

MEMORANDUM 2024-45

Recodification of Toxic Substances Statutes: Next Portion

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](#), an extensive chapter of the existing code addressing multiple aspects of hazardous waste control.

As Chapter 6.5 contains an unusually large amount of statutory material,³ the Commission to date has been separately evaluating proposed recodification of distinct statutory articles within Chapter 6.5, for inclusion in a tentative recommendation proposing recodification of the entire chapter.⁴

This memorandum presents a staff draft of proposed recodification of two of those articles, the first relating to hazardous waste reduction, recycling, and treatment,⁵ and the second relating to pollution prevention and source reduction.⁶ The draft also includes proposed Commission Comments following each recodified section, some Staff Notes explaining the recodification process and identifying issues for which public comment is

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. Chapter 6.5 contains approximately 850 code sections, many of which are quite lengthy, set out in 55 distinct statutory articles. An extrapolation based on the Commission's earlier recodification in this study of Chapter 6.8 of the Health and Safety Code, a chapter that contained roughly a fifth the amount of statutory text contained in Chapter 6.5, suggests that a printed final recommendation proposing recodification of Chapter 6.5, not including proposed conforming revisions, could require approximately 1,400 pages of what will necessarily be two of the Commission's printed bound volumes.

4. Because of the volume of material that will eventually appear in the tentative recommendation, the precise *placement* of a recodified article within the proposed recodification of the entirety of Chapter 6.5 remains provisional. A current cumulative draft of all recodified articles provisionally approved for inclusion in the tentative recommendation, indicating the current proposed organization of the entire recodification, is typically presented at each Commission meeting at which this study is on the Commission's meeting agenda.

5. See [Article 11.8 of Chapter 6.5 of the Health and Safety Code](#).

6. See [Article 11.9 of Chapter 6.5 of the Health and Safety Code](#).

sought, and disposition and derivation tables for the recodified provisions.

Unless otherwise indicated, all statutory citations in this memorandum are to sections of the existing Health and Safety Code, and all citations to “proposed” sections are to the proposed sections in the attached draft.

Commissioners and other interested persons should review the attached draft and raise any concerns. **Comment on any aspect of the draft, including identification of any issues raised by this draft that the Commission should consider adding to a list of items for possible future study as requested by the Legislature,⁷ is also welcome.⁸**

GENERAL DRAFTING APPROACH

As with prior draft legislation proposed in this study, the staff has continued to take a conservative approach to drafting proposed recodified provisions.⁹ For the most part, existing statutory text is repeated verbatim in the proposed recodification of the provision.

In accordance with the Commission’s prior decisions in the study, certain minor changes continue to be made as a matter of course.¹⁰ However, except for changes necessarily made to implement the recodification,¹¹ all changes the draft proposes be made to an existing code section are shown in the draft in ~~strikeout~~ and underscore.¹²

When the staff has identified an issue relating to the phrasing of an existing section, the issue is also discussed in a Staff Note following the proposed recodification of the section.¹³

COMMISSION DECISION

Does the Commission provisionally approve the proposed legislation in the attached draft for inclusion in a future tentative recommendation?

Respectfully submitted,

Steve Cohen
Staff Counsel

7. See [2024 Cal. Stat. res. ch. 138 \(ACR 169 \(Kalra\)\)](#).

8. Written comments can be in any form, and should be directed to scohen@clrc.ca.gov. Comments may also be made orally at the upcoming Commission meeting at which the draft is scheduled to be presented to the Commission for provisional approval. The meeting agenda is available at: http://www.clrc.ca.gov/Menu1_meetings/agenda.html.

9. See [Memorandum 2020-13](#), p. 3.

10. See [Minutes \(May 2020\)](#), p. 4; [Memorandum 2020-13](#), p. 4; [Memorandum 2021-19](#), pp. 3-4.

11. For example, converting section numbers and designations, as well as internal cross-references to other provisions in Chapter 6.5.

12. Once the draft of a proposed recodification is provisionally approved by the Commission for inclusion in a tentative recommendation, the stricken text and underscore markings are removed.

13. See, e.g., Staff Note following proposed Sections 60790 and 60805 in the attached draft.

PROPOSED CHAPTER 6 OF PART 1 AND
CHAPTER 2 OF PART 3 OF DIVISION 44 OF
THE HEALTH & SAFETY CODE

Staff 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 of 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. 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.

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

Staff Notes flag issues requiring special attention or treatment. When a Staff 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, when, for instance, the Commission decides against a staff-proposed restatement and reverts to existing statutory language, the Staff 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 [XXXXX]**.” 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 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 any other aspect of this study. Comments should be directed to Steve Cohen (scohen@clrc.ca.gov).

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DRAFT LEGISLATION

Health & Safety Code §§ 60000-[XXXXXX] (added). Toxics Reduction and Management
SEC. ____ . Division 44 (commencing with Section 60000) is added to the Health and Safety Code, to read:

DIVISION 44. TOXICS REDUCTION AND MANAGEMENT

PART 1. GENERAL PROVISIONS

...

CHAPTER 7. HAZARDOUS WASTE REDUCTION, RECYCLING, AND
TREATMENT RESEARCH AND DEMONSTRATION ACT OF 1985

Article 1. Preliminary Provisions

§ 60750. Short title

60750. This ~~article~~ chapter shall be known and may be cited as the Hazardous Waste Reduction, Recycling, and Treatment Research and Demonstration Act of 1985.

Comment. Section 60750 continues former Section 25244 without substantive change.

§ 60755. Legislative findings and intent

60755. (a) The Legislature hereby finds and declares that, whenever possible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible, and that waste that is generated should be recycled, treated, or disposed of in a manner that minimizes any present or future threats to human health or the environment.

(b) The Legislature further finds that there ~~exists~~ exist many promising, but as yet unproven, technologies for the reduced generation of hazardous waste and for recycling and treating hazardous waste.

(c) The Legislature further finds that financial commitment by public agencies and private industry for the expeditious development and dispersion of hazardous waste reduction, recycling, and treatment technologies depends upon further research, as well as credible and timely demonstrations of the feasibility, environmental acceptability, and reliability of ~~this technology~~ those technologies.

(d) It is the intent of the Legislature, in enacting this ~~article~~ chapter, to promote the research, development, and expeditious demonstration of technologies ~~which~~ that have the potential to reduce, recycle, and treat hazardous waste. ~~It is further the~~

1 ~~intent of the Legislature, and~~ to encourage private sector participation in this
2 program to the greatest extent possible.

3 **Comment.** Section 60755 continues former Section 25244.1 without substantive change.
4 See Sections 60210 (“hazardous waste”), 60325 (“recycling”), 60350 (“treatment”), 60390
5 (“waste”).

6 **§ 60760. “Hazardous waste reduction, recycling, and treatment technologies”**

7 60760. (a) For purposes of this ~~article~~ chapter, “hazardous waste reduction,
8 recycling, and treatment technologies” ~~mean~~ means technologies and techniques
9 ~~which~~ that have, as their primary purpose, the reduced generation of hazardous
10 waste, the recycling of hazardous waste, or the conversion of hazardous waste into
11 a less hazardous form.

12 (b) For purposes of this ~~article~~ chapter, “hazardous waste reduction, recycling,
13 and treatment technologies” ~~do~~ does not include solidification or treatment
14 occurring directly in, or on, the land, such as techniques using evaporation, surface
15 impoundments, or land farming.

16 **Comment.** Section 60760 continues former Section 25244.2 without substantive change.
17 See Sections 60210 (“hazardous waste”), 60325 (“recycling”), 60350 (“treatment”).

18 Article 2. Department Responsibilities

19 **§ 60780. Department duty to implement contingent on funding**

20 60780. (a) Except as provided in subdivision (b), the department’s duty to
21 implement this ~~article~~ chapter is contingent upon, and limited to, the availability of
22 funding.

23 (b) Subdivision (a) does not apply to **Section 25244.4**.

24 **Comment.** Section 60780 continues former Section 25244.01 without substantive change.
25 See Section 60160 (“department”).

26 **§ 60785. Hazardous Waste Technology, Research, Development, and Demonstration**
27 **Program**

28 60785. (a) The department shall establish a Hazardous Waste Technology,
29 Research, Development, and Demonstration Program, which shall consist of all of
30 the following elements:

31 (1) Contracting with, and providing grants to, universities, governmental
32 agencies, and private organizations for the research and development of hazardous
33 waste reduction, recycling, or treatment technologies pursuant to **Section 25244.10**.

34 (2) Providing grants, under specified conditions, to cities, counties, and private
35 organizations for the commercial demonstration of hazardous waste reduction,
36 recycling, or treatment technologies pursuant to **Section 25244.6**.

37 ~~(3) Providing grants to local governments for the development of local hazardous~~
38 ~~waste reduction programs which provide technical assistance, including hazardous~~
39 ~~waste audits, to generators pursuant to Section 25244.1101.~~

1 (b)(1) For purposes of this subdivision, “commercially successful technology”
2 means a hazardous waste reduction, recycling, or treatment technology ~~which~~ that
3 is proven to be profitable, as determined by the department.

4 (2) The department shall require any university, governmental agency, or private
5 organization ~~which~~ that receives a grant pursuant to paragraph (1) or (2) of
6 subdivision (a) to agree to ~~repay~~ do the following:

7 (i) Repay the amount of the grant to the department, if the grant results in the
8 development of a commercially successful technology, ~~and to additionally pay~~ .

9 (ii) Pay the department a percentage of any royalties derived from that technology,
10 as negotiated between the department and the grant recipient.

11 (3) The department shall deposit any ~~repayments or royalties received by the~~
12 ~~department~~ funds it receives pursuant to this subdivision in the Hazardous Waste
13 Control Account, and ~~those funds may be expended by the department~~, upon
14 appropriation by the Legislature, may expend those funds to carry out this ~~article~~
15 ~~chapter~~.

16 **Comment.** Section 60785 restates former Section 25244.5 without substantive change.

17 See Sections 60160 (“department”), 60210 (“hazardous waste”), 60760 (“hazardous waste
18 reduction, recycling, and treatment technologies”), 60325 (“recycling”), 60365 (“treatment”).

19 **Staff Notes. (1)** Subdivision (a)(3) of existing Section 25244.5, referencing grants for the
20 development of local hazardous waste reduction programs “pursuant to Section 25244.1101,” is
21 proposed to be discontinued, as Section 25244.1101 was renumbered as Section 25244.11.5 in
22 1994, and repealed effective January 1, 2000. See 1994 Cal. Stat. ch. 370.

23 **The Commission welcomes comment on the proposed deletion of existing Section**
24 **25244.5(a)(3).**

25 (2) Proposed Section 60785(b)(2) would restate existing Section 25244.5(b)(2) to clarify that the
26 payment of royalties referenced in that subdivision to the department — as contrasted with the
27 referenced repayment of the amount of the received grant — is *not* contingent on the development
28 of “commercially successful technology.” The existing subdivision reads as follows:

29 “The department shall require any university, governmental agency, or private organization
30 which receives a grant pursuant to paragraph (1) or (2) of subdivision (a) to agree to repay the
31 department for the amount of the grant, if the grant results in the development of a commercially
32 successful technology, and to additionally pay the department a percentage of any royalties derived
33 from that technology, as negotiated between the department and the grant recipient.”

34 **The Commission welcomes comment on this restatement of existing Section 25244.5(b)(2).**

35 (3) Proposed Section 60785(b)(3) would restate existing Section 25244.5(b)(3) for clarity. The
36 existing subdivision reads as follows:

37 “The department shall deposit any repayments or royalties received by the department pursuant
38 to this subdivision in the Hazardous Waste Control Account, and those funds may be expended by
39 the department, upon appropriation by the Legislature, to carry out this article.”

40 **Absent comment to the contrary, the Commission will presume this proposed restatement**
41 **does not substantively change the meaning of the existing subdivision.**

1 **§ 60790. Department responsibilities requiring consultation with other agencies and parties**

2 60790. The department, in consultation with the State Water Resources Control
3 Board, the State Air Resources Board, and the California Waste Management
4 Board, shall do all of the following:

5 (a) Implement a program to research, develop, and demonstrate hazardous waste
6 reduction, recycling, and treatment technologies at appropriate locations throughout
7 the state.

8 (b) On or before January 1, 1987, ~~and~~, in consultation with industry and interested
9 parties, adopt criteria for selecting projects ~~which that~~ that would receive grants ~~to pay~~
10 for the construction of equipment ~~which that~~ would be used to demonstrate
11 hazardous waste reduction, recycling, or treatment technologies. ~~The criteria shall~~
12 ~~include, including~~ provisions which require that, requiring the department in
13 assessing each project, ~~the department to~~ consider the feasibility of the following
14 matters:

15 (1) The project’s particular technology, the.

16 (2) The research and technical spinoffs likely to be generated by the project, the.

17 (3) The degree to which the findings of the projects can be disseminated and
18 evaluated for replication elsewhere, and the.

19 (4) The consistency of, and contributions of, the project to the state’s hazardous
20 waste management program.

21 (c) Using the criteria adopted pursuant to subdivision (b), select projects to
22 receive grants to construct equipment ~~which that~~ that would be used to demonstrate
23 hazardous waste reduction, recycling, or treatment technologies, and meet at least
24 one of the following requirements:

25 (1) The project has both onsite and offsite potential for the reduction, recycling,
26 or treatment of hazardous waste.

27 (2) The project has the potential to benefit or be utilized by small businesses.

28 (3) The project is applicable to a range of industries.

29 (d) A grant issued by the department pursuant to this section is not subject to
30 Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public
31 Contract Code, including, but not limited to, Section 10295 of the Public Contract
32 Code, or Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of
33 the Government Code. ~~The department shall select projects which also meet at least~~
34 one of the following requirements:

35 ~~(1) The project has onsite, as well as offsite potential, for the reduction, recycling,~~
36 ~~or treatment of hazardous waste.~~

37 ~~(2) The project has the potential to benefit, or be utilized by, small businesses.~~

38 ~~(3) The project is applicable to a range of industries.~~

39 **Comment.** Section 60790 restates former Section 25244.6 without substantive change.

40 See Sections 60160 (“department”), 60210 (“hazardous waste”), 60220 (“hazardous waste
41 management”), 60760 (“hazardous waste reduction, recycling, and treatment technologies”), 60325
42 (“recycling”), 60365 (“treatment”).

1 **Staff Notes. (1)** Proposed Section 60790(b)(3) would restate existing Section 25244.6 for
2 clarity. The existing section reads as follows:

3 “The department, in consultation with the State Water Resources Control Board, the State Air
4 Resources Board, and the California Waste Management Board, shall do all of the following:

5 (a) Implement a program to research, develop, and demonstrate hazardous waste reduction,
6 recycling, and treatment technologies at appropriate locations throughout the state.

7 (b) On or before January 1, 1987, and, in consultation with industry and interested parties, adopt
8 criteria for selecting projects which would receive grants to pay for the construction of equipment
9 which would be used to demonstrate hazardous waste reduction, recycling, or treatment
10 technologies. The criteria shall include provisions which require that, in assessing each project, the
11 department consider the feasibility of the project’s particular technology, the research and technical
12 spinoffs likely to be generated by the project, the degree to which the findings of the projects can
13 be disseminated and evaluated for replication elsewhere, and the consistency of, and contributions
14 of, the project to the state’s hazardous waste management program.

15 (c) Using the criteria adopted pursuant to subdivision (b), select projects to receive grants to
16 construct equipment which would be used to demonstrate hazardous waste reduction, recycling, or
17 treatment technologies. A grant issued by the department pursuant to this section is not subject to
18 Chapter 2 (commencing with Section 10290) of Part 2 of the Public Contract Code, including, but
19 not limited to, Section 10295 of the Public Contract Code, or Chapter 10 (commencing with Section
20 4525) of Division 5 of Title 1 of the Government Code. The department shall select projects which
21 also meet at least one of the following requirements:

22 (1) The project has onsite, as well as offsite potential, for the reduction, recycling, or treatment
23 of hazardous waste.

24 (2) The project has the potential to benefit, or be utilized by, small businesses.

25 (3) The project is applicable to a range of industries.”

26 **The Commission welcomes comment on this restatement of existing Section 25244.6.**

27 (2) Existing Section 25244.6(b) requires the department to adopt specified criteria “on or before
28 January 1, 1987.” Is this requirement now obsolete, and if so, can the requirement in the subdivision
29 be deleted from proposed Section 60790 without creating any substantive change to any aspect of
30 existing law?

31 Article 3. Grants and Contracts

32 **§ 60805. Grants and contracts for research and development**

33 60805. (a) The department may issue grants to, and enter into contracts with,
34 universities, governmental agencies, and private organizations to research and
35 develop hazardous waste reduction, recycling, or treatment technology.

36 ~~These grants~~ (b) Grants issued pursuant to subdivision (a) may be applied to
37 personnel, equipment, and administrative costs and shall, to the extent possible, be
38 used to augment other sources of research and development funding, including
39 federal and private funds.

40 (c) Any grant issued by the department pursuant to this section is not subject to
41 Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public
42 Contract Code, including, but not limited to, Section 10295 of the Public Contract
43 Code, ~~but a~~.

1 (d) Any contract entered into pursuant to this section is subject to all applicable
2 state laws governing contracts.

3 **Comment.** Section 60805 continues former Section 25244.10 without substantive change.

4 See Sections 60160 (“department”), 60210 (“hazardous waste”), 60760 (“hazardous waste
5 reduction, recycling, and treatment technologies”), 60325 (“recycling”), 60365 (“treatment”).

6 **Staff Note.** Proposed Section 60805 would restate existing Section 25244.10 for clarity. The
7 existing section reads as follows:

8 “The department may issue grants to, and enter into contracts with, universities, governmental
9 agencies, and private organizations to research and develop hazardous waste reduction, recycling,
10 or treatment technology. These grants may be applied to personnel, equipment, and administrative
11 costs and shall, to the extent possible, be used to augment other sources of research and
12 development funding, including federal and private funds. Any grant issued by the department
13 pursuant to this section is not subject to Chapter 2 (commencing with Section 10290) of Part 2 of
14 the Public Contract Code, including, but not limited to, Section 10295 of the Public Contract Code,
15 but a contract entered into pursuant to this section is subject to all applicable state laws governing
16 contracts.”

17 **Absent comment to the contrary, the Commission will presume this proposed restatement
18 does not substantively change the meaning of the existing section.**

19 **§ 60810. Grant funding for relevant equipment construction**

20 60810. Grant funding for equipment construction needed for demonstration of
21 hazardous waste reduction, recycling, and treatment technologies shall be provided
22 to projects selected pursuant to **Section 25244.6** in four consecutive steps:

23 (a) Step I grants shall be made to study the feasibility of a proposed project, in
24 accordance with the following:

25 (1) Ninety percent of the costs of the feasibility study shall be eligible for grant
26 funding, up to a maximum of twenty-five thousand dollars (\$25,000) per grant.

27 (2) In activities funded by a step I grant, the applicant shall develop information
28 needed to select the waste reduction, recycling, or treatment alternative, ~~which that~~
29 would be most cost-effective cost effective.

30 (b) Step II grants shall be made for project design, in accordance with the
31 following:

32 (1) Seventy percent of the costs of the design of the project, or 90 percent if the
33 grant applicant is a small business, shall be eligible for grant funding, ~~except that a~~
34 ~~small business may be eligible for 90 percent of those costs~~, up to a maximum of
35 fifty thousand dollars (\$50,000) per grant.

36 (2) In activities funded by a step II grant, the applicant shall prepare detailed plans
37 and specifications for the selected facilities, establish schedules for implementation,
38 and obtain necessary permits.

39 (c) Step III grants shall be made for the construction of the facilities, in
40 accordance with the following:

41 (1) Fifty percent of the costs of constructing the project, or 80 percent if the grant
42 applicant is a small business, shall be eligible for grant funding, ~~except that a small~~

1 ~~business may be eligible for 80 percent of those costs~~, up to a maximum of four
2 hundred thousand dollars (\$400,000) per grant.

3 (2) As a condition of receiving a step III grant, the grantee shall allow the results
4 of the project to be evaluated and the information disseminated to other parties.

5 (3) In activities funded by a step III grant, the applicant shall construct the
6 facilities as designed under a step II grant, procure needed equipment, and obtain
7 necessary permits to operate the facility.

8 (d) ~~(1)~~ Step IV grants shall be made ~~to evaluate~~ for the following activities:

9 (i) ~~Evaluate~~ Evaluation of the effectiveness of grant-funded facilities, ~~develop~~ .

10 (ii) Development of information on compliance with regulatory permits, ~~and~~
11 ~~assess~~ .

12 (iii) Assessment of applicability of the selected approach to other generators of
13 similar hazardous wastes.

14 (2) Ninety percent of the costs of ~~those~~ the activities identified in paragraph (1),
15 or 100 percent if the grant applicant is a small business, shall be eligible for grant
16 funding, ~~except that a small business may be eligible for 100 percent of those costs,~~
17 up to a maximum of one hundred thousand dollars (\$100,000) per grant.

18 **Comment.** Section 60810 restates former Section 25244.8 without substantive change.

19 See Sections 60085 (“applicant”), 60760 (“hazardous waste reduction, recycling, and treatment
20 technologies”), 60325 (“recycling”), 60365 (“treatment”), 60390 (“waste”).

21 **Staff Note.** Proposed Section 60810 would restate existing Section 25244.8 for clarity. The
22 existing section reads as follows:

23 “Grant funding for equipment construction needed for demonstration of hazardous waste
24 reduction, recycling, and treatment technologies shall be provided to projects selected pursuant to
25 Section 25244.6 in four consecutive steps:

26 (a) Step I grants shall be made to study the feasibility of a proposed project. Ninety percent of
27 the costs of the feasibility study shall be eligible for grant funding up to a maximum of twenty-five
28 thousand dollars (\$25,000) per grant. In activities funded by a step I grant, the applicant shall
29 develop information needed to select the waste reduction, recycling, or treatment alternative, which
30 would be most cost-effective.

31 (b) Step II grants shall be made for project design. Seventy percent of the costs of the design of
32 the project shall be eligible for grant funding, except that a small business may be eligible for 90
33 percent of those costs, up to a maximum of fifty thousand dollars (\$50,000) per grant. In activities
34 funded by a step II grant, the applicant shall prepare detailed plans and specifications for the
35 selected facilities, establish schedules for implementation, and obtain necessary permits.

36 (c) Step III grants shall be made for the construction of the facilities. Fifty percent of the costs
37 of constructing the project shall be eligible for grant funding, except that a small business may be
38 eligible for 80 percent of those costs, up to a maximum of four hundred thousand dollars (\$400,000)
39 per grant. As a condition of receiving a step III grant, the grantee shall allow the results of the
40 project to be evaluated and the information disseminated to other parties. In activities funded by a
41 step III grant, the applicant shall construct the facilities as designed under a step II grant, procure
42 needed equipment, and obtain necessary permits to operate the facility.

43 (d) Step IV grants shall be made to evaluate the effectiveness of grant-funded facilities, develop
44 information on compliance with regulatory permits, and assess applicability of the selected
45 approach to other generators of similar hazardous wastes. Ninety percent of the costs of those
46 activities shall be eligible for grant funding, except that a small business may be eligible for 100
47 percent of those costs, up to a maximum of one hundred thousand dollars (\$100,000) per grant.”

1 **Absent comment to the contrary, the Commission will presume this proposed restatement**
2 **does not substantively change the meaning of the existing section.**

3 **§ 60815. Compilation and availability of project evaluations**

4 60815. (a) The department shall compile the results of all evaluations of projects
5 funded by step IV grants, as specified in subdivision (d) of **Section 25244.8**, or the
6 evaluations of any other project ~~which that~~ are available to the department, ~~and shall~~
7 ~~make them available to interested parties as expeditiously as possible.~~

8 (b) The department shall notify any interested party of the availability of the
9 project evaluations, and make the evaluations available to interested parties as
10 expeditiously as possible.

11 **Comment.** Section 60815 restates former Section 25244.9 without substantive change.
12 See Section 60160 (“department”).

13 **Staff Notes. (1)** Proposed Section 60815 would restate existing Section 25244.9 for clarity. The
14 existing section reads as follows:

15 “The department shall compile the results of all evaluations of projects funded by step IV grants,
16 as specified in subdivision (d) of Section 25244.8, or the evaluations of any other project which are
17 available to the department, and shall make them available to interested parties as expeditiously as
18 possible. The department shall notify any interested party of the availability of project evaluations.”

19 **Absent comment to the contrary, the Commission will presume this proposed restatement**
20 **does not substantively change the meaning of the existing section.**

21 (2) The staff seeks comment on the intended meaning of the phrase in existing Section 25244.9
22 that reads as follows: “or the evaluations of any other project which are available to the
23 department.” Specifically,

24 (a) Is the use of the term “or” intended to provide the department an *alternative* to compiling the
25 results of evaluations of projects funded by step IV grants, or should the word “or” be replaced
26 with the word “and”?

27 (b) What “other projects” are contemplated by this clause?

28 **§ 60820. Contracting by department for services to carry out chapter**

29 60820. Consistent with Article VII of the California Constitution, the department
30 may contract for services to be performed to carry out this ~~article~~ chapter, including,
31 but not limited to, environmental control assessment, feasibility analysis, ~~the~~ review
32 of project design, field management responsibilities, and project scheduling and
33 control.

34 **Comment.** Section 60820 continues former Section 25244.7 without substantive change.
35 See Section 60160 (“department”).

36 Article 4. Generator Responsibilities

37 **§ 60835. Required waste reduction reports to department**

38 60835. Every generator of hazardous waste shall submit a report to the
39 department, at least once every two years, reporting the changes in volume and

1 toxicity of waste achieved through waste reduction during the period for which the
2 report is issued.

3 **Comment.** Section 60835 continues former Section 25244.4 without substantive change.
4 See Sections 60160 (“department”), 60210 (“hazardous waste”), 60390 (“waste”).

...

5 PART 2. BOARD OF ENVIRONMENTAL SAFETY

...

6 PART 3. TOXICS REDUCTION

...

7 CHAPTER 1. GREEN CHEMISTRY

...

8 CHAPTER 2. POLLUTION PREVENTION AND HAZARDOUS WASTE
9 SOURCE REDUCTION AND MANAGEMENT REVIEW ACT

10 Article 1. Preliminary Provisions

11 § 63950. Short title

12 63950. This ~~article~~ chapter shall be known and may be cited as the Pollution
13 Prevention and Hazardous Waste Source Reduction and Management Review Act.

14 **Comment.** Section 63950 continues former Section 25244.12 without substantive change.

15 § 63955. Legislative findings and declarations

16 63955. The Legislature finds and declares as follows:

17 (a) Existing law requires the department and the State Water Resources Control
18 Board to promote the reduction of generated hazardous waste. This policy, in
19 combination with hazardous waste land disposal bans, requires the rapid
20 development of new programs and incentives for achieving the goal of optimal
21 minimization of the generation of hazardous wastes. Substantial improvements and
22 additions to the state’s hazardous waste reduction program are required to be made
23 if these goals are to be achieved.

24 (b) Hazardous waste source reduction provides substantial benefits to the state’s
25 economy by maximizing use of materials, avoiding generation of waste materials,
26 improving business efficiency, enhancing revenues of companies that provide
27 products and services in the state, increasing the economic competitiveness of
28 businesses located in the state, and protecting the state’s precious and valuable
29 natural resources.

1 (c) It is the intent of the Legislature to expand the state’s pollution prevention
2 activities beyond those directly associated with source reduction evaluation reviews
3 and plans. The expanded program, which is intended to accelerate pollution
4 prevention, shall include programs to promote implementation of pollution
5 prevention measures using education, outreach, and other effective voluntary
6 techniques demonstrated in California or other states.

7 (d) It is the intent of the Legislature for the department to maximize the use of its
8 available resources in implementing the pollution prevention program through
9 cooperation with other entities, including, but not limited to, CUPAs, small business
10 development corporations, business environmental assistance centers, and other
11 regional and local government environmental programs. To the extent feasible, the
12 department shall utilize cooperative programs with entities that routinely contact
13 small business to expand its support of small business pollution prevention
14 activities.

15 (e) It is the goal of this ~~article~~ chapter to do all of the following:

16 (1) Reduce the generation of hazardous waste.

17 (2) Reduce the release into the environment of chemical contaminants that have
18 adverse and serious health or environmental effects.

19 (3) Document hazardous waste management information and make that
20 information available to state and local government.

21 (f) It is the intent of this ~~article~~ chapter to promote the reduction of hazardous
22 waste at its source, and wherever source reduction is not feasible or practicable, to
23 encourage recycling. Where it is not feasible to reduce or recycle hazardous waste,
24 the waste should be treated in an environmentally safe manner to minimize the
25 present and future threat to health and the environment.

26 (g) It is the intent of the Legislature not to preclude the regulation of
27 environmentally harmful releases to all media, including air, land, surface water,
28 and groundwater, and to encourage and promote the reduction of these releases to
29 air, land, surface water, and groundwater.

30 (h) It is the intent of the Legislature to encourage all state departments and
31 agencies, especially the State Water Resources Control Board, the California
32 regional water quality control boards, the State Air Resources Board, the air
33 pollution control districts, and the air quality management districts, to promote the
34 reduction of environmentally harmful releases to all media.

35 **Comment.** Section 63955 continues former Section 25244.13 without substantive change.

36 See Sections 63995 (“business”), 60105 (“CUPA”), 60160 (“department”), 60175 (“disposal”),
37 60210 (“hazardous waste”), 60260 (“natural resources”), 60325 (“recycling”), 60328 (“release”),
38 64015 (“pollution prevention”), 60390 (“waste”).

39 **§ 63960. Application of chapter**

40 63960. (a) This ~~article~~ chapter establishes a program for pollution prevention,
41 including, but not limited to, hazardous waste source reduction.

1 (b) The department shall coordinate the activities of all state agencies with
2 responsibilities and duties relating to hazardous waste and shall promote
3 coordinated efforts to encourage the reduction of hazardous waste. Coordination
4 between the program and other relevant state agencies and programs shall, to the
5 fullest extent possible, include joint planning processes and joint research and
6 studies.

7 (c) The department shall adopt regulations to carry out the requirements imposed
8 upon generators pursuant to this ~~article~~ chapter.

9 (d)(1) Except as provided in paragraph (3), **Sections 25244.19, 25244.20, and**
10 **25244.21** apply only to generators who, by site, routinely generate, through ongoing
11 processes and operations, more than 12,000 kilograms of hazardous waste in a
12 calendar year, or more than 12 kilograms of extremely hazardous waste in a calendar
13 year.

14 (2) The department shall adopt regulations to establish procedures for exempting
15 generators from the requirements of this ~~article~~ chapter where the department
16 determines that no source reduction opportunities exist for the generator.

17 (3) Notwithstanding paragraph (1), **Sections 25244.19, 25244.20, and 25244.21**
18 do not apply to any generator whose hazardous waste generating activity consists
19 solely of receiving offsite hazardous wastes and generating residuals from the
20 processing of those hazardous wastes.

21 **Comment.** Section 63960 continues former Section 25244.15 without substantive change.

22 See Sections 60160 (“department”), 60195 (“extremely hazardous waste”), 60210 (“hazardous
23 waste”), 60300 (“processing”), 64015 (“pollution prevention”).

24 **Staff Note.** Existing Section 25244.15, as well as several other sections in this proposed chapter,
25 frequently refer to the undefined term “generators.”

26 **Should a statutory definition of this term be added to this proposed chapter, and if so,**
27 **what definition should be added?**

28 § 63965. Funding contingency

29 63695. (a) The department’s duties to implement this ~~article~~ chapter are
30 contingent upon, and limited to, the availability of funding.

31 (b) Subdivision (a) does not eliminate a requirement of this ~~article~~ chapter that is
32 imposed upon a generator.

33 **Comment.** Section 63965 continues former Section 25244.13.1 without substantive change.

34 See Section 60160 (“department”).

35 Article 2. Definitions

36 § 63980. Definitions

37 63980. For purposes of this ~~article~~ chapter, the ~~following~~ definitions in this article
38 shall apply.

39 **Comment.** Section 63980 continues the introductory clause of former Section 25244.14 without
40 substantive change.

1 § 63985. “Advisory Committee”

2 63985. “Advisory committee” means the California Pollution Prevention
3 Advisory Committee established pursuant to **Section 25244.15.1**.

4 **Comment.** Section 63985 continues former Section 25244.14(a) without substantive change.

5 § 63990. “Appropriate local agency”

6 63990. “Appropriate local agency” means a county, city, or regional association
7 that has adopted a hazardous waste management plan pursuant to **Article 3.5**
8 **(commencing with Section 25135)**.

9 **Comment.** Section 63990 continues former Section 25244.14(b) without substantive change.

10 See Section 60220 (“hazardous waste management”).

11 § 63995. “Business”

12 63995. “Business” has the same meaning as defined in **Section 25501**.

13 **Comment.** Section 63995 continues former Section 25244.14(c) without substantive change.

14 § 64000. “Hazardous waste management approaches”

15 64000. “Hazardous waste management approaches” means approaches, methods,
16 and techniques of managing the generation and handling of hazardous waste,
17 including source reduction, recycling, and the treatment of hazardous waste.

18 **Comment.** Section 64000 continues former Section 25244.14(d) without substantive change.

19 See Sections 60205 (“handling”), 60210 (“hazardous waste”), 60220 (“hazardous waste
20 management”), 60325 (“recycling”), 60365 (“treatment”), 64025 (“source reduction”).

21 § 64005. “Hazardous waste management performance report” or “report”

22 64005. “Hazardous waste management performance report” or “report” means the
23 report required by **subdivision (b) of Section 25244.20** to document and evaluate
24 the results of hazardous waste management practices.

25 **Comment.** Section 64005 continues former Section 25244.14(e) without substantive change.

26 See Section 60220 (“hazardous waste management”).

27 § 64010. “NAICS Code”

28 64010. “NAICS Code” means the identification number assigned to specific types
29 of businesses by the North American Industry Classification System (NAICS)
30 adopted by the United States Census Bureau.

31 **Comment.** Section 64010 continues former Section 25244.14(f) without substantive change.

32 See Section 63995 (“business”).

33 § 64015. “Pollution prevention”

34 64015. “Pollution prevention” means the reduction of chemical sources that have
35 adverse impacts on public health and the environment, including, but not limited to,
36 source reduction.

37 **Comment.** Section 64015 continues former Section 25244.14(g) without substantive change.

38 See Section 64025 (“source reduction”).

1 § 64020. “SIC Code”

2 64020. “SIC Code” means the identification number assigned to specific types of
3 businesses by the Standard Industrial Classification (SIC) system established by the
4 United States Department of Commerce.

5 **Comment.** Section 64020 continues former Section 25244.14(h) without substantive change.
6 See Section 63995 (“business”).

7 § 64025. “Source reduction”

8 64025. (a) “Source reduction” means ~~one~~ either of the following:

9 (1) An action that causes a net reduction in the generation of hazardous waste.

10 (2) An action taken before the hazardous waste is generated that results in a
11 lessening of the properties that cause it to be classified as a hazardous waste.

12 (b) “Source reduction” includes, but is not limited to, ~~all~~ each of the following:

13 (1) “Input change,” which means a change in raw materials or feedstocks used in
14 a production process or operation so as to reduce, avoid, or eliminate the generation
15 of hazardous waste.

16 (2) “Operational improvement,” which means improved site management so as
17 to reduce, avoid, or eliminate the generation of hazardous waste.

18 (3) “Production process change,” which means a change in a process, method, or
19 technique that is used to produce a product or a desired result, including the return
20 of materials or their components, for reuse within the existing processes or
21 operations, so as to reduce, avoid, or eliminate the generation of hazardous waste.

22 (4) “Product reformulation,” which means changes in design, composition, or
23 specifications of end products, including product substitution, so as to reduce, avoid,
24 or eliminate the generation of hazardous waste.

25 (c) “Source reduction” does not include any of the following:

26 (1) Actions taken after a hazardous waste is generated.

27 (2) Actions that merely concentrate the constituents of a hazardous waste to
28 reduce its volume or that dilute the hazardous waste to reduce its hazardous
29 characteristics.

30 (3) Actions that merely shift hazardous wastes from one environmental medium
31 to another environmental medium.

32 (4) Treatment.

33 **Comment.** Section 64025 continues former Section 25244.14(i) without substantive change.
34 See Section 60210 (“hazardous waste”), 60365 (“treatment”).

35 § 64030. “Source reduction evaluation review and plan” or “review and plan”

36 64030. “Source reduction evaluation review and plan” or “review and plan”
37 means a review conducted by the generator of the processes, operations, and
38 procedures in use at a generator’s site, in accordance with the format established by
39 the department pursuant to **subdivision (a) of Section 25244.16**, and that does both
40 of the following:

1 (a) Determines any alternatives to, or modifications of, the generator’s processes,
2 operations, and procedures that may be implemented to reduce the amount of
3 hazardous waste generated.

4 (b) Includes a plan to document and implement source reduction measures for the
5 hazardous wastes specified in paragraph (1) that are technically feasible and
6 economically practicable for the generator, including a reasonable implementation
7 schedule.

8 **Comment.** Section 64030 continues former Section 25244.14(j) without substantive change.
9 See Sections 60160 (“department”), 60210 (“hazardous waste”), 64025 (“source reduction”).

10 **§ 64035. Generally defined terms**

11 64035. The following terms have the same meanings as defined in **Article 2**
12 **(commencing with Section 25110):**

13 (a) “Hazardous waste.”

14 (b) “Person.”

15 (c) “Recycle.”

16 (d) “Treatment.”

17 **Comment.** Section 64035 restates former Section 25244.14(k) without substantive change.
18 See Sections 60210 (“hazardous waste”), 60295 (“person”), 60365 (“treatment”).

19 **Staff Note.** Proposed Section 64035 would restate existing Section 25244.14(k) for clarity. The
20 existing subdivision reads as follows:

21 “Hazardous waste,” “person,” “recycle,” and “treatment” have the same meanings as defined
22 in Article 2 (commencing with Section 25110).

23 **Absent comment to the contrary, the Commission will presume this proposed restatement**
24 **does not substantively change the meaning of the existing subdivision.**

25 Article 3. California Pollution Prevention Advisory Committee

26 **§ 64050. Creation and membership**

27 64050. The California Pollution Prevention Advisory Committee is hereby
28 created and consists of the following members:

29 (a) The Executive Director of the State Air Resources Board, as an ex officio
30 member.

31 (b) The Executive Director of the State Water Resources Control Board, as an ex
32 officio member.

33 (c) The Director of Toxic Substances Control, as an ex officio member.

34 (d) The Director of Resources Recycling and Recovery, as an ex officio member.

35 (e) The Chairperson of the California Environmental Policy Council established
36 pursuant to Section 71017 of the Public Resources Code, as an ex officio member.

37 (f) The Director of Pesticide Regulation, as an ex officio member.

38 (g) Ten public members with experience in pollution prevention as appointed by
39 the department. ~~These public members~~, which shall include all of the following:

40 (1) Two representatives of local governments from different regions of the state.

- 1 (2) One representative of a publicly owned treatment works.
2 (3) Two representatives of industry.
3 (4) One representative of small business.
4 (5) One representative of organized labor.
5 (6) Two representatives of statewide environmental advocacy organizations.
6 (7) One representative of a statewide public health advocacy organization.
7 (h) The department may appoint up to two additional public members with
8 experience in pollution prevention and detailed knowledge of one of the priority
9 categories of businesses selected in accordance with **Section 25244.17.1**.

10 **Comment.** Section 64050 continues former Section 25244.15.1(a) without substantive change.
11 See Sections 63995 (“business”), 60160 (“department”), 60365 (“treatment”).

12 **§ 64055. Chairperson**

13 64055. The advisory committee shall select one member to serve as chairperson.

14 **Comment.** Section 64055 continues former Section 25244.15.1(b) without substantive change.
15 See Section 63985 (“advisory committee”).

16 **§ 64060. Compensation and expense reimbursement**

17 64060. The members of the advisory committee shall serve without
18 compensation, but each member, other than officials of the state, upon request, shall
19 be reimbursed for all reasonable expenses incurred in the performance of ~~his or her~~
20 their duties, as authorized by the department.

21 **Comment.** Section 64060 continues former Section 25244.15.1(c) without substantive change.
22 See Sections Section 63985 (“advisory committee”), 60160 (“department”).

23 **§ 64065. Public forum**

24 64065. When convened by the department, the advisory committee shall provide
25 a public forum for discussion and deliberation on matters pertaining to the
26 implementation of this ~~chapter~~ division.

27 **Comment.** Section 64065 continues former Section 25244.15.1(d) without substantive change.
28 See Sections Section 63985 (“advisory committee”), 60160 (“department”).

29 **§ 64070. Committee responsibilities**

30 64070. The advisory committee’s responsibilities shall include, but not be limited
31 to, the following:

32 (1) Reviewing and providing consultation and guidance in the preparation of the
33 work plan authorized by **Section 25244.22**.

34 (2) Evaluating the performance and progress of the department’s pollution
35 prevention program.

36 (3) Making recommendations to the department concerning program activities
37 and funding priorities, and legislative changes, if needed.

38 (4) Making recommendations to the department concerning strategies to more
39 effectively align its pollution prevention program with the goals of the department’s

1 green chemistry program, including the implementation of **Article 14**
2 **(commencing with Section 25251)**.

3 **Comment.** Section 64070 continues former Section 25244.15.1(e) without substantive change.
4 See Sections 63985 (“advisory committee”), 60160 (“department”).

5 Article 4. Publication of Prepared Material

6 **§ 64085. Draft work plan**

7 64085. (a) The department may, on a periodic basis, prepare and make available
8 for public review a draft work plan for the department’s operations and activities in
9 carrying out this ~~article~~ chapter.

10 (b) The department shall prepare the work plan in consultation with the advisory
11 committee and with other interested parties, including local government, industry,
12 labor, health, and environmental organizations.

13 (c) The department shall hold a public meeting of the advisory committee to
14 discuss the draft work plan before finalizing the work plan.

15 (d) ~~This~~ The work plan shall include an outline of the department’s proposed
16 operations and activities under this ~~article~~ chapter.

17 (e) The department shall use the data summary analysis prepared pursuant to
18 ~~subdivision (b)~~ Section 64090 to develop criteria for the selection of targets for
19 pollution prevention efforts.

20 (f) When identifying activities for inclusion in the work plan, the department shall
21 consider potential benefits to human health and the environment, available
22 resources, feasibility of applying pollution prevention techniques, and availability
23 of related resources from other entities, such as other states, the federal government,
24 local governments, and other organizations.

25 **Comment.** Section 64085 continues former Section 25244.22(a) without substantive change.
26 See Sections Section 63985 (“advisory committee”), 60160 (“department”).

27 **§ 64090. Publication of data summary analysis**

28 64090. ~~(b)~~ (a) The department may periodically prepare, and make available to
29 the public on its Internet Web site, a summary analysis of readily available data on
30 the state’s hazardous waste generation and management patterns.

31 (b) The analysis may include information from various data sources including
32 hazardous waste manifests, biennial generator reports, and United States
33 Environmental Protection Agency Toxics Release Inventory reports.

34 (c) The department shall estimate the quantities of hazardous waste generated in
35 the state, by hazardous waste stream, the amounts of hazardous waste generated in
36 the state by industry SIC or NAICS Code, and the amounts of hazardous waste state
37 generators sent offsite for management, by management method.

38 **Comment.** Section 64090 continues former Section 25244.22(b) without substantive change.
39 See Sections 60160 (“department”), 60210 (“hazardous waste”), 60250 (“manifest”), 64010
40 (“NAICS Code”).

Article 5. Pollution Prevention

§ 64105. Technical and Research Assistance Programs

64105. (a) The department may establish a technical and research assistance program to assist businesses in identifying and applying methods of pollution prevention.

(b) The program shall emphasize the following subjects:
assistance (1) Assistance to smaller businesses that have inadequate technical and financial resources for obtaining information, assessing .

(2) Assessing pollution prevention methods, and developing .

(3) Developing and applying pollution prevention techniques.

(c) The program ~~be carried out by the department pursuant to this section~~ may include, but is not limited to, each of the following:

(1) Programs by private or public consultants, including onsite consultation at sites or locations where hazardous waste is generated, to aid those generators requiring assistance in developing and implementing the review and plan, the plan summary, the report, and the report summary required by this ~~article~~ chapter.

(2) Seminars, workshops, training programs, and other similar activities to assist businesses to evaluate pollution prevention alternatives and to identify opportunities for pollution prevention.

(3) Assembling, cataloging, and disseminating information about pollution prevention methods, available consultant services, and regulatory requirements.

(4) The identification of a range of generic and specified technical pollution prevention solutions that can be applied by particular types of businesses.

Comment. Section 64105 continues former Section 25244.17 without substantive change. See Sections 63995 (“business”), 60160 (“department”), 60210 (“hazardous waste”), 64030 (“review and plan”).

Staff Note. Existing Section 25244.17(a), which would be continued by proposed Section 64105(c)(1), references an undescribed “report” and “report summary.”

Are these references to a “Hazardous waste management performance report” or “report” defined by existing Section 25244.14(e) (which would be continued by proposed Section 64005)?

§ 64110. Implementation of model pollution prevention in priority business categories

64110. (a) The department may establish a technical assistance and outreach program to promote implementation of model pollution prevention measures in priority business categories.

(~~a~~) (b) In the work plan described in **Section 25244.22**, the department may, in consultation with the advisory committee, identify priority categories of businesses by SIC or NAICS Code. At least one selected category of businesses shall be a category that consists primarily of small businesses. At least one selected category of businesses shall be a category that consists primarily of businesses affected by an

1 action taken by the department pursuant to **Article 14 (commencing with Section**
2 **25251)**.

3 ~~(b)~~ (c) For each selected priority business category, the department may
4 implement a cooperative pollution prevention technical assistance and outreach
5 program that includes the following elements:

6 (1) Effective pollution prevention measures for each business category.

7 (2) The most effective technical assistance and outreach methods to promote
8 implementation of the pollution prevention measures identified in paragraph (1).

9 (3) Appropriate measures for evaluating the effectiveness of the technical
10 assistance and outreach measures, including quantitative measures when feasible.

11 **Comment.** Section 64110 continues former Section 25244.17.1 without substantive change.

12 See Sections 63985 (“advisory committee”), 63995 (“business”), 60160 (“department”), 64010
13 (“NAICS Code”), 64015 (“pollution prevention”).

14 Article 6. Outreach by Department

15 **§ 64125. Pollution prevention training and resources**

16 64125. (a) ~~(1)~~ The department may provide pollution prevention training and
17 resources to CUPAs, small business development corporations, business
18 environmental assistance centers, and other regional and local government
19 environmental programs ~~so that they can~~ to enable those entities to provide technical
20 assistance to businesses in identifying and applying methods of pollution
21 prevention.

22 ~~(2)~~ (b) The activities conducted pursuant to paragraph ~~(1)~~ (a) shall emphasize
23 activities necessary to implement **Sections 25244.17 and 25244.17.1**.

24 (c) The department may determine, in consultation with the advisory committee,
25 the most effective methods to promote implementation of pollution prevention
26 education programs by CUPAs, small business development corporations, business
27 environmental assistance centers, and other regional and local government
28 environmental programs. ~~Program~~, the elements of which may include, but are not
29 limited to, all of the following:

30 (1) Sponsoring workshops, conferences, technology fairs, and other training
31 events.

32 (2) Sponsoring regional training groups, such as the regional hazardous waste
33 reduction committees.

34 (3) Developing and distributing educational materials, such as short descriptions
35 of successful pollution prevention projects and materials explaining how pollution
36 prevention has been used by businesses to achieve compliance with environmental
37 laws enforced by local governments.

38 (4) Developing site review checklists, training manuals, and technical resource
39 manuals and using those resources to train CUPAs, small business development

1 corporations, business environmental assistance centers, and other regional and
2 local government environmental programs.

3 (5) Preparing and distributing resource lists such as lists of vendors, consultants,
4 or providers of financial assistance for pollution prevention projects.

5 (6) Serving as an information clearinghouse to support telephone and onsite
6 consultants with local governments.

7 **Comment.** Subdivisions (a) and (b) of Section 64125 continue former Section 25244.17.2(a)
8 without substantive change.

9 Subdivision (c) continues former Section 25244.17.2(d) without substantive change.

10 See Sections 63985 (“advisory committee”), 63995 (“business”), 60105 (“CUPA”), 60160
11 (“department”), 64015 (“pollution prevention”).

12 § 64130. California Green Business Program

13 64130. (a) As part of implementing the program authorized by this ~~section~~ article,
14 the department may develop a California Green Business Program that ~~provides~~
15 ~~support and assistance to programs operated by local governments to meet the~~
16 ~~requirement of subdivision (c) and that~~ would voluntarily certify small businesses
17 that adopt environmentally preferable business practices, including, but not limited
18 to, increased energy efficiency, reduced greenhouse gas emissions, promotion of
19 water conservation, and reduced waste generation, and that provides support and
20 assistance to programs operated by local governments to meet the following
21 requirements:

22 (1) The program will be operated by a local government or its designee.

23 (2) The program will adopt industry-specific standards for green business
24 certification, or its equivalent, in consultation with the other participants in the
25 California Green Business Program.

26 (3) The program will grant a small business that voluntarily applies to the program
27 a green business certification or its equivalent, only upon a determination by the
28 program operator or designee that the business is a small business, as determined by
29 the program, and complies with the industry-specific standards for green business
30 certification adopted pursuant to paragraph (2).

31 (4) The program will grant a green business certification, or its equivalent, to
32 small businesses, as determined by the program, in accordance with all of the
33 following requirements:

34 (A) Before the program grants green business certification or its equivalent, the
35 program conducts an evaluation to verify compliance with the appropriate green
36 business certification standards adopted pursuant to paragraph (2).

37 (B) A green business certification or its equivalent is granted only to an individual
38 location of a small business.

39 (C) A green business certification or its equivalent is granted to an individual
40 small business only for a limited time period, and, after the elapse of that time
41 period, the small business is required to reapply for that certification.

1 (D) Compliance with applicable federal, state, and local environmental laws and
2 regulations is required as a condition of receiving a green business certification or
3 its equivalent.

4 (b) The department's California Green Business Program may also do any or all
5 of the following:

6 (1) Assist the network of statewide local government programs in implementing
7 guidelines and structures that establish and promote a level of consistency among
8 green business programs across the state.

9 (2) Support, through staffing and contracts, the development and maintenance of
10 a statewide database to register small businesses granted green business
11 certification, or its equivalent, pursuant to a local government program, and track
12 measurable pollution reductions and cost savings.

13 (3) Solicit participation of additional local programs and facilitate the startup of
14 new local programs.

15 (4) Develop technical guidance on pollution prevention measures, conduct
16 industry studies and pilot projects, and provide policy coordination for the
17 participating local programs.

18 (5) Collaborate with relevant state agencies that operate small business efficiency
19 and economic development programs, including, but not limited to, the Department
20 of Resources Recycling and Recovery, the Public Utilities Commission, the State
21 Energy Resources Conservation and Development Commission, the State Air
22 Resources Board, and the Department of Water Resources.

23 ~~(c) The department may provide support and assistance to a local government~~
24 ~~program to enable the program to meet all of the following requirements:~~

25 ~~(1) The program will be operated by a local government or its designee.~~

26 ~~(2) The program will adopt industry specific standards for green business~~
27 ~~certification, or its equivalent, in consultation with the other participants in the~~
28 ~~California Green Business Program.~~

29 ~~(3) The program will grant a small business that voluntarily applies to the program~~
30 ~~a green business certification or its equivalent, only upon a determination by the~~
31 ~~program operator or designee that the business is a small business, as determined by~~
32 ~~the program, and complies with the industry specific standards for green business~~
33 ~~certification adopted pursuant to paragraph (2).~~

34 ~~(4) The program will grant a green business certification, or its equivalent, to~~
35 ~~small businesses, as determined by the program, in accordance with all of the~~
36 ~~following requirements:~~

37 ~~(A) Before the program grants green business certification or its equivalent, the~~
38 ~~program conducts an evaluation to verify compliance with the appropriate green~~
39 ~~business certification standards adopted pursuant to paragraph (2).~~

40 ~~(B) A green business certification or its equivalent is granted only to an individual~~
41 ~~location of a small business.~~

1 ~~(C) A green business certification or its equivalent is granted to an individual~~
2 ~~small business only for a limited time period, and, after the elapse of that time~~
3 ~~period, the small business is required to reapply for that certification.~~

4 ~~(D) Compliance with applicable federal, state, and local environmental laws and~~
5 ~~regulations is required as a condition of receiving a green business certification or~~
6 ~~its equivalent.~~

7 **Comment.** Subdivision (a) of Section 64130 combines and restates the first sentence of former
8 Section 25244.17.2(b), and former Section 25244.17.2(c), without substantive change.

9 Subdivision (b) continues the second sentence of former Section 25244.17.2(b) without
10 substantive change.

11 See Sections 63995 (“business”), 60160 (“department”), 64015 (“pollution prevention”).

12 **Staff Notes. (1)** Proposed Section 64130(a) would combine and restate the first sentence of
13 existing Section 25244.17.2(b), and 25244.17.2(c). That text in the existing section reads as
14 follows:

15 “(b) As part of implementing the program authorized by this section, the department may develop
16 a California Green Business Program that provides support and assistance to programs operated by
17 local governments to meet the requirement of subdivision (c) and that would voluntarily certify
18 small businesses that adopt environmentally preferable business practices, including, but not
19 limited to, increased energy efficiency, reduced greenhouse gas emissions, promotion of water
20 conservation, and reduced waste generation. [...]”

21 (c) The department may provide support and assistance to a local government program to enable
22 the program to meet all of the following requirements:

23 (1) The program will be operated by a local government or its designee.

24 (2) The program will adopt industry-specific standards for green business certification, or its
25 equivalent, in consultation with the other participants in the California Green Business Program.

26 (3) The program will grant a small business that voluntarily applies to the program a green
27 business certification or its equivalent, only upon a determination by the program operator or
28 designee that the business is a small business, as determined by the program, and complies with the
29 industry-specific standards for green business certification adopted pursuant to paragraph (2).

30 (4) The program will grant a green business certification, or its equivalent, to small businesses,
31 as determined by the program, in accordance with all of the following requirements:

32 (A) Before the program grants green business certification or its equivalent, the program
33 conducts an evaluation to verify compliance with the appropriate green business certification
34 standards adopted pursuant to paragraph (2).

35 (B) A green business certification or its equivalent is granted only to an individual location of a
36 small business.

37 (C) A green business certification or its equivalent is granted to an individual small business only
38 for a limited time period, and, after the elapse of that time period, the small business is required to
39 reapply for that certification.

40 (D) Compliance with applicable federal, state, and local environmental laws and regulations is
41 required as a condition of receiving a green business certification or its equivalent.”

42 **The staff welcomes comment on this restatement of existing text in Section 25244.17.2.**

43 (2) Existing Section 25244.17.2(b), which would be continued in part by proposed Section
44 64130(a), begins with the phrase “As part of implementing the program authorized by this
45 section,....”

46 **The staff welcomes clarification as to what specific “program” is intended to be referenced**
47 **by that phrase, and welcomes comment as to whether this reference can be clarified without**
48 **substantively changing the intended meaning of the phrase.**

(3) Even after this proposed recodification, this section remains quite difficult to parse. Part of that difficulty is attributable to the phrasing of subdivision (a) of the existing section, which does not make clear whether the California Green Business Program the department is authorized to develop must satisfy TWO prerequisites — supporting and assisting specified local government programs AND voluntarily certifying specifying small businesses — or whether the program need provide only ONE of those two services.

The staff welcomes comment on this question.

Article 7. Generator Requirements

§ 64160. Source reduction evaluation review and plan

64160. (a) On or before September 1, 1991, and every four years thereafter, each generator shall conduct a source reduction evaluation review and plan pursuant to subdivision (b).

(b) Except as provided in subdivision (c), the source reduction evaluation review and plan required by subdivision (a) shall be conducted and completed for each site pursuant to the format adopted pursuant to **subdivision (a) of Section 25244.16** and shall include, at a minimum, all of the following:

(1) The name and location of the site.

(2) The SIC Code of the site.

(3) Identification of all routinely generated hazardous waste streams that annually weigh 600 kilograms or more and that result from ongoing processes or operations and exceed 5 percent of the total yearly weight of hazardous waste generated at the site, or, for extremely hazardous waste, that annually weigh 0.6 kilograms or more and exceed 5 percent of the total yearly weight of extremely hazardous waste generated at the site. For purposes of this paragraph, a hazardous waste stream identified pursuant to this paragraph shall also meet one of the following criteria:

(A) It is a ~~hazardous waste stream~~ processed in a wastewater treatment unit that discharges to a publicly owned treatment works or under a national pollutant discharge elimination system (NPDES) permit, as specified in the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 and following).

(B) It is a ~~hazardous waste stream~~ that is not processed in a wastewater treatment unit, and its weight exceeds 5 percent of the weight of the total yearly volume at the site, less the weight of any hazardous waste stream identified in subparagraph (A).

(4) For each hazardous waste stream identified in paragraph (3), the review and plan shall include all of the following information:

(A) An estimate of the quantity of hazardous waste generated.

(B) An evaluation of source reduction approaches available to the generator that are potentially viable. The evaluation shall consider at least all of the following source reduction approaches:

(i) Input change.

(ii) Operational improvement.

(iii) Production process change.

1 (iv) Product reformulation.

2 (5) A specification of, and a rationale for, the technically feasible and
3 economically practicable source reduction measures that will be taken by the
4 generator with respect to each hazardous waste stream identified in paragraph (3).
5 The review and plan shall fully document any statement explaining the generator's
6 rationale for rejecting any available source reduction approach identified in
7 paragraph (4).

8 (6) An evaluation, and, to the extent practicable, a quantification, of the effects of
9 the chosen source reduction method on emissions and discharges to air, water, or
10 land.

11 (7) A timetable for making reasonable and measurable progress towards
12 implementation of the selected source reduction measures specified in paragraph
13 (5).

14 (8) Certification pursuant to subdivision (d).

15 (9) A generator subject to this ~~article~~ chapter shall include in its source reduction
16 evaluation review and plan four-year numerical goals for reducing the generation of
17 hazardous waste streams through the approaches provided for in subparagraph (B)
18 of paragraph (4), based upon its best estimate of what is achievable in that four-year
19 period.

20 (10) A summary progress report that briefly summarizes and, to the extent
21 practicable, quantifies, in a manner that is understandable to the general public, the
22 results of implementing the source reduction methods identified in the generator's
23 review and plan for each waste stream addressed by the previous plan over the
24 previous four years. The report shall also include an estimate of the amount of
25 reduction that the generator anticipates will be achieved by the implementation of
26 source reduction methods during the period between the preparation of the review
27 and plan and the preparation of the generator's next review and plan.

28 (c) If a generator owns or operates multiple sites with similar processes,
29 operations, and waste streams, the generator may prepare a single multisite review
30 and plan addressing all of these sites.

31 (d) Every review and plan conducted pursuant to this section shall be submitted
32 by the generator for review and certification by an engineer who is registered as a
33 professional engineer pursuant to Section 6762 of the Business and Professions
34 Code and who has demonstrated expertise in hazardous waste management, by an
35 individual who is responsible for the processes and operations of the site, or by an
36 environmental assessor who has demonstrated expertise in hazardous waste
37 management. The engineer, individual, or environmental assessor shall certify the
38 review and plan only if the review and plan meet all of the following requirements:

39 (1) The review and plan addresses each hazardous waste stream identified
40 pursuant to paragraph (3) of subdivision (b).

41 (2) The review and plan addresses the source reduction approaches specified in
42 subparagraph (B) of paragraph (4) of subdivision (b).

1 (3) The review and plan clearly sets forth the measures to be taken with respect to
2 each hazardous waste stream for which source reduction has been found to be
3 technically feasible and economically practicable, with timetables for making
4 reasonable and measurable progress, and properly documents the rationale for
5 rejecting available source reduction measures.

6 (4) The review and plan does not merely shift hazardous waste from one
7 environmental medium to another environmental medium by increasing emissions
8 or discharges to air, water, or land.

9 (e) At the time a review and plan is submitted to the department or the unified
10 program agency, the generator shall certify that the generator has implemented, is
11 implementing, or will be implementing, the source reduction measures identified in
12 the review and plan in accordance with the implementation schedule contained in
13 the review and plan. A generator may determine not to implement a measure
14 selected in paragraph (5) of subdivision (b) only if the generator determines, upon
15 conducting further analysis or due to unexpected circumstances, that the selected
16 measure is not technically feasible or economically practicable, or if attempts to
17 implement that measure reveal that the measure would result in, or has resulted in,
18 any of the following:

19 (1) An increase in the generation of hazardous waste.

20 (2) An increase in the release of hazardous chemicals to other environmental
21 media.

22 (3) Adverse impacts on product quality.

23 (4) A significant increase in the risk of an adverse impact to human health or the
24 environment.

25 (f) If the generator elects not to implement the review and plan, including, but not
26 limited to, a selected measure pursuant to subdivision (e), the generator shall amend
27 its review and plan to reflect that election and include in the review and plan proper
28 documentation identifying the rationale for that election.

29 **Comment.** Section 64160 continues former Section 25244.19 without substantive change.

30 See Sections 60160 (“department”), 60190 (“environmental assessor”), 60195 (“extremely
31 hazardous waste”), 60210 (“hazardous waste”), 60328 (“release”), 60365 (“treatment”), 60370
32 (“unified program agency”), (“SIC Code”), 64030 (“review and plan”), 64025 (“source reduction”),
33 60390 (“waste”).

34 § 64165. Hazardous waste management performance report

35 64165. (a) On or before September 1, 1991, and every four years thereafter, each
36 generator shall prepare a hazardous waste management performance report
37 documenting hazardous waste management approaches implemented by the
38 generator.

39 (b) Except as provided in subdivision (d), the hazardous waste management
40 performance report required by subdivision (a) shall be prepared for each site in
41 accordance with the format adopted pursuant to **subdivision (a) of Section**
42 **25244.16** and shall include all of the following:

1 (1) The name and location of the site.

2 (2) The SIC Code for the site.

3 (3) All of the following information for each waste stream identified pursuant to
4 **paragraph (3) of subdivision (b) of Section 25244.19:**

5 (A) An estimate of the quantity of hazardous waste generated and the quantity of
6 hazardous waste managed, both onsite and offsite, during the current reporting year
7 and the baseline year, as specified in subdivision (c).

8 (B) An abstract for each source reduction, recycling, or treatment technology
9 implemented from the baseline year through the current reporting year, if the
10 reporting year is different from the baseline year.

11 (C) A description of factors during the current reporting year that have affected
12 hazardous waste generation and onsite and offsite hazardous waste management
13 since the baseline year, including, but not limited to, any of the following:

14 (i) Changes in business activity.

15 (ii) Changes in waste classification.

16 (iii) Natural phenomena.

17 (iv) Other factors that have affected either the quantity of hazardous waste
18 generated or onsite and offsite hazardous waste management requirements.

19 (4) The certification of the report pursuant to subdivision (e).

20 (c) For purposes of subdivision (b), the following definitions apply:

21 (1) The current reporting year is the calendar year immediately preceding the year
22 in which the report is to be prepared.

23 (2) The baseline year is either of the following, whichever is applicable:

24 (A) For the initial report, the baseline year is the calendar year selected by the
25 generator for which substantial hazardous waste generation, or onsite or offsite
26 management, data is available prior to 1991.

27 (B) For all subsequent reports, the baseline year is the current reporting year of
28 the immediately preceding report.

29 (d) If a generator owns or operates multiple sites with similar processes,
30 operations, and waste streams, the generator may prepare a single multisite report
31 addressing all of these sites.

32 (e) Every report completed pursuant to this section shall be submitted by the
33 generator for review and certification by an engineer who is registered as a
34 professional engineer pursuant to Section 6762 of the Business and Professions
35 Code and who has demonstrated expertise in hazardous waste management, by an
36 individual who is responsible for the processes and operations of the site, or by an
37 environmental assessor who has demonstrated expertise in hazardous waste
38 management. The engineer, individual, or environmental assessor shall certify the
39 report only if the report identifies factors that affect the generation and onsite and
40 offsite management of hazardous wastes and summarizes the effect of those factors
41 on the generation and onsite and offsite management of hazardous wastes.

42 **Comment.** Section 64165 continues former Section 25244.20 without substantive change.

1 Sections 63995 (“business”), 60190 (“environmental assessor”), 60210 (“hazardous waste”),
2 60325 (“recycling”), 60365 (“treatment”), 64000 (“hazardous waste management approaches”),
3 64005 (“hazardous waste management performance report”), 64020 (“SIC Code”), 64025 (“source
4 reduction”), 60390 (“waste”).

5 **§ 64170. Generator retention of review and plan and report**

6 64170. (a) Every generator shall retain the original of the current review and plan
7 and report, shall maintain a copy of the current review and plan and report at each
8 site, or, for a multisite review and plan or report, at a central location, and upon
9 request, shall make it available to any authorized representative of the department
10 or the unified program agency conducting an inspection pursuant to **Section 25185**.

11 (b) If a generator fails, within five days, to make available to the inspector the
12 review and plan or report, the department, the unified program agency, or any
13 authorized representative of the department, or of the unified program agency,
14 conducting an inspection pursuant to **Section 25185**, shall, if appropriate, impose a
15 civil penalty pursuant to **Section 25187**, in an amount not to exceed one thousand
16 dollars (\$1,000) for each day the violation of this ~~article~~ chapter continues,
17 notwithstanding **Section 25189.2**.

18 ~~(b)~~ (c) If a generator fails to respond to a request for a copy of its review and plan
19 or report made by the department or a unified program agency pursuant to
20 **subdivision (a) of Section 25244.18**, or by a local agency pursuant to **subdivision**
21 **(e) of Section 25244.18**, within 30 days from the date of the request, the department
22 or unified program agency shall, if appropriate, assess a civil penalty pursuant to
23 **Section 25187**, in an amount not to exceed one thousand dollars (\$1,000) for each
24 day the violation of this ~~article~~ chapter continues, notwithstanding **Section 25189.2**.

25 **Comment.** Section 64170 continues former Section 25244.21(a) and (b) without substantive
26 change.

27 See Sections 60160 (“department”), 60370 (“unified program agency”), 64005 (“report”), 64030
28 (“review and plan”).

29 **§ 64175. Evaluation of generator review and plan or report**

30 64175. (a) The department or the unified program agency may request from any
31 generator, and the generator shall provide within 30 days from the date of the
32 request, a copy of the generator’s review and plan or report conducted and
33 completed pursuant to **Section 25244.19 or 25244.20**.

34 (b) The department or the unified program agency may evaluate any of those
35 documents submitted to the department or the unified program agency to determine
36 whether it satisfies the requirements of this ~~article~~ chapter.

37 ~~(b)~~ (1) (c) If the department or the unified program agency determines that a
38 generator has not completed the review and plan in the manner required by **Section**
39 **25244.19**, or the report in the manner required by **Section 25244.20**, the department
40 or the unified program agency shall provide the generator with a notice of
41 noncompliance, specifying the deficiencies in the review and plan or report
42 identified by the department.

1 (d) If the department or the unified program agency finds that the review and plan
2 does not comply with **Section 25244.19**, the department or the unified program
3 agency shall consider the review and plan to be incomplete.

4 (e) A generator shall file a revised review and plan or report correcting the
5 deficiencies identified by the department or the unified program agency within 60
6 days from the date of the receipt of the notice.

7 (f) The department or the unified program agency may grant, in response to a
8 written request from the generator, an extension of the 60-day deadline, for cause,
9 except that the department or the unified program agency shall not grant that
10 extension for more than an additional 60 days.

11 ~~(g)~~ (g) If a generator fails to submit a revised review and plan or report complying
12 with the requirements of this ~~article~~ chapter within the required period, or if the
13 department or unified program agency determines that a generator has failed to
14 implement the measures included in the generator's review and plan for reducing
15 the generator's hazardous waste, in accordance with **Section 25244.19**, the
16 department or the unified program agency may impose civil penalties pursuant to
17 **Section 25187**, in an amount not to exceed one thousand dollars (\$1,000) for each
18 day the violation of this ~~article~~ chapter continues, notwithstanding **Section 25189.2**,
19 seek an order directing compliance pursuant to **Section 25181**, or enter into a
20 consent agreement or a compliance schedule with the generator.

21 ~~(h)~~ (h) If a generator fails to implement a measure specified in the review and plan
22 pursuant to **paragraph (5) of subdivision (b) of Section 25244.19**, the generator
23 shall not be deemed to be in violation of **Section 25244.19** for not implementing the
24 selected measure if the generator does both of the following:

25 (1) The generator finds that, upon further analysis or as a result of unexpected
26 consequences, the selected measure is not technically feasible or economically
27 practicable, or if the selected approach has resulted in any of the following:

28 (A) An increase in the generation of hazardous waste.

29 (B) An increase in the release of hazardous chemical contaminants to other media.

30 (C) Adverse impacts on product quality.

31 (D) A significant increase in the risk of an adverse impact to human health or the
32 environment.

33 (2) The generator revises the review and plan to comply with the requirements of
34 **Section 25244.19**.

35 ~~(i)~~ (i) When taking enforcement action pursuant to this ~~article~~ chapter, the
36 department or the unified program agency shall not judge the appropriateness of any
37 decisions or proposed measures contained in a review and plan or report, but shall
38 only determine whether the review and plan or report is complete, prepared, and
39 implemented in accordance with this ~~article~~ chapter.

40 ~~(j)~~ (j) In addition to the unified program agency, an appropriate local agency that
41 has jurisdiction over a generator's site may request from the generator, and the

1 generator shall provide within 30 days from the date of that request, a copy of the
2 generator’s current review and plan and report.

3 (f) (k) In carrying out this ~~article~~ chapter, the department shall not disseminate
4 information determined to be a trade secret pursuant to **Section 25244.23**.

5 **Comment.** Section 64175 continues former Section 25244.18 without substantive change.

6 See Sections 63990 (“appropriate local agency”), 60160 (“department”), 60210 (“hazardous
7 waste”), 60328 (“release”), 60370 (“unified program agency”), 64005 (“report”), 64030 (“review
8 and plan”).

9 **§ 64180. Request for certification of generator compliance**

10 64180. (a) A person may request the department to certify that a generator is in
11 compliance with this ~~article~~ chapter by having the department certify that the
12 generator has properly completed the review and plan and report required pursuant
13 to **Sections 25244.19 and 25244.20**.

14 (b) The department shall respond within 60 days to a request for certification.

15 (c) Upon receiving a request for certification, the department shall request from
16 the generator, who is the subject of the request, a copy of the generator’s review and
17 plan and report, pursuant to **subdivision (a) of Section 25244.18**, if the department
18 does not have these documents.

19 (d) The department shall forward a copy of the review and plan and report to the
20 person requesting certification, within 10 days from the date that the department
21 receives the request for certification or receives the review and plan and report,
22 whichever is later.

23 (e) The department shall protect trade secrets in accordance with **Section**
24 **25244.23** in a review and plan or report, requested to be released pursuant to this
25 ~~subdivision~~ section.

26 (f) This ~~subdivision~~ section does not prohibit any person from directly requesting
27 from a generator a copy of the review and plan or report.

28 (g) Solely for the purposes of responding to a request pursuant to this ~~subdivision~~
29 section, the department shall deem the review and plan or report to be a public record
30 subject to **Section 25152.5**, and shall act in compliance with that **section**.

31 **Comment.** Section 64180 continues former Section 25244.21(c) without substantive change.

32 See Sections 60160 (“department”), 60295 (“person”), 64005 (“report”), 64030 (“review and
33 plan”).

34 Article 8. Department Responsibilities

35 **§ 64195. Department adoption of format to be used by generators**

36 64195. (a) The department shall ~~do both of the following:~~

37 (a) ~~Adopt~~ adopt a format to be used by generators for completing the review and
38 plan required by **Section 25244.19**, and the report required by **Section 25244.20**.

39 (b) The format shall include at least all of the factors the generator is required to
40 include in the review and plan and the report.

1 (c) The department may include any other factor determined by the department to
2 be necessary to carry out this ~~article~~ chapter.

3 (d) The adoption of a format pursuant to this subdivision is not subject to Chapter
4 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
5 Government Code.

6 **Comment.** Section 64195 continues former Section 25244.16(a) without substantive change.
7 See Sections 60160 (“department”), 64005 (“report”), 64030 (“review and plan”).

8 **§ 64200. Department establishment of system to process generator information**

9 64200. (a) The department shall ~~do both of the following:~~

10 ~~(b) Establish~~ establish a data and information system to be used by the department
11 for processing and evaluating the source reduction and other hazardous waste
12 management information submitted by generators pursuant to **Section 25244.18**.

13 (b) In establishing the data and information system, the department shall do all of
14 the following:

15 (1) Establish methods and procedures for appropriately processing or managing
16 hazardous waste source reduction and management information.

17 (2) Use the data management expertise, resources, and forms of already
18 established environmental protection programs, to the extent practicable.

19 (3) Establish computerized data retrieval and data processing systems, including
20 safeguards to protect trade secrets designated pursuant to **Section 25244.23**.

21 (4) Identify additional data and information needs of the program.

22 **Comment.** Section 64200 continues former Section 25244.16(b) without substantive change.

23 See Sections 60160 (“department”), 60210 (“hazardous waste”), 60220 (“hazardous waste
24 management”), 60300 (“processing”), 64025 (“source reduction”).

25 **§ 64205. Protection of trade secrets**

26 64205. (a) ~~(1)~~ The department shall adopt regulations to ensure that trade secrets
27 designated by a generator in all or a portion of the review and plan or the report
28 required by this ~~article~~ chapter are utilized by the director, the department, the
29 unified program agency, or the appropriate local agency only in connection with the
30 responsibilities of the department pursuant to this ~~article~~ chapter, and that those
31 trade secrets are not otherwise disseminated by the director, the department, the
32 unified program agency, or any authorized representative of the department, or the
33 appropriate local agency, without the consent of the generator.

34 ~~(2)~~ (b) Any information subject to this section shall be made available to
35 governmental agencies for use in making studies and for use in judicial review or
36 enforcement proceedings involving the person furnishing the information.

37 ~~(3)~~ (c) As provided by **Section 25159.5**, the regulations adopted pursuant to ~~this~~
38 subdivision (a) shall conform with the corresponding trade secret regulations
39 adopted by the Environmental Protection Agency pursuant to the federal act, except
40 that the regulations adopted by the department may be more stringent or more
41 extensive than the federal trade secret regulations.

1 (4) (d) “Trade secrets,” as used in this section, may include, but are not limited to,
2 any formula, plan, pattern, process, tool, mechanism, compound, procedure,
3 production data, or compilation of information that is not patented, that is known
4 only to certain individuals within a commercial concern who are using it to
5 fabricate, produce, or compound an article of trade or a service having commercial
6 value, and that gives its user an opportunity to obtain a business advantage over
7 competitors who do not know or use it.

8 (b) (e) The department, the unified program agency, and the appropriate local
9 agency shall protect from disclosure any trade secret designated by the generator
10 pursuant to this section. The department shall make available information
11 concerning pollution prevention approaches that have proved successful, and that
12 do not constitute a trade secret, when carrying out **subdivision (c) of Section**
13 **25244.17**.

14 (e) (f) This section does not permit a generator to refuse to disclose the
15 information required pursuant to this ~~article~~ chapter to the department, the unified
16 program agency, or the appropriate local agency, an officer or employee of the
17 department, the unified program agency, or the appropriate local agency, in
18 connection with the official duties of that officer or employee under this ~~article~~
19 chapter.

20 (d) (g) Any officer or employee of the department, the unified program agency,
21 or the appropriate local agency, or any other person, who, because of ~~his or her~~ their
22 employment or official position, has possession of, or has access to, confidential
23 information, and who, knowing that disclosure of the information to the general
24 public is prohibited by this section, knowingly and willfully discloses the
25 information in any manner to any person not entitled to receive it, is guilty of a
26 misdemeanor and, upon conviction thereof, shall be punished by imprisonment in
27 the county jail not exceeding six months, by a fine not exceeding one thousand
28 dollars (\$1,000), or by both the fine and imprisonment.

29 **Comment.** Section 64205 continues former Section 25244.23 without substantive change.

30 See Sections 63990 (“appropriate local agency”), 63995 (“business”), 60160 (“department”),
31 60165 (“director”), 60200 (“federal act”), 60295 (“person”), 64015 (“pollution prevention”), 64005
32 (“report”), 64030 (“review and plan”).

DISPOSITION OF EXISTING LAW

Note. This table shows the proposed disposition, as reflected in this staff draft, of provisions in Chapter 6.5 of Division 20 of the Health and Safety Code (§§ 25100-25259), as the law existed on January 1, 2024. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

| Existing Provision | New Provision |
|---------------------------|----------------------|
| 25244..... | 60750 |
| 25244.01 | 60780 |
| 25244.1 | 60755 |
| 25244.2 | 60760 |
| 25244.4 | 60835 |
| 25244.5 | 60785 |
| 25244.6 | 60790 |
| 25244.7 | 60820 |
| 25244.8 | 60810 |
| 25244.9 | 60815 |
| 25244.10 | 60805 |
| 25244.12 | 63950 |
| 25244.13 | 63955 |
| 25244.13.1 | 63965 |
| 25244.14 (intro) | 63980 |
| 25244.14(a) | 63985 |
| 25244.14(b) | 63990 |
| 25244.14(c) | 63995 |
| 25244.14(d) | 64000 |
| 25244.14(e) | 64005 |
| 25244.14(f) | 64010 |
| 25244.14(g) | 64015 |
| 25244.14(h) | 64020 |
| 25244.14(i) | 64025 |
| 25244.14(j) | 64030 |
| 25244.14(k) | 64035 |
| 25244.15 | 63960 |
| 25244.15.1(a) | 64050 |
| 25244.15.1(b) | 64055 |
| 25244.15.1(c) | 64060 |
| 25244.15.1(d) | 64065 |
| 25244.15.1(e) | 64070 |
| 25244.16(a) | 64195 |
| 25244.16(b) | 64180 |
| 25244.17 | 64200 |
| 25244.17.1 | 64110 |
| 25244.17.2(a) | 64125(a), (b) |
| 25244.17.2(b), (c) | 64130 |
| 25244.17.2(d) | 64125(c) |

| Existing Provision | New Provision |
|---------------------------|----------------------|
| 25244.18 | 64175 |
| 25244.19 | 64160 |
| 25244.20 | 64165 |
| 25244.21(a), (b)..... | 64170 |
| 25244.21(c) | 64180 |
| 25244.22(a) | 64085 |
| 25244.22(b)..... | 64090 |
| 25244.23 | 64205 |

DERIVATION OF NEW LAW

Note. This table shows the derivation of each provision in proposed Division 44 reflected in this staff draft. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

| Proposed New Provision | Existing Provision |
|-------------------------------|---------------------------|
| 60750..... | 25244 |
| 60755..... | 25244.1 |
| 60760..... | 25244.2 |
| 60765..... | 25244.4 |
| 60780..... | 25244.01 |
| 60785..... | 25244.5 |
| 60790..... | 25244.6 |
| 60805..... | 25244.10 |
| 60810..... | 25244.8 |
| 60815..... | 25244.9 |
| 60820..... | 25244.7 |
| 60835..... | 25244.4 |
| 63950..... | 25244.12 |
| 63955..... | 25244.13 |
| 63960..... | 25244.15 |
| 63965..... | 25244.13.1 |
| 63980..... | 25244.14 (intro) |
| 63985..... | 25244.14(a) |
| 63990..... | 25244.14(b) |
| 63995..... | 25244.14(c) |
| 64000..... | 25244.14(d) |
| 64005..... | 25244.14(e) |
| 64010..... | 25244.14(f) |
| 64015..... | 25244.14(g) |
| 64020..... | 25244.14(h) |
| 64025..... | 25244.14(i) |
| 64030..... | 25244.14(j) |
| 64035..... | 25244.14(k) |
| 64050..... | 25244.15.1(a) |
| 64055..... | 25244.15.1(b) |
| 64060..... | 25244.15.1(c) |
| 64065..... | 25244.15.1(d) |
| 64070..... | 25244.15.1(e) |
| 64085..... | 25244.22(a) |
| 64090..... | 25244.22(b) |
| 64105..... | 25244.17 |
| 64110..... | 25244.17.1 |
| 64125..... | 25244.17.2(a), (d) |
| 64130..... | 25244.17.2(b), (c) |
| 64160..... | 25244.19 |

| | |
|-------------|------------------|
| 64165 | 25244.20 |
| 64170 | 25244.21(a), (b) |
| 64175 | 25244.18 |
| 64180 | 25244.21(c) |
| 64185 | 25244.21(a), (b) |
| 64190 | 25244.21(c) |
| 64195 | 25244.16(a) |
| 64200 | 25244.16(b) |
| 64205 | 25244.23 |
