580, as amended, the Resource Conservation and Recovery Act of
18 1976 (42 U.S.C. 6926). Therefore, it is the intent of the Legislature that the director
19 shall have those powers necessary to secure and maintain interim and final
20 authorization for the state hazardous waste program pursuant to the requirements of
21 Section 3006 of Public Law 94-580, the Resource Conservation and Recovery Act
22 of 1976 (42 U.S.C. 6926), and to implement such program in lieu of the federal
23 program.

24 **Comment.** Section 60005 continues former Section 25101 without substantive change. Obsolete
25 references to the “Hazardous Waste Management Council” and associated cross-referenced
26 provisions have been retained for ease of historical reference.

27 See Sections 60165 (“director”), 60205 (“handling”), 60210 (“hazardous waste”), 60220
28 (“hazardous waste management” or “management”), 60260 (“natural resources”), 60325
29 (“recycling”), 60365 (“treatment”).

30 **§ 60010. Findings related to access to public records**

31 60010. The Legislature has found that access by the people of this state to public
32 records is a fundamental and necessary right. The Legislature finds that it is
33 necessary to further the public’s right of access to public records pertaining to
34 hazardous waste management, information, and cleanup, to assure the fullest
35 opportunity for public participation in permitting and other decisions in order to
36 protect public health and the environment.

37 **Comment.** Section 60010 continues former Section 25103 without substantive change.

38 See Section 60220 (“hazardous waste management” or “management”).

1 **§ 60015. Construction of division related to state or local agency enforcement or**
2 **administration**

3 60015. No provision of this division shall limit the authority of any state or local
4 agency in the enforcement or administration of any provision of law that it is
5 specifically permitted or required to enforce and administer.

6 **Comment.** Section 60015 continues former Section 25105 without substantive change.

7 **§ 60020. Relationship of division with law governing administrative regulations and**
8 **rulemaking**

9 60020. Except as expressly provided by statute, this division does not supersede
10 or modify Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
11 Title 2 of the Government Code.

12 **Comment.** Section 60020 continues former Section 25106 without substantive change.

13 CHAPTER 2. EFFECT OF RECODIFICATION

14 **§ 60035. Short title**

15 60035. This division recodifies the provisions of former Chapter 6.5
16 (commencing with Section 25100) of Division 20. The act that added this division,
17 and the act that consists of conforming revisions to reflect the addition of this
18 division, shall be known and may be cited as the “Hazardous Waste Control
19 Recodification Act.”

20 **Comment.** Section 60035 is new. It provides a convenient means of referring to the
21 recodification of former Chapter 6.5 (commencing with Section 25100) of Division 20. For
22 background, see *Recodification of Hazardous Waste Control Provisions*, __ Cal. L. Revision
23 Comm’n Reports __ (20XX).

24 **§ 60040. Nonsubstantive reform**

25 60040. Nothing in the Hazardous Waste Control Recodification Act is intended
26 to substantively change the law contained in former Chapter 6.5 (commencing with
27 25100) of Division 20. The act is intended to be entirely nonsubstantive in effect.
28 Every provision of this division and every other provision of this act, including,
29 without limitation, every cross-reference in every provision of the act, shall be
30 interpreted consistent with the nonsubstantive intent of the act.

31 **Comment.** Section 60040 is new. It is modeled on Penal Code Section 16005. It makes clear
32 that the Hazardous Waste Control Recodification Act has no substantive effect. The act is intended
33 solely to make the provisions of former Chapter 6.5 (commencing with Section 25100) of Division
34 20 more user-friendly. For background, see *Recodification of Hazardous Waste Control Provisions*,
35 __ Cal. L. Revision Comm’n Reports __ (20XX).

36 For specific guidance on the impact of a judicial decision interpreting a predecessor of a
37 provision in this division, see Section 60050. For specific guidance on the impact of a judicial
38 decision assessing the constitutionality of a predecessor of a provision in this division, see Section
39 60055.

40 See Section 60035 (“Hazardous Waste Control Recodification Act”).

1 **§ 60045. Continuation of existing law**

2 60045. (a) A provision of this division, insofar as it is substantially the same as a
3 previously existing provision relating to the same subject matter, shall be considered
4 as a restatement and continuation of the previously existing provision and not as a
5 new enactment.

6 (b) A reference in a statute or regulation to a previously existing provision that is
7 restated and continued in this division shall, unless a contrary intent appears, be
8 deemed a reference to the restatement and continuation.

9 (c) A reference in a statute or regulation to a provision of this division that is
10 substantially the same as a previously existing provision, shall, unless a contrary
11 intent appears, be deemed to include a reference to the previously existing provision.

12 (d) A reference in a regulation to a provision of former Chapter 6.5 (commencing
13 with Section 25100) of Division 20, rather than to the provision of this division that
14 continues the former provision, has no effect on the validity of the regulation.

15 **Comment.** Section 60045 is new.

16 Subdivision (a) is similar to Section 2, which is a standard provision found in many codes. See,
17 e.g., Bus. & Prof. Code § 2; Corp. Code § 2; Fam. Code § 2; Penal Code §§ 5, 16010(a); Prob.
18 Code § 2(a); Veh. Code § 2.

19 Subdivision (b) is drawn from Government Code Section 9604, and Penal Code Section
20 16010(b).

21 Subdivision (c) is drawn from Family Code Section 2, and Penal Code Section 16010(c).

22 Subdivision (d) is drawn from Section 78015(d). It is added to make clear that any delay in
23 updating regulations to reflect the enactment of this division does not have any effect on the validity
24 of the regulation. A regulation continues to be valid even if it refers to a provision of former Chapter
25 6.5 (commencing with Section 25100) of Division 20.

26 **§ 60050. Judicial decision interpreting former law**

27 60050. (a) A judicial decision interpreting a previously existing provision is
28 relevant in interpreting any provision of this division that restates and continues that
29 previously existing provision.

30 (b) However, in enacting the Hazardous Waste Control Recodification Act, the
31 Legislature has not evaluated the correctness of any judicial decision interpreting a
32 provision affected by the act.

33 (c) The Hazardous Waste Control Recodification Act is not intended to, and does
34 not, reflect any assessment of any judicial decision interpreting any provision
35 affected by the act.

36 **Comment.** Section 60050 is new. It is modeled on Penal Code Section 16020.

37 Subdivision (a) makes clear that case law construing a predecessor provision is relevant in
38 construing its successor in this division.

39 Subdivisions (b) and (c) make clear that in recodifying former Chapter 6.5 (commencing with
40 Section 25100) of Division 20, the Legislature has not taken any position on any case interpreting
41 any of those provisions.

42 For specific guidance on the impact of a judicial decision assessing the constitutionality of a
43 predecessor of a provision in this division, see Section 60055. For general guidance on the
44 nonsubstantive impact of the Hazardous Waste Control Recodification Act, see Section 60040.

45 See Section 60035 (“Hazardous Waste Control Recodification Act”).

1 **Note.** In another recently completed recodification project, the Commission included a section
2 similar to proposed Section 60050 that addresses Attorney General opinions, rather than judicial
3 decisions. The Commission considered whether such a provision should be included in this project,
4 as well. The Commission searched for Attorney General opinions related to Chapter 6.5 and found
5 a couple. See 70 Cal. Ops. Atty. Gen. 130, 70 Cal. Ops. Atty. Gen. 183. Given that there are very
6 few Attorney General opinions, it is not clear whether it would be worthwhile to include a provision
7 about the effect of the recodification on Attorney General opinions.

8 **The Commission welcomes comment on this issue.**

9 **§ 60055. Constitutionality**

10 60055. (a) A judicial decision on the constitutionality of a previously existing
11 provision is relevant in determining the constitutionality of any provision of this
12 division that restates and continues that previously existing provision.

13 (b) However, in enacting the Hazardous Waste Control Recodification Act, the
14 Legislature has not evaluated the constitutionality of any provision affected by the
15 act, or the correctness of any judicial decision on the constitutionality of any
16 provision affected by the act.

17 (c) The Hazardous Waste Control Recodification Act is not intended to, and does
18 not, reflect any determination of the constitutionality of any provision affected by
19 the act.

20 **Comment.** Section 60055 is new. It is modeled on Penal Code Section 16025.

21 Subdivision (a) makes clear that case law on the constitutionality of a predecessor provision is
22 relevant in determining the constitutionality of its successor in this division.

23 Subdivisions (b) and (c) make clear that in recodifying former Chapter 6.5 (commencing with
24 Section 25100) of Division 20, the Legislature has not taken any position on the constitutionality
25 of any of those provisions.

26 For specific guidance on the impact of a judicial decision interpreting a predecessor of a
27 provision in this division, see Section 60050. For general guidance on the nonsubstantive effect of
28 the Hazardous Waste Control Recodification Act, see Section 60040.

29 See Section 60035 (“Hazardous Waste Control Recodification Act”).

30 **§ 60060. Conforming rule change**

31 60060. (a) The department or another state agency may make a conforming rule
32 change without complying with the rulemaking procedure specified in Article 5
33 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2
34 of the Government Code, if the rule change meets all of the requirements of this
35 section.

36 (b) To proceed under this section, the department or agency shall submit all of the
37 following to the Office of Administrative Law:

38 (1) A completed and signed form STD 400.

39 (2) A statement declaring that each proposed rule change in the submission is a
40 conforming rule change.

41 (3) A copy of the text of each regulation to be changed, with ~~strikeout~~ and
42 underscore showing the changes.

1 (c) On receipt of a submission described in subdivision (b), the Office of
2 Administrative Law shall file the changed regulations with the Secretary of State
3 and have them published in the California Code of Regulations.

4 (d) For the purposes of this section, a “conforming rule change” means a rule
5 change that deletes a reference to a provision of former Chapter 6.5 (commencing
6 with Section 25100) of Division 20 and replaces it with a reference to the provision
7 of this division that continues or restates the former provision. A “rule change”
8 includes a change to the text of a regulation in the California Code of Regulations,
9 a regulation’s citation of authority, or a regulation’s reference.

10 **Comment.** Section 60060 is new. It is modeled on Section 78030.
11 See Section 60160 (“department”).

12 CHAPTER 3. DEFINITIONS

13 **Note.** The following existing definitions appear to be obsolete or otherwise unnecessary, as
14 described below:

15 “Authorized local health officer” (Section 25110.2) – this defined term is not used in any other
16 provisions of Chapter 6.5 (nor is it incorporated by reference in other provisions of the California
17 codes). In addition, the cross-referenced provision pursuant to which the department would
18 authorize a local health officer (Section 25187.7) has been repealed.

19 “Consolidated transporter” (Section 25110.10.1) - this defined term is not used in any other
20 provisions of Chapter 6.5 (nor is it incorporated by reference in other provisions of the California
21 codes).

22 “Designated local public officer” (Section 25111.1) – this defined term is not used in any other
23 provisions of Chapter 6.5 (nor is it incorporated by reference in other provisions of the California
24 codes).

25 “State operational costs” (Section 25122.8) – this defined term is not used in any other provisions
26 of Chapter 6.5 (nor is it incorporated by reference in other provisions of the California codes).

27 **Absent comment indicating that these definitions have ongoing utility, the definitions**
28 **would not be continued in the proposed recodification.**

29 § 60075. Applicable definitions

30 60075. (a) Unless expressly incorporated by reference by another statute, the
31 definitions in this chapter govern only the construction of this division.

32 (b) Until terms used in this division are defined in either this division or in
33 regulations adopted to implement this division, the corresponding definitions found
34 in the federal act and the regulations adopted pursuant to that act, shall apply to the
35 terms used in this division.

36 **Comment.** Section 60075 continues former Section 25110 without substantive change. A
37 reference to the “Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec.
38 6901 et seq.)” was replaced with the defined term “federal act.” See Section 60200.

39 See Section 60200 (“federal act”).

40 **Notes.** Subdivision (b) of proposed Section 60075 provides for the application of definitions
41 contained in the federal act (42 U.S.C. Sec. 6901 et seq.) if the terms are not defined either in
42 Chapter 6.5 or the associated state regulations. In preparing this recodification, the Commission
43 has not exhaustively evaluated the application of definitions in the state regulation, federal law, or

1 federal regulations to the use of those terms in this division. Assessing the applicability of the
2 numerous definitions to uses of the defined terms in this law would be a significant undertaking.
3 And, importantly, the potential benefits of doing such work in this nonsubstantive study are limited.
4 That said, the Commission has identified issues that may be appropriate for future attention:

5 (1) Subdivision (b) implies that, for a term that is not defined in this division, but is defined in
6 the state regulations adopted pursuant to this division, the regulatory definition would apply to uses
7 of the term in this division. If that is the intended outcome, the rule should be stated more directly.

8 More broadly, Section 66260.10 of Title 22 of the California Code of Regulations appears to be
9 the key regulatory section defining terms related to hazardous waste management. That section
10 defines over 400 terms (although some definitions are simply cross-references, e.g., “Acute
11 hazardous waste” see “Acutely hazardous waste.”). The regulations include definitions for a
12 number of terms that are also defined in this proposed division (e.g., “acutely hazardous waste,”
13 “applicant,” “buffer zone,” “business”); the same term may be defined differently in this proposed
14 division and the regulations (see, e.g., “disposal site” definitions in proposed Section 60180 and 22
15 C.C.R. § 66260.10). While many defined terms are sufficiently technical that they would not be
16 mistakenly used in a more colloquial sense (e.g., “Acute aquatic 96-hour LC₅₀,” “polychlorinated
17 biphenyls”), there are several defined terms that have a more general colloquial meaning (e.g.,
18 “activity,” “application,” “assets,” “authorized representative,” “commence,” “component”).

19 (2) Section 6903 of the federal act defines over 40 terms and the federal act’s regulations define
20 many, many more. See generally [https://www.epa.gov/rcra/resource-conservation-and-recovery-](https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-regulations)
21 [act-rcra-regulations](https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-regulations) (over 25 parts of the federal regulations are associated with the federal act; a
22 number of those parts have one or more sections containing numerous definitions); see, e.g., 40
23 C.F.R. §§ 239.2, 240.101, 256.05, 260.10, 273.9, 280.12.

24 In general, it is uncertain whether this provision provides sufficient clarity as to when the federal
25 definitions apply. In particular, the federal act regulations cover three general categories: non-
26 hazardous waste, hazardous waste, and other (used oil and storage tanks). Chapter 6.5 primarily
27 deals with hazardous waste. It is unclear whether all of the definitions contained in the non-
28 hazardous waste and storage tank regulations should be applied to Chapter 6.5. See, e.g., Section
29 25200.15 (using the word “upgrade” in a section about hazardous waste facility improvements), 40
30 C.F.R. § 280.12 (defining “upgrade” for underground storage tank systems).

31 At a minimum, it seems worthwhile to consider whether subdivision (b) should expressly limit
32 the application of federal definitions in situations where those definitions were clearly not intended
33 to apply (i.e., definitions apply “unless the context requires otherwise”).

34 **The Commission welcomes comment on the above issues.**

35 (3) Chapter 6.5 contains a number of provisions that apply to DTSC and pertain to programs
36 other than those in Chapter 6.5. In particular, the financial provisions in Chapter 6.5 involve
37 programs and terminology used in Chapter 6.8. See Note to proposed Chapter 4. In several cases,
38 terms defined in Part 2 of Division 45 are used in Chapter 6.5 without reference to the applicable
39 definitions, although it seems likely that those definitions were intended to apply. It may be
40 worthwhile to include a provision specifying that, unless otherwise provided in this proposed
41 division, the definitions in Part 2 of Division 45 apply to uses of those terms in this law. This is
42 particularly true for the financial provisions (proposed Chapter 4 in this draft), but may apply to
43 the whole of Chapter 6.5.

44 **This issue has been added to the list of substantive issues for possible future study.**

45 **§ 60080. “Acutely hazardous waste”**

46 60080. “Acutely hazardous waste” means any hazardous waste classified as an
47 acutely hazardous waste in regulations adopted by the department.

48 **Comment.** Section 60080 continues former Section 25110.02 without substantive change.
49 See Sections 60160 (“department”), 60210 (“hazardous waste”).

1 **§ 60085. “Applicant”**

2 60085. “Applicant” means any person seeking an original hazardous waste
3 facilities permit, or an original hazardous waste hauler’s registration from the
4 department to generate, transport, treat, store, recycle, dispose of or handle
5 hazardous waste.

6 **Comment.** Section 60085 continues former Section 25110.1 without substantive change.

7 See Sections 60160 (“department”), 60210 (“hazardous waste”), 60215 (“hazardous waste
8 facility”), 60295 (“person”).

9 **§ 60088. “Board”**

10 60088. “Board” means the Board of Environmental Safety established pursuant
11 to **Section 25125**.

12 **Comment.** Section 60088 continues former Section 25110.3 without substantive change.

13 **§ 60090. “Buffer zone”**

14 60090. “Buffer zone” means an area of land that surrounds a hazardous waste
15 facility and on which certain land uses and activities are restricted to protect the
16 public health and safety and the environment from existing or potential hazards
17 caused by the migration of hazardous waste.

18 **Comment.** Section 60090 continues former Section 25110.4 without substantive change.

19 See Sections 60210 (“hazardous waste”), 60215 (“hazardous waste facility”).

20 **§ 60095. “Business”**

21 60095. “Business” means the conduct of activity and is not limited to a
22 commercial or proprietary activity.

23 **Comment.** Section 60095 continues former Section 25110.5 without substantive change.

24 **§ 60100. “Business concern”**

25 60100. “Business concern” means any sole proprietorship, corporation,
26 association, firm, partnership, trust, or other form of commercial organization.

27 **Comment.** Section 60100 continues former Section 25110.8 without substantive change.

28 **§ 60105. “Certified Unified Program Agency” or “CUPA”**

29 60105. “Certified Unified Program Agency” or “CUPA” means the agency
30 certified by the secretary to implement the unified program specified in Chapter
31 6.11 (commencing with Section 25404) of Division 20 within a jurisdiction.

32 **Comment.** Section 60105 continues former Section 25123.7(b) without substantive change.

33 See Section 60345 (“secretary”).

34 **§ 60110. “Class I violation”**

35 60110. “Class I violation” means any of the following:

36 (a) A deviation from the requirements of this division, or any regulation, standard,
37 requirement, or permit or interim status document condition adopted pursuant to this
38 division, that meets one or more of the following conditions:

1 (1) The deviation represents a significant threat to human health or safety or the
2 environment because of one or more of the following:

- 3 (A) The volume of the waste.
- 4 (B) The relative hazardousness of the waste.
- 5 (C) The proximity of the population at risk.

6 (2) The deviation is significant enough that it could result in a failure to
7 accomplish any of the following:

8 (A) Ensure that hazardous waste is destined for, and delivered to, an authorized
9 hazardous waste facility.

10 (B) Prevent releases of hazardous waste or constituents to the environment during
11 the active or postclosure period of facility operation.

12 (C) Ensure early detection of releases of hazardous waste or constituents.

13 (D) Ensure adequate financial resources in the case of releases of hazardous waste
14 or constituents.

15 (E) Ensure adequate financial resources to pay for facility closure.

16 (F) Perform emergency cleanup operations of, or other corrective actions for,
17 releases.

18 (b) A deviation that is a Class II violation that is a chronic violation or committed
19 by a recalcitrant violator.

20 **Comment.** Section 60110 restates former Section 25110.8.5, with the exception of the second
21 sentence of subdivision (b), without substantive change.

22 See Sections 60115 (“class II violation”), 60210 (“hazardous waste”), 60215 (“hazardous waste
23 facility”), 60390 (“waste”).

24 **Note.** Section 25110.8.5 was restated to ensure grammatical consistency in the section. Minor
25 changes were made to the portion of subdivision (a) preceding the numbered paragraphs and to
26 subdivision (b). Currently, those provisions of Section 25110.8.5 provide:

27 “Class I violation” means any of the following:

28 (a) A deviation from the requirements of this chapter, or any regulation, standard, requirement,
29 or permit or interim status document condition adopted pursuant to this chapter, that is any of the
30 following:

31 ...

32 (b) The deviation is a Class II violation which is a chronic violation or committed by a
33 recalcitrant violator. “Class II Violation” has the same meaning as defined in Section 66260.10 of
34 Title 22 of the California Code of Regulations.

35 The second sentence of subdivision (b) is continued in proposed Section 60115.

36 **Absent comment, the proposed restatement of this provision will be presumed correct.**

37 **§ 60115. “Class II violation”**

38 60115. “Class II violation” has the same meaning as defined in Section 66260.10
39 of Title 22 of the California Code of Regulations.

40 **Comment.** Section 60115 continues the second sentence of former Section 25110.8.5(b) without
41 substantive change.

42 See Section 60110 (“class I violation”).

1 **Note.** The scope of application for that definition is not expressly limited to the section. The term
2 “class II violation” is also used in the provision defining “minor violation.” See proposed Section
3 60255 (“minor violation”). For ease of use, the definition of “class II violation” is continued as a
4 separate section.

5 **Absent comment, the proposed treatment of this provision will be presumed correct.**

6 **§ 60120. “Conditional authorization”**

7 60120. (a) “Conditional authorization” means a provision of this division that
8 provides that a person or activity is deemed to be operating pursuant to a grant of
9 authorization, as required pursuant to **subdivision (a) of Section 25201**, if the
10 person or activity meets the specified requirements.

11 (b) “Conditional authorization” includes, but is not limited to, **Section 25200.3**.

12 **Comment.** Section 60120 restates former Section 25110.9.1(a) without substantive change.
13 See Section 60295 (“person”).

14 **Note.** Section 25110.9.1(a) is restated to improve readability. Section 25110.9.1(a) provides:

15 25110.9.1. (a) “Conditional authorization” means a provision of this chapter, including, but not
16 limited to, Section 25200.3, which provides that a person or activity is deemed to be operating
17 pursuant to a grant of authorization, as required pursuant to subdivision (a) of Section 25201, if the
18 person or activity meets the requirements of that provision.

19 The portion of the definition that identifies the example section (the “included, but not limited
20 to” provision) was placed in a separate subdivision and conforming changes were made. The
21 indefinite reference to “requirements of that provision” was changed to refer to the “specified
22 requirements.”

23 **Absent comment, the proposed restatement of this provision will be presumed correct.**

24 **§ 60125. “Conditional exemption”**

25 60125. (a) “Conditional exemption” means a provision of this division that
26 provides that a person or activity is exempted from, or is otherwise not subject to,
27 the requirement to obtain a hazardous waste facilities permit or other grant of
28 authorization if the person or activity meets the requirements of that provision.

29 (b) “Conditional exemption” includes, but is not limited to, **Sections 25144.6,**
30 **25201.5, 25201.8, and 25201.13.**

31 **Comment.** Section 60125 restates former Section 25110.9.1(b) without substantive change.
32 See Sections 60215 (“hazardous waste facility”), 60295 (“person”).

33 **Notes. (1)** Section 25110.9.1(b) is restated to improve readability. Section 25110.9.1(b)
34 provides:

35 25110.9.1. ... (b) “Conditional exemption” means a provision of this chapter, including, but not
36 limited to, Sections 25144.6, 25201.5, 25201.5.1, 25201.8, and 25201.13, which provides that a
37 person or activity is exempted from, or is otherwise not subject to, the requirement to obtain a
38 hazardous waste facilities permit or other grant of authorization if the person or activity meets the
39 requirements of that provision.

40 The portion of the definition that identifies the example sections (the “included, but not limited
41 to” provision) was placed in a separate subdivision and conforming changes were made.

42 **Absent comment, the proposed restatement of this provision will be presumed correct.**

1 (2) Section 25110.9.1(b)(2) lists sections that govern conditional exemptions. One of the listed
2 sections, Section 25201.5.1, has been repealed. Former Section 25201.5.1 related to silver halide-
3 based imaging product processing. See 1994 Cal. Stat. ch. 440, § 1. This material does not appear
4 to have been continued elsewhere in the code. For that reason, the obsolete reference to Section
5 25201.5.1 was continued.

6 **Absent comment, the proposed treatment of this cross-reference will be presumed correct.**

7 **§ 60130. “Conditionally exempt small quantity treatment”**

8 60130. “Conditionally exempt small quantity treatment” means the operations of
9 a generator conditionally exempted pursuant to **subdivision (a) of Section 25201.5.**

10 **Comment.** Section 60130 continues former Section 25110.9(a) without substantive change.

11 **§ 60135. “Conditionally exempt specified waste stream”**

12 60135. “Conditionally exempt specified waste stream” means a waste stream
13 treated by a generator conditionally exempted pursuant to **subdivision (c) of**
14 **Section 25201.5.**

15 **Comment.** Section 60135 continues former Section 25110.9(b) without substantive change.
16 See Section 60390 (“waste”).

17 **§ 60140. “Consolidated manifest”**

18 60140. “Consolidated manifest” means a hazardous waste manifest used by a milk
19 run transporter to combine hazardous waste shipments from multiple generators on
20 one consolidated manifest pursuant to the procedures in **Section 25160.2.**

21 **Comment.** Section 60140 restates former Section 25110.9.3 without substantive change.
22 See Sections 60210 (“hazardous waste”), 60250 (“manifest”).

23 **Note.** Section 25110.9.3 begins with a clause specifying that the definition is “[f]or purposes of
24 this chapter.” This language appears to be redundant. Proposed Section 60075 (Section 25110)
25 provides that the definitions in this proposed chapter govern “only the construction of this division
26 [existing Chapter 6.5].” For this reason, proposed Section 60140 does not continue the “[f]or
27 purposes of this chapter” language.

28 **Absent comment, the proposed restatement of this provision will be presumed correct.**

29 **§ 60150. “Consolidation site”**

30 60150. “Consolidation site” means a site to which hazardous waste initially
31 collected at a remote site is transported.

32 **Comment.** Section 60150 restates former Section 25110.10(a) without substantive change.
33 See Sections 60210 (“hazardous waste”), 60330 (“remote site”).

34 **Notes. (1)** Section 25110.10(a) includes a clause specifying that “remote site” is “as defined in
35 Section 25121.3.” The “as defined in Section 25121.3” language appears to be redundant. “Remote
36 site” is defined in Section 25121.3 and that definition governs this division. See proposed Section
37 60075. For this reason, the clause cross-referencing the remote site definition was not continued.

38 **Absent comment, the proposed restatement of this provision will be presumed correct.**

39 (2) Subdivisions (b) to (e) of Section 25110.10 will be recodified with the substantive rules
40 related to hazardous waste transportation and consolidation.

1 § 60155. “Contained gaseous material”

2 60155. (a) “Contained gaseous material” means any gas that is contained in an
3 enclosed cylinder or other enclosed container.

4 (b) Notwithstanding subdivision (a), “contained gaseous material” does not
5 include any exhaust or flue gas, or other vapor stream, or any air or exhaust gas
6 stream that is filtered or otherwise processed to remove particulates, dusts, or other
7 air pollutants, regardless of the source.

8 **Comment.** Section 60155 restates former Section 25110.11 without substantive change.

9 **Notes. (1)** Section 25110.11(a) specifies that the definition of “contained gaseous material” is
10 “for purposes of subdivision (a) of Section 25124 or any other provision of this chapter.” This
11 language appears to be redundant. Proposed Section 60075 (Section 25110) provides that the
12 definitions in this chapter govern “only the construction of this division [existing Chapter 6.5].”
13 For this reason, proposed Section 60155 does not continue the language specifying that the
14 definition applies “for purposes of subdivision (a) of Section 25124 or any other provision of this
15 chapter.”

16 **Absent comment, the proposed restatement of this provision will be presumed correct.**

17 (2) Currently, Section 25124(a) (defining “waste”) is the only provision that appears to use the
18 term “contained gaseous material” in Chapter 6.5. Given that, it is unclear if there is value to
19 retaining this provision as a separate definition that applies to the whole of Chapter 6.5.

20 **The Commission welcomes comment on whether this definition should be incorporated**
21 **into the definition of “waste.”**

22 § 60160. “Department”

23 60160. “Department” means the Department of Toxic Substances Control.

24 **Comment.** Section 60160 continues former Section 25111 without substantive change.

25 § 60165. “Director”

26 60165. “Director” means the Director of Toxic Substances Control.

27 **Comment.** Section 60165 continues former Section 25112 without substantive change.

28 § 60170. “Disclosure statement”

29 60170. “Disclosure statement” means a statement submitted to the department by
30 an applicant, signed by the applicant under penalty of perjury, that includes all of
31 the information specified in [Section XXXXX].

32 **Comment.** Section 60170 restates the portion of former Section 25112.5(a) that precedes the
33 numbered paragraphs without substantive change.

34 See Sections 60085 (“applicant”), 60160 (“department”).

35 **Notes. (1)** Section 25112.5 contains the definition of “disclosure statement,” along with
36 supporting rules about the contents of the disclosure statement. Proposed Section 60170 recodifies
37 the portion of Section 25112.5 that defines disclosure statement, which provides:

38 “(a) ‘Disclosure statement’ means a statement submitted to the department by an applicant,
39 signed by the applicant under penalty of perjury, which includes all of the following information:
40”

1 Proposed Section 60170 would restate this portion of Section 25112.5(a) to include a
2 (placeholder) cross-reference to the proposed provision(s) that will recodify the remainder of
3 Section 25112.5(a).

4 (2) The remaining material in Section 25112.5 — i.e., subdivisions (b)-(d) and the numbered
5 paragraphs of subdivision (a) — will be recodified later in this proposed division.

6 **§ 60175. “Disposal”**

7 60175. (a) “Disposal” means either of the following:

8 (1) The discharge, deposit, injection, dumping, spilling, leaking, or placing of any
9 waste so that the waste or any constituent of the waste is or may be emitted into the
10 air or discharged into or on any land or waters, including groundwaters, or may
11 otherwise enter the environment.

12 (2) The abandonment of any waste.

13 (b) The amendment of former Section 25113 by Section 2 of Chapter 1436 of the
14 Statutes of 1989 does not constitute a change in, but is declaratory of, the existing
15 law.

16 **Comment.** Section 60175 restates former Section 25113 without substantive change.
17 See Section 60390 (“waste”).

18 **Note.** Section 25113(b) is restated to replace the phrase “[t]he amendment of the section made
19 at the 1989-90 Regular Session of the Legislature” with a reference to “[t]he amendment of former
20 Section 25113 by Section 2 of Chapter 1436 of the Statutes of 1989.”

21 **Absent comment, this proposed restatement will be presumed correct.**

22 **§ 60180. “Disposal site”**

23 60180. “Disposal site” means the location where any final deposition of hazardous
24 waste occurs.

25 **Comment.** Section 60180 continues former Section 25114 without substantive change.
26 See Section 60210 (“hazardous waste”).

27 **§ 60185. “Electronic manifest system” or “e-Manifest system”**

28 60185. “Electronic manifest system” or “e-Manifest system” means the United
29 States Environmental Protection Agency’s national information technology system
30 through which an electronic manifest may be obtained, completed, transmitted, and
31 distributed to users of the electronic manifest, and to regulatory agencies.

32 **Comment.** Section 60185 restates former Section 25160(a)(2) without substantive change.
33 See Section 60250 (“manifest”).

34 **Note.** The text preceding the numbered paragraphs in Section 25160(a) provides “[f]or purposes
35 of this chapter, the following definitions apply.” Given the application of these definitions to the
36 entirety of Chapter 6.5, the definitions have been proposed for recodification in this proposed
37 chapter.

38 The prefatory “[f]or purposes of this chapter” text is redundant and therefore is not continued.
39 Proposed Section 60075 (Section 25110) provides that the definitions in this chapter govern “only
40 the construction of this division [existing Chapter 6.5].” For this reason, proposed Section 60185
41 does not continue the “[f]or purposes of this chapter” language.

42 **Absent comment, this proposed restatement will be presumed correct.**

1 § 60190. “Environmental assessor”

2 60190. “Environmental assessor” means an environmental professional as defined
3 in Section 312.10 of Title 40 of the Code of Federal Regulations. Notwithstanding
4 Section 60075, this definition shall apply for all California statutes, unless the
5 context requires otherwise.

6 **Comment.** Section 60190 continues former Section 25114.5 without substantive change.

7 **Note.** Section 25114.5 indicates that the definition of environmental assessor “shall apply for all
8 California statutes, unless the context requires otherwise.” This is a very broad scope of application
9 and raises the question of whether this definition should be relocated to a more general location or
10 reproduced elsewhere.

11 **The Commission welcomes comment on this issue.**

12 § 60195. “Extremely hazardous waste”

13 60195. “Extremely hazardous waste” means any hazardous waste or mixture of
14 hazardous wastes that, if human exposure should occur, may likely result in death,
15 disabling personal injury or serious illness caused by the hazardous waste or mixture
16 of hazardous wastes because of its quantity, concentration, or chemical
17 characteristics.

18 **Comment.** Section 60195 continues former Section 25115 without substantive change.

19 See Section 60210 (“hazardous waste”).

20 § 60200. “Federal act”

21 60200. “Federal act” means the federal Resource Conservation and Recovery Act
22 of 1976, as amended (42 U.S.C. Sec. 6901 et seq.).

23 **Comment.** Section 60200 continues former Section 25115.1 without substantive change.

24 § 60205. “Handling”

25 60205. (a) “Handling” means either of the following:

26 (1) The transporting or transferring from one place to another of hazardous waste.

27 (2) The pumping, processing, storing, or packaging of hazardous waste.

28 (b) “Handling” does not include the handling of any substance before it becomes
29 a waste.

30 **Comment.** Section 60205 restates former Section 25116 without substantive change.

31 See Sections 60210 (“hazardous waste”), 60300 (“processing”), 60390 (“waste”).

32 **Note.** Section 25116 has been restated for clarity. Section 25116 provides:

33 “‘Handling’ means the transporting or transferring from one place to another, or pumping,
34 processing, storing, or packaging of hazardous waste, but does not include the handling of any
35 substance before it becomes a waste.”

36 **Absent comment, the proposed restatement of this section will be presumed correct.**

37 § 60210. “Hazardous waste”

38 60210. (a)(1) Except as provided in **subdivision (d) [of Section 25117]**,
39 “hazardous waste” means a waste that meets any of the criteria for the identification
40 of a hazardous waste adopted by the department pursuant to **Section 25141**.

1 (2) “Hazardous waste” includes, but is not limited to, RCRA hazardous waste.

2 (3) Unless expressly provided otherwise, “hazardous waste” also includes
3 extremely hazardous waste and acutely hazardous waste.

4 (b)(1) Waste that is hazardous only because it is medical waste, as defined in the
5 Medical Waste Management Act (Part 14 (commencing with Section 117600) of
6 Division 104), shall not be governed by, subject to fees assessed by, or otherwise
7 subject to, the requirements of this division or regulations adopted pursuant to this
8 division.

9 (2) Biohazardous waste that meets the conditions specified in **subdivision (f) or**
10 **(g) of Section 117635** is not subject to this division.

11 **Comment.** Subdivision (a) of Section 60210 continues former Section 25117(a)-(c) without
12 substantive change.

13 Subdivision (b) continues former Section 25117.5 without substantive change.

14 See Sections 60080 (“acutely hazardous waste”), 60160 (“department”), 60195 (“extremely
15 hazardous waste”), 60310 (“RCRA hazardous waste”), 60390 (“waste”).

16 **Notes.** (1) Subdivision (d) of Section 25117 contains a rule about satisfying “the element of proof
17 that the waste is hazardous waste” in a criminal or civil prosecution for violations of Chapter 6.5.
18 That subdivision will be recodified with the enforcement provisions in this proposed division.

19 (2) Section 25117.5 is missing a comma at the end of the citation to the Medical Waste
20 Management Act. A comma has been added in this proposed section.

21 (3) Section 25117.5(b) (which will be recodified as paragraph (b)(2) of this proposed section)
22 provides:

23 “(b) Biohazardous waste that meets the conditions specified in subdivision (f) or (g) of Section
24 117635 is not subject to this chapter.”

25 Section 117635 has been repealed. See 2014 Cal. Stat. ch. 564, § 5. Former Section 117635(f)
26 and (g) related to biological waste that was only hazardous due to the presence of chemical
27 fixatives, chemotherapeutic agents, or pharmaceuticals. See 1996 Cal. Stat. ch. 536, § 1. Former
28 Section 117635 also specified that these types of waste “are not subject to” Chapter 6.5.

29 The definition of biohazardous waste was moved to Section 117690 and no longer has separate
30 provisions about the types of waste addressed by former subdivisions (f) and (g). In the current
31 provision, medical waste as a whole is defined as certain types of waste “not regulated by RCRA.”
32 It is unclear how this cross-reference should be updated (i.e., by referring to former law or to refer
33 to a different provision in the current law).

34 More generally, it is unclear whether this exclusion for biohazardous waste is intended to be
35 different in scope than the exclusion for medical waste in paragraph (b)(1) of this proposed section
36 (existing Section 25117.5(a)).

37 **The Commission welcomes comment on these issues.**

38 **§ 60215. “Hazardous waste facility”**

39 60215. (a) “Hazardous waste facility” means all contiguous land and structures,
40 other appurtenances, and improvements on the land used for the treatment, transfer,
41 storage, resource recovery, disposal, or recycling of hazardous waste.

42 (b) A hazardous waste facility may consist of one or more treatment, transfer,
43 storage, resource recovery, disposal, or recycling hazardous waste management
44 units, or combinations of these units.

45 **Comment.** Section 60215 continues former Section 25117.1 without substantive change.

1 See Sections 60175 (“disposal”), 60210 (“hazardous waste”), 60220 (“hazardous waste
2 management” or “management”), 60325 (“recycling”), 60350 (“storage”), 60365 (“treatment”).

3 **§ 60220. “Hazardous waste management” or “management”**

4 60220. “Hazardous waste management” or “management” means the
5 transportation, transfer, recycling, recovery, disposal, handling, processing, storage,
6 and treatment of hazardous waste.

7 **Comment.** Section 60220 continues former Section 25117.2 without substantive change.

8 See Sections 60175 (“disposal”), 60205 (“handling”), 60210 (“hazardous waste”), 60300
9 (“processing”), 60325 (“recycling”), 60350 (“storage”), 60365 (“treatment”).

10 **§ 60225. “Intermediate manufacturing process stream”**

11 60225. (a) “Intermediate manufacturing process stream” means a material, or
12 combination of materials, that meets all of the following conditions:

13 (1) It is produced as part of the manufacturing process.

14 (2) It is used onsite on a batch or continuous basis, in either the same or in a
15 different manufacturing process to produce a commercial product.

16 (3) It is not a recyclable material.

17 (4) The person who produced the material or combination of materials is able to
18 demonstrate all of the following:

19 (A) The material, or combination of materials, is used, alone or in combination
20 with other materials, in a manufacturing process that is designed for its use.

21 (B) The material, or combination of materials, is not accumulated or stored in
22 amounts greater than can be used in the manufacturing process.

23 (C) The material, or combination of materials, is not handled, stored, or processed
24 in a manner that is inconsistent with its intended use or the operating requirements
25 of the manufacturing process.

26 (D) The material, or combination of materials, is not burned or incinerated for the
27 purpose of abandoning or relinquishing the material or combination of materials,
28 except as may otherwise be allowed under both this division and the federal act.

29 (b) Notwithstanding subdivision (a), a material is not an intermediate
30 manufacturing process stream if it has been released in violation of this division, or
31 any other applicable law, or an order issued pursuant to this division or other
32 applicable law, unless it has been released into an appropriate containment area or
33 structure and has been promptly recovered and returned to the manufacturing
34 process, without prior treatment, for use in the originally intended manufacturing
35 process.

36 **Comment.** Section 60225 continues former Section 25116.5 without substantive change.

37 See Sections 60200 (“federal act”), 60295 (“person”), 60315 (“recyclable material”), 60365
38 (“treatment”).

39 **§ 60230. “Land use restriction”**

40 60230. “Land use restriction” means any limitation regarding the uses of property
41 which may be provided by, but is not limited to, a written instrument that imposes

1 an easement, covenant, restriction, or servitude, or a combination thereof, as
2 appropriate, upon the present and future uses of all, or part of, the land, pursuant to
3 Section **25202.5** or 79055 or former Section 25222.1 or 25230.

4 **Comment.** Section 60230 continues former Section 25117.13 without substantive change.

5 **Notes.** (1) Section 25117.13 specifies that a “land use restriction” is a limitation on the use of
6 property that is imposed pursuant to specified sections. The phrasing of this provision is a bit
7 ambiguous. Specifically, it is unclear whether the list of sections is intended to be an exclusive list.

8 The Commission identified certain sections that are not listed here that provide for restrictions
9 on land use. It is not clear whether those omissions were intentional. For instance, Section 25221
10 discusses agreements between the property owner and the department that provide for restricting
11 property uses. The section provides that such an agreement “shall be recorded... as a hazardous
12 waste easement, covenant, restriction, or servitude, or any combination of those servitudes.” It is
13 unclear why this section is not a listed land use restriction. See also Section 25220(a) (citing the
14 land use restrictions imposed pursuant to former Sections 25229, 25230, and 25398.7, and current
15 Sections 25202.5, 25221, and 25355.5).

16 **The Commission welcomes comment on these issues and whether this definition has caused
17 problems in practice.**

18 **Depending on the comment received, the Commission may add clarification of this
19 definition to the list of substantive issues for possible future study.**

20 (2) Section 25117.13 lists two sections that have been repealed, Sections 25222.1 and 25230.
21 See 2012 Cal. Stat. ch. 39, § 38. Since the land use restrictions enacted under these repealed laws
22 may still be in effect, proposed Section 60230 has been drafted to continue to refer to land use
23 restrictions pursuant to those “former” sections. For these references, no statutory citation was
24 provided to avoid an implication that only certain restrictions under these former sections are “land
25 use restrictions” for the purpose of this definition (i.e., those restrictions adopted when a specified
26 version of the section was in effect).

27 **§ 60235. “License”**

28 60235. “License” includes, but is not limited to any, permit, registration, or
29 certification issued by any local, state, or federal agency for the generation,
30 transportation, treatment, storage, recycling, disposal, or handling of hazardous
31 waste.

32 **Comment.** Section 60235 continues former Section 25117.10 without substantive change.

33 See Sections 60175 (“disposal”), 60205 (“handling”), 60210 (“hazardous waste”), 60325
34 (“recycling”), 60350 (“storage”), 60365 (“treatment”).

35 **§ 60240. “Local health officer”**

36 60240. “Local health officer” means county health officers, city health officers,
37 and district health officers, as defined in this code.

38 **Comment.** Section 60240 continues former Section 25117.4.1(a) without substantive change.

39 **Notes.** (1) The definition of “local health officer” includes three specified types of officers
40 (county, city, and district health officers) “as defined in this code.”

41 The Commission conducted a quick search to identify the provision(s) defining each type of
42 health officer.

43 • “County health officer” – “County health officer” does not appear to be a defined term in this
44 code. However, Section 101000 requires the board of supervisors to “appoint a health officer who
45 is a county officer.” Presumably, this would be the “county health officer.” See also Section 111015

1 (defining “health officer” to include a health officer “appointed by a county board of supervisors
2 pursuant to Section 101000”).

3 • “City health officer” – Similarly, “city health officer” does not appear to be a defined term in
4 the code. Section 101460 specifies that the governing body of a city “shall appoint a health officer”
5 See also Section 111015 (defining “health officer” to include a health officer appointed “by the
6 governing body of a city pursuant to Section 101460.”).

7 • “District health officer” – The Commission has not found a section of the Health and Safety
8 Code that provides for the appointment of a district health officer (aside from one permitting a
9 sanitary district board to authorize the county health officer to act as a health officer for a sanitary
10 district; see Section 6492.5). Section 111015 defines “health officer” to include a health officer
11 appointed by “by a local health district board pursuant to former Section 940, that is continued in
12 effect as to any existing district by Section 3 of Chapter 380 of the Statutes of 1959.” It is unclear
13 whether these are the district health officers intended here.

14 **The Commission welcomes comment on whether it would be helpful to specify where
15 exactly these different officers are defined in the code.**

16 (2) More broadly, it appears that a “local health officer” under this section may be the same as a
17 “health officer” under Section 111015. If so, the definition in this section could either cite to Section
18 111015 (or duplicate the text of that definition).

19 **The Commission welcomes comment on whether these two definitions have an identical
20 scope.**

21 **§ 60245. “Local officer”**

22 60245. “Local officer” means a local public officer authorized to implement this
23 division pursuant to **subdivision (a) of Section 25180.**

24 **Comment.** Section 60245 continues former Section 25117.4.1(b) without substantive change.

25 **Notes.** (1) Section 25117.4.1(b) defines “local officer” as a “local public officer authorized to
26 implement [Chapter 6.5] pursuant to” Section 25180(a). This definition differs from that of a
27 “designated local public officer,” which is defined in Section 25111.1 as “a local public officer
28 designated by the director pursuant to subdivision (a) of Section 25180.” The definition of
29 “designated local public officer” is not proposed for continuation, as the term is not used in Chapter
30 6.5. However, given that both of these defined terms rely on authority in Section 25180, it is helpful
31 to consider them together in assessing who would be a “local officer” under this proposed section.

32 Section 25180 describes three categories of local agencies/officers with a role in enforcing or
33 implementing Chapter 6.5 and its regulations. Those three categories are as follows:

34 (1) For provisions of this chapter that are part of the unified program (see Section 25404(c)(1))
35 and where there is a Certified Unified Program Agency (CUPA), the unified program agencies are
36 “authorized to enforce” the chapter’s requirements that are part of the unified program. (Section
37 25180(a)(2)(B)). See proposed Section 60370 (defining “unified program agency”).

38 (2) For provisions of this chapter that are part of the unified program and where there is no
39 CUPA, an officer or agency “authorized, pursuant to [Section 25404.3(f)], to implement and
40 enforce the provisions that are part of the unified program.” (Section 25180(a)(2)(A)).

41 (3) For provisions of this chapter that are not part of the unified program, “any local health officer
42 or any local public officer designated by the director” may enforce this chapter’s standards. (Section
43 25180(a)(1)).

44 It appears that a “local officer” is an officer *authorized* as described in paragraph (2), while a
45 “designated local public officer” is a local public officer *designated* as described in paragraph (3).
46 If this is the case, it would seem to be helpful to offer a pinpoint cite to the relevant provision of
47 Section 25180. Otherwise, it may not be clear whether “local officer” includes *any* local officer

1 that is either designated or authorized pursuant to Section 25180(a), particularly in the absence of
2 the contrasting definition of “designated local public health officer.”

3 This provision defines “local officer” by referring specifically to a “local public officer.” This
4 terminology differs from that in Section 25180, which refers to “any officer.” It is not clear whether
5 any officer authorized under Section 25180 would necessarily be a “local public officer” (in which
6 case, consistent terminology would be preferable). Alternatively, it may be that “local public
7 officers” are only a subset of those officers authorized under Section 25180 (in which case, the
8 Commission would recommend adjusting the language of the provision to make this clear).

9 **The Commission welcomes comment on these issues.**

10 (2) More broadly, this defined term does not appear to be the most useful term for Chapter 6.5.

11 First, it is not clear why this defined term includes only officers (and not agencies). As indicated
12 above, Section 25180(a)(2)(A) provides for authorizing either “an officer or agency.” In Chapter
13 6.5, the term “local officer” is consistently used in combination with a reference to an “agency
14 authorized ... pursuant to Section 25180(a).” See, e.g., proposed Section 60255(b)(2), Sections
15 25110.10(e), 25150(b), 25201.8(b). Given that, defining a term for an “authorized local officer or
16 agency” would provide significant drafting convenience, as it better reflects how these
17 agencies/officers are referenced in the statutes.

18 And, in fact, some sections use this shorthand term after first referring to “local officer or agency
19 authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.” See, e.g., Section
20 25187.8 (numerous references to an “authorized local officer or agency”).

21 **The Commission also welcomes comment on these issues.**

22 **§ 60250. “Manifest”**

23 60250. (a) “Manifest” means a shipping document originated and signed by a
24 generator of hazardous waste that contains all of the information required by the
25 department and that complies with all applicable federal and state regulations, and
26 includes any of the following:

27 (1) A California Uniform Hazardous Waste Manifest, which was a manifest
28 document printed and supplied by the state for a shipment initiated on or before
29 September 4, 2006.

30 (2) A Uniform Hazardous Waste Manifest, which is United States Environmental
31 Protection Agency Form 8700-22 (Manifest) and includes, if necessary, Form 8700-
32 22A (Manifest Continuation Sheet), printed by a source registered with the United
33 States Environmental Protection Agency for a shipment initiated on or after
34 September 5, 2006.

35 (3)(A) An electronic manifest, which is the electronic format of a hazardous waste
36 manifest, that is obtained from the electronic manifest system and transmitted
37 electronically to the system, that is the legal equivalent of United States
38 Environmental Protection Agency Forms 8700-22 and 8700-22A, as specified in
39 **Section 25160.01.**

40 (B) A printed copy of the manifest from the e-Manifest system.

41 (b) For purposes of **this section [Section 25160]**, a shipment is initiated on the
42 date when the manifest is signed by the first transporter and the hazardous waste
43 leaves the site where it is generated.

44 **Comment.** Section 60250 restates former Section 25160(a)(1) and (a)(3) without substantive
45 change.

1 See Sections 60160 (“department”), 60185 (“electronic manifest system,” “e-manifest system”),
2 60210 (“hazardous waste”).

3 **Notes. (1)** The text preceding the numbered paragraphs in Section 25160(a) provides “[f]or
4 purposes of this chapter, the following definitions apply.” Given the application of these definitions
5 to the entirety of Chapter 6.5, the definitions have been proposed for recodification in this proposed
6 chapter.

7 The prefatory “for the purposes of this chapter” text is redundant and therefore is not continued.
8 Proposed Section 60075 (Section 25110) provides that the definitions in this chapter govern “only
9 the construction of this division [existing Chapter 6.5].” For this reason, proposed Section 60250
10 does not continue the “[f]or purposes of this chapter” language.

11 **Absent comment, this proposed restatement will be presumed correct.**

12 **(2)** Subdivision (b) of this proposed section continues Section 25160(a)(3). That paragraph
13 provides a rule for the date of shipment initiation. That rule applies specifically for the purposes of
14 “this section” (Section 25160). The cross-reference to this section will be updated when the
15 remainder of Section 25160 is proposed for recodification.

16 **(3)** Another definition from Section 25160 is included in this draft, but is not proposed for
17 inclusion in the cross-reference as it does not pertain to the date of shipment initiation. See proposed
18 Section 60185.

19 **§ 60255. “Minor violation”**

20 60255. (a) “Minor violation” means a deviation from the requirements of this
21 division, or any regulation, standard, requirement, or permit or interim status
22 document condition adopted pursuant to this division, that is not a class I violation.

23 (b)(1) A minor violation does not include any of the following:

24 (A) Any knowing, willful, or intentional violation of this division.

25 (B) Any violation of this division that enables the violator to benefit economically
26 from noncompliance, either by reduced costs or competitive advantage.

27 (C) Any class II violation that is a chronic violation or that is committed by a
28 recalcitrant violator.

29 (2) In determining whether a violation is chronic or a violator is recalcitrant, for
30 purposes of subparagraph (C) of paragraph (1), the department, or the local officer
31 or agency authorized to enforce this division pursuant to **subdivision (a) of Section**
32 **25180**, shall consider whether there is evidence indicating that the violator has
33 engaged in a pattern of neglect or disregard with respect to the requirements of this
34 division.

35 **Comment.** Section 60255 continues former Section 25117.6 without substantive change.

36 See Sections 60110 (“class I violation”), 60115 (“class II violation”), 60160 (“department”),
37 60245 (“local officer”).

38 **Note.** Section 25117.6(a) specifies that a “minor violation” does not include a “class I violation.”
39 A “class I violation” is defined to include “a class II violation that is a chronic violation or
40 committed by a recalcitrant violator” (hereafter, a chronic class II violation). See proposed Section
41 60110. Thus, a chronic class II violation is not a minor violation.

42 Even so, Section 25117.6(b)(1)(C) separately and specifically excludes a “class II violation that
43 is a chronic violation or that is committed by a recalcitrant violation” from the definition of “minor
44 violation.” This appears to be redundant, as a chronic class II violation would already be excluded
45 from “minor violation” as it is a class I violation.

1 Further, Section 25117.6(b)(2) includes a rule for assessing when a class II violation is a chronic
2 class II violation. That rule, however, applies only for the purposes of the (redundant) exclusion
3 described above. It appears that this rule should be generalized to apply when assessing whether a
4 class II violation should be considered a class I violation (i.e., whether the class II violation is
5 chronic).

6 **This issue has been added to the list of substantive issues for possible future study.**

7 **§ 60260. “Natural resources”**

8 60260. “Natural resources” includes, but is not limited to, disposal site capacity
9 and substances that are hazardous waste, or that are in hazardous waste, the reuse of
10 which is technologically and economically feasible.

11 **Comment.** Section 60260 continues former Section 25117.8 without substantive change.
12 See Sections 60180 (“disposal site”), 60210 (“hazardous waste”).

13 **§ 60265. “Non-RCRA hazardous waste”**

14 60265. (a) “Non-RCRA hazardous waste” means all hazardous waste regulated in
15 the state, other than RCRA hazardous waste.

16 (b) A hazardous waste regulated in the state is presumed to be RCRA hazardous
17 waste, unless it is determined, pursuant to regulations adopted by the department,
18 that the hazardous waste is a non-RCRA hazardous waste.

19 **Comment.** Section 60265 restates former Section 25117.9 without substantive change.
20 See Sections 60160 (“department”), 60210 (“hazardous waste”), 60310 (“RCRA hazardous
21 waste”).

22 **Note.** Section 25117.9 is restated to add subdivision designators and delete redundant language
23 at the end of the first sentence specifying that RCRA hazardous waste is “as defined in Section
24 25120.2 [proposed Section 60310].” Proposed Section 60075 (Section 25110) provides that the
25 definitions in this chapter govern “the construction of this division [existing Chapter 6.5].”

26 **Absent comment, the proposed restatement of this section will be presumed correct.**

27 **§ 60270. “Notice to comply”**

28 60270. “Notice to comply” means a written method of alleging a minor violation
29 that is in compliance with all of the following requirements:

30 (a) The notice to comply is written in the course of conducting an inspection of a
31 facility by an authorized representative of the department or by a local officer or
32 agency authorized to enforce this division pursuant to **subdivision (a) of Section**
33 **25180.**

34 (b) A copy of the notice to comply is presented to a person who is an owner or
35 employee of the facility being inspected at the time that the notice to comply is
36 written.

37 (c) The notice to comply clearly states the nature of the alleged minor violation, a
38 means by which compliance with the permit conditions, rule, regulation, standard,
39 or other requirement cited by the inspector may be achieved, and a time limit in
40 which to comply, which shall not exceed 30 days.

41 (d) The notice to comply shall contain the information specified in **subdivision**
42 **(h) of Section 25187.8** with regard to inspection of the facility.

1 **Comment.** Section 60270 continues former Section 25117.9.1 without substantive change.
2 See Sections 60160 (“department”), 60245 (“local officer”), 60255 (“minor violation”), 60295
3 (“person”).

4 **§ 60275. “Offsite facility”**

5 60275. “Offsite facility” means a hazardous waste facility that is not an onsite
6 facility.

7 **Comment.** Section 60275 continues former Section 25117.11 without substantive change.
8 See Sections 60215 (“hazardous waste facility”), 60280 (“onsite facility”).

9 **§ 60280. “Onsite facility”**

10 60280. “Onsite facility” means a hazardous waste facility at which a hazardous
11 waste is produced and that is owned by, leased to, or under the control of, the
12 producer of the waste.

13 **Comment.** Section 60280 continues former Section 25117.12 without substantive change.
14 See Sections 60210 (“hazardous waste”), 60215 (“hazardous waste facility”), 60305
15 (“producer”), 60390 (“waste”).

16 **§ 60285. “Participating Agency” or “PA”**

17 60285. “Participating Agency” or “PA” means an agency that has a written
18 agreement with the CUPA pursuant to **subdivision (d) of Section 25404.3**, and is
19 approved by the secretary, to implement or enforce one or more of the unified
20 program elements specified in **paragraph (1) of subdivision (c) of Section 25404**,
21 in accordance with the provisions of **Sections 25404.1 and 25404.2**.

22 **Comment.** Section 60285 continues former Section 25123.7(c) without substantive change.
23 See Section 60105 (“certified unified program agency” or “CUPA”), 60345 (“secretary”).

24 **§ 60290. “Permit-by-rule”**

25 60290. “Permit-by-rule” means a provision of the regulations adopted pursuant to
26 this division stating that a facility or activity is deemed to have a hazardous waste
27 facilities permit if it meets the requirements of that provision.

28 **Comment.** Section 60290 continues former Section 25117.14 without substantive change.
29 See Section 60215 (“hazardous waste facility”).

30 **§ 60295. “Person”**

31 60295. “Person” means an individual, trust, firm, joint stock company, business
32 concern, partnership, limited liability company, association, and corporation,
33 including, but not limited to, a government corporation. “Person” also includes any
34 city, county, district, commission, the state or any department, agency, or political
35 subdivision thereof, any interstate body, and the federal government or any
36 department or agency thereof to the extent permitted by law.

37 **Comment.** Section 60295 continues former Section 25118 without substantive change.
38 See Sections 60100 (“business concern”), 60160 (“department”).

1 § 60300. “Processing”

2 60300. “Processing” means treatment.

3 **Comment.** Section 60300 restates former Section 25119 without substantive change.
4 See Section 60365 (“treatment”).

5 **Note.** Section 25119 is restated to delete redundant language at the end of the sentence specifying
6 that treatment is “as defined in Section 25123.5 [proposed Section 60365].” Proposed Section
7 60075 (Section 25110) provides that the definitions in this chapter govern “the construction of this
8 division [existing Chapter 6.5].”

9 § 60305. “Producer”

10 60305. “Producer” means any person who generates a waste material.

11 **Comment.** Section 60305 continues former Section 25120 without substantive change.
12 See Sections 60295 (“person”), 60390 (“waste”).

13 § 60310. “RCRA hazardous waste”

14 60310. “RCRA hazardous waste” means all waste identified as a hazardous waste
15 in Part 261 (commencing with Section 261.1) of Subchapter I of Chapter I of Title
16 40 of the Code of Federal Regulations and appendixes thereto.

17 **Comment.** Section 60310 continues former Section 25120.2 without substantive change. The
18 reference to the Code of Federal Regulations was revised to use roman numerals for the chapter
19 designation, consistent with the numbering practice used in the federal regulations.
20 See Sections 60210 (“hazardous waste”), 60390 (“waste”).

21 **Note.** Section 25150.2 refers to a part of the Code of Federal Regulations. The reference refers
22 to “Chapter 1.” This has been adjusted to refer to “Chapter I,” as the relevant chapter is numbered
23 using a roman numeral in the federal regulations. See 1 C.F.R. § 21.11. The subchapters are lettered
24 consecutively in capital letters. *Id.*

25 § 60315. “Recyclable material”

26 60315. “Recyclable material” means a hazardous waste that is capable of being
27 recycled, including, but not limited to, any of the following:

28 (a) A residue.

29 (b) A spent material, including, but not limited to, a used or spent stripping or
30 plating solution or etchant.

31 (c) A material that is contaminated to such an extent that it can no longer be used
32 for the purpose for which it was originally purchased or manufactured.

33 (d) A byproduct listed in the regulations adopted by the department as “hazardous
34 waste from specific sources” or “hazardous waste from nonspecific sources.”

35 (e) Any retrograde material that has not been used, distributed, or reclaimed
36 through treatment by the original manufacturer or owner by the later of the
37 following dates:

38 (1) One year after the date when the material became a retrograde material.

39 (2) If the material has been returned to the original manufacturer, one year after
40 the material is returned to the original manufacturer.

41 **Comment.** Section 60315 continues former Section 25120.5 without substantive change.

1 See Sections 60160 (“department”), 60210 (“hazardous waste”), 60335 (“retrograde material”),
2 60365 (“treatment”).

3 **§ 60320. “Recycled material”**

4 60320. (a) “Recycled material” means a recyclable material that has been used or
5 reused, or reclaimed.

6 (b) “Recycled material” does not include an intermediate manufacturing process
7 stream.

8 **Comment.** Section 60320 continues former Section 25121 without substantive change.

9 See Sections 60225 (“intermediate manufacturing process stream”), 60315 (“recyclable
10 material”).

11 **§ 60325. “Recycling”**

12 60325. (a) “Recycling” means using, reusing, or reclaiming a recyclable material.

13 (b) Notwithstanding subdivision (a), for purposes of the fees, taxes, and charges
14 imposed pursuant to **Article 7 (commencing with Section 25170)**, “recycling”
15 means the collecting, transporting, storing, transferring, handling, segregating,
16 processing, using or reusing, or reclaiming of recyclable material to produce
17 recycled material.

18 **Comment.** Section 60325 continues former Section 25121.1 without substantive change.

19 See Sections 60205 (“handling”), 60300 (“processing”), 60315 (“recyclable material”), 60320
20 (“recycled material”).

21 **Note.** Section 25121.1(b) refers to fees, taxes, and charges imposed “pursuant to Article 7
22 (commencing with Section 25170).” The provisions of Article 7 of Chapter 6.5 will be recodified
23 in multiple locations (some of which are in proposed Chapter 4 in this draft). The provisions of
24 Article 7 that impose fees, taxes, and charges are proposed to be located in a later piece of the
25 recodified law. The cross-reference in this provision will be updated when the relevant provisions
26 are proposed for recodification.

27 **The Commission welcomes comment on whether the rule in subdivision (b) should be**
28 **recodified with the provisions of Article 7 (commencing with Section 25170) related to fees,**
29 **taxes, and charges.**

30 **§ 60328. “Release”**

31 60328. “Release” has the same definition as in Section 78105.

32 **Comment.** Section 60328 continues former Section 25121.2 without substantive change.

33 **§ 60330. “Remote site”**

34 60330. (a) “Remote site” means a site operated by the generator that meets all of
35 the following conditions:

36 (1) Initial collection of hazardous waste occurs at the site.

37 (2) Generator staff, other than security staff, is not routinely located at the site.

38 (3) The site is not contiguous to a staffed site operated by the generator of the
39 hazardous waste or does not have access to a staffed site without the use of public
40 roads.

1 (b) Generator staff who visit a remote location to perform inspection, monitoring,
2 or maintenance activities on a periodic scheduled or random basis, less frequently
3 than daily, are not considered to be routinely located at the remote location.

4 **Comment.** Section 60330 restates former Section 25121.3(a) without substantive change.
5 See Section 60210 (“hazardous waste”).

6 **Notes. (1)** Section 25121.3(a) is restated for clarity. Currently, Section 25121.3(a) provides:
7 “‘Remote site’ means a site operated by the generator where hazardous waste is initially
8 collected, at which generator staff, other than security staff, is not routinely located, and that is not
9 contiguous to a staffed site operated by the generator of the hazardous waste or that does not have
10 access to a staffed site without the use of public roads. Generator staff who visit a remote location
11 to perform inspection, monitoring, or maintenance activities on a periodic scheduled or random
12 basis, less frequently than daily, are not considered to be routinely located at the remote location.”

13 **Absent comment, this proposed restatement of this provision will be presumed correct.**

14 **(2)** Subdivisions (b) and (c) of Section 25121.3 will be recodified with the substantive rules
15 related to hazardous waste transportation and consolidation.

16 **§ 60335. “Retrograde material”**

17 60335. (a) “Retrograde material” means any hazardous material that is not to be
18 used, sold, or distributed for use in an originally intended or prescribed manner or
19 for an originally intended or prescribed purpose and that meets any one or more of
20 the following criteria:

21 (1) Has undergone chemical, biochemical, physical, or other changes due to the
22 passage of time or the environmental conditions under which it was stored.

23 (2) Has exceeded a specified or recommended shelf life.

24 (3) Is banned by law, regulation, ordinance, or decree.

25 (4) Cannot be used for reasons of economics, health or safety, or environmental
26 hazard.

27 (b) “Retrograde material” does not include material designated in regulations
28 adopted by the department as included in a category that the department shall title
29 “Discarded commercial chemical products, off-specification species, container
30 residues, and spill residues thereof”, if either of the following conditions is met:

31 (1) The material is used in a manner constituting disposal and the material is not
32 normally used in a manner constituting disposal.

33 (2) The material is burned for energy recovery and the material is not normally
34 burned for energy recovery.

35 **Comment.** Section 60335 continues former Section 25121.5 without substantive change.
36 See Sections 60160 (“department”), 60175 (“disposal”).

37 **§ 60340. “Restricted hazardous waste”**

38 60340. “Restricted hazardous waste” includes both of the following:

39 (a) Any hazardous waste subject to land disposal restrictions pursuant to **Section**
40 **25179.6** and the regulations adopted by the department pursuant to that section.

(b) Any hazardous waste that contains any of the following substances, in the following concentrations, as determined without considering any dilution that may occur, unless the dilution is a normal part of a manufacturing process:

(1) Liquid hazardous wastes containing free cyanides at concentrations greater than, or equal to, 1,000 milligrams per liter.

(2) Liquid hazardous wastes containing any of the following metals or elements, or compounds of these metals or elements, at concentrations greater than, or equal to, any of the following:

Arsenic	500 milligrams per liter
Cadmium	100 milligrams per liter
Chromium (VI)	500 milligrams per liter
Lead	500 milligrams per liter
Mercury	20 milligrams per liter
Nickel	134 milligrams per liter
Selenium	100 milligrams per liter
Thallium	130 milligrams per liter

(3) Liquid hazardous wastes having a pH less than or equal to two.

(4) Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than, or equal to, 50 milligrams per liter.

(5) Hazardous wastes containing halogenated organic compounds in total concentration greater than, or equal to, 1,000 milligrams per kilogram.

Comment. Section 60340 continues former Section 25122.7 without substantive change. See Sections 60160 (“department”), 60175 (“disposal”), 60210 (“hazardous waste”).

§ 60345. “Secretary”

60345. “Secretary” means the Secretary for Environmental Protection.

Comment. Section 60345 continues former Section 25122.9 without substantive change.

§ 60350. “Storage”

60350. “Storage” means the holding of hazardous wastes, for a temporary period.

Comment. Section 60350 continues former Section 25123 without substantive change. See Section 60210 (“hazardous waste”).

§ 60355. “Storage facility”

60355. “Storage facility” means a hazardous waste facility that is identified as a storage facility pursuant to **Article ZZZ of Chapter ZZZ**.

Comment. Section 60355 continues the initial clause of former Section 25123.3(b) without substantive change.

See Section 60215 (“hazardous waste facility”).

1 **Notes. (1)** Proposed Section 60355 continues only the initial clause of Section 25123.3(b). The
2 remainder of this section contains substantive requirements for hazardous waste storage, as well as
3 supporting definitions (that only apply for the purposes of the section).

4 **(2)** The remainder of Section 25123.3 will be recodified later in this proposed division, with
5 substantive provisions regarding hazardous waste facilities.

6 **§ 60360. “Transportable hazardous waste treatment unit” or “transportable treatment**
7 **unit”**

8 60360. “Transportable hazardous waste treatment unit” or “transportable
9 treatment unit” means mobile equipment that performs treatment, is transported
10 onto a facility to perform treatment, and is not permanently stationed at a single
11 facility.

12 **Comment.** Section 60360 continues former Section 25123.4 without substantive change.
13 See Section 60365 (“treatment”).

14 **§ 60365. “Treatment”**

15 60365. (a) Except as provided in subdivisions (b) and (c), “treatment” means any
16 method, technique, or process that is not otherwise excluded from the definition of
17 treatment by this division and that is designed to change the physical, chemical, or
18 biological character or composition of any hazardous waste or any material
19 contained therein, or that removes or reduces its harmful properties or
20 characteristics for any purpose.

21 (b)(1) “Treatment” does not include any of the activities listed in paragraph (2),
22 if one of the following requirements is met:

23 (A) The activity is conducted onsite in accordance with the requirements of this
24 division and the department’s regulations adopted pursuant to this division
25 governing the generation and accumulation of hazardous waste.

26 (B) The activity is conducted in accordance with the conditions specified in a
27 permit issued by the department for the storage of hazardous waste.

28 (2) The activities subject to the exemption specified in paragraph (1) include all
29 of the following:

30 (A) Sieving or filtering liquid hazardous waste to remove solid fractions, without
31 added heat, chemicals, or pressure, as the waste is added to or removed from a
32 storage or accumulation tank or container. For purposes of this subparagraph,
33 sieving or filtering does not include adsorption, reverse osmosis, or ultrafiltration.

34 (B) Phase separation of hazardous waste during storage or accumulation in tanks
35 or containers, if the separation is unaided by the addition of heat or chemicals. If the
36 phase separation occurs at a commercial offsite permitted storage facility, all phases
37 of the hazardous waste shall be managed as hazardous waste after separation.

38 (C) Combining two or more waste streams that are not incompatible into a single
39 tank or container if both of the following conditions apply:

40 (i) The waste streams are being combined solely for the purpose of consolidated
41 accumulation or storage or consolidated offsite shipment, and they are not being

1 combined to meet a fuel specification or to otherwise be chemically or physically
2 prepared to be treated, burned for energy value, or incinerated.

3 (ii) The combined waste stream is managed in compliance with the most stringent
4 of the regulatory requirements applicable to each individual waste stream.

5 (D) Evaporation of water from hazardous wastes in tanks or containers, such as
6 breathing and evaporation through vents and floating roofs, without the addition of
7 pressure, chemicals, or heat other than sunlight or ambient room lighting or heating.

8 (3) This subdivision does not apply to any activity for which a hazardous waste
9 facilities permit for treatment is required under the federal act.

10 (c) “Treatment” does not include the combination of glutaraldehyde or
11 orthophthalaldehyde, which is used by medical facilities to disinfect medical
12 devices, with formulations containing glycine as the sole active chemical, if the
13 process is carried out onsite.

14 **Comment.** Section 60365 continues former Section 25123.5 without substantive change.

15 See Sections 60160 (“department”), 60200 (“federal act”), 60210 (“hazardous waste”), 60215
16 (“hazardous waste facility”), 60350 (“storage”), 60390 (“waste”).

17 **Note.** Section 25123.5 would appear to benefit from a restatement for clarity. However, given
18 the current state of this provision, the degree of restatement that would be needed, and the strictly
19 nonsubstantive constraints in this study, the Commission believes that it would be best to address
20 any restatement of this provision as an issue for future work.

21 **This issue has been added to the list of substantive issues for possible future study.**

22 **§ 60370. “Unified Program Agency” or “UPA”**

23 60370. (a) “Unified Program Agency” or “UPA” means the CUPA, or its
24 participating agencies to the extent each PA has been designated by the CUPA,
25 pursuant to a written agreement, to implement or enforce a particular unified
26 program element specified in **paragraph (1) of subdivision (c) of Section 25404.**

27 (b)(1) For purposes of this division, the UPAs have the responsibility and
28 authority, to the extent provided by this division and **Sections 25404.1 and 25404.2,**
29 to implement and enforce only those requirements of this division listed in
30 **paragraph (1) of subdivision (c) of Section 25404.** The UPAs also have the
31 responsibility and authority, to the extent provided by this division and **Sections**
32 **25404.1 and 25404.2,** to implement and enforce the regulations adopted to
33 implement the requirements of this division listed in **paragraph (1) of subdivision**
34 **(c) of Section 25404.**

35 (2) After a CUPA has been certified by the secretary, the unified program agencies
36 shall be the only local agencies authorized to enforce the requirements of this
37 division listed in **paragraph (1) of subdivision (c) of Section 25404** within the
38 jurisdiction of the CUPA.

39 (c) This section shall not be construed to limit the authority or responsibility
40 granted to the department by this division to implement and enforce this division
41 and the regulations adopted pursuant thereto.

42 **Comment.** Section 60370 continues former Section 25123.7(d) without substantive change.

1 See Sections 60105 (“certified unified program agency or “CUPA”), 60160 (“department”),
2 60285 (“participating agency” or “PA”), 60345 (“secretary”).

3 **Notes. (1)** The language of Section 25123.7 was continued unchanged, but subdivision and
4 paragraph designators were added.

5 The language in proposed subdivision (d) references “this section” (Section 25123.7). It appears
6 that all of the material relevant to this reference is contained in this proposed section. The other
7 proposed provisions continuing the language of Section 25123.7 simply define terms and do not
8 appear to place any limits or restrictions on the authority to implement and enforce Chapter 6.5.
9 For this reason, the proposed language only refers to “this section,” which continues Section
10 25123.7(d).

11 **Absent comment, this proposed treatment of the reference to “this section” will be**
12 **presumed correct.**

13 (2) Section 25123.7(d) defines “unified program agency” or “UPA” as the “CUPA or its
14 participating agencies to the extent that each PA has been designated by the CUPA ... to implement
15 or enforce a particular unified program element.” Where a particular program element of the unified
16 program is at issue, the term “UPA” is presumably intended to refer to whichever agency is
17 authorized to enforce and implement that program element within the relevant jurisdiction (either
18 the CUPA or an authorized PA).

19 However, this proposed section also uses the plural term “unified program agencies” or “UPAs.”
20 In these cases, the term seems to be used to refer to *all* CUPAs, as well as *all* PAs throughout the
21 state. The use of the disjunctive “or” in the definition of “UPA” is inconsistent with this apparent
22 intent. More broadly, it seems to be unclear whether a reference to the plural “UPAs” is referring
23 to all the CUPAs/PAs throughout the state, the CUPA and all the PAs within a particular
24 jurisdiction, or, with respect to a particular requirement, the CUPA or PA authorized to enforce that
25 requirement within every jurisdiction.

26 It is unclear whether this issue is causing problems in practice, or whether the references to
27 “unified program agencies” or “UPAs” are sufficiently clear in context.

28 **The Commission welcomes comment this issue.**

29 (3) The Commission noticed that the disjunctive is also used in the definition of “UPA” in
30 Section 25404, which is in the law establishing the unified program. “UPA” is also similarly
31 defined in other sections. See Sections 25270.2(c)(3), 25281(d)(3), 25501(e)(3). There seems to be
32 value in preserving consistency across these definitions of “UPA.”

33 **The Commission also welcomes comment on this issue. Depending on the comment**
34 **received, the Commission may consider adding the issue to the list of substantive issues for**
35 **possible future study.**

36 **§ 60375. “Unified Program Facility”**

37 60375. “Unified Program Facility” means all contiguous land and structures, other
38 appurtenances, and improvements on the land that are subject to the requirements
39 of **paragraph (1) of subdivision (c) of Section 25404.**

40 **Comment.** Section 60375 continues former Section 25123.7(a) without substantive change.

41 **§ 60380. “Universal waste”**

42 60380. “Universal waste” means a hazardous waste identified as a universal waste
43 in Section 66273.9 of Title 22 of the California Code of Regulations, or as that
44 regulation may be further amended pursuant to this division, or a hazardous waste
45 designated as a universal waste pursuant to this division.

46 **Comment.** Section 60380 continues former Section 25123.8 without substantive change.

47 See Section 60210 (“hazardous waste”).

1 **Note.** Section 25123.8 defines “universal waste” by referring to a waste “identified as a universal
 2 waste” in a specified section of the California Code of Regulations. The referenced section of the
 3 regulations defines a large number of terms, including “universal waste.” In that section, the
 4 definition of “universal waste” does not provide a list of wastes, but instead simply defines the term
 5 by cross-referencing a list of wastes in a separate section of the regulations (22 C.C.R. § 66261.9).

6 It is unclear why the cross-reference in this section does not simply refer to the regulatory
 7 provision that actually lists universal wastes.

8 **The Commission welcomes comment on whether the cross-reference to the regulations
 9 should instead refer to 22 C.C.R. § 66261.9, which actually lists universal wastes.**

10 **§ 60385. “Volatile organic compound”**

11 60385. “Volatile organic compound” means a compound that is a volatile organic
 12 compound according to Method No. 8240 in the United States Environmental
 13 Protection Agency Document No. Solid Waste 846 (1982) or any equivalent,
 14 alternative method acceptable to the department.

15 **Comment.** Section 60385 continues former Section 25123.6 without substantive change.
 16 See Section 60160 (“department”).

17 **Note.** Section 25123.6 defines “volatile organic compound” by reference to what appears to be
 18 a scientific test, “Method No. 8240 in the Environmental Protection Agency Document No. Solid
 19 Waste 846 (1982).”

20 In proposed Section 60385, “United States” was added to indicate that this section is referring to
 21 the federal agency, as opposed to the state Environmental Protection Agency.

22 More significantly, it appears that the referenced method, Method 8240, may be obsolete. This
 23 method is not listed in the SW-846 compendium posted on the U.S. Environmental Protection
 24 Agency website. See <https://www.epa.gov/hw-sw846/sw-846-compendium>; see also
 25 [https://www.epa.gov/hw-sw846/status-table-test-methods-evaluating-solid-waste-](https://www.epa.gov/hw-sw846/status-table-test-methods-evaluating-solid-waste-physicalchemical-methods-compendium-sw-846)
 26 [physicalchemical-methods-compendium-sw-846](https://www.epa.gov/hw-sw846/status-table-test-methods-evaluating-solid-waste-physicalchemical-methods-compendium-sw-846) (Method 8240 not listed on status table
 27 identifying historical and latest versions of SW-846 methods).

28 The compendium includes a variety of other methods specifically related to the class of volatile
 29 organic compounds, including, for example, Methods 8260D (“Volatile Organic Compounds by
 30 Gas Chromatography/Mass Spectrometry (GC/MS)”) and 8261 (“Volatile Organic Compounds by
 31 Vacuum [Distillation] in Combination with Gas Chromatography/Mass Spectrometry
 32 (VD/GC/MS)”).

33 **The Commission welcomes comment on whether the reference to Method No. 8240 needs
 34 to be updated and, if so, how this provision should be revised.**

35 **§ 60390. “Waste”**

36 60390. (a) Except as provided in subdivision (c), “waste” means any discarded
 37 material, including solid, liquid, semisolid, or contained gaseous material, that is not
 38 excluded by this division or by regulations adopted pursuant to this division.

39 (b) For purposes of subdivision (a), a discarded material is a material that is any
 40 of the following:

41 (1) Relinquished by being any of the following:

42 (A) Disposed of.

43 (B) Burned or incinerated.

44 (C)(i) Accumulated, stored, or treated before, or in lieu of, being relinquished by
 45 being disposed of, burned, or incinerated.

1 (ii) This subparagraph does not apply to materials that are recycled before, or in
2 lieu of, being relinquished by being disposed of, burned, or incinerated.

3 (2) Recycled, or accumulated, stored, or treated before recycling, except as
4 provided in **Section 25143.2**.

5 (3) Poses a threat to public health or the environment and meets either, or both, of
6 the following conditions:

7 (A) The material is mislabeled or not adequately labeled and the label is not
8 corrected or made adequate within 10 days after the discovery of the mislabeling or
9 inadequate labeling.

10 (B) The material is packaged in deteriorated or damaged containers and the
11 material not packaged in sound or undamaged containers within 96 hours after the
12 discovery of the deterioration or damage.

13 (4) Considered inherently wastelike, as specified in regulations adopted by the
14 department.

15 (c) Notwithstanding subdivision (a), a material is not a discarded material if it is
16 either of the following:

17 (1) An intermediate manufacturing process stream.

18 (2)(A) Except as specified in subparagraph (B) and to the extent consistent with
19 the federal act, a coolant, lubricant, or cutting fluid necessary to the operation of
20 manufacturing equipment, that is processed to extend the life of the material for
21 continued use, and is processed in the same manufacturing equipment in which the
22 material is used or in connected equipment that returns the material to the
23 originating manufacturing equipment for continued use.

24 (B) Subparagraph (A) does not apply to any of the following material:

25 (i) Material that is processed in connected equipment that is not directly and
26 permanently connected to the originating manufacturing equipment or that is
27 constructed or operated in a manner that may allow the release of any material or
28 constituent of the material into the environment.

29 (ii) Material that is a hazardous waste prior to being introduced into the
30 manufacturing equipment or connected equipment.

31 (iii) Material that is removed from the manufacturing equipment or connected
32 equipment for storage, treatment, disposal, or burning for energy recovery outside
33 that equipment.

34 (iv) Material that remains in the manufacturing equipment or connected
35 equipment more than 90 days after that equipment ceases to be operated.

36 (v) Material that is processed using methods other than physical procedures.

37 **Comment.** Section 60390 restates former Section 25124 without substantive change.

38 See Sections 60155 (“contained gaseous material”), 60160 (“department”), 60175 (“disposal”),
39 60200 (“federal act”), 60210 (“hazardous waste”), 60225 (“intermediate manufacturing process
40 stream”), 60325 (“recycling”), 60350 (“storage”), 60365 (“treatment”).

41 **Note.** Section 25124 is restated for clarity and to make a grammatical correction, as follows:

42 Subdivision (a) is restated to make clear that the provision is using the defined terms “contained
43 gaseous material” and “discarded material.” See proposed subdivisions (b), (c) of this section

1 (specifying materials that are and are not “discarded materials”) and Commission Note to proposed
2 Section 60155 (the definition for “contained gaseous material” specifically provides that it applies
3 to this provision).

4 In the introductory clause to subdivision (b), “any material” was replaced with “a material.” The
5 portions of subdivision (b) that were restated for clarity are noted below.

6 Subparagraph(b)(1)(C) currently provides:

7 “[A discarded material includes a material that is] [a]ccumulated, stored, or treated, but not
8 recycled, before, or in lieu of, being relinquished by being disposed of, burned, or incinerated.”

9 This subparagraph has been proposed for restatement as two clauses.

10 Subparagraphs (A) and (B) of paragraph (b)(3) currently provide:

11 “[A material that poses a threat to public health or the environment and meets one or both of the
12 following conditions is considered discarded]:

13 (A) It is mislabeled or not adequately labeled, unless the material is correctly labeled or
14 adequately labeled within 10 days after the material is discovered to be mislabeled or inadequately
15 labeled.

16 (B) It is packaged in deteriorated or damaged containers, unless the material is contained in sound
17 or undamaged containers within 96 hours after the containers are discovered to be deteriorated or
18 damaged.”

19 These subparagraphs were restated to make clear that the failure to correct the deficiency within
20 the specified time frame is necessary to satisfy the condition.

21 **Absent comment, this proposed restatement will be presumed correct.**

22 CHAPTER 4. FINANCIAL PROVISIONS

23 **Note.** This proposed chapter contains a number of provisions that relate to laws other than
24 Chapter 6.5. In particular, proposed Article 2, related to The Toxic Substance Control Account,
25 governs funds related to laws other than Chapter 6.5. In some cases, these provisions use
26 terminology from and appear to be discussing legal concepts contained in provisions outside of
27 Chapter 6.5, without cross-referencing the relevant provisions. In particular, several provisions in
28 this proposed article use defined terms from Part 2 of Division 45 without citing to those definitions.
29 See, e.g., proposed Section 60490 (Note #2), proposed Section 60495 (Note #2).

30 It may be helpful to include a provision in this chapter making clear that certain terms used in
31 the chapter have the meaning provided in Part 2 of Division 45, including, for example,
32 “responsible party,” “remedial action,” “removal,” and “hazardous substance.”

33 **This issue has been added to the list of substantive issues for possible future study.**

34 Article 1. Hazardous Waste Control Account

35 **§ 60450. Funds to be deposited in account**

36 60450. (a) There is in the General Fund the Hazardous Waste Control Account,
37 which shall be administered by the director.

38 (b) In addition to any other money that may be deposited into the Hazardous
39 Waste Control Account, pursuant to statute, all of the following amounts shall be
40 deposited into the account:

1 (1) The fees collected pursuant to Sections **25205.5** and **25205.5.2**, or described
2 in Section **25205.25**.

3 (2) The funds collected pursuant to Section **25187.2**, to the extent that those funds
4 are payments for the costs incurred by the department in overseeing corrective
5 action taken under this division.

6 (3) Any interest earned upon the money deposited into the Hazardous Waste
7 Control Account.

8 (4) Any money received from the federal government pursuant to the federal act
9 to pay for department costs at sites or activities at sites other than those operated by
10 a hazardous waste facility authorized to operate under this division.

11 (5) Any reimbursements for funds expended from the Hazardous Waste Control
12 Account for services provided by the department pursuant to this division at a site
13 other than a site operated by a hazardous waste facility authorized to operate under
14 this division, including, but not limited to, the reimbursements required pursuant to
15 Sections **25201.9** and **25205.7**.

16 **Comment.** Section 60450 restates former Section 25174(a) without substantive change.

17 See Sections 60160 (“department”), 60165 (“director”), 60200 (“federal act”), 60215
18 (“hazardous waste facility”).

19 **Note.** Section 25174(a)(2) has been restated to improve consistency with the referenced
20 provision. Section 25174(a)(2) refers to “fees collected pursuant to Section 25187.2, to the extent
21 that those fees are for the oversight of corrective action taken under this chapter.” Section 25187.2
22 provides for the payment of “the department’s *costs* incurred in overseeing or carrying out the
23 corrective action.”

24 To improve consistency with Section 25187.2, proposed Section 60450 restates this paragraph
25 to refer to “funds” collected pursuant to Section 25187.2, where those funds are payments for the
26 costs incurred in overseeing corrective action.

27 **Absent comment, this proposed restatement will be presumed correct.**

28 **§ 60455. Appropriations from account**

29 60455. The funds deposited into the Hazardous Waste Control Account may be
30 appropriated by the Legislature, for expenditure as follows:

31 (a) To the department for the costs to administer and implement this division, but
32 not including the costs of regulatory activities at sites operated by a hazardous waste
33 facility authorized to operate under this division, and not including regulatory
34 activities authorized under **Article 10 (commencing with Section 25210)**, **Article**
35 **10.01 (commencing with Section 25210.5)**, **Article 10.02 (commencing with**
36 **Section 25210.9)**, **Article 10.1.1 (commencing with Section 25214.1)**, **Article**
37 **10.1.2 (commencing with Section 25214.4.3)**, **Article 10.2.1 (commencing with**
38 **Section 25214.8.1)**, **Article 10.4 (commencing with Section 25214.11)**, **Article**
39 **10.5 (commencing with Section 25215)**, **Article 10.5.1 (commencing with**
40 **Section 25215.8)**, **Article 13.5 (commencing with Section 25250.50)**, **Article 14**
41 **(commencing with Section 25251)**, and **Section 25214.10**.

42 (b) To the department for allocation to the California Department of Tax and Fee
43 Administration to pay refunds of fees collected pursuant to Section 43053 of the

1 Revenue and Taxation Code and for the administration and collection of the fees
2 collected pursuant to **Sections 25205.5 and 25205.5.2**, or described in Section
3 **25205.25**, that are deposited into the Hazardous Waste Control Account.

4 (c)(1) To the department for allocation to the office of the Attorney General for
5 the support of the Toxic Substance Enforcement Program in the office of the
6 Attorney General in carrying out investigations, inspections, and audits, and the
7 administrative enforcement and adjudication thereof, for purposes of this division,
8 but not for purposes related to a site operated by a hazardous waste facility
9 authorized to operate under this division or related to the owner or operator of a
10 hazardous waste facility authorized to operate under this division, and not for
11 regulatory activities authorized under **Article 10 (commencing with Section**
12 **25210)**, **Article 10.01 (commencing with Section 25210.5)**, **Article 10.02**
13 **(commencing with Section 25210.9)**, **Article 10.1.1 (commencing with Section**
14 **25214.1)**, **Article 10.1.2 (commencing with Section 25214.4.3)**, **Article 10.2.1**
15 **(commencing with Section 25214.8.1)**, **Article 10.4 (commencing with Section**
16 **25214.11)**, **Article 10.5 (commencing with Section 25215)**, **Article 10.5.1**
17 **(commencing with Section 25215.8)**, **Article 13.5 (commencing with Section**
18 **25250.50)**, **Article 14 (commencing with Section 25251)**, and **Section 25214.10**.

19 (2) On or before October 1 of each year, the Attorney General shall report to the
20 Legislature on the expenditure of any funds allocated to the office of the Attorney
21 General for the preceding fiscal year pursuant to this paragraph. The report shall
22 include all of the following:

23 (A) A description of cases resolved by the office of the Attorney General through
24 settlement or court order, including the monetary benefit to the department and the
25 state.

26 (B) A description of injunctions or other court orders benefiting the people of the
27 state.

28 (C) A description of any cases in which the Attorney General’s Toxic Substance
29 Enforcement Program is representing the department or the state against claims by
30 defendants or responsible parties.

31 (D) A description of other pending litigation handled by the Attorney General’s
32 Toxic Substance Enforcement Program.

33 (3) Paragraph (2) does not require the Attorney General to report on any
34 confidential or investigatory matter.

35 (d) To the department for administration and implementation of Chapter 6.11
36 (commencing with Section 25404) of Division 20.

37 (e) To the department for costs incurred by the board in the administration and
38 implementation of its duties and responsibilities established in **Article 2.1**
39 **(commencing with Section 25125)**.

40 **Comment.** Section 60455 restates former Section 25174(b) without substantive change.
41 See Sections 60088 (“board”), 60160 (“department”), 60215 (“hazardous waste facility”).

1 **Note.** Section 25174(b)(5) refers to the “Board of Environmental Safety.” Proposed Section
2 60455(e) replaces that reference with the defined term “board.” See proposed Section 60088
3 (“board”).

4 **§ 60465. Loans from general fund to account**

5 60465. The Director of Finance, upon the request of the director, may make a loan
6 from the General Fund to the Hazardous Waste Control Account to meet cash needs.
7 The loan shall be subject to the repayment provisions of Section 16351 of the
8 Government Code and the interest provisions of Section 16314 of the Government
9 Code.

10 **Comment.** Section 60465 continues former Section 25174(d) without substantive change.
11 See Section 60165 (“director”).

12 **§ 60475. Successor fund to Federal Receipts Account**

13 60475. (a) The Hazardous Waste Control Account is the successor fund of the
14 Federal Receipts Account that was established pursuant to Section 25174.8, as that
15 section read on January 1, 1999.

16 (b) All assets, liabilities, and surplus of the Federal Receipts Account shall, as of
17 June 30, 1999, be transferred to, and become a part of the Hazardous Waste Control
18 Account, as provided by Section 16346 of the Government Code.

19 (c) All existing appropriations from the Federal Receipts Account, to the extent
20 encumbered, and also those that had been made for particular projects from the
21 Federal Receipts Account, shall continue to be available for the same purposes and
22 periods from the Hazardous Waste Control Account.

23 **Comment.** Section 60475 continues former Section 25174.9 without substantive change.

24 **Article 2. Toxic Substances Control Account**

25 **§ 60490. Funds to be deposited in account**

26 60490. (a) There is in the General Fund the Toxic Substances Control Account,
27 which shall be administered by the director.

28 (b) In addition to any other money that may be appropriated by the Legislature to
29 the Toxic Substances Control Account, all of the following shall be deposited in the
30 account:

31 (1) The fees collected pursuant to **Section 25205.6.**

32 (2) The funds collected pursuant to **Section 25187.2**, to the extent that those funds
33 are payments for the costs incurred overseeing a removal or remedial action taken
34 under Chapter 6.86 (commencing with Section 25396) of Division 20 or Part 2
35 (commencing with Section 78000) of Division 45.

36 (3) Except as directed otherwise by **Section 25192**, fines or penalties collected
37 pursuant to this division, including, but not limited to, fines or penalties recovered
38 pursuant to **Section 25214.3, 25214.22.1, and 25215.82.**

1 (4) Interest earned upon money deposited in the Toxic Substances Control
2 Account.

3 (5) All money recovered pursuant to Section 79650, except any amount recovered
4 on or before June 30, 2006, that was paid from the Hazardous Substance Cleanup
5 Fund.

6 (6) All money recovered pursuant to Article 7 (commencing with Section 81030)
7 of Chapter 12 of Part 2 of Division 45.

8 (7) Fines or penalties collected pursuant to Chapter 6.86 (commencing with
9 Section 25396) of Division 20, or Part 2 (commencing with Section 78000) of
10 Division 45.

11 (8) Reimbursements for funds expended from the Toxic Substances Control
12 Account for services provided by the department, including, but not limited to,
13 reimbursements required pursuant to Sections **25201.9** and 79105.

14 (9) Money received from the federal government pursuant to the federal
15 Comprehensive Environmental Response, Compensation, and Liability Act of
16 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

17 (10) Money received from responsible parties for remedial action or removal at a
18 specific site, except as otherwise provided by law.

19 **Comment.** Section 60490 restates former Section 25173.6(a) without substantive change.
20 See Sections 60160 (“department”), 60165 (“director”).

21 **Notes.** (1) Section 25173.6(a) is restated to eliminate redundancy, group similar types of funds,
22 and improve consistency and clarity.

23 When restating this provision, the following changes were made:

24 (A) Section 25173.6(a)(2) refers to “fees collected pursuant to Section 25187.2, to the extent that
25 those fees are for oversight of a removal or remedial action taken under Chapter 6.86 (commencing
26 with Section 25396), or Part 2 (commencing with Section 78000) of Division 45.” As described in
27 the Note to proposed Section 60450, Section 25187.2 provides for the payment of “the department’s
28 costs incurred in overseeing or carrying out the corrective action.” To improve consistency with
29 Section 25187.2, proposed Section 60490(a)(2) restates existing language to refer to “funds”
30 collected pursuant to Section 25187.2, where those funds are payments for oversight costs.

31 **Absent comment, the proposed restatement of this provision will be presumed correct.**

32 Section 25173.6(a)(2) also refers to oversight of a “removal or remedial action,” whereas Section
33 25187.2 refers to oversight of “corrective action.” While making this terminology consistent would
34 be preferable, it is not clear whether the terms “corrective action” and “removal or remedial action”
35 are equivalent (i.e., does this provision only apply to a subset of funds collected under Section
36 25187.2 for oversight of actions under Chapter 6.8?)

37 **The Commission welcomes comment on this issue.**

38 (B) Section 25173.6 contains several redundant provisions. Section 25173.6(a) provides, in part:

39 [The following funds shall be deposited into the Toxic Substances Control Account]:

40 ...

41 (3) Fines or penalties collected pursuant to this chapter, Chapter 6.8 (commencing with Section
42 25300) or Chapter 6.86 (commencing with Section 25396), except as directed otherwise by Section
43 25192.

44 ...

45 (7) All penalties recovered pursuant to Section 25214.3, except as provided by Section 25192.

46 (8) All penalties recovered pursuant to Section 25214.22.1, except as provided by Section 25192.

(9) All penalties recovered pursuant to Section 25215.82, except as provided by Section 25192.

The penalties referred to in paragraphs (7)-(9) are all penalties provided for in sections found in Chapter 6.5. Given that, these penalties would also be required to be deposited into the account pursuant to paragraph (3). Section 25192 contains a rule for apportioning all “penalties collected pursuant to [Chapter 6.5].” For this reason, Section 25192 does not appear to be relevant to the penalties collected pursuant to Chapter 6.8 or Chapter 6.86. These quoted fine and penalty provisions have been consolidated and restated in proposed paragraphs (b)(3) and (b)(7).

(2) Section 25173.6(a)(12) refers to “[m]oney received from responsible parties for remedial action or removal at a specific site.” This provision appears to be referring to remedial or removal actions conducted pursuant to Part 2 of Division 45. Assuming that is the case, it would be helpful to specify that the definitions of the relevant terms (“responsible party,” “remedial action,” “removal”) in Part 2 of Division 45 apply to this provision. See Note to Heading for this proposed chapter.

The Commission welcomes comment on this issue.

§ 60495. Appropriations from account

60495. (a) The funds deposited in the Toxic Substances Control Account may be appropriated to the department for the following purposes:

(1) The administration and implementation of the following:

(A) Part 2 (commencing with Section 78000) of Division 45, except that funds shall not be expended from the Toxic Substances Control Account for purposes of Article 16 (commencing with Section 79350) of Chapter 5 of Part 2 of Division 45.

(B) Chapter 6.86 (commencing with Section 25396) of Division 20.

(C) Article 10 (commencing with Section 7710) of Chapter 1 of Division 4 of the Public Utilities Code, to the extent the department has been delegated responsibilities by the secretary for implementing that article.

(D) **Article 10 (commencing with Section 25210), Article 10.01 (commencing with Section 25210.5), Article 10.02 (commencing with Section 25210.9), Article 10.1.1 (commencing with Section 25214.1), Article 10.1.2 (commencing with Section 25214.4.3), Article 10.2.1 (commencing with Section 25214.8.1), Article 10.4 (commencing with Section 25214.11), Article 10.5 (commencing with Section 25215), Article 10.5.1 (commencing with Section 25215.8), Article 13.5 (commencing with Section 25250.50), Article 14 (commencing with Section 25251), and Section 25214.10.**

(E) Green chemistry (**Article 14 (commencing with Section 25251)**).

(2) The administration of the following units, and successor organizations of those units, within the department, and the implementation of programs administered by those units or successor organizations:

(A) The Human and Ecological Risk Office.

(B) The Environmental Chemistry Laboratory.

(C) The Office of Pollution Prevention and Technology Development.

(D) The Safer Consumer Products Program.

(3) For allocation to the Office of Environmental Health Hazard Assessment, pursuant to an interagency agreement, to assist the department as needed in

1 administering the programs described in subparagraphs (A) and (B) of paragraph
2 (1).

3 (4) For allocation to the California Department of Tax and Fee Administration to
4 pay refunds of fees collected pursuant to Section 43054 of the Revenue and Taxation
5 Code.

6 (5) For the state share mandated pursuant to paragraph (3) of subsection (c) of
7 Section 104 of the federal Comprehensive Environmental Response, Compensation,
8 and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(c)(3)).

9 (6) For the purchase by the state, or by a local agency with the prior approval of
10 the director, of hazardous substance response equipment and other preparations for
11 response to a release of hazardous substances. However, all equipment shall be
12 purchased in a cost-effective manner after consideration of the adequacy of existing
13 equipment owned by the state or the local agency, and the availability of equipment
14 owned by private contractors.

15 (7) For payment of all costs of removal and remedial action incurred by the state,
16 or by a local agency with the approval of the director, in response to a release or
17 threatened release of a hazardous substance, to the extent the costs are not
18 reimbursed by the federal Comprehensive Environmental Response, Compensation,
19 and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

20 (8) For payment of all costs of actions taken pursuant to Section 78650, to the
21 extent that these costs are not paid by the federal Comprehensive Environmental
22 Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec.
23 9601 et seq.).

24 (9) For all costs incurred by the department in cooperation with the Agency for
25 Toxic Substances and Disease Registry established pursuant to subsection (i) of
26 Section 104 of the federal Comprehensive Environmental Response, Compensation,
27 and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(i)) and all costs of
28 health effects studies undertaken regarding specific sites or specific substances at
29 specific sites. Funds appropriated for this purpose shall not exceed five hundred
30 thousand dollars (\$500,000) in a single fiscal year. However, these actions shall not
31 duplicate reasonably available federal actions and studies.

32 (10) For repayment of the principal of, and interest on, bonds sold pursuant to
33 Article 5 (commencing with Section 78280) of Chapter 2 of Part 2 of Division 45.

34 (11) Direct site remediation costs.

35 (12) For the department's expenses for staff to perform oversight of
36 investigations, characterizations, removals, remediations, or long-term operation
37 and maintenance.

38 (13) For the administration and collection of the fees imposed pursuant to **Section**
39 **25205.6**.

40 (14) For allocation to the office of the Attorney General, pursuant to an
41 interagency agreement or similar mechanism, for the support of the Toxic Substance
42 Enforcement Program in the office of the Attorney General, in carrying out the
43 purposes of Part 2 (commencing with Section 78000) of Division 45, Chapter 6.86

1 (commencing with Section 25396) of Division 20, **Article 10 (commencing with**
2 **Section 25210)**, **Article 10.01 (commencing with Section 25210.5)**, **Article 10.02**
3 **(commencing with Section 25210.9)**, **Article 10.1.1 (commencing with Section**
4 **25214.1)**, **Article 10.1.2 (commencing with Section 25214.4.3)**, **Article 10.2.1**
5 **(commencing with Section 25214.8.1)**, **Article 10.4 (commencing with Section**
6 **25214.11)**, **Article 10.5 (commencing with Section 25215)**, **Article 10.5.1**
7 **(commencing with Section 25215.8)**, **Article 13.5 (commencing with Section**
8 **25250.50)**, **Article 14 (commencing with Section 25251)**, and **Section 25214.10**.

9 (15) For funding the California Environmental Contaminant Biomonitoring
10 Program established pursuant to Chapter 8 (commencing with Section 105440) of
11 Part 5 of Division 103.

12 (16) As provided in **Sections 25214.3 and 25215.82** and, with regard to penalties
13 recovered pursuant to **Section 25214.22.1**, to implement and enforce **Article 10.4**
14 **(commencing with Section 25214.11)**.

15 (17) For the costs of performance or review of analyses of past, present, or
16 potential environmental public health effects related to extremely hazardous waste,
17 as defined in Section 60210, and hazardous waste, as defined in Section 60345.

18 (18) For costs incurred by the board in the administration and implementation of
19 its duties and responsibilities established in **Article 2.1 (commencing with Section**
20 **25125)**.

21 (b) The funds deposited in the Toxic Substances Control Account may be
22 appropriated by the Legislature to the Office of Environmental Health Hazard
23 Assessment and the State Department of Public Health for the purposes of carrying
24 out their duties pursuant to the California Environmental Contaminant
25 Biomonitoring Program (Chapter 8 (commencing with Section 105440) of Part 5 of
26 Division 103).

27 **Comment.** Section 60495 continues former Section 25173.6(b) and (c) without substantive
28 change.

29 An obsolete cross-reference to Section 25215.7 in former Section 25173.6(b)(16) was corrected
30 in Section 60495(a)(16) to refer to Section 25215.82. See 2019 Cal. Stat. ch. 497, § 164.

31 See Sections 60088 (“board”); 60160 (“department”), 60165 (“director”), 60195 (“extremely
32 hazardous waste”), 60210 (“hazardous waste”), 60345 (“secretary”).

33 **Notes. (1)** Section 25173.6(b)(18) refers to the “Board of Environmental Safety.” Proposed
34 Section 60495(a)(18) replaces that reference with the defined term “board.” See proposed Section
35 60088 (“board”).

36 **(2)** Section 25173.6(b) and (c) use a number of terms that are defined in Part 2 of Division 45
37 without reference to those definitions. In many cases, it seems very likely that the meaning provided
38 in Part 2 of Division 45 is intended.

39 For example, Section 25173.6(b)(11) allows appropriations for “direct site remediation costs.”
40 This is a defined term used in Part 2 of Division 45. It appears likely that the defined meaning was
41 intended here. See Section 25173.7(a)(2) (referring to direct site remediation costs “as defined in
42 Section 78260.”)

43 **This issue has been added to the list of substantive issues for possible future study. See Note**
44 **to the heading for this proposed chapter.**

1 (3) Section 25173.6 cross-references Section 25215.7. Former Section 25215.7 was renumbered
2 as Section 25215.82. See 2019 Cal. Stat. ch. 497, § 164. The cross-reference has been updated
3 accordingly.

4 (4) Section 25173.6(b)(16) appears to allow appropriations to implement and enforce the Toxics
5 in Packaging Prevention Act (Article 10.4). However, this provision cross-refers to two sections
6 that are not located in that article (Sections 25214.3 and 25215.82). It appears that this provision is
7 erroneous and needs to be corrected. Both of the referenced sections provide penalties for violations
8 of their respective articles and specify that any penalties collected should be used to implement and
9 enforce only those respective articles. See Sections 25214.3(c) (from Article 10.1.1. Metal-
10 Containing Jewelry) and 25215.82 (from Article 10.5.1. Lead Wheel Weights). **The Commission**
11 **welcomes comment on this issue.**

12 **§ 60500. Expenditures**

13 60500. (a) The director shall expend federal funds in the Toxic Substances Control
14 Account consistent with the requirements specified in Section 104 of the federal
15 Comprehensive Environmental Response, Compensation, and Liability Act of
16 1980, as amended (42 U.S.C. Sec. 9604), upon appropriation by the Legislature, for
17 the purposes for which they were provided to the state.

18 (b) Money in the Toxic Substances Control Account shall not be expended to
19 conduct removal or remedial actions if a significant portion of the hazardous
20 substances to be removed or remedied originated from a source outside the state.

21 **Comment.** Section 60500 continues former Section 25173.6(d) and (e) without substantive
22 change. An erroneous reference to “Section 114 of the federal Comprehensive Environmental
23 Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9614)” was
24 corrected to refer to “Section 104 of the federal Comprehensive Environmental Response,
25 Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604).”

26 See Section 60165 (“director”).

27 **Note.** Section 25173.6(d) refers to requirements for expending federal funds in Section 114 of
28 the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).
29 This reference appears to be erroneous, as CERCLA Section 114 does not appear to place
30 requirements on the expenditures of federal funds.

31 In proposed Section 60500, this reference was adjusted to refer instead to Section 104 of
32 CERCLA. CERCLA Section 104(c)(3) precludes federal cleanup actions, unless a state pays a
33 specified share of the cleanup costs.

34 In the course of the Commission’s work on Chapter 6.8, the Commission encountered an
35 erroneous reference to Section 114(c) of CERCLA, which was corrected to refer to Section 104(c)
36 of CERCLA. Two other provisions in this draft also refer to Section 104 of CERCLA. See proposed
37 Sections 60495, 60580.

38 For these reasons, Section 104 of CERCLA appears to be the appropriate reference for this
39 provision.

40 **Absent comment, this proposed cross-reference correction will be presumed correct.**

41 **§ 60505. Loans to account**

42 60505. The Director of Finance, upon request of the director, may make a loan
43 from the General Fund to the Toxic Substances Control Account to meet cash needs.
44 The loan shall be subject to the repayment provisions of Section 16351 of the
45 Government Code and the interest provisions of Section 16314 of the Government
46 Code.

1 **Comment.** Section 60505 continues former Section 25173.6(f) without substantive change.
2 See Section 60165 (“director”).

3 **§ 60510. Account as successor fund**

4 60510. (a) The Toxic Substances Control Account established pursuant to Section
5 60490 is the successor fund of all of the following:

6 (1) The Hazardous Substance Account established pursuant to Section 25330, as
7 that section read on June 30, 2006.

8 (2) The Hazardous Substance Clearing Account established pursuant to Section
9 25334, as that section read on June 30, 2006.

10 (3) The Hazardous Substance Cleanup Fund established pursuant to Section
11 25385.3, as that section read on June 30, 2006.

12 (4) The Superfund Bond Trust Fund established pursuant to Section 25385.8, as
13 that section read on June 30, 2006.

14 (b) On and after July 1, 2006, all assets, liabilities, and surplus of the accounts and
15 funds listed in subdivision (a), shall be transferred to, and become a part of, the
16 Toxic Substances Control Account, as provided by Section 16346 of the
17 Government Code. All existing appropriations from these accounts, to the extent
18 encumbered, shall continue to be available for the same purposes and periods from
19 the Toxic Substances Control Account.

20 **Comment.** Section 60510 continues former Section 25173.6(g) and (h) without substantive
21 change.

22 **§ 60520. Legislative intent regarding appropriations to account**

23 60520. It is the intent of the Legislature that funds deposited in the Toxic
24 Substances Control Account shall be appropriated in the annual Budget Act each
25 year in the following manner:

26 (a) An amount sufficient to pay for the estimated costs identified by the
27 department in the report submitted pursuant to Section 60580 to the Site
28 Remediation Account in the General Fund for direct site remediation costs, as
29 defined in Section 78260.

30 (b) Not less than ten million seven hundred fifty thousand dollars (\$10,750,000)
31 to the Site Remediation Account in the General Fund for direct site remediation
32 costs, as defined in Section 78260.

33 (c) Not less than four hundred thousand dollars (\$400,000) to the Expedited Site
34 Remediation Trust Fund in the State Treasury, created pursuant to subdivision (a)
35 of former Section 25399.1, as added by Section 2 of Chapter 435 of the Statutes of
36 1994, for purposes of paying the orphan share of response costs pursuant to Chapter
37 6.86 (commencing with Section 25396) of Division 20.

38 (d) An amount that does not exceed the costs incurred by the State Board of
39 Equalization, a private party, or other public agency, to administer and collect the
40 fees imposed pursuant to **Article 9.1 (commencing with Section 25205.1)** and
41 deposited into the Toxic Substances Control Account, for the purpose of

1 reimbursing the State Board of Equalization, public agency, or private party, for
2 those costs.

3 (e) Not less than one million fifty thousand dollars (\$1,050,000) for purposes of
4 establishing and implementing a program pursuant to **Sections 25244.15.1,**
5 **25244.17.1, 25244.17.2, and 25244.22** to encourage hazardous waste generators to
6 implement pollution prevention measures.

7 (f) Funds not appropriated as specified in subdivisions (a) to (e), inclusive, may
8 be appropriated for any of the purposes specified in subdivision (a) of Section
9 60495, except the purposes specified in subparagraph (C) of paragraph (1) of, and
10 paragraph (13) of, subdivision (a) of Section 60495.

11 **Comment.** Section 60520 continues former Section 25173.7(a) without substantive change.
12 See Sections 60160 (“department”), 60210 (“hazardous waste”).

13 **§ 60525. Annual adjustments for cost of living**

14 60525. (a) The amounts specified in subdivisions (b) to (e), inclusive, of Section
15 60520 shall be adjusted annually to reflect increases or decreases in the cost of living
16 during the prior fiscal year, as measured by the Consumer Price Index issued by the
17 Department of Industrial Relations or by a successor agency.

18 (b) Notwithstanding subdivision (a), the department may, upon the approval of
19 the Legislature in a statute or the annual Budget Act, take either of the following
20 actions:

21 (1) Reduce the amounts specified in subdivisions (a) to (e), inclusive, of Section
22 60520, if there are insufficient funds in the Toxic Substances Control Account.

23 (2) Suspend the transfer specified in subdivision (c) of Section 60520, if there are
24 no orphan shares pending payment pursuant to Chapter 6.86 (commencing with
25 Section 25396) of Division 20.

26 **Comment.** Section 60525 continues former Section 25173.7(b) without substantive change.
27 See Section 60160 (“department”).

28 **Article 3. Reporting for Budget**

29 **§ 60575. Reporting on specified budget amounts**

30 60575. (a) The department shall, at the time of the release of the annual
31 Governor’s Budget, describe the budgetary amounts proposed to be allocated to the
32 California Department of Tax and Fee Administration, as specified in subdivision
33 (b) of Section 60455.

34 (b) It is the intent of the Legislature that moneys appropriated in the annual Budget
35 Act each year for the purpose of reimbursing the California Department of Tax and
36 Fee Administration, a private party, or other public agency, for the administration
37 and collection of the fees collected pursuant to **Sections 25205.5 and 25205.5.2,** or
38 described in Section **25205.25,** and deposited into the Hazardous Waste Control
39 Account, shall not exceed the costs incurred by the California Department of Tax

1 and Fee Administration, the private party, or other public agency, for the
2 administration and collection of those fees.

3 **Comment.** Section 60575 continues former Section 25174(c) without substantive change.
4 See Section 60160 (“department”).

5 **§ 60580. Report regarding estimated funding for direct site remediation costs**

6 60580. (a) The department shall submit to the Legislature with the Governor’s
7 Budget each year a report that includes an estimate of the funding needed to fund
8 direct site remediation costs at state orphan sites and meet the state’s obligation to
9 pay for direct site remediation costs at federal Superfund orphan sites pursuant to
10 paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive
11 Environmental Response, Compensation, and Liability Act of 1980, as amended (42
12 U.S.C. Sec. 9604(c)(3)).

13 (b) The estimate shall include projected costs for the current budget year and the
14 two following budget years, including, but not limited to, the state’s 10-percent
15 funding obligation for remedial actions at federal Superfund orphan sites, the state’s
16 100-percent funding obligation for ongoing operation and maintenance at federal
17 Superfund orphan sites, and ongoing operation and maintenance costs at state
18 orphan sites.

19 **Comment.** Section 60580 continues former Section 25173.7(c) without substantive change.
20 See Section 60160 (“department”).

21 **Note.** Section 25173.7(c) relates to funding used for activities that are governed by Part 2 of
22 Division 45. This provision uses several terms that are defined in Part 2 of Division 45 without
23 citation to the relevant definitions (e.g., “direct site remediation costs,” “operation and
24 maintenance,” “orphan site,” “remedial action”). It appears that the definitions for these terms in
25 Part 2 of Division 45 were intended to apply to their use in this provision. See Note to the heading
26 of this proposed chapter.

27 CHAPTER 5. GENERAL POWERS AND DUTIES

28 Article 1. Contracting

29 **§ 60620. Contracts for specialized training programs**

30 60620. The department shall enter into contracts or agreements with educational,
31 professional, or trade associations, using a competitive bidding process, to establish
32 specialized training programs with a statewide focus to instruct businesses and other
33 entities on compliance with statutes and regulations governing the handling,
34 disposal, transportation, and storage of hazardous waste.

35 **Comment.** Section 60620 continues former Section 25172.6 without substantive change.
36 See Sections 60095 (“business”), 60160 (“department”), 60175 (“disposal”), 60205
37 (“handling”), 60210 (“hazardous waste”), 60350 (“storage”).

Article 2. Duties

§ 60635. Department obligations

60635. The department, in performing its duties under this division, shall do all of the following:

(a) Coordinate research and development regarding methods of hazardous waste handling, storage, use, processing, and disposal and may conduct appropriate studies relating to hazardous wastes.

(b) Maintain a technical reference center on hazardous waste management practices, including, but not limited to, hazardous waste disposal, recycling practices, and related information for public and private use.

(c) Establish and maintain a toll-free Toxic Substances Hotline, operating during the regular working hours of the department, to provide information on hazardous waste or appropriate referrals on other toxic substances to the regulated community and the public. The department shall coordinate the Toxic Substances Hotline program with other programs that provide information on hazardous wastes and other toxic substances, including, but not limited to, the technical reference center established pursuant to subdivision (b).

(d) Provide statewide planning for hazardous waste facility site identification and assessment and render technical assistance to state and local agencies in the planning and operation of hazardous waste programs.

(e) Provide for appropriate surveillance of hazardous waste processing, use, handling, storage, and disposal practices in the state.

(f) Coordinate research and study in the technical and managerial aspects of management and use of hazardous wastes, and recycling and recovery of resources from hazardous wastes.

(g) Determine existing and expected rates of production of hazardous waste.

(h) Investigate market potential and feasibility of use of hazardous wastes and recovery of resources from hazardous wastes.

(i) Promote recycling and recovery of resources from hazardous wastes.

(j) Conduct studies for the purpose of improving departmental operations.

(k) Encourage the reduction or exchange, or both, of hazardous waste, including, but not limited to, publishing and distributing both of the following:

(1) Lists of hazardous wastes for the purpose of enabling persons to match the constituents of hazardous waste streams with needs for hazardous materials resources.

(2) Directories of known and permitted commercial hazardous waste recyclers in the state.

(l) Establish and maintain an information clearinghouse, which shall consist of a record of wastes that may be recyclable. Every producer of hazardous waste shall supply the department with information for the clearinghouse. Each producer shall not be required to supply any more information than is required by the manifests provided for in **Section 25160**. The department shall make this information

1 available to persons who desire to recycle the wastes. The information shall be made
2 available in such a way that the trade secrets of the producer are protected.

3 (m) Conduct pilot projects, as appropriate, to document the technical performance
4 of emerging technologies that offer potential for ameliorating California’s
5 hazardous waste disposal problems.

6 (n) Develop and implement an industry education program that shall emphasize
7 small business education and shall include, but not be limited to, all of the following
8 elements:

9 (1) Preparation of a synopsis of laws and regulations relating to hazardous waste,
10 which the department shall publish by January 1 of each year.

11 (2) Publication of educational pamphlets for selected types of business explaining
12 selected areas of the law, regulations, or programs concerning hazardous waste.

13 (3) Audio-visual training programs, as needed.

14 (4) An annual California Hazardous Waste Management Symposium.

15 **Comment.** Section 60635 continues former Section 25170 without substantive change.

16 See Sections 60095 (“business”), 60160 (“department”), 60175 (“disposal”), 60205
17 (“handling”), 60210 (“hazardous waste”), 60215 (“hazardous waste facility”), 60220 (“hazardous
18 waste management” or “management”), 60250 (“manifest”), 60295 (“person”), 60300
19 (“processing”), 60305 (“producer”), 60325 (“recycling”), 60350 (“storage”), 60390 (“waste”).

20 **Note.** Section 25170(l) cross-refers to Section 25160 for the purpose of identifying the required
21 contents of manifests under that section. The definitions contained in Section 25160 have been
22 proposed for recodification in this draft, but those proposed sections do not include the substantive
23 information about the manifest’s required contents. This cross-reference will be updated when the
24 remainder of Section 25160 is proposed for recodification.

25 Article 3. Information Distribution

26 § 60650. Reporting and distribution of information

27 60650. (a) The department may report findings and results of an investigation that
28 the department undertakes pertaining to subject matter governed by this division,
29 except for trade secrets as provided in Section 60655.

30 (b) The department may distribute such information as it considers necessary for
31 the protection of the public or for the protection of human health, domestic
32 livestock, wildlife, and the environment and to ensure the best use of natural
33 resources.

34 (c) The department may publish reports summarizing or containing any order of
35 the director or any judgment or court order that has been rendered pursuant to this
36 division, including the nature of the charge and its disposition.

37 **Comment.** Section 60650 continues former Section 25177 without substantive change.

38 See Sections 60160 (“department”), 60165 (“director”), 60260 (“natural resources”).

39 § 60655. Protection of trade secrets

40 60655. (a)(1) The department shall establish procedures to ensure that trade
41 secrets used by a person regarding methods of hazardous waste handling and

1 disposal are utilized by the director, the department, or any authorized representative
2 of the department only in connection with the responsibilities of the department
3 pursuant to this division.

4 (2) The procedures established pursuant to paragraph (1) shall also ensure that
5 trade secrets are not otherwise disseminated by the director, the department, or any
6 authorized representative of the department without the consent of the person.

7 (3) Notwithstanding paragraphs (1) and (2), any information shall be made
8 available to governmental agencies for use in making studies and for use in judicial
9 review or enforcement proceedings involving the person furnishing the information.

10 (b) “Trade secrets,” as used in this section, may include, but are not limited to,
11 any formula, plan, pattern, process, tool, mechanism, compound, procedure,
12 production data, or compilation of information that meets all of the following
13 criteria:

14 (1) It is not patented.

15 (2) It is known only to certain individuals within a commercial concern who are
16 using it to fabricate, produce, or compound an article of trade or a service having
17 commercial value.

18 (3) It gives its user an opportunity to obtain a business advantage over competitors
19 who do not know or use it.

20 **Comment.** Section 60655 restates former Section 25173 without substantive change.

21 See Sections 60095 (“business”), 60160 (“department”), 60165 (“director”), 60175 (“disposal”),
22 60205 (“handling”), 60210 (“hazardous waste”), 60295 (“person”).

23 **Note.** Section 25173 is restated to improve consistency and readability and eliminate the word
24 “such,” which is disfavored in legislative drafting.

25 Currently, Section 25173 provides:

26 “The department shall establish procedures to ensure that trade secrets used by a person regarding
27 methods of hazardous waste handling and disposal are utilized by the director, the department, or
28 any authorized representative of the department only in connection with the responsibilities of the
29 department pursuant to this chapter and that such trade secrets are not otherwise disseminated by
30 the director, the department, or any authorized representative of the department without the consent
31 of the person. However, any information shall be made available to governmental agencies for use
32 in making studies and for use in judicial review or enforcement proceedings involving the person
33 furnishing the information.

34 “Trade secrets,” as used in this section, may include, but are not limited to, any formula, plan,
35 pattern, process, tool, mechanism, compound, procedure, production data, or compilation of
36 information which is not patented, which is known only to certain individuals within a commercial
37 concern who are using it to fabricate, produce, or compound an article of trade or a service having
38 commercial value, and which gives its user an opportunity to obtain a business advantage over
39 competitors who do not know or use it.”

40 In addition to these changes, subdivision and paragraph designators were added and uses of the
41 word “which” were corrected to “that.”

42 **Absent comment, the proposed restatement of this section will be presumed correct.**

Article 4. Regulations and Standards

§ 60670. Hazardous waste management to protect against hazards to public health, to domestic livestock, to wildlife, or to the environment

60670. (a) The department shall adopt, and revise when appropriate, standards and regulations for the management of hazardous wastes to protect against hazards to the public health, to domestic livestock, to wildlife, or to the environment.

(b) The department and the local officers and agencies authorized to enforce this division pursuant to **subdivision (a) of Section 25180** shall apply the standards and regulations adopted pursuant to subdivision (a) to the management of hazardous waste.

(c) Except as provided in subdivision (d), the department may limit the application of the standards and regulations adopted or revised pursuant to subdivision (a) at facilities operating pursuant to a hazardous waste facilities permit or other grant of authorization issued by the department in any manner that the department determines to be appropriate, including, but not limited to, requiring these facilities to apply for, and receive, a permit modification prior to the application of the standards and regulations.

(d) The department shall not adopt or revise standards and regulations that result in the imposition of any requirement for the management of a RCRA waste that is less stringent than a corresponding requirement adopted by the United States Environmental Protection Agency pursuant to the federal act.

(e) The department shall adopt, and revise when appropriate, regulations for the recycling of hazardous waste to protect against hazards to the public health, domestic livestock, wildlife, or to the environment, and to encourage the best use of natural resources.

(f) Before the adoption of regulations, the department shall notify all agencies of interested local governments, including, but not limited to, certified unified program agencies, local governing bodies, local planning agencies, local health authorities, local building inspection departments, the Department of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Fish and Wildlife, the Department of Industrial Relations, the Division of Occupational Safety and Health, the State Air Resources Board, the State Water Resources Control Board, the Office of the State Fire Marshal, regional water quality control boards, the California Building Standards Commission, the Office of Environmental Health Hazard Assessment, and the Department of Resources Recycling and Recovery.

Comment. Section 60670 continues former Section 25150 without substantive change. Several of the listed state agency names were outdated and have been corrected to refer to the current name of the relevant agency. See Fish & Game Code § 700; Health & Safety Code §§ 13100, 18920; Lab. Code § 56; Pub. Res. Code § 40400.

See Sections 60105 (“certified unified program agency” or “CUPA”), 60160 (“department”), 60200 (“federal act”), 60210 (“hazardous waste”), 60215 (“hazardous waste facility”), 60220 (“hazardous waste management” or “management”), 60245 (“local officer”), 60260 (“natural resources”), 60325 (“recycling”), 60390 (“waste”).

1 **Notes. (1)** Section 25150(d) refers to a requirement for the management of a “RCRA waste” that
2 is less stringent than a requirement adopted by the “Environmental Protection Agency pursuant to
3 the federal act.”

4 For clarity, this proposed section specifies that the relevant agency is the “*United States*
5 Environmental Protection Agency.”

6 The term “RCRA waste” is similar to the defined term “RCRA hazardous waste.” See proposed
7 Section 60310. However, it is unclear whether this provision is intended to be limited to only
8 hazardous wastes that are regulated by RCRA (RCRA also governs non-hazardous solid waste).
9 “RCRA” is not itself a defined term, so, if any waste governed by RCRA was intended, the
10 Commission would recommend restating this provision to refer to a “waste regulated by the federal
11 act.” If only RCRA hazardous wastes are intended, the defined term, “RCRA hazardous waste,”
12 could be substituted here.

13 **The Commission welcomes comment on this issue.**

14 **(2)** Section 25150(f) refers to a number of local and state agencies. Several of the state agency
15 names were outdated and have been corrected to refer to the current name of the relevant agency.
16 See Fish & Game Code § 700; Health & Safety Code §§ 13100, 18920; Lab. Code § 56; Pub. Res.
17 Code § 40400.

18 **Absent comment, these proposed corrections will be presumed correct.**

19 **(3)** Section 25150(f) appears to state a general rule about the adoption of regulations (i.e., not
20 limited to regulations adopted pursuant to this section). If that is the case, subdivision (f) should be
21 recodified in a separate section. If not, the provision should specify that it applies before the
22 adoption of regulations “pursuant to this section.”

23 **The Commission welcomes comment on this issue.**

24 **§ 60675. Authority to adopt varying regulations**

25 60675. (a) The department, when adopting regulations pursuant to Section 60670,
26 may adopt varying regulations for different areas of the state depending on
27 population density, climate, geology, types and volumes of hazardous waste
28 generated in the area, types of waste treatment technology available in the area, and
29 other factors relevant to hazardous waste handling, processing, storing, recycling,
30 and disposal.

31 (b) This section does not apply to building standards.

32 **Comment.** Section 60675 continues former Section 25151 without substantive change.

33 See Sections 60160 (“department”), 60175 (“disposal”), 60205 (“handling”), 60210 (“hazardous
34 waste”), 60300 (“processing”), 60325 (“recycling”), 60365 (“treatment”), 60390 (“waste”).

35 **Note.** Section 25151 is restated for clarity. Currently, Section 25151 provides:

36 The department may adopt varying regulations pursuant to Section 25150, other than building
37 standards for different areas of the state depending on population density, climate, geology, types
38 and volumes of hazardous waste generated in the area, types of waste treatment technology
39 available in the area, and other factors relevant to hazardous waste handling, processing, storing,
40 recycling, and disposal.

41 **Absent comment, the proposed restatement of this section will be presumed correct.**

42 **§ 60680. Regulations adopted prior to January 1, 2008**

43 60680. Any regulation adopted prior to January 1, 2008, pursuant to former
44 Section 25150.6, that exempts a hazardous waste management activity from one or
45 more of the requirements of this division shall remain valid unless repealed.

1 **Comment.** Section 60680 restates former Section 25150.65 without substantive change.
2 See Section 60220 (“hazardous waste management” or “management”).

3 **Notes. (1)** Section 25150.65 is restated to improve readability. Currently, Section 25150.65
4 provides:

5 “Any regulation that was adopted prior to January 1, 2008, pursuant to former Section 25150.6,
6 exempting a hazardous waste management activity from one or more of the requirements of this
7 chapter, shall remain valid unless repealed.”

8 **Absent comment, the proposed restatement of this provision will be presumed correct.**

9 **(2)** Section 25150.65 refers to a regulation adopted prior to January 1, 2008, pursuant to former
10 Section 25150.6. Former Section 25150.6 was added in 1998 and amended twice prior to 2008. See
11 1998 Cal. Stat. ch. 676, § 1; 2001 Cal. Stat. ch. 605, § 4; 2004 Cal. Stat. ch. 175, § 1. For this
12 reference, no statutory citation was provided to avoid an implication that only certain regulations
13 are covered by this provision (i.e., those regulations adopted when a specified version of the section
14 was in effect).

15 **§ 60685. Public hearing on proposed regulations**

16 60685. (a) Before adopting building standards or adopting or revising other
17 standards and regulations for the handling, processing, storing, use, recycling, and
18 disposal of hazardous and extremely hazardous wastes, the department shall hold at
19 least one public hearing in Sacramento, or in a city within the area of the state to be
20 affected by the proposed regulations.

21 (b) Except as provided in Section 18930, the department shall adopt the proposed
22 regulations after making changes or additions that are appropriate in view of the
23 evidence and testimony presented at the public hearing or hearings.

24 **Comment.** Section 60685 continues former Section 25152 without substantive change.

25 See Sections 60160 (“department”), 60175 (“disposal”), 60195 (“extremely hazardous waste”),
26 60205 (“handling”), 60210 (“hazardous waste”), 60300 (“processing”), 60325 (“recycling”).

27 **§ 60690. Permissible format for contingency plan**

28 60690. On or before July 1, 1995, the department shall revise any standard or
29 regulation it has adopted that requires the preparation of a contingency plan, as that
30 term is defined in Section 66260.10 of Title 22 of the California Code of
31 Regulations, to allow the person preparing the contingency plan to use the format
32 adopted pursuant to former Section 25503.4, if that person elects to use that format.

33 **Comment.** Section 60690 continues former Section 25150.5 without substantive change.

34 See Sections 60160 (“department”), 60295 (“person”).

35 **Notes. (1)** Section 25150.5 involves an obligation of the department that was supposed to occur
36 in 1995. It is unclear whether this provision has any continuing effect.

37 **The Commission welcomes comment on this issue.**

38 **(2)** Assuming this section has continuing effect, it is unclear how the reference to Section
39 25503.4 should be updated. This section requires the department to permit use of a contingency plan
40 format adopted pursuant to “Section 25503.4.” Section 25503.4 has been repealed. 2013 Cal. Stat.
41 ch. 419, § 2.

42 In proposed Section 60690, the reference has been adjusted to refer to “former” Section 25503.4.
43 The Commission considered whether to provide a statutory cite, but was unsure whether the
44 relevant version of Section 25503.4 should have been the one in effect on July 1, 1995 (the date

1 specified in the statute) or the last amended version. See 1993 Cal. Stat. ch. 630, § 6; 2013 Cal.
2 Stat. ch. 352, § 359.

3 More broadly, it is unclear whether the contingency plan format adopted pursuant to former
4 Section 25503.4 has any ongoing validity (i.e., can contingency plans being prepared now use the
5 format adopted pursuant to former law?). If so, is there a current regulatory provision that describes
6 this format that could be referenced here (as opposed to former law)?

7 **If this section has continuing effect, the Commission welcomes comment on how the**
8 **reference to the repealed section, “Section 25503.4,” should be updated.**

9 Article 5. Reporting

10 **§ 60700. Information to be posted online**

11 60700. On or before January 1 of each odd-numbered year, the department shall
12 post on its internet website, at a minimum, all of the following:

13 (a) The status of the regulatory and program developments required pursuant to
14 legislative mandates.

15 (b)(1) The status of the hazardous waste facilities permit program that shall
16 include all of the following information:

17 (A) A description of the final hazardous waste facilities permit applications
18 received.

19 (B) The number of final hazardous waste facilities permits issued to date.

20 (C) The number of final hazardous waste facilities permits yet to be issued.

21 (D) A complete description of the reasons why the final hazardous waste facilities
22 permits yet to be issued have not been issued.

23 (2) For purposes of paragraph (1), “hazardous waste facility” means a facility that
24 uses a land disposal method, as defined in **subdivision (d) of Section 25179.2**, and
25 that disposes of wastes regulated as hazardous waste pursuant to the federal act.

26 (c) The status of the hazardous waste facilities siting program.

27 (d) The status of the hazardous waste abandoned sites program.

28 (e) A summary of enforcement actions taken by the department pursuant to this
29 division and any other actions relating to hazardous waste management.

30 (f) Summary data on annual quantities and types of hazardous waste generated,
31 transported, treated, stored, and disposed.

32 (g) Summary data regarding onsite and offsite disposition of hazardous waste.

33 (h) Research activity initiated by the department.

34 (i) Regulatory action by other agencies relating to hazardous waste management.

35 (j) A revised listing of recyclable materials showing any additions or deletions to
36 the list prepared pursuant to **Section 25175** that have occurred since the last report.

37 (k) Any other data considered pertinent by the department to hazardous waste
38 management.

39 (l) The information specified in **subdivision (c) of Section 25161, paragraph (4)**
40 **of subdivision (b) of Section 25197.1**, and Article 9 (commencing with Section
41 78575) of Chapter 3 of Part 2 of Division 45.

1 (m) A status report on the cleanup of the McColl Hazardous Waste Disposal Site
2 in Orange County.

3 **Comment.** Section 60700 continues former Section 25178 without substantive change. An
4 erroneous reference to “paragraph (4) of subdivision (a) of Section 25197.1” was corrected to refer
5 to Section [XXXXX], which continues Section 25197.1(b)(4).

6 See Sections 60160 (“department”), 60175 (“disposal”), 60200 (“federal act”), 60210
7 (“hazardous waste”), 60215 (“hazardous waste facility”), 60220 (“hazardous waste management”
8 or “management”), 60315 (“recyclable material”), 60390 (“waste”).

9 **Notes. (1)** Section 25178(b)(2) specifies that a “hazardous waste facility,” which is a defined
10 term for this division, means “a facility that uses a land disposal method, as defined in subdivision
11 (d) of Section 25179.2, and that disposes of wastes regulated as hazardous waste pursuant to the
12 federal act.”

13 The main definition of “hazardous waste facility” seems to be much broader. It is defined to
14 mean “all contiguous land and structures, other appurtenances, and improvements on the land used
15 for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste.”

16 It is unclear whether these competing definitions cause problems in practice.

17 **The Commission welcomes comment on this issue.**

18 **(2)** Section 25178(l) refers to the information specified in “paragraph (4) of subdivision (a) of
19 Section 25197.1.” That reference appears to be an error, as Section 25197.1(a) does not contain
20 paragraphs. However, Section 25197.1(b)(4) identifies information that should be included “in the
21 biennial report specified in Section 25178.” In this proposed section, the reference has been
22 corrected to refer to paragraph (4) of subdivision (b).

23 **(3)** The Independent Review Panel (“IRP”) concluded that this section appears to be at least
24 partially obsolete. See DTSC Independent Review Panel Recommendations to the Governor and
25 the Legislature Pursuant to Health and Safety Code Section 57014(f) 31 (January 8, 2018),
26 available at <https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/04/IRP-Annual-Report-January-8-218.pdf>. Specifically, the IRP Report notes that this section “requires the posting of numerous
27 reports on the DTSC website that were considered important to post thirteen years ago and which,
28 in [subdivision (l)], refers to a non-existent code section.”

29 **This issue has been added to the list of substantive issues for possible future study (with
30 attribution to the IRP).**
31

32 CHAPTER 6. LABORATORY ANALYSIS

33 **Note.** Proposed Chapter 6 recodifies Section 25198. Subdivision (a) of this section defines “state
34 department” for the purposes of the section to mean the “State Department of Health Services.”
35 The term “state department” is only used once in the section. Given the term’s similarity to the
36 defined term “department” and the single use of the defined term “state department,” the proposed
37 legislation would not continue the definition for “state department” and would simply substitute
38 the full agency name in the one spot where “state department” is currently used.

39 Further, as indicated below, the reference to the “state department” appears to be out of date. See
40 Note to proposed Section 60720.

41 **Absent comment, the proposed elimination of the “state department” definition and
42 substitution of the full agency name will be presumed correct.**

43 **§ 60720. Laboratory accreditation for analyses**

44 60720. Except as provided in subdivision (a) of Section 60725, the analysis of any
45 material required by this division shall be performed by a laboratory accredited by

1 the State Water Resources Control Board pursuant to Article 3 (commencing with
2 Section 100825) of Chapter 4 of Part 1 of Division 101.

3 **Comment.** Section 60720 restates the first part of former Section 25198(b) without substantive
4 change. The reference to the “state department” (defined as the “State Department of Health
5 Services”) in former Section 25198 has been replaced with a reference to the “State Water
6 Resources Control Board.” Formerly, the State Department of Health Services was the state agency
7 authorized to accredit laboratories under Article 3 (commencing with Section 100825) of Chapter
8 4 of Part 1 of Division 101. See former Section 100825(c)(1), (4), (18) as added by 2005 Cal. Stat.
9 ch. 406, § 2. Currently, the State Water Resources Control Board is the agency authorized to
10 accredit laboratories under that article. See Section 100825(c)(1), (4), (11), (12).

11 **Notes.** Subdivision (b) of Section 25198 provides as follows:

12 “Except as provided in subdivision (c), the analysis of any material required by this chapter shall
13 be performed by a laboratory certified by the state department pursuant to Article 3 (commencing
14 with Section 100825) of Chapter 4 of Part 1 of Division 101, except that laboratories previously
15 issued a certificate under this section shall be deemed certified until the time that certification under
16 Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 has been either
17 granted or denied, but not beyond the expiration date shown on the certificate previously issued
18 under this section.”

19 (1) Proposed Section 60720 would restate the first part of this subdivision to make the
20 terminology consistent with Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of
21 Division 101.

22 In addition, proposed Section 60720 would replace a reference to the “state department” (defined
23 as the “State Department of Health Services”) with a reference to the “State Water Resources
24 Control Board.” Formerly, the State Department of Health Services had the accreditation authority
25 under the referenced article. See former Section 100825(c)(1), (4), (18), as added by 2005 Cal. Stat.
26 ch. 406, § 2 (AB 1317). Currently, the State Water Resources Control Board is the agency granted
27 the authority to accredit laboratories under that article. See Section 100825(c)(1), (4), (11), (12).

28 **Absent comment, this restatement will be presumed correct.**

29 As in its prior work on Chapter 6.8, the Commission did not simply delete the agency name,
30 which could prevent future discrepancies from arising if the accrediting agency changes. See
31 proposed Section 78510 in *Hazardous Substance Account Recodification Act*, __ Cal. L. Revision
32 Comm’n Reports __ (2021). The Commission concluded that deleting the agency name could
33 potentially be substantive. The referenced article provides for a second form of accreditation (“TNI
34 accreditation”), which is conducted by accrediting bodies recognized by a national nonprofit
35 (“TNI”). See Section 100825(c)(14)-(20). It is unclear whether such accreditation would be
36 sufficient for the purposes of laboratory analyses conducted under this division.

37 **The Commission welcomes comment on this issue.**

38 (2) Section 25198(b) includes a rule about the certification of a laboratory previously issued a
39 certificate under “this section.” This rule is not proposed for continuation as it appears to be long
40 obsolete.

41 The Commission researched prior versions of Section 25198 to determine which prior version
42 of the statute authorized the issuance of laboratory certificates. Prior to 1988, Section 25198
43 authorized the issuance of laboratory certifications under specified conditions, consistent with
44 implementing regulations. See 1982 Cal. Stat. ch. 1209, § 2.

45 In 1988, the Environmental Laboratory Improvement Act of 1988 was enacted, which
46 consolidated, reorganized, and revised the laboratory certification functions. See 1988 Cal. Stat.
47 ch. 894, § 1. At that time, Section 25198 was amended to refer to laboratories that were previously
48 issued certificates under the section. See 1988 Cal. Stat. ch. 894, § 6. The rule in Section 25198
49 deems laboratories previously issued a certificate under this section to be certified “until the time
50 that [the new] certification ... has been granted or denied, *but not beyond the expiration date shown*

1 *on the certificate previously issued under this section*” (emphasis added). It seems almost certain
2 that a laboratory certification issued over 30 years ago would have expired in the intervening years.
3 See former Section 25198.3, as enacted by 1982 Cal. Stat. ch. 1209, § 2 (“The department shall
4 issue a certificate valid for two years from the date of issue to a laboratory when the department
5 determines that the laboratory is competent and equipped to conduct the type of analysis for which
6 certification is sought.”).

7 **The Commission welcomes comment on whether the rule pertaining to laboratories**
8 **previously issued certification under Section 25198 has any ongoing validity.**

9 **§ 60725. Exceptions to certification requirements**

10 60725. (a) The requirements of Section 60720 shall not apply to analyses
11 performed by a laboratory pursuant to the facility’s waste analysis plan if all of the
12 following conditions are met:

13 (1) The laboratory is owned or operated by the same person who owns or operates
14 the facility at which the waste will be managed, and the facility is a hazardous waste
15 treatment, storage, or disposal facility that is required to obtain a hazardous waste
16 facilities permit pursuant to **Article 9 (commencing with Section 25200)**.

17 (2) The analysis is conducted for any of the following purposes:

18 (A) To determine whether a facility will accept the hazardous waste for transfer,
19 storage, or treatment, as described in paragraph (3) of subdivision (a) of Section
20 66264.13 of, and paragraph (3) of subdivision (a) of Section 66265.13 of, Title 22
21 of the California Code of Regulations, as those sections read on January 1, 2001.

22 (B) To ensure that the analysis used to determine whether a facility will accept
23 the hazardous waste for transfer, storage, or treatment is accurate and up to date, as
24 described in paragraph (4) of subdivision (a) of Section 66264.13 of, and paragraph
25 (4) of subdivision (a) of Section 66265.13 of, Title 22 of the California Code of
26 Regulations, as those sections read on January 1, 2001.

27 (C) To determine whether the hazardous waste received at the facility for transfer,
28 storage, or treatment matches the identity of the hazardous waste designated on an
29 accompanying manifest or shipping paper, as described in paragraph (5) of
30 subdivision (a) of Section 66264.13 of, and paragraph (5) of subdivision (a) of
31 Section 66265.13 of, the California Code of Regulations, as those sections read on
32 January 1, 2001.

33 (3) The facility’s waste analysis plan is prepared in accordance with the
34 regulations adopted by the department pursuant to this division.

35 (b)(1) An analysis performed in accordance with subdivision (a) is not an analysis
36 performed for regulatory purposes within the meaning of paragraph (9) of
37 subdivision (c) of Section 100825.

38 (2) The exemption provided by subdivision (a) does not exempt the analyses of
39 waste for purposes of disposal from the requirements of Section 60720 requiring
40 certified laboratory analyses. The analyses described in subdivision (a) are not
41 exempt from any other requirement of law, regulation, or guideline governing
42 quality assurance and quality control.

1 **Comment.** Section 60725 restates former Section 25198(c), (d), and (e) without substantive
2 change. An erroneous cross-reference to Section 100825(c)(19) was corrected to refer to Section
3 100825(c)(9).

4 See Sections 60160 (“department”), 60175 (“disposal”), 60210 (“hazardous waste”),
5 60215 (“hazardous waste facility”), 60250 (“manifest”), 60295 (“person”), 60350 (“storage”),
6 60365 (“treatment”), 60390 (“waste”).

7 **Notes. (1)** The introductory clause of Section 25198(c) provides as follows:

8 “The requirements of subdivision (b) shall not apply to analyses performed by a laboratory
9 pursuant to the facility’s waste analysis plan, that is prepared in accordance with the regulations
10 adopted by the Department of Toxic Substances Control pursuant to this chapter, if both of the
11 following conditions are met:”

12 This provision is restated for readability and to make clear that the waste analysis plan being
13 prepared in accordance with the regulations is a condition that must be satisfied for this rule to
14 apply.

15 **Absent comment, this proposed restatement will be presumed correct.**

16 In addition, the reference to the “Department of Toxic Substances Control” in Section 25198(c)
17 was replaced with the defined term “department.” See proposed Section 60160.

18 **(2)** Section 25198(d) refers to an “analysis performed for regulatory purposes within the meaning
19 of paragraph (19) of subdivision (c) of Section 100825.” This reference appears to be erroneous, as
20 the definition of “regulatory purposes” is found in paragraph (9) of Section 100825(c). The
21 reference has been corrected accordingly.

22 **Absent comment, this correction will be presumed correct.**

23 **(3)** Section 25198(c)(1) refers to a “hazardous waste treatment, storage, or disposal facility.”
24 This term is similar to the defined term “hazardous waste facility.” See proposed Section 60215;
25 see also proposed Section 60180 (defining another similar term, “disposal site”). A “hazardous
26 waste facility” means “all contiguous land and structures, other appurtenances, and improvements
27 on the land used for the treatment, transfer, storage, resource recovery, disposal, or recycling of
28 hazardous waste.”

29 **The Commission welcomes comment on whether the defined term “hazardous waste
30 facility” could be substituted here or whether this reference intends a narrower set of facilities
31 (e.g., not hazardous waste recycling facilities).**

32 **§ 60730. Certification required for contracts for laboratory analyses**

33 60730. No person or public entity of the state shall contract with a laboratory for
34 environmental analyses for which certification is required pursuant to this division,
35 unless the laboratory holds a valid certificate.

36 **Comment.** Section 60730 continues former Section 25198(f) without substantive change.
37 See Section 60295 (“person”).

38 **Note.** Section 25198(f) refers to a “person or public entity of the state.” “Person” is a defined
39 term, which seems to include public entities of the state. Specifically, proposed Section 60295
40 provides that “person” includes “the state or any department, agency, or political subdivision
41 thereof.” It is unclear what the “or public entity of the state” adds to this provision. It appears to be
42 redundant.

43 **The Commission welcomes comment on this issue.**

...

1 PART 2. BOARD OF ENVIRONMENTAL SAFETY

2 CHAPTER 1. PRELIMINARY PROVISIONS

3 Article 1. Establishment of Board

4 **§ 61000. Appointment of board members**

5 61000. (a) The Board of Environmental Safety is hereby established in the
6 department consisting of five voting members as follows:

7 (1) Three members shall be appointed by the Governor subject to confirmation by
8 the Senate.

9 (2) One member shall be appointed by the Senate Committee on Rules.

10 (3) One member shall be appointed by the Speaker of the Assembly.

11 (b) The members of the board shall be appointed on the basis of their
12 demonstrated interest in the fields of hazardous waste management, site
13 remediation, or pollution prevention and reduction, shall possess understanding of
14 the needs of the general public in connection with the risks posed by hazardous
15 materials and the management of hazardous waste, and shall possess experience in
16 at least one of the following:

17 (1) Environmental law.

18 (2) Environmental science, including toxicology, chemistry, geology, industrial
19 hygiene, or engineering.

20 (3) Public health.

21 (4) Cumulative impact assessment and management.

22 (5) Regulatory permitting.

23 (c) No more than two members of the board may represent a single category of
24 qualification described in paragraphs (1) to (5), inclusive, of subdivision (b) at any
25 one time.

26 **Comment.** Section 61000 continues former Section 25125(a)-(c) without substantive change.

27 See Sections 60088 (“board”), 60160 (“department”), 60210 (“hazardous waste”), 60220
28 (“hazardous waste management”).

29 **§ 61005. Role of board members**

30 61005. The board members shall represent the general public interest and act to
31 protect public health and reduce risks of toxic exposure with a particular focus on
32 disproportionately burdened and vulnerable communities.

33 **Comment.** Section 61005 continues former Section 25125(d) without substantive change.

34 See Section 60088 (“board”).

35 **§ 61010. Terms**

36 61010. (a) Except as provided in subdivision (c), a board member shall be
37 appointed for a term of four years.

38 (b) A vacancy in the board shall be immediately filled by the appointing authority
39 for the unexpired portion of the term in which the vacancy occurs.

(c) The terms of the board members shall be staggered, as follows:

(1) One of the initial members appointed by the Governor and the initial member appointed by the Speaker of the Assembly shall serve a two-year term and the remaining three initial members shall serve a four-year term.

(2) The chairperson of the board, appointed by the Governor pursuant to Section 61015, shall serve a four-year term.

(3) The Governor shall determine which of the initial members appointed by the Governor shall serve a two-year term and which shall serve a four-year term.

Comment. Section 61010 restates former Section 25125(f) without substantive change. See Section 60088 (“board”).

Note. Proposed Section 61010 would restate Section 25125(f), which presently reads as follows, to improve readability:

“(f)(1) Except as provided in paragraph (2), a board member shall be appointed for a term of four years. A vacancy in the board shall be immediately filled by the appointing authority for the unexpired portion of the term in which the vacancy occurs.

(2) The terms of the board members shall be staggered. One of the initial members appointed by the Governor and the initial member appointed by the Speaker of the Assembly shall serve a two-year term and the remaining three initial members shall serve a four-year term. The chairperson of the board, appointed by the Governor pursuant to subdivision (m), shall serve a four-year term. The Governor shall determine which of the initial members appointed by the Governor shall serve a two-year term and which shall serve a four-year term.”

Absent comment, the proposed restatement will be presumed correct.

§ 61015. Appointment of chair, workload and compensation of members

61015. (a) The chairperson of the board, who is appointed by the Governor, shall serve full time and shall receive the salary provided for in Section 11553 of the Government Code.

(b) All other members of the board shall serve half time and shall receive one-half of the salary provided for in Section 11553.5 of the Government Code.

Comment. Section 61015 continues former Section 25125(m) without substantive change. See Section 60088 (“board”).

§ 61020. Liaison with United States Department of Defense

61020. Due to the unique nature of permitting federal facilities, the chairperson of the board shall designate one board member to serve as the liaison between the board and the United States Department of Defense.

Comment. Section 61020 continues former Section 25125(o) without substantive change. See Section 60088 (“board”).

§ 61025. Litigation counsel

61025. (a) The Attorney General shall represent the board in litigation concerning the affairs of the board unless the Attorney General represents another state agency that is a party to the action, in which case, the Attorney General may represent the board with the written consent of the board and the other state agency.

1 (b) If the Attorney General is not representing the board, the board may contract
2 for the service of outside counsel to represent the board or in-house counsel of the
3 board may represent the board, subject to Section 11040 of the Government Code.

4 **Comment.** Section 61025 continues former Section 25125(l) without substantive change.
5 See Section 60088 (“board”).

6 Article 2. Conducting of Business

7 § 61060. Voting and quorum requirements

8 61060. (a) Three board members constitute a quorum for the transaction of
9 business of the board.

10 (b) An affirmative vote of a majority of board members present at a meeting of
11 the board shall be required for the board to take any action or pass any motion.

12 **Comment.** Section 61060 continues former Section 25125(e) without substantive change.
13 See Sections 60088 (“board”), 60095 (“business”).

14 § 61065. Compliance with other acts

15 61065. (a) The board shall conduct its business, including adjourning to, or
16 meeting solely in, closed session, pursuant to the Bagley-Keene Open Meeting Act
17 (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of
18 Title 2 of the Government Code).

19 (b) The board shall conduct administrative adjudications, including, but not
20 limited to, permit appeals pursuant to Section 61205, in accordance with the
21 Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of
22 Part 1 of Division 3 of Title 2 of the Government Code), including the prohibition
23 against ex parte communications.

24 **Comment.** Subdivision (a) of Section 61065 continues former Section 25125(i) without
25 substantive change.

26 Subdivision (b) continues subdivision (k) of former Section 25125 without substantive change.
27 See Sections 60088 (“board”), 60095 (“business”).

28 § 61070. Adoption of rules relating to conduct

29 61070. (a) The board shall adopt rules for the conduct of its affairs.

30 (b) The rules for conduct adopted by the board shall require, at a minimum, that a
31 board member adhere to all of the following principles:

32 (1) A board member shall faithfully discharge the duties, responsibilities, and
33 quasi-judicial actions of the board.

34 (2) A board member shall conduct their affairs in the public’s best interest,
35 following principles of fundamental fairness and due process of law.

36 (3) A board member shall conduct their affairs in an open, objective, and impartial
37 manner, free of undue influence and the abuse of power and authority.

1 (4) A board member shall understand that the programs implemented by the
2 department require public awareness, understanding, and support of, and
3 participation and confidence in, the board and its practices and procedures.

4 (5) A board member shall preserve the public’s welfare and the integrity of the
5 board, and act to maintain the public’s trust in the board and the implementation of
6 its regulations and policies.

7 (6) A board member shall not conduct themselves in a manner that reflects discredit
8 upon state laws, policies, or regulations, or principles of the board.

9 (c) The rules adopted pursuant to this section are exempt from the requirements
10 of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2
11 of the Government Code.

12 **Comment.** Section 61070 continues former Section 25125(j) without substantive change.
13 See Section 60088 (“board”).

14 **§ 61075. External interactions relating to board matters**

15 61075. (a) Members of the board, or representatives authorized by the board to do
16 so, may hold, attend, or otherwise participate in conferences or hearings, official or
17 unofficial, within or out of the state, with interested persons, agencies, or officers,
18 of this or any other state, or with Congress, congressional committees, or officers of
19 the federal government, concerning any matter within the scope of the power and
20 duties of the board.

21 (b) This section does not create an exception to the Bagley-Keene Open Meeting
22 Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division
23 3 of Title 2 of the Government Code).

24 **Comment.** Section 61075 continues former Section 25125(n) without substantive change.
25 See Sections 60088 (“board”), 60295 (“person”).

26 **§ 61080. Conflict of interest**

27 61080. A board member shall not make, participate in making, or in any way
28 attempt to use the board member’s official position to influence a board decision in
29 which the board member knows or has reason to know they have a financial interest
30 within the meaning of Section 87103 of the Government Code.

31 **Comment.** Section 61080 continues former Section 25125(h) without substantive change.
32 See Section 60088 (“board”).

33 **§ 61085. Removal of board member**

34 61085. (a) A board member appointed by the Governor may be removed by the
35 Governor for neglect of duty, misconduct, or malfeasance in office. Before removal
36 from office, a member shall be provided with a written statement of the charges and
37 an opportunity to be heard.

38 (b) A board member appointed by the Governor or the Legislature may be
39 removed after trial for knowingly violating a provision of this chapter based on a
40 complaint filed in a county superior court by the Attorney General alleging that the

1 board member knowingly violated a provision of this chapter and asking that the
2 board member be removed from the board. Further proceedings shall be in
3 accordance as near as may be with rules governing civil actions.

4 (c) A board member shall not miss three consecutive meetings as unexcused
5 absences. Missing three consecutive meetings as unexcused absences shall
6 constitute grounds for removal under subdivision (a) or (b).

7 **Comment.** Section 61085 continues former Section 25125(g) without substantive change.
8 See Section 60088 (“board”).

9 CHAPTER 2. MEETING PROCESS

10 § 61130. Number and location of meetings

11 61130. (a) Beginning January 1, 2022, the board shall conduct no fewer than six
12 public meetings per year, at least three of which shall be held outside the greater
13 Sacramento area.

14 (b) For those meetings held outside the greater Sacramento area, the board shall
15 meet in different geographic areas within the state to facilitate the participation by
16 the businesses and sites regulated by the department, as well as members of the
17 communities impacted by the businesses and sites regulated by the department.

18 **Comment.** Section 61130 continues former Section 25125.2(a) without substantive change.
19 See Sections 60088 (“board”), 60095 (“business”), 60160 (“department”).

20 § 61135. Use of advisory subcommittees

21 61135. (a) The board may form advisory subcommittees of its membership to
22 work on any topic within the board’s jurisdiction, including, but not limited to,
23 environmental justice and fee structure.

24 (b) Subcommittees formed pursuant to this section are authorized to do both of
25 the following:

26 (1) Seek information and feedback from any stakeholder or constituencies subject
27 to the authorities implemented by the department or impacted by the department’s
28 implementation of its authorities.

29 (2) Present recommendations of the subcommittee to the full board for its
30 consideration and action.

31 (c) The full board is not required to act on any recommendation presented by a
32 subcommittee of the board.

33 **Comment.** Section 61135 continues former Section 25125.3 without substantive change.
34 See Sections 60088 (“board”), 60160 (“department”).

35 § 61140. Director participation

36 61140. The director, or a designee, shall present and respond to the board, if
37 requested by the board, on any issue or item brought forward by a member of the
38 public, the ombudsperson, or a board member.

39 **Comment.** Section 61140 continues former Section 25125.6 without substantive change.

1 See Sections 60088 (“board”), 60165 (“director”).

2 CHAPTER 3. BOARD RESPONSIBILITIES

3 § 61200. Setting of fees

4 61200. The board shall set fees pursuant to Sections **25205.2.1, 25205.5.01, and**
5 **25205.6.1.**

6 **Comment.** Section 61200 continues former Section 25125.2(b)(1) without substantive change.
7 See Section 60088 (“board”).

8 § 61205. Hazardous waste facility permit appeals

9 61205. The board shall hear and decide appeals of hazardous waste facility permit
10 decisions.

11 **Comment.** Section 61205 continues former Section 25125.2(b)(2) without substantive change.
12 See Sections 60088 (“board”), 60215 (“hazardous waste facility”).

13 § 61210. Public hearings

14 61210. The board shall provide opportunities for public hearings on individual
15 permitted or remediation sites.

16 **Comment.** Section 61210 continues former Section 25125.2(b)(3) without substantive change.
17 See Section 60088 (“board”).

18 § 61215. Evaluation of director priorities and adoption of performance metrics

19 61215. (a) The board shall review and consider for approval the director’s annual
20 priorities for each program under the department and, after consulting with the
21 director, adopt clear performance metrics for the department and each of the
22 department’s programs.

23 (b) The board’s responsibilities under this section shall be conducted at a public
24 hearing.

25 (c) The director shall provide annual updates on progress toward meeting the
26 priorities and performance metrics.

27 **Comment.** Section 61215 continues former Section 25125.2(b)(4) without substantive change.
28 See Sections 60088 (“board”), 60160 (“department”), 60165 (“director”).

29 § 61220. Analysis of department activity fee structure

30 61220. The board shall conduct an analysis of the fee structure supporting the
31 department’s activities funded by the Hazardous Waste Control Account, the
32 Hazardous Waste Facilities Account, and the Toxic Substances Control Account
33 and, to the extent necessary, develop recommendations for funding the department’s
34 activities that accomplish all of the following:

35 (1) Provides for protection for public health and safety and the environment.

36 (2) Provides adequate funding to ensure the timely remediation of contaminated
37 sites, including the remediation of orphan sites.

1 (3) Provides adequate funding for the enforcement of this division and Part 2
2 (commencing with Section 78000) of Division 45.

3 (4) Provides adequate funding for the programs and regulatory efforts that protect
4 consumers from potentially harmful chemicals in products or workplaces.

5 (5) Provides for a reasonable distribution of costs among the businesses that
6 contribute to the need for management of hazardous waste in the state.

7 (6) Provides a level of funding that will enable the department and the board to
8 implement and carry out their duties and responsibilities, including the department’s
9 performance metrics approved by the board pursuant to this section.

10 (7) Considers increasing fee rates, decreasing fee rates, consolidating fees,
11 eliminating fees, or creating new fees, as appropriate, as well as the option to
12 identify any other funding sources that may be appropriate for use by the department
13 in performing its duties and responsibilities. The board may consider where tiered
14 rates may be appropriate to align the department’s regulatory costs with different
15 volumes or types of hazardous waste.

16 (8) Considers the creation of graduated fee rates that could be used to encourage
17 or discourage waste generation or specific higher risk or hazard waste management
18 activities.

19 (9) Considers additional funding amounts that may be needed for the department
20 to implement the responsibilities identified in **Article 11.8 (commencing with**
21 **Section 25244) and Article 11.9 (commencing with Section 25244.12)**, in whole
22 or in part.

23 (10) Considers additional funding amounts that may be needed for the department
24 to implement programs that further support the collection and appropriate
25 management of hazardous wastes that may pose a higher risk of being illegally
26 disposed.

27 **Comment.** Section 61220 continues former Section 25125.2(b)(5) without substantive change.
28 See Sections 60088 (“board”), 60160 (“department”), 60210 (“hazardous waste”), 60390
29 (“waste”).

30 **§ 61225. Evaluation of department programs and development of recommendations**

31 61225. The board shall conduct an analysis of the department’s programs, the
32 relationship between those programs and related programs in other regulatory
33 agencies, including, but not limited to, the State Water Resources Control Board,
34 the California regional water quality control boards, and the Department of
35 Resources Recycling and Recovery, and, to the extent necessary, develop
36 recommendations to improve coordination between programs, and to reduce or
37 eliminate duplication or overlap.

38 **Comment.** Section 61225 continues former Section 25125.2(b)(6) without substantive change.
39 See Sections 60088 (“board”), 60160 (“department”).

1 the authority to adopt regulations establishing fees as required pursuant to Section
2 61200.

3 (b) Except as provided in Section 61070, a regulation adopted pursuant to this part
4 may be adopted as an emergency regulation in accordance with Chapter 3.5
5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
6 Government Code, and for purposes of that chapter, including Section 11349.6 of
7 the Government Code, the adoption of regulations is an emergency and shall be
8 considered by the Office of Administrative Law as necessary for the immediate
9 preservation of the public peace, health, and safety, and general welfare.

10 (c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code, an emergency regulation adopted by
12 the board pursuant to this section shall be filed with, but not be repealed by, the
13 Office of Administrative Law, and shall remain in effect until repealed by the board.

14 **Comment.** Section 61300 continues former Section 25125.4 without substantive change.
15 See Section 60088 (“board”).

16 CHAPTER 5. OMBUDSPERSON

17 § 61350. Establishment of office

18 61350. There is established within the board an office of the ombudsperson.

19 **Comment.** Section 61350 continues the first sentence of former Section 25125.8(a) without
20 substantive change.

21 See Section 60088 (“board”).

22 § 61355. Appointment

23 61355. The board shall appoint an ombudsperson who shall serve full time at the
24 pleasure of the board.

25 **Comment.** Section 61355 continues the second sentence of former Section 25125.8(a) without
26 substantive change.

27 See Section 60088 (“board”).

28 § 61360. Responsibilities

29 61360. The office of the ombudsperson shall serve as an impartial resource to the
30 public, including stakeholders, by doing the following:

31 (a) Receive complaints and suggestions from the public.

32 (b) Evaluate complaints.

33 (c) Report findings and make recommendations to the director and the board.

34 (d) Render assistance to the public, when appropriate.

35 **Comment.** Section 61360 continues former Section 25125.8(b) without substantive change.
36 See Sections 60088 (“board”), 60165 (“director”).

1 **§ 61365. Determination of responsibilities**

2 61365. The board, in consultation with the director, may determine the activities,
3 in addition to those specified in Section 61360, the ombudsperson can undertake.

4 **Comment.** Section 61365 continues former Section 25125.8(c) without substantive change.
5 See Sections 60088 (“board”), 60165 (“director”).

6 **§ 61370. Establishment of procedures**

7 61370. The board shall establish procedures governing the exercise of the
8 ombudsperson’s duties, including all of the following:

9 (a) Methods to encourage the submission of complaints or suggestions and
10 safeguards to ensure confidentiality.

11 (b) Forms to submit complaints and suggestions to the ombudsperson.

12 (c) Criteria for prioritization of complaints and suggestions submitted to the
13 ombudsperson.

14 (d) Access to information and resources to improve understanding of the
15 department’s activities and opportunities for involvement in the department’s
16 regulatory processes.

17 **Comment.** Section 61370 continues former Section 25125.8(d) without substantive change.
18 See Sections 60088 (“board”), 60160 (“department”).

19 **§ 61375. Submission of complaint or suggestion**

20 61375. Any person may submit a complaint or make a suggestion to the
21 ombudsperson regarding any action, program, or policy of the department.

22 **Comment.** Section 61375 continues former Section 25125.8(e) without substantive change.
23 See Sections 60160 (“department”), 60295 (“person”).

24 **PART 3. TOXICS REDUCTION**

25 **CHAPTER 1. GREEN CHEMISTRY**

26 **Article 1. Definitions**

27 **63500. Application**

28 63500. The definitions in this article apply for purposes of this chapter.

29 **Comment.** Section 63500 restates the introductory text of former Section 25251 without
30 substantive change.

31 **Staff Note.** The introductory text of Section 25251 is restated by proposed Section 63500 as a
32 distinct code section, to allow the definitions in Section 25251 to be recodified as distinct code
33 sections. The introductory text of Section 25251 currently provides:

34 25251. For purposes of this article, the following definitions apply:

35 **Absent comment, this proposed restatement will be presumed correct.**

1 **63505. “Chemical manufacturer”**

2 63505. “Chemical manufacturer” means a person who manufactures a chemical
3 or chemical ingredient that is used in a consumer product.

4 **Comment.** Section 63505 continues former Section 25251(a) without substantive change.
5 See Sections 60295 (“person”), 63515 (“consumer product”).

6 **63510. “Clearinghouse”**

7 63510. “Clearinghouse” means the Toxics Information Clearinghouse established
8 pursuant to Article 8 (commencing with Section 63750).

9 **Comment.** Section 63510 is new. It is added to enhance the clarity of other provisions of this
10 chapter that refer to the Toxics Information Clearinghouse as “the clearinghouse.”

11 **Staff Note.** This nonsubstantive definitional provision, similar to Section 25251(e) (proposed
12 Section 63530) defining the term “panel,” is added for clarity.

13 **63515. “Consumer product”**

14 63515. (a) Except as provided in subdivision (b), “consumer product” means a
15 product or part of the product that is used, brought, or leased for use by a person for
16 any purpose.

17 (b) “Consumer product” does not include any of the following items:

18 (1) A “dangerous drug” or “dangerous device,” as defined in Section 4022 of the
19 Business of Professions Code.

20 (2) “Dental restorative materials,” as defined in subdivision (b) of Section
21 1648.20 of the Business and Professions Code.

22 (3) A “device,” as defined in Section 4023 of the Business of Professions Code.

23 (4) The packaging associated with an item specified in paragraph (1), (2), or (3).

24 (5) “Food,” as defined in subdivision (a) of Section 109935.

25 (6) A “pesticide,” as defined in Section 12753 of the Food and Agricultural Code
26 or as defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.
27 Sec. 136 et seq.).

28 **Comment.** Section 63515 restates former Section 25251(b) without substantive change.
29 See Section 60295 (“person”).

30 **Staff Note.** Section 25251(b) is restated by proposed Section 63515 for clarity. Section 25251(b)
31 currently provides:

32 25251. (b) “Consumer product” means a product or part of the product that is used, brought, or
33 leased for use by a person for any purposes. “Consumer product” does not include any of the
34 following:

35 (1) A dangerous drug or dangerous device as defined in Section 4022 of the Business of
36 Professions Code.

37 (2) Dental restorative materials as defined in subdivision (b) of Section 1648.20 of the Business
38 and Professions Code.

39 (3) A device as defined in Section 4023 of the Business of Professions Code.

40 (4) A food as defined in subdivision (a) of Section 109935.

41 (5) The packaging associated with any of the items specified in paragraph (1), (2), or (3).

42 (6) A pesticide as defined in Section 12753 of the Food and Agricultural Code or the Federal
43 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

Absent comment, this proposed restatement will be presumed correct.

63520. “Council”

63520. “Council” means the California Environmental Policy Council established pursuant to subdivision (b) of Section 71017 of the Public Resources Code.

Comment. Section 63520 continues former Section 25251(c) without substantive change.

63525. “Office”

63525. “Office” means the Office of Environmental Health Hazard Assessment.

Comment. Section 63525 continues former Section 25251(d) without substantive change.

63530. “Panel”

63530. “Panel” means the Green Ribbon Science Panel established pursuant to Article 4 (commencing with Section 63595).

Comment. Section 63530 continues former Section 25251(e) without substantive change.

63535. “Product manufacturer”

63535. “Product manufacturer” means a person who manufactures, controls the manufacturing process for, or specifies the use of a chemical to be included in, a consumer product.

Comment. Section 63535 restates former Section 25251(f) without substantive change.

See Sections 60295 (“person”), 63515 (“consumer product”).

Staff Note. Section 25251(f) is restated by proposed Section 63535 for clarity. Section 25251(f) currently provides:

25251. (f) “Product manufacturer” means a person who manufactures a consumer product or a person who controls the manufacturing process for, or specifies the use of a chemical to be included in, a consumer product.

Absent comment, this proposed restatement will be presumed correct.

Article 2. Relationship of Chapter to Other Authority

63550. Authority relating to hazardous materials generally

63550. This chapter does not limit and shall not be construed to limit the existing authority of the department, or the existing authority of any other department or agency, over hazardous materials.

Comment. Section 63550 restates former Section 25257.1(a) without substantive change.

See Section 60160 (“department”).

Staff Notes. (1) Section 25257.1(a) is restated by proposed Section 63550 for clarity. Section 25257.1(a) currently provides:

25257.1. (a) This article does not limit and shall not be construed to limit the department’s or any other department’s or agency’s existing authority over hazardous materials.

Absent comment, this proposed restatement will be presumed correct.

1 (2) Section 25257.1(a) refers to “hazardous materials,” which is not a defined term in Chapter
2 6.5. although the term is defined in a chapter of Part 2 of Division 45 (formerly Chapter 6.8), “for
3 purposes of [that] chapter.” See Sections 80200, 80235.

4 The question of whether definitional provisions in Part 2 of Division 45 (formerly Chapter 6.8)
5 should be incorporated to apply when terms are used without definition in proposed Division 44
6 has already been added to the cumulative list of substantive issues for possible future study.

7 **63555. Regulatory authority of other departments or agencies**

8 63555. This chapter does not authorize the department to supersede the regulatory
9 authority of any other department or agency.

10 **Comment.** Section 63555 continues former Section 25257.1(b) without substantive change.
11 See Section 60160 (“department”).

12 **63560. Duplication or adoption of conflicting regulations**

13 63560. The department shall not duplicate or adopt conflicting regulations for
14 product categories already regulated or subject to pending regulation consistent with
15 the purposes of this chapter.

16 **Comment.** Section 63560 continues former Section 25257.1(c) without substantive change.
17 See Section 60160 (“department”).

18 Article 3. Priorities

19 **63570. Policy**

20 63570. The Legislature hereby declares that it is the policy goal of the state to
21 ensure the safety of consumer products sold in California through timely
22 administrative and legislative action on consumer products and chemicals of
23 concern in those products, particularly those products that may have
24 disproportionate impacts on sensitive populations.

25 **Comment.** Section 63570 continues former Section 25253.6 without substantive change.
26 See Section 63515 (consumer product).

27 **63575. Priority Product Work Plan of 2015-17**

28 63575. The department shall revise its 2015–17 Priority Product Work Plan to
29 include lead acid batteries for consideration and evaluation as a potential priority
30 product.

31 **Comment.** Section 63575 continues former Section 25253.5 without substantive change.

32 **Staff Note.** This provision requires that a specific product be addressed in a revision to the
33 2015-17 Priority Product Work Plan. That plan and two subsequent plans have been prepared.
34 See <https://dtsc.ca.gov/scp/priority-product-work-plan/>. It is unclear whether the revision required
35 by this provision was undertaken (and, if so, whether this provision is now obsolete).

36 **Comment on this issue is welcome.**

1 **63580. Priority Product Work Plans**

2 63580. Subject to an appropriation by the Legislature for purposes of this section,
3 the department shall include in each Priority Product Work Plan, commencing with
4 the 2024–26 Priority Product Work Plan, in addition to any other information that
5 the department is required to include pursuant to Section 69503.4 of Title 22 of the
6 California Code of Regulations, or any successor regulation, a brief description of
7 all of the following information:

8 (a) Information that the department has at the time the work plan is issued on the
9 chemicals or chemical ingredients that may be chemicals of concern that are
10 contained in consumer products within each product category or subcategory.

11 (b) Any additional ingredient information that is needed for the department to
12 evaluate the safety of those consumer products, including, but not limited to, the
13 information specified in Article 9 (commencing with Section 63800).

14 (c) Information specifying how the department plans to collect the additional
15 information, if any, described in subdivision (b).

16 (d)(1) Timelines for completion of all of the following with regard to at least five
17 product categories or subcategories in each work plan:

18 (A) The collection of information described in subdivision (b).

19 (B) All actions required pursuant to this chapter for a consumer product that
20 contains a chemical of concern, including, but not limited to, the listing of that
21 product as a priority product, the completion of an alternatives analysis for the
22 product, and the finalization of regulatory response determinations.

23 (2) The length of a timeline pursuant to paragraph (1) shall not exceed seven years
24 from the date of issuance of the work plan.

25 (3) In determining the data needed and actions required pursuant to paragraph (1),
26 the department shall take into account all chemicals that are known to serve or can
27 potentially serve the same function in the product categories or subcategories, such
28 as surfactants, preservatives, or plasticizers, in order to avoid the substitution of one
29 chemical with another chemical on the candidate chemical list.

30 (4) An action to enforce the timelines shall be brought pursuant to Section 1085
31 of the Code of Civil Procedure.

32 **Comment.** Section 63580 continues former Section 25253.9 without substantive change.
33 See Sections 60160 (“department”), 63515 (“consumer product”).

34 **Article 4. Green Ribbon Science Panel**

35 **63595. Establishment of panel**

36 63595. (a) In implementing this chapter, the department shall establish a Green
37 Ribbon Science Panel. The panel shall be composed of members whose expertise
38 shall encompass all of the following disciplines:

39 (1) Chemistry.

40 (2) Chemical engineering.

- 1 (3) Environmental law.
- 2 (4) Toxicology.
- 3 (5) Public policy.
- 4 (6) Pollution prevention.
- 5 (7) Cleaner production methods.
- 6 (8) Environmental health.
- 7 (9) Public health.
- 8 (10) Risk analysis.
- 9 (11) Materials science.
- 10 (12) Nanotechnology.
- 11 (13) Chemical synthesis.
- 12 (14) Research.
- 13 (15) Maternal and child health.

14 (b) The department shall appoint all members to the panel on or before July 1,
15 2009.

16 (c) The department shall appoint the members for staggered three-year terms, and
17 may reappoint a member for additional terms, without limitation.

18 (d) The department shall provide for staff and administrative support to the panel.

19 **Comment.** Subdivision (a) of Section 63595 continues former Section 25254(a) without
20 substantive change.

21 Subdivision (b) continues the first sentence of former Section 25254(b) without substantive
22 change.

23 Subdivision (c) continues the second sentence of former Section 25254(b) without substantive
24 change.

25 Subdivision (d) continues the second sentence of former Section 25254(c) without substantive
26 change.

27 See Sections 60160 (“department”), 63530 (“panel”).

28 **Staff Note.** Section 25254(b) (which would be continued by proposed Section 63595(b)) requires
29 that all members of the Green Ribbon Science Panel be appointed by July 1, 2009. It is unclear
30 whether this required appointment has occurred (and, if so, whether this provision is now obsolete).

31 **Comment on this issue is welcome.**

32 **63600. Meetings**

33 63600. (a) The panel shall meet as often as the department deems necessary, with
34 consideration of available resources, but not less than twice each year.

35 (b) The panel meetings shall be open to the public and are subject to the Bagley-
36 Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter
37 1 of Part 1 of Division 3 of Title 2 of the Government Code).

38 **Comment.** Subdivision (a) of Section 63600 continues the first sentence of former Section
39 25254(c) without substantive change.

40 Subdivision (b) continues former Section 25254(d) without substantive change.

41 See Sections 60610 (“department”), 63535 (“panel”).

42 **63605. Authorized action by panel**

43 63605. The panel may take any of the following actions:

1 (a) Advise the department and the council on scientific and technical matters in
2 support of the goals of this chapter of significantly reducing adverse health and
3 environmental impacts of chemicals used in commerce, as well as the overall costs
4 of those impacts to the state’s society, by encouraging the redesign of consumer
5 products, manufacturing processes, and approaches.

6 (b) Assist the department in developing green chemistry and chemicals policy
7 recommendations and implementation strategies and details, and ensure these
8 recommendations are based on a strong scientific foundation.

9 (c) Advise the department and make recommendations for chemicals the panel
10 views as priorities for which hazard traits and toxicological end-point data should
11 be collected.

12 (d) Advise the department in the adoption of regulations required by this chapter.

13 (e) Advise the department on any other pertinent matter in implementing this
14 chapter, as determined by the department.

15 **Comment.** Section 63605 continues former Section 25255 without substantive change.

16 See Sections 60610 (“department”), 63515 (“consumer product”), 63520 (“council”), 63535
17 (“panel”).

18 Article 5. Regulations Identifying and Prioritizing Chemicals of Concern

19 **63620. Adoption of regulations**

20 63620. (a) On or before January 1, 2011, the department shall adopt regulations
21 to establish a process to identify and prioritize those chemicals or chemical
22 ingredients in consumer products that may be considered as being a chemical of
23 concern, in accordance with the review process specified in Article 7 (commencing
24 with Section 63710).

25 (b) The department shall adopt these regulations in consultation with the office
26 and all appropriate state agencies and after conducting one or more public
27 workshops for which the department provides public notice and provides an
28 opportunity for all interested parties to comment.

29 **Comment.** Section 63620 continues the first two sentences of former Section 25252(a) without
30 substantive change.

31 See Sections 60160 (“department”), 63515 (“consumer product”), 63525 (“office”).

32 **63630. Identification and prioritization process**

33 63630. The regulations adopted pursuant to this article shall establish an
34 identification and prioritization process that includes, but is not limited to, all of the
35 following considerations:

36 (a) The volume of the chemical in commerce in this state.

37 (b) The potential for exposure to the chemical in a consumer product.

38 (c) Potential effects on sensitive subpopulations, including infants and children.

39 **Comment.** Section 63630 continues the third sentence of former Section 25252(a) without
40 substantive change.

1 See Section 63515 (“consumer product”).

2 **63635. Development of evaluation criteria**

3 63635. (a) In adopting regulations pursuant to this article, the department shall
4 develop criteria by which chemicals and their alternatives may be evaluated.

5 (b) These criteria shall include, but not be limited to, the traits, characteristics, and
6 endpoints that are referenced in Article 8 (commencing with Section 63750).

7 **Comment.** Section 63635 continues former Section 25252(b)(1) without substantive change.
8 See Section 60160 (“department”).

9 **63640. Reference and use of information from other sources**

10 63640. (a) In adopting regulations pursuant to this article, the department shall
11 reference and use, to the maximum extent feasible, available information from other
12 nations, governments, and authoritative bodies that have undertaken similar
13 chemical prioritization processes, so as to leverage the work and costs already
14 incurred by those entities and to minimize costs and maximize benefits for the
15 state’s economy.

16 (b) Subdivision (a) does not require the department, when adopting regulations
17 pursuant to this article, to reference and use only the available information specified
18 in subdivision (a).

19 **Comment.** Section 63640 continues former Section 25252(b)(2) and (b)(3) without substantive
20 change.
21 See Section 60160 (“department”).

22 Article 6. Regulations Evaluating Chemicals of Concern

23 **63660. Adoption of regulations**

24 63660. (a) On or before January 1, 2011, the department shall adopt regulations
25 pursuant to this article that establish a process for evaluating chemicals of concern
26 in consumer products, and their potential alternatives, to determine how best to limit
27 exposure or to reduce the level of hazard posed by a chemical of concern, in
28 accordance with the review process specified in Article 9 (commencing with Section
29 63800).

30 (b) The department shall adopt the regulations in consultation with all appropriate
31 state agencies and after conducting one or more public workshops for which the
32 department provides public notice and provides an opportunity for all interested
33 parties to comment.

34 **Comment.** Section 63660 continues former Section 25253(a)(1) without substantive change.
35 See Sections 60160 (“department”), 63515 (“consumer product”).

36 **63670. Process for evaluation**

37 63670. The regulations adopted pursuant to this article shall establish a process
38 that includes all of the following:

1 (a) An evaluation of the availability of potential alternatives and potential hazards
2 posed by those alternatives.

3 (b) An evaluation of critical exposure pathways.

4 (c) Life cycle assessment tools that take into consideration, but shall not be limited
5 to, all of the following:

6 (1) Product function or performance.

7 (2) Useful life.

8 (3) Materials and resource consumption.

9 (4) Water conservation.

10 (5) Water quality impacts.

11 (6) Air emissions.

12 (7) Production, in-use, and transportation energy inputs.

13 (8) Energy efficiency.

14 (9) Greenhouse gas emissions.

15 (10) Waste and end-of-life disposal.

16 (11) Public health impacts, including potential impacts to sensitive
17 subpopulations, including infants and children.

18 (12) Environmental impacts.

19 (13) Economic impacts.

20 **Comment.** Section 63670 continues former Section 25253(a)(2) without substantive change.
21 See Sections 60175 (“disposal”), 60390 (“waste”).

22 **Staff Note.** Section 25253(a)(2) is restated by proposed Section 63670 for clarity. Section
23 25253(a)(2) currently provides:

24 25253. (a)(2) The regulations adopted pursuant to this section shall establish a process that
25 includes an evaluation of the availability of potential alternatives and potential hazards posed by
26 those alternatives, as well as an evaluation of critical exposure pathways. This process shall include
27 life cycle assessment tools that take into consideration, but shall not be limited to, all of the
28 following:

29 (A) Product function or performance.

30 (B) Useful life.

31 (C) Materials and resource consumption.

32 (D) Water conservation.

33 (E) Water quality impacts.

34 (F) Air emissions.

35 (G) Production, in-use, and transportation energy inputs.

36 (H) Energy efficiency.

37 (I) Greenhouse gas emissions.

38 (J) Waste and end-of-life disposal.

39 (K) Public health impacts, including potential impacts to sensitive subpopulations, including
40 infants and children.

41 (L) Environmental impacts.

42 (M) Economic impacts.

43 **Absent comment, this proposed restatement will be presumed correct.**

1 **63675. Use of tools**

2 63675. (a) The department, in developing the processes and regulations pursuant
3 to this article, shall ensure that the tools available are in a form that allows for ease
4 of use and transparency of application.

5 (b) The department shall also make every feasible effort to devise simplified and
6 accessible tools that consumer product manufacturers, consumer product
7 distributors, product retailers, and consumers can use to make consumer product
8 manufacturing, sales, and purchase decisions.

9 **Comment.** Section 63675 continues former Section 25253(c) without substantive change.
10 See Sections 60160 (“department”), 63515 (“consumer product”), 63535 (“product
11 manufacturers”).

12 **Staff Note.** Are the “tools” referenced in Section 25253(c) intended to be a shorthand reference
13 to the life cycle assessment tools discussed in Section 25253(a)(2)? If not, is the meaning of the
14 term “tools” as used in Section 25253(c) sufficiently clear in practice?

15 **Comment is welcome on this issue. Depending on the comment received, the issue may be**
16 **added to the list of substantive issues for possible future study.**

17 **63680. Range of regulatory responses**

18 63680. The regulations adopted pursuant to this article shall specify the range of
19 regulatory responses that the department may take following the completion of the
20 alternatives analysis, including, but not limited to, any of the following actions:

21 (a) Not requiring any action.

22 (b) Imposing requirements to provide additional information needed to assess a
23 chemical of concern and its potential alternatives.

24 (c) Imposing requirements on the labeling or other type of consumer product
25 information.

26 (d) Imposing a restriction on the use of the chemical of concern in the consumer
27 product.

28 (e) Prohibiting the use of the chemical of concern in the consumer product.

29 (f) Imposing requirements that control access to or limit exposure to the chemical
30 of concern in the consumer product.

31 (g) Imposing requirements for the manufacturer to manage the product at the end
32 of its useful life, including recycling or responsible disposal of the consumer
33 product.

34 (h) Imposing a requirement to fund green chemistry challenge grants where no
35 feasible safer alternative exists.

36 (i) Any other outcome the department determines accomplishes the requirements
37 of this chapter.

38 **Comment.** Section 63680 continues former Section 25253(b) without substantive change.

39 See Sections 60160 (“department”), 60175 (“disposal”), 63515 (“consumer product”).

40 **63685. Reliance on studies or evaluations in lieu of alternatives analysis**

41 63685. (a) In lieu of requiring an analysis of alternatives, as specified in Sections
42 63660, 63670, and 63680, the department may instead rely on all or part of one or

1 more applicable publicly available studies or evaluations of alternatives to the
2 chemical of concern under consideration in a consumer product, in existence at the
3 time of consideration, and may proceed directly to a regulatory response.

4 (b) Any study or evaluation that the department proposes to rely on pursuant to
5 this section shall satisfy one of the reliability criteria in paragraphs (1) to (3),
6 inclusive, of subparagraph (A) of paragraph (57) of subdivision (a) of, and also meet
7 the requirements of subparagraph (B) of paragraph (57) of subdivision (a) of,
8 Section 69501.1 of Title 22 of the California Code of Regulations.

9 (c)(1) The department shall provide public notice and an opportunity for comment
10 from the public, including responsible entities, on the proposal to rely on the studies
11 or evaluations.

12 (2) The proposal may be combined with the proposal to list a chemical-product
13 combination as a priority product.

14 (d)(1) The proposal shall address any relevant factors listed in subdivision (c) of
15 Section 69506 of Title 22 of the California Code of Regulations, as that section may
16 be amended, that product manufacturers would be required to address as part of the
17 regulatory response.

18 (2) If the department determines that a study or evaluation upon which it is relying
19 pursuant to this section does not address one or more relevant factors, the
20 department may augment the study or evaluation with additional information that
21 addresses the relevant factors as part of the proposal to rely on the studies or
22 evaluations.

23 (e)(1) Following public notice and comment, the department shall make a formal
24 determination of whether the studies or evaluations are applicable and meet the
25 reliability criteria and requirements specified in subdivision (b), and whether all
26 relevant factors have been addressed.

27 (2) The department shall publish a summary of its determination, including
28 whether the department plans to proceed to regulatory responses. If regulatory
29 responses are planned, the summary shall not be judicially reviewable until
30 regulatory responses are finalized.

31 (f)(1) Following a formal determination pursuant to subdivision (e), the
32 department may issue regulatory responses based on the studies or evaluations, after
33 providing public notice and an opportunity for comment from the public, including
34 responsible entities, on the regulatory responses.

35 (2) The department shall respond to all comments it receives.

36 **Comment.** Section 63685 continues former Section 25253(d) without substantive change.

37 See Sections 60160 (“department”), 63515 (“consumer product”), 63535 (“product
38 manufacturers”).

39 **63690. Public involvement**

40 63690. (a) The department shall amend Sections 69504 and 69504.1 of Title 22
41 of the California Code of Regulations to allow a person to petition the department
42 for a regulatory response pursuant to Section 63685.

1 (b) The revision of regulations pursuant to subdivision (a) shall be deemed to be
2 a change without regulatory effect.

3 (c) If the department provides public notice of a proposed regulation pursuant to
4 this chapter and an opportunity to comment prior to the adoption of the regulation,
5 the dispute resolution procedures specified in Sections 69507.1 and 69507.2 of Title
6 22 of the California Code of Regulations, as those sections read on January 1, 2021,
7 shall not be available to a person who seeks to dispute the regulation and the
8 requirement to exhaust administrative remedies in subdivision (b) of Section 69507
9 of Title 22 of the California Code of Regulations does not apply.

10 **Comment.** Subdivision (a) of Section 63690 continues former Section 25253(e)(1) without
11 substantive change.

12 Subdivision (b) continues former Section 25253(e)(2) without substantive change.

13 Subdivision (c) continues former Section 25253(f) without substantive change.

14 See Sections 60160 (“department”), 60295 (“person”).

15 Article 7. Multimedia Life Cycle Evaluation

16 **63710. “Multimedia life cycle evaluation”**

17 63710. For the purposes of this article, “multimedia life cycle evaluation” means
18 the identification and evaluation of a significant adverse impact on public health or
19 the environment, including air, water, or soil, that may result from the production,
20 use, or disposal of a consumer product or consumer product ingredient.

21 **Comment.** Section 63710 continues former Section 25252.5(g) without substantive change.

22 See Sections 60175 (“disposal”), 63515 (“consumer product”).

23 **63715. Preparation of evaluation**

24 63715. (a) Except as provided in subdivision (c), the department, in adopting the
25 regulations pursuant to Article 5 (commencing with Section 63620) and Article 6
26 (commencing with Section 63660), shall prepare a multimedia life cycle evaluation
27 conducted by affected agencies and coordinated by the department, and shall submit
28 the regulations and the multimedia life cycle evaluation to the council for review.

29 (b) In coordinating a multimedia life cycle evaluation pursuant to subdivision (a),
30 the department shall consult with other boards and departments within the California
31 Environmental Protection Agency, the State Department of Public Health, the State
32 and Consumer Services Agency, the Department of Homeland Security, the
33 Department of Industrial Relations, and other state agencies with responsibility for,
34 or expertise regarding, impacts that could result from the production, use, or
35 disposal of consumer products and the ingredients they may contain.

36 (c) Notwithstanding subdivision (a), the department may adopt regulations
37 pursuant to Article 5 (commencing with Section 63620) and Article 6 (commencing
38 with Section 63660) without subjecting the proposed regulation to a multimedia life
39 cycle evaluation if the council, following an initial evaluation of the proposed

1 regulation, conclusively determines that the regulation will not have any significant
2 adverse impact on public health or the environment.

3 **Comment.** Subdivision (a) of Section 63715 continues former Section 25252.5(a) without
4 substantive change.

5 Subdivision (b) continues former Section 25252.5(e) without substantive change.

6 Subdivision (c) continues former Section 25252.5(f) without substantive change.

7 See Sections 60160 (“department”), 60175 (“disposal”), 63515 (“consumer product”), 63520
8 (“council”), 63710 (“multimedia life cycle evaluation”).

9 **63720. Basis of evaluation**

10 63720. The multimedia life cycle evaluation prepared in accordance with this
11 article shall be based on the best available scientific data, written comments
12 submitted by interested persons, and information collected by the department in
13 preparation for adopting the regulations, and shall address, but is not limited to, the
14 impacts associated with all the following:

15 (a) Emissions of air pollutants, including ozone forming compounds, particulate
16 matter, toxic air contaminants, and greenhouse gases.

17 (b) Contamination of surface water, groundwater, and soil.

18 (c) Disposal or use of the byproducts and waste materials.

19 (d) Worker safety and impacts to public health.

20 (e) Other anticipated impacts to the environment.

21 **Comment.** Section 63720 restates former Section 25252.5(b) without substantive change.

22 See Sections 60160 (“department”), 60295 (“person”), 60175 (“disposal”), 63710 (“multimedia
23 life cycle evaluation”).

24 **Staff Note.** The introduction to Section 25252.5(b) is restated by proposed Section 63720 for
25 clarity. The introduction to Section 25252.5(b) currently provides:

26 25252.5. (b) The multimedia evaluation shall be based on the best available scientific data,

27 **Absent comment, this proposed restatement will be presumed correct.**

28 **63725. Review by council**

29 63725. (a) The council shall complete its review of the multimedia life cycle
30 evaluation prepared in accordance with this article within 90 calendar days
31 following notice from the department that it intends to adopt regulations.

32 (b) If the council determines that the proposed regulations will cause a significant
33 adverse impact on the public health or the environment, or that alternatives exist
34 that would be less adverse, the council shall recommend alternative measures that
35 the department or other state agencies may take to reduce the adverse impact on
36 public health or the environment.

37 (c) The council shall make all information relating to its review available to the
38 public.

39 **Comment.** Section 63725 restates former Section 25252.5(c) without substantive change.

40 See Sections 60160 (“department”), 63520 (“council”), 63710 (“multimedia life cycle
41 evaluation”).

1 **Staff Note.** The first sentence of Section 25252.5(c) is restated by proposed Section 63725(a)
2 for clarity. The first sentence of Section 25252.5(c) currently provides:

3 25252.5. (c) The council shall complete its review of the multimedia evaluation within 90
4 calendar days following notice from the department that it intends to adopt regulations.

5 **Absent comment, this proposed restatement will be presumed correct.**

6 **63730. Significant adverse impact determination**

7 63730. Within 60 days of receiving notification from the council of a
8 determination of significant adverse impact, the department shall adopt revisions to
9 the proposed regulation to avoid or reduce the adverse impact, or the affected
10 agencies shall take appropriate action that will, to the extent feasible, mitigate the
11 adverse impact so that, on balance, there is no significant adverse impact on public
12 health or the environment.

13 **Comment.** Section 63730 continues former Section 25252.5(d) without substantive change.
14 See Sections 60160 (“department”), 63520 (“council”).

15 Article 8. Toxics Information Clearinghouse

16 **63750. Establishment of clearinghouse**

17 63750. The department shall establish the Toxics Information Clearinghouse,
18 which shall provide a decentralized, Web-based system for the collection,
19 maintenance, and distribution of specific chemical hazard trait and environmental
20 and toxicological end-point data.

21 **Comment.** Section 63750 continues the first sentence of former Section 25256 without
22 substantive change.
23 See Section 60160 (“department”).

24 **63755. Data to be initially included in clearinghouse**

25 63755. (a) On or before January 1, 2011, the office shall evaluate and specify the
26 hazard traits and environmental and toxicological end-points and any other relevant
27 data that are to be included in the clearinghouse.

28 (b) The office shall conduct this evaluation in consultation with the department
29 and all appropriate state agencies, after one or more public workshops, and an
30 opportunity for all interested parties to comment.

31 (c) The office may seek information from other states, the federal government,
32 and other nations in implementing this section.

33 **Comment.** Section 63755 continues former Section 25256.1 without substantive change.
34 See Sections 60160 (“department”), 63510 (“clearinghouse”), 63525 (“office”), 63750
35 (“clearinghouse”).

36 **63760. Operation of clearinghouse**

37 63760. (a) The department shall develop requirements and standards related to the
38 design of the clearinghouse and data quality and test methods that govern the data
39 that is eligible to be available through the clearinghouse.

1 (b) The department may phase in the access to eligible information and data in the
2 clearinghouse as that information and data become available.

3 (c) The department shall ensure the clearinghouse is capable of displaying
4 updated information as new data becomes available.

5 **Comment.** Section 63760 continues former Section 25256.2 without substantive change.
6 See Sections 60160 (“department”), 63510 (“clearinghouse”).

7 **63765. Department consultation with other governmental entities**

8 63765. The department shall consult with other states, the federal government,
9 and other nations to identify available data related to hazard traits and environmental
10 and toxicological end-points, and to facilitate the development of regional, national,
11 and international data sharing arrangements to be included in the clearinghouse.

12 **Comment.** Section 63665 continues former Section 25256.3 without substantive change.
13 See Sections 60160 (“department”), 63510 (“clearinghouse”).

14 **63770. Accessibility to the public**

15 63770. The department shall make the clearinghouse accessible to the public
16 through a single internet web portal.

17 **Comment.** Section 63770 continues the first part of the second sentence of former Section 25256
18 without substantive change.

19 See Sections 60160 (“department”), 63510 (“clearinghouse”).

20 **63775. Operational cost**

21 63775. The department shall, to the maximum extent possible, operate the
22 clearinghouse at the least possible cost to the state.

23 **Comment.** Section 63775 continues the second part of the second sentence of former Section
24 25256 without substantive change.

25 See Sections 60160 (“department”), 63510 (“clearinghouse”).

26 **Article 9. Department Requests for Information**

27 **63800. Request for information from product manufacturers**

28 63800. (a) The department may issue a formal request for information from
29 product manufacturers.

30 (b) The request shall be accompanied by a brief statement on why the department
31 is requesting the information.

32 (c) The department’s request may include, but is not limited to, all of the
33 following:

34 (1) Information on ingredient chemical identity, concentration, and functional
35 use.

36 (2) Existing information, if any, related to the use of the products by children,
37 pregnant women, or other sensitive populations.

1 (3) Data on state product sales, or national product sales in the absence of state
2 product sales data.

3 **Comment.** Subdivision (a) of Section 63800 continues the first sentence of former Section
4 25253.7(a)(1) without substantive change.

5 Subdivision (b) continues the second sentence of former Section 25253.7(a)(1) without
6 substantive change.

7 Subdivision (c) continue the fourth sentence of former Section 25253.7(a)(1) without substantive
8 change.

9 See Sections 60160 (“department”), 63535 (“product manufacturer”).

10 **63805. Response by product manufacturer**

11 63805. (a) A product manufacturer shall provide to the department data and
12 information on the ingredients and use of a consumer product upon the department’s
13 request within the time specified in Section 63820.

14 (b) If the product manufacturer certifies in writing that it does not have access to
15 information requested pursuant to Section 63800, in whole or in part, and that it has
16 attempted to, but cannot, obtain that information from one or more suppliers or
17 chemical manufacturers, the product manufacturer shall provide the identity and
18 contact information of those suppliers or chemical manufacturers to the department.

19 (c) To the extent that the product manufacturer satisfies the requirements of
20 subdivision (b), the product manufacturer shall be considered to be in compliance
21 with the requirement to provide the data and information specified in Section 63800,
22 with respect to the information that the product manufacturer has attempted to
23 obtain from the supplier or chemical manufacturer, and shall be absolved of liability
24 for violating this article as it pertains to the provision of that information.

25 **Comment.** Subdivision (a) of Section 63805 continues the third sentence of former Section
26 25253.7(a)(1) without substantive change.

27 Subdivision (b) continues former Section 25253.7(a)(2)(A) without substantive change.

28 Subdivision (c) continues former Section 25253.7(a)(2)(B) without substantive change.

29 See Sections 60160 (“department”), 63505 (“chemical manufacturer”), 63515 (“consumer
30 product”), 63535 (“product manufacturer”).

31 **63810. Request for information from supplier or chemical manufacturer**

32 63810. (a) The department may issue an independent information request to a
33 supplier or chemical manufacturer identified by the product manufacturer pursuant
34 to subdivision (b) of Section 63805 for the unknown information that the product
35 manufacturer certifies it does not have access to, as well as for the identity and
36 contact information of other suppliers or chemical manufacturers, as necessary to
37 access the information requested pursuant to Section 63800.

38 (b) Upon the department’s request, a supplier or chemical manufacturer shall
39 provide the information requested pursuant to this section to the department.

40 (c) The supplier or chemical manufacturer shall be considered to be in violation
41 of this section, and is liable for civil penalties pursuant to Section 63830, to the
42 extent that it fails to comply with an information request, pursuant to subdivisions
43 (b) or (c) of Section 63805, in its entirety.

1 **Comment.** Section 63810 continues former Section 25253.7(a)(2)(C) without substantive
2 change.

3 See Sections 60160 (“department”), 63505 (“chemical manufacturer”), 63535 (“product
4 manufacturer”).

5 **Staff Note.** The last sentence of Section 25253.7(a)(2)(C) (which would be continued by
6 proposed Section 63810(c)) provides that a supplier or chemical manufacturer shall be considered
7 in violation of Section 25253.7, and liable for civil penalties, “to the extent that it fails to comply
8 with an information request, pursuant to subparagraph (A) or (B), in its entirety.”

9 However, neither of the two cross-referenced subparagraphs, which would be continued by
10 proposed subdivisions (b) and (c) of Section 63805, seem to impose any obligation on a supplier
11 or chemical manufacturer.

12 **Comment is welcome on this issue. Depending on the comment received, the issue may be
13 added to the list of substantive issues for possible future study.**

14 **63815. Request for information for category in Priority Product Work Plan**

15 63815. The department may seek data and information pursuant to Sections
16 63800, 63805, and 63810 for any product category or subcategory published in a
17 previous Priority Product Work Plan or being considered for inclusion in an
18 upcoming Priority Product Work Plan.

19 **Comment.** Section 63815 continues former Section 25253.7(a)(3) without substantive change.
20 See Section 60160 (“department”).

21 **63820. Allowed time for response to request**

22 63820. (a) The department shall provide 30 days for a response to a request for
23 data or information, unless the department concludes additional time is necessary
24 for the entity to obtain the necessary information.

25 (b) If the department determines that a longer time is required, it shall identify the
26 deadline for response, which shall not exceed 120 days.

27 (c) If the entity is in communication with the department and is working in good
28 faith to fulfill the department’s request, the department may exceed 120 days by
29 granting additional time in an amount not to exceed 60 days.

30 **Comment.** Section 63820 continues former Section 25253.7(a)(4) without substantive change.
31 See Section 60160 (“department”).

32 **63825. Assertion of trade secret claims**

33 63825. In providing data or information in response to a request from the
34 department, a product manufacturer, chemical manufacturer, or supplier may raise
35 trade secret claims in accordance with Article 10 (commencing with Section 63850).

36 **Comment.** Section 63825 continues former Section 25253.7(a)(5) without substantive change.

37 See Sections 60160 (“department”), 63505 (“chemical manufacturer”), 63535 (“product
38 manufacturer”).

39 **63830. Penalties for noncompliance**

40 63830. (a) A person who violates this article shall be liable for a civil penalty not
41 to exceed fifty thousand dollars (\$50,000) for each separate violation or, for
42 continuing violations, for each day that violation continues.

1 (b) Liability under this section may be imposed in a civil action or may be imposed
2 administratively.

3 (c) A penalty collected pursuant to this section shall be deposited in the Toxic
4 Substances Control Account in the General Fund.

5 (d) In imposing an administrative penalty pursuant to this section, the department
6 shall take into consideration the nature, circumstances, extent, and gravity of the
7 violation, the history of previous violations, the violator’s ability to pay the penalty,
8 and the deterrent effect of the penalty.

9 (e) Nothing in this section shall be construed to impose liability for a civil penalty
10 pursuant to subdivision (a) for a violation of this article resulting from another
11 party’s failure to comply with an independent information request issued by the
12 department pursuant to Section 63810.

13 **Comment.** Section 63830 continues former Section 25253.7(b) without substantive change.
14 See Sections 60160 (“department”), 60295 (“person”).

15 Article 10. Trade Secrets

16 **63850. Claim of trade secret**

17 63850. (a) A person providing information pursuant to this chapter may, at the
18 time of submission, identify a portion of the information submitted to the
19 department as a trade secret and, upon the written request of the department, shall
20 provide support for the claim that the information is a trade secret.

21 (b) Except as provided in Section 63860, a state agency shall not release to the
22 public, subject information supplied pursuant to this chapter that is a trade secret,
23 and that is so identified at the time of submission, in accordance with Sections
24 7924.510 and 7924.700 of the Government Code and Section 1060 of the Evidence
25 Code.

26 (c) Information not identified as a trade secret pursuant to subdivisions (a) or (b)
27 shall be available to the public unless exempted from disclosure by other provisions
28 of law.

29 (d) The fact that information is claimed to be a trade secret is public information.

30 **Comment.** Subdivision (a) of Section 63850 continues the first sentence of former Section
31 25257(a) without substantive change.

32 Subdivision (b) continues the second sentence of former Section 25257(a) without substantive
33 change.

34 Subdivision (c) continues the first sentence of former Section 25257(c) without substantive
35 change.

36 Subdivision (d) continues the second sentence of former Section 25257(c) without substantive
37 change.

38 See Sections 60160 (“department”), 60295 (“person”).

39 **Staff Note.** In the second sentence of Section 25257(a) (continued by proposed Section
40 63850(b)), the meaning of the term “subject information” is unclear.

41 **Comment on this issue is welcome. Depending on the comment received, the issue may be**
42 **added to the list of substantive issues for possible future study.**

1 **63855. Duty of department employees**

2 63855. An employee of the department that has access to a properly designated
3 trade secret shall maintain the confidentiality of that trade secret by complying with
4 this section.

5 **Comment.** Section 63855 continues the second sentence of former Section 25257(b) without
6 substantive change.

7 See Section 60160 (“department”).

8 **63860. Request for release of information claimed to be trade secret**

9 63860. (a) Upon receipt of a request for the release of information that has been
10 claimed to be a trade secret, the department shall immediately notify the person who
11 submitted the information.

12 (b) Based on the request, the department shall determine whether or not the
13 information claimed to be a trade secret is to be released to the public.

14 (c) The department shall make the determination specified in subdivision (b), no
15 later than 60 days after the department receives the request for disclosure, but not
16 before 30 days following the notification of the person who submitted the
17 information.

18 (d) If the department decides that the information requested pursuant to this
19 section should be made public, the department shall provide the person who
20 submitted the information 30 days’ notice prior to public disclosure of the
21 information, unless, prior to the expiration of the 30-day period, the person who
22 submitted the information obtains an action in an appropriate court for a declaratory
23 judgment that the information is subject to protection under this article or for a
24 preliminary injunction prohibiting disclosure of the information to the public and
25 promptly notifies the department of that action.

26 **Comment.** Section 63860 continues former Section 25257(d) without substantive change.

27 See Sections 60160 (“department”), 60295 (“person”).

28 **Staff Note.** Two aspects of the text of Section 25257(d)(3) (which would be continued by
29 proposed Section 63860(d)) are somewhat unclear:

30 1. The required calculation of the 30-day notice period, based on the intended application of the
31 text of the provision beginning with the word “unless.”

32 2. The reference to a specified person “obtain[ing]” a specified action in an appropriate court,
33 which might be understood as either (a) *commencing* an action, or (b) obtaining one of the specified
34 *results* in an action.

35 **Comment on whether these issues should be added to the list of substantive issues for**
36 **possible future study is welcome.**

37 **63865. Exchange of information between public agencies**

38 63865. This article does not prohibit the exchange of a properly designated trade
39 secret between public agencies, if the trade secret is relevant and necessary to the
40 exercise of the agency’s jurisdiction and the public agency exchanging the trade
41 secrets complies with this section.

42 **Comment.** Section 63865 continues the first sentence of former Section 25257(b) without
43 substantive change.

1 **63870. Refusal to disclose information to department**

2 63870. This article does not authorize a person to refuse to disclose to the
3 department information required to be submitted to the department pursuant to this
4 article.

5 **Comment.** Section 63870 continues the first sentence of former Section 25257(e) without
6 substantive change.

7 See Section 60160 (“department”), 60295 (“person”).

8 **63875. Application of article to hazardous trait submissions**

9 63875. This article does not apply to hazardous trait submissions for chemicals
10 and chemical ingredients pursuant to this chapter.

11 **Comment.** Section 63875 continues the first sentence of former Section 25257(f) without
12 substantive change.

13 See Section 60160 (“department”).

14 Article 11. Healthy Nail Salon Recognition

15 **63900. Publication of guidelines**

16 63900. The department shall, by January 1, 2018, publish guidelines for healthy
17 nail salon recognition (HNSR) programs voluntarily implemented by local cities
18 and counties.

19 **Comment.** Section 63900 continues former Section 25257.2(a) without substantive change.

20 See Section 60160 (“department”).

21 **63905. Content of guidelines**

22 63905. The guidelines for an HNSR program adopted pursuant to Section 63900
23 may include, but shall not be limited to, all of the following:

24 (a) A list of specific chemical ingredients that should not be used by a nail salon
25 seeking recognition. In determining whether to include a chemical on the list, the
26 department shall consider:

27 (1) Whether the chemical is identified as a candidate chemical pursuant to the
28 regulations adopted pursuant to Section 25252.

29 (2) Whether an existing healthy nail salon program has restricted the use of the
30 chemical.

31 (3) The potential for exposure of nail salon workers and customers to the
32 chemical.

33 (4) The availability of existing, safer alternatives to the chemical in products
34 available to nail salons in California.

35 (b) Specific best practices for minimizing exposure to hazardous chemicals,
36 including:

37 (1) A list of specific personal protective equipment that should be used by
38 personnel in a salon seeking recognition and guidance on when and how to use it.

1 (2) Engineering controls that should be adopted by salons seeking recognition,
2 including specific ventilation practices and equipment.

3 (3) Prohibiting nail polishes that contain dibutyl phthalate, formaldehyde, or
4 toluene.

5 (4) Prohibiting nail polish thinners that contain methyl ethyl ketone or toluene.

6 (5) Prohibiting nail polish removers that contain ethyl or butyl acetate.

7 (c) A list of specific training topics for salon owners and staff, whether on payroll
8 or contract, on safer practices delineated in the HNSR program guidelines.

9 (d) Criteria for the use of outside products brought in by clients.

10 (e) Verification that a salon seeking recognition is in compliance with Chapter 10
11 (commencing with Section 7301) of Division 3 of the Business and Professions
12 Code, and all applicable regulations enforced by the State Board of Barbering and
13 Cosmetology.

14 (f) Any other guidelines or best practices determined by the department to further
15 the goals of an HNSR program.

16 **Comment.** Section 63905 continues former Section 25257.2(b) without substantive change.
17 See Section 60160 (“department”).

18 **63910. Criteria for cities and counties adopting program**

19 63910. (a) The guidelines adopted pursuant to Section 63900 shall include criteria
20 for cities and counties that adopt an HNSR program.

21 (b) The criteria referred to in subdivision (a) may cover, but are not limited to:

22 (1) Coordination with other local HNSR programs to assist businesses in
23 achieving and moving beyond regulatory compliance.

24 (2) Training and certification requirements for the salon owners and staff to
25 ensure thorough knowledge of safe and environmentally friendly procedures.

26 (3) Issuance of an approved seal or certificate to salons that have met certification
27 requirements.

28 (4) The process by which a salon can enroll in an HNSR program and be verified
29 by the local entity.

30 (5) The frequency at which the local entity shall verify continued compliance by
31 a salon that has previously met all specified requirements.

32 **Comment.** Section 63910 continues former Section 25257.2(c) without substantive change.
33 See Section 60095 (“business”).

34 **63915. Consultation with other agencies**

35 63915. In developing guidelines pursuant to Section 63900, the department shall
36 consult with the Division of Occupational Safety and Health, the State Department
37 of Public Health, and the State Board of Barbering and Cosmetology.

38 **Comment.** Section 63915 continues former Section 25257.2(d) without substantive change.
39 See Section 60160 (“department”).

1 **63920. Promotion of guidelines**

2 63920. In collaboration with existing healthy nail salon programs, the department
3 shall promote the HNSR guidelines developed pursuant to Section 63900 by doing
4 all of the following:

5 (a) Developing and implementing a consumer education program.

6 (b) Presenting the HNSR guidelines to local health officers, local environmental
7 health departments, and other local agencies as appropriate.

8 (c) Developing and either distributing or posting on its internet website
9 information for local entities, including, but not limited to the following:

10 (1) Suggestions for successful implementation of HNSR programs.

11 (2) Resource lists that include names and contact information of vendors,
12 consultants, or providers of financial assistance or loans for purchases of ventilation
13 equipment.

14 (d) Developing an internet website or a section on the department’s internet
15 website that links to county HNSR internet websites.

16 **Comment.** Section 63920 restates former Section 25257.2(e) without substantive change.
17 See Section 60610 (“department”).

18 **Staff Note.** Section 25257.2(e)(3) is restated by proposed Section 63920(c) for clarity. The
19 existing provision currently provides:

20 25257. (e) In collaboration with existing healthy nail salon programs, the department shall
21 promote the HNSR guidelines developed pursuant to subdivision (a) by doing all of the following:

22 ...

23 (3) Developing and either distributing or posting on its Internet Web site information for local
24 entities, including, but not limited to, suggestions for successful implementation of HNSR
25 programs and resource lists that include names and contact information of vendors, consultants, or
26 providers of financial assistance or loans for purchases of ventilation equipment.

27 **Absent comment, this proposed restatement will be presumed correct.**

28 **63925. Outreach**

29 63925. The department may prioritize its outreach to those counties that have the
30 greatest number of nail salons.

31 **Comment.** Section 63925 continues former Section 25257.2(f) without substantive change.
32 See Section 60160 (“department”).

33 **63930. Violation of regulation by salon**

34 63930. (a) The State Board of Barbering and Cosmetology may notify the city,
35 county, or city and county if a recognized salon is found in violation of Article 12
36 (commencing with Section 977) of Division 9 of Title 16 of the California Code of
37 Regulations.

38 (b) A violation shall result in the removal of healthy nail salon recognition from
39 that salon.

40 **Comment.** Section 63930 restates former Section 25257.2(g) without substantive change.

1 **63935. Local rules and ordinances**

2 63935. This article does not prevent the adoption or enforcement of any local rules
3 or ordinances.

4 **Comment.** Section 63935 continues former Section 25257.2(h) without substantive change.

DISPOSITION OF EXISTING LAW

Note. This table shows the proposed disposition, as reflected in this cumulative draft, of provisions in Chapter 6.5 of Division 20 of the Health and Safety Code (§§ 25100-25259), as that law existed on January 1, 2024. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

Existing Provision	New Provision
25100	60000
25101	60005
25103	60010
25105	60015
25106	60020
25110	60075
25110.02.....	60080
25110.1.....	60085
25110.2.....	not cont'd
25110.3.....	60088
25110.4.....	60090
25110.5.....	60095
25110.8.....	60100
25110.8.5 (except 2nd sentence of subd. (b)).....	60110
25110.8.5, 2nd sentence of subd. (b).....	60115
25110.9(b).....	60135
25110.9(a).....	60130
25110.9.1(b).....	60125
25110.9.1(a).....	60120
25110.9.3.....	60140
25110.10(a).....	60150
25110.10(b)-(e).....	[not yet recodified]
25110.10.1.....	not cont'd
25110.11.....	60155
25111	60160
25111.1.....	not cont'd
25112	60165
25112.5(a) (preceding numbered paragraphs).....	60170
25112.5(a)(1)-(d).....	[not yet recodified]
25113	60175
25114	60180
25114.5.....	60190
25115	60195
25115.1.....	60200
25116	60205
25116.5.....	60220
25117(a)-(c).....	60210(a)
25117(d).....	[not yet recodified]
25117.1.....	60215
25117.10.....	60235

Existing Provision	New Provision
25117.11.....	60275
25117.12.....	60280
25117.13.....	60230
25117.14.....	60290
25117.2.....	60220
25117.3.....	[not yet recodified]
25117.4.1(b).....	60245
25117.4.1(a).....	60240
25117.5.....	60210(b)
25117.6.....	60255
25117.8.....	60260
25117.9.....	60265
25117.9.1.....	60270
25117.10.....	60235
25117.11.....	60275
25117.12.....	60280
25117.13.....	60230
25117.14.....	60290
25118.....	60295
25119.....	60300
25120.....	60305
25120.2.....	60310
25120.5.....	60315
25120.55.....	[not yet recodified]
25121.....	60320
25121.1.....	60325
25121.2.....	60228
25121.3(a).....	60330
25121.3(b), (c).....	[not yet recodified]
25121.5.....	60335
25122.7.....	60340
25122.8.....	not cont'd
25122.9.....	60345
25123.....	60350
25123.3(a).....	[not yet recodified]
25123.3(b), initial clause.....	60355
25123.3(b) (remainder of subdivision), (c)-(i).....	[not yet recodified]
25123.4.....	60360
25123.5.....	60365
25123.6.....	60385
25123.7(a).....	60375
25123.7(b).....	60105
25123.7(c).....	60285
25123.7(d).....	60370
25123.8.....	60380
25124.....	60390
25125(a), (b), (c).....	61000

Existing Provision	New Provision
25125(d).....	61005
25125(e).....	61060
25125(f).....	61010
25125(g).....	61085
25125(h).....	61080
25125(i).....	61065(a)
25125(j).....	61070
25125(k).....	61065(b)
25125(l).....	61025
25125(m).....	61015
25125(n).....	61075
25125(o).....	61020
25125.2(a).....	61130
25125(b)(1).....	61200
25125(b)(2).....	61205
25125(b)(3).....	61210
25125(b)(4).....	61215
25125(b)(5).....	61220
25125(b)(6).....	61225
25125(b)(7).....	61230
25125.3.....	61135
25125.4.....	61300
25125.5.....	61000
25125.6.....	61140
25125.7.....	61235
25125.8(a), 1st sentence.....	61350
25125.8(a), 2nd sentence.....	61355
25125.8(b).....	61360
25125.8(c).....	61365
25125.8(d).....	61370
25125.8(e).....	61375
25125.9.....	61240
25130-25149.7.....	[not yet recodified]
25150.....	60670
25150.1 – 25150.4.....	[not yet recodified]
25150.5.....	60690
25150.65.....	60680
25150.82 – 25150.86.....	[not yet recodified]
25151.....	60675
25152.....	60685
25152.5 – 25159.25.....	[not yet recodified]
25160(a)(2).....	60185
25160(a)(1), (3).....	60250
25160(b) – 25169.9.....	[not yet recodified]
25170.....	60635
25172.6.....	60620
25173.....	60655

Existing Provision	New Provision
25173.5.....	[not yet recodified]
25173.6(a)	60490
25173.6(b), (c).....	60495
25173.6(a)	60490
25173.6(d), (e).....	60500
25173.6(f).....	60505
25173.6(g), (h).....	60510
25173.6(i).....	not cont'd
25173.7(a)	60520
25173.7(b).....	60525
25173.7(c)	60580
25174(a)	60450
25174(b).....	60455
25174(c)	60575
25174(d).....	60465
25174.01 – 25174.8.1	[not yet recodified]
25174.9.....	60475
25175	[not yet recodified]
25177	60650
25178	60700
25178.1 – 25197.3	[not yet recodified]
25198(a)	not cont'd
25198(b), 1st part.....	60720
25198(b), 2nd part	not cont'd
25198(c)-(e).....	60725
25198(f).....	60730
25198.1 – 25250.65	[not yet recodified]
25251 (intro)	63500
25251(a)	63505
25251(b).....	63515
25251(c)	63520
25251(d).....	63525
25251(e)	63530
25251(f).....	63535
25252(a), 1st and 2nd sent	63620
25252(a), 3rd sent	63630
25252(b)(1).....	63635
25252(b)(2), (b)(3).....	63640
25252.5(a)	63715(a)
25252.5(b).....	63720
25252.5(c)	63725
25252.5(d).....	63730
25252.5(e)	63715(b)
25252.5(f).....	63715(c)
25252.5(g).....	63710
25253(a)(1).....	63660
25253(a)(2).....	63670

Existing Provision	New Provision
25253(b).....	63680
25253(c).....	63675
25253(d).....	63685
25253(e)(1).....	63690(a)
25253(e)(2).....	63690(b)
25253(f).....	63690(c)
25253.5.....	63575
25253.6.....	63570
25253.7(a)(1), 1st sent	63800(a)
25253.7(a)(1), 2nd sent	63800(b)
25253.7(a)(1), 3rd sent.....	63805(a)
25253.7(a)(1), 4th sent.....	63800(c)
25253.7(a)(2)(A).....	63805(b)
25253.7(a)(2)(B).....	63805(c)
25253.7(a)(2)(C).....	63810
25253.7(a)(3).....	63815
25253.7(a)(4).....	63820
25253.7(a)(5).....	63825
25253.7(b).....	63830
25253.9.....	63580
25254(a).....	63595(a)
25254(b), 1st sent	63595(b)
25254(b), 2nd sent	63595(c)
25254(c), 1st sent.....	63600(a)
25254(c), 2nd sent	63595(d)
25254(d).....	63600(b)
25255	63605
25256, 1st sent.....	63750
25256, 2nd sent, 1st part	63770
25256, 2nd sent, 2nd part	63775
25256.1.....	63755
25256.2.....	63760
25256.3.....	63765
25257(a), 1st sent.....	63850(a)
25257(a), 2nd sent	63850(b)
25257(b).....	63855
25257(c), 1st sent.....	63850(c)
25257(c), 2nd sent	63850(d)
25257(d).....	63860
25257(e).....	63870
25257(f).....	63875
25257.1(a).....	63550
25257.1(b).....	63555
25257.1(c).....	63560
25257.2(a).....	63900
25257.2(b).....	63905
25257.2(c).....	63910

Existing Provision	New Provision
25257.2(d)	63915
25257.2(e)	63920
25257.2(f)	63925
25257.2(g)	63930
25257.2(h)	63935

DERIVATION OF NEW LAW

Note. This table shows the derivation of each provision in proposed Division 44 of Health and Safety Code, as reflected in this cumulative draft. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

New Provision	Existing Provision
60000.....	25100
60005.....	25101
60010.....	25103
60015.....	25105
60020.....	25106
60035.....	new
60040.....	new
60045.....	new
60050.....	new
60055.....	new
60060.....	new
60075.....	25110
60080.....	25110.02
60085.....	25110.1
60088.....	25110.3
60090.....	25110.4
60095.....	25110.5
60100.....	25110.8
60105.....	25123.7(b)
60110.....	25110.8.5 (except 2nd sentence of subd. (b))
60115.....	25110.8.5, 2nd sentence of subd. (b)
60120.....	25110.9.1(a)
60125.....	25110.9.1(b)
60130.....	25110.9(a)
60135.....	25110.9(b)
60140.....	25110.9.3
60150.....	25110.10(a)
60155.....	25110.11
60160.....	25111
60165.....	25112
60170.....	25112.5(a) (preceding numbered paragraphs)
60175.....	25113
60180.....	25114
60185.....	25160(a)(2)
60190.....	25114.5
60195.....	25115
60200.....	25115.1
60205.....	25116
60210(a).....	25117(a)-(c)
60210(b).....	25117.5

New Provision	Existing Provision
60215	25117.1
60220	25117.2
60225	25116.5
60228	25121.2
60230	25117.13
60235	25117.10
60240	25117.4.1(a)
60245	25117.4.1(b)
60250	25160(a)(1), (3)
60255	25117.6
60260	25117.8
60265	25117.9
60270	25117.9.1
60275	25117.11
60280	25117.12
60285	25123.7(c)
60290	25117.14
60295	25118
60300	25119
60305	25120
60310	25120.2
60315	25120.5
60320	25121
60325	25121.1
60330	25121.3(a)
60335	25121.5
60340	25122.7
60345	25122.9
60350	25123
60355	25123.3(b), initial clause
60360	25123.4
60365	25123.5
60370	25123.7(d)
60375	25123.7(a)
60380	25123.8
60385	25123.6
60390	25124
60450	25174(a)
60455	25174(b)
60465	25174(d)
60475	25174.9
60490	25173.6(a)
60495	25173.6(b), (c)
60500	25173.6(d), (e)
60505	25173.6(f)
60510	25173.6(g), (h)
60520	25173.7(a)

New Provision	Existing Provision
60525	25173.7(b)
60575	25174(c)
60580	25173.7(c)
60620	25172.6
60635	25170
60650	25177
60655	25173
60670	25150
60675	25151
60680	25150.65
60685	25152
60690	25150.5
60700	25178
60720	25198(b), 1st part
60725	25198(c), (d), (e)
60730	25198(f)
61000	25125(a), (b), (c)
61005	25125(d)
61010	25125(f)
61015	25125(m)
61020	25125(o)
61025	25125(l)
61060	25125(e)
61065(a)	25125(i)
61065(b)	25125(k)
61070	25125(j)
61075	25125(n)
61080	25125(h)
61085	25125(g)
61130	25125.2(a)
61135	25125.3
61140	25125.6
61200	25125.2(b)(1)
61205	25125.2(b)(2)
61210	25125.2(b)(3)
61215	25125.2(b)(4)
61220	25125.2(b)(5)
61225	25125.2(b)(6)
61230	25125.2(b)(7)
61235	25125.7
61240	25125.9
61300	25125.4
61350	25125.8(a), 1st sentence
61355	25125.8(a), 2nd sentence
61360	25125.8(b)
61365	25125.8(c)
61370	25125.8(d)

New Provision	Existing Provision
61375	25125.8(e)
63500	25251 (intro)
63505	25251(a)
63510	new
63515	25251(b)
63520	25251(c)
63525	25251(d)
63530	25251(e)
63535	25251(f)
63550	25257.1(a)
63555	25257.1(b)
63560	25257.1(c)
63570	25253.6
63575	25253.5
63580	25253.9
63595(a)	25254(a)
63595(b)	25254(b), 1st sent
63595(c)	25254(b), 2nd sent
63595(d)	25254(c), 2nd sent
63600(a)	25254(c), 1st sent
63600(b)	25254(d)
63605	25255
63620	25252(a), 1st and 2nd sent
63630	25252(a), 3rd sent
63635	25252(b)(1)
63640	25252(b)(2), (b)(3)
63660	25253(a)(1)
63670	25253(a)(2)
63675	25253(c)
63680	25253(b)
63685	25253(d)
63690(a)	25253(e)(1)
63690(b)	25253(e)(2)
63690(c)	25253(f)
63710	25252.5(g)
63715(a)	25252.5(a)
63715(b)	25252.5(e)
63715(c)	25252.5(f)
63720	25252.5(b)
63725	25252.5(c)
63730	25252.5(d)
63750	25256, 1st sent
63755	25256.1
63760	25256.2
63765	25256.3
63770	25256, 2nd sent, 1st part
63775	25256, 2nd sent, 2nd part

New Provision	Existing Provision
63800(a).....	25253.7(a)(1), 1st sent
63800(b)	25253.7(a)(1), 2nd sent
63800(c).....	25253.7(a)(1), 4th sent
63805(a).....	25253.7(a)(1), 3rd sent
63805(b)	25253.7(a)(2)(A)
63805(c).....	25253.7(a)(2)(B)
63810	25253.7(a)(2)(C)
63815	25253.7(a)(3)
63820	25253.7(a)(4)
63825	25253.7(a)(5)
63830	25253.7(b)
63850(a).....	25257(a), 1st sent
63850(b)	25257(a), 2nd sent
63850(c).....	25257(c), 1st sent
63850(d)	25257(c), 2nd sent
63855	25257(b), 2nd sent
63860	25257(d)
63865	25257(b), 1st sent
63870	25257(e)
63875	25257(f)
63900	25257.2(a)
63905	25257.2(b)
63910	25257.2(c)
63915	25257.2(d)
63920	25257.2(e)
63925	25257.2(f)
63930	25257.2(g)
63935	25257.2(h)

SUBSTANTIVE ISSUES FOR POSSIBLE FUTURE STUDY

When the Legislature authorized the Commission to study Chapter 6.5 of Division 20 of the Health and Safety Code, the Legislature directed the Commission to “include a list of substantive issues that the commission identifies in the course of its work, for possible future study.” See 2024 Cal. Stat. res. ch. 138. The Legislature’s grant of authority for this project precludes the Commission from making “any substantive changes to the law.” See *id.*

In the course of the Commission’s study of Chapter 6.5, the Commission has identified the substantive issues listed below for possible future study. Unless otherwise indicated, all statutory citations refer to provisions of the Health & Safety Code. All references to proposed provisions refer to provisions of the proposed legislation in this recommendation.

- (1) Should the provisions defining different types of violations (see proposed Sections 60110, 60115, and 60255, which define “class I violation,” “class II violation,” and “minor violation,” respectively) be revised for consistency and clarity?
- (2) Should the definition of “treatment” (proposed Section 60365) be restated for clarity?
- (3) Should the use of terms that are undefined in proposed Division 44, but are defined in Part 2 of Division 45, be addressed by incorporating the definitions from Part 2 of Division 45 by reference (either individually or globally)?
- (4) Should proposed Section 60700, which specifies materials that the department is obligated to post on its website, be revised to eliminate obsolescence (see DTSC Independent Review Panel Recommendations to the Governor and the Legislature Pursuant to Health and Safety Code Section 57014(f), p. 31 (January 8, 2018))?

