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2 **Comment.** Section 83855 continues former Section 25125.8(b) without substantive change.  
3 See Sections 83090 (“board”), 83165 (“director”).

4 **§ 83860. Determination of responsibilities**

5 83860. The board, in consultation with the director, may determine the activities,  
6 in addition to those specified in Section 83855, the ombudsperson can undertake.

7 **Comment.** Section 83860 continues former Section 25125.8(c) without substantive change.  
8 See Sections 83090 (“board”), 83165 (“director”).

9 **§ 83865. Establishment of procedures**

10 83865. The board shall establish procedures governing the exercise of the  
11 ombudsperson’s duties, including all of the following:

12 (a) Methods to encourage the submission of complaints or suggestions and  
13 safeguards to ensure confidentiality.

14 (b) Forms to submit complaints and suggestions to the ombudsperson.

15 (c) Criteria for prioritization of complaints and suggestions submitted to the  
16 ombudsperson.

17 (d) Access to information and resources to improve understanding of the  
18 department’s activities and opportunities for involvement in the department’s  
19 regulatory processes.

20 **Comment.** Section 83865 continues former Section 25125.8(d) without substantive change.  
21 See Sections 83090 (“board”), 83160 (“department”).

22 **§ 83870. Submission of complaint or suggestion**

23 83870. Any person may submit a complaint or make a suggestion to the  
24 ombudsperson regarding any action, program, or policy of the department.

25 **Comment.** Section 83870 continues former Section 25125.8(e) without substantive change.  
26 See Sections 83160 (“department”), 83295 (“person”).

27 **PART 3. FINANCIAL PROVISIONS**

28 **Note.** This proposed Part contains a number of provisions that relate to laws other than Chapter  
29 6.5. In particular, proposed Chapter 2, relating to the Toxic Substance Control Account, governs  
30 funds related to laws other than Chapter 6.5. In some cases, these provisions use terminology from  
31 and appear to be discussing legal concepts contained in provisions outside of Chapter 6.5, without  
32 cross-referencing the relevant provisions. In particular, several provisions in this proposed chapter  
33 use defined terms from Part 2 of Division 45 without citing to those definitions. See, e.g., proposed  
34 Section 84000 (Note #2), proposed Section 84005 (Note #2).

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

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

CHAPTER 1. HAZARDOUS WASTE CONTROL ACCOUNT

Article 1. General Provisions

§ 83900. Funds to be deposited in account

83900. (a) There is in the General Fund the Hazardous Waste Control Account, which shall be administered by the director.

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

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

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

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

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

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

**Comment.** Section 83900 restates former Sections 25174(a) without substantive change.

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

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

To improve consistency with Section 25187.2, proposed Section 83900 restates this paragraph to refer to “funds” collected pursuant to Section 25187.2, where those funds are payments for the costs incurred in overseeing corrective action.

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

§ 83905. Appropriations from account

83905. The funds deposited into the Hazardous Waste Control Account may be appropriated by the Legislature, for expenditure as follows:

(a) To the department for the costs to administer and implement this division, but not including the costs of regulatory activities at sites operated by a hazardous waste facility authorized to operate under this division, and not including regulatory

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

9 (b) To the department for allocation to the California Department of Tax and Fee  
10 Administration to pay refunds of fees collected pursuant to Section 43053 of the  
11 Revenue and Taxation Code and for the administration and collection of the fees  
12 collected pursuant to **Sections 25205.5 and 25205.5.2**, or described in Section  
13 **25205.25**, that are deposited into the Hazardous Waste Control Account.

14 (c)(1) To the department for allocation to the office of the Attorney General for  
15 the support of the Toxic Substance Enforcement Program in the office of the  
16 Attorney General in carrying out investigations, inspections, and audits, and the  
17 administrative enforcement and adjudication thereof, for purposes of this division,  
18 but not for purposes related to a site operated by a hazardous waste facility  
19 authorized to operate under this division or related to the owner or operator of a  
20 hazardous waste facility authorized to operate under this division, and not for  
21 regulatory activities authorized under **Article 10 (commencing with Section**  
22 **25210)**, **Article 10.01 (commencing with Section 25210.5)**, **Article 10.02**  
23 **(commencing with Section 25210.9)**, **Article 10.1.1 (commencing with Section**  
24 **25214.1)**, **Article 10.1.2 (commencing with Section 25214.4.3)**, **Article 10.2.1**  
25 **(commencing with Section 25214.8.1)**, **Article 10.4 (commencing with Section**  
26 **25214.11)**, **Article 10.5 (commencing with Section 25215)**, **Article 10.5.1**  
27 **(commencing with Section 25215.8)**, **Article 13.5 (commencing with Section**  
28 **25250.50)**, **Article 14 (commencing with Section 25251)**, and **Section 25214.10**.

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

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

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

38 (C) A description of any cases in which the Attorney General's Toxic Substance  
39 Enforcement Program is representing the department or the state against claims by  
40 defendants or responsible parties.

41 (D) A description of other pending litigation handled by the Attorney General's  
42 Toxic Substance Enforcement Program.

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

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

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

8 **Comment.** Section 83905 restates former Section 25174(b) without substantive change.  
9 See Sections 60088 (“board”), 60160 (“department”), 60215 (“hazardous waste facility”).

10 **Note.** Section 25174(b)(5) refers to the “Board of Environmental Safety.” Proposed Section  
11 83905(e) replaces that reference with the defined term “board.” See proposed Section 60088  
12 (“board”).

13 **§ 83910. Loans from general fund to account**

14 83910. (a) The Director of Finance, upon the request of the director, may make a  
15 loan from the General Fund to the Hazardous Waste Control Account to meet cash  
16 needs.

17 (b) The loan shall be subject to the repayment provisions of Section 16351 of the  
18 Government Code and the interest provisions of Section 16314 of the Government  
19 Code.

20 **Comment.** Section 83910 continues former Section 25174(d) without substantive change.  
21 See Section 60165 (“director”).

22 **§ 83915. Successor fund to Federal Receipts Account**

23 83915. (a) The Hazardous Waste Control Account is the successor fund of the  
24 Federal Receipts Account that was established pursuant to Section 25174.8, as that  
25 section read on January 1, 1999.

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

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

33 **Comment.** Section 83915 continues former Section 25174.9 without substantive change.

34 **Article 2. Hazardous Waste Facilities Account (*Section 25174.01*)**

35 **CHAPTER 2. TOXIC SUBSTANCES CONTROL ACCOUNT**









1 Biomonitoring Program (Chapter 8 (commencing with Section 105440) of Part 5 of  
2 Division 103).

3 **Comment.** Section 84005 continues former Section 25173.6(b) and (c) without substantive  
4 change.

5 An obsolete cross-reference to Section 25215.7 in former Section 25173.6(b)(16) was corrected  
6 in Section 84005(a)(16) to refer to Section 25215.82. See 2019 Cal. Stat. ch. 497, § 164.

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

9 **Notes. (1)** Section 25173.6(b)(18) refers to the “Board of Environmental Safety.” Proposed  
10 Section 84005(a)(18) replaces that reference with the defined term “board.” See proposed Section  
11 60088 (“board”).

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

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

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

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

24 **(4)** Section 25173.6(b)(16) appears to allow appropriations to implement and enforce the Toxics  
25 in Packaging Prevention Act (existing Article 10.4). However, this provision cross-refers to two  
26 sections that are not located in that article (Sections 25214.3 and 25215.82). It appears that this  
27 provision is erroneous and needs to be corrected. Both of the referenced sections provide penalties  
28 for violations of their respective articles and specify that any penalties collected should be used to  
29 implement and enforce only those respective articles. See Sections 25214.3(c) (from Article 10.1.1.  
30 Metal-Containing Jewelry) and 25215.82 (from Article 10.5.1. Lead Wheel Weights).

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

32 **§ 84010. Expenditures**

33 84010. (a) The director shall expend federal funds in the Toxic Substances Control  
34 Account consistent with the requirements specified in Section 104 of the federal  
35 Comprehensive Environmental Response, Compensation, and Liability Act of  
36 1980, as amended (42 U.S.C. Sec. 9604), upon appropriation by the Legislature, for  
37 the purposes for which they were provided to the state.

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

41 **Comment.** Section 84010 continues former Section 25173.6(d) and (e) without substantive  
42 change. An erroneous reference to “Section 114 of the federal Comprehensive Environmental  
43 Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9614)” was  
44 corrected to refer to “Section 104 of the federal Comprehensive Environmental Response,  
45 Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604).”

46 See Section 60165 (“director”).

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

5 In proposed Section 84010, this reference was adjusted to refer instead to Section 104 of  
6 CERCLA. CERCLA Section 104(c)(3) precludes federal cleanup actions, unless a state pays a  
7 specified share of the cleanup costs.

8 In the course of the Commission’s work on Chapter 6.8, the Commission encountered an  
9 erroneous reference to Section 114(c) of CERCLA, which was corrected to refer to Section 104(c)  
10 of CERCLA. Two other provisions in this draft also refer to Section 104 of CERCLA. See proposed  
11 Sections 84005, 84050.

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

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

15 **§ 84015. Loans to account**

16 84015. The Director of Finance, upon request of the director, may make a loan  
17 from the General Fund to the Toxic Substances Control Account to meet cash needs.  
18 The loan shall be subject to the repayment provisions of Section 16351 of the  
19 Government Code and the interest provisions of Section 16314 of the Government  
20 Code.

21 **Comment.** Section 84015 continues former Section 25173.6(f) without substantive change.  
22 See Section 60165 (“director”).

23 **§ 84020. Account as successor fund**

24 84020. (a) The Toxic Substances Control Account established pursuant to Section  
25 84000 is the successor fund of all of the following:

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

28 (2) The Hazardous Substance Clearing Account established pursuant to Section  
29 25334, as that section read on June 30, 2006.

30 (3) The Hazardous Substance Cleanup Fund established pursuant to Section  
31 25385.3, as that section read on June 30, 2006.

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

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

40 **Comment.** Section 84020 continues former Section 25173.6(g) and (h) without substantive  
41 change.

1 **§ 84025. Legislative intent regarding appropriations to account**

2 84025. It is the intent of the Legislature that funds deposited in the Toxic  
3 Substances Control Account shall be appropriated in the annual Budget Act each  
4 year in the following manner:

5 (a) An amount sufficient to pay for the estimated costs identified by the  
6 department in the report submitted pursuant to Section 84050 to the Site  
7 Remediation Account in the General Fund for direct site remediation costs, as  
8 defined in Section 78260.

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

12 (c) Not less than four hundred thousand dollars (\$400,000) to the Expedited Site  
13 Remediation Trust Fund in the State Treasury, created pursuant to subdivision (a)  
14 of former Section 25399.1, as added by Section 2 of Chapter 435 of the Statutes of  
15 1994, for purposes of paying the orphan share of response costs pursuant to Chapter  
16 6.86 (commencing with Section 25396) of Division 20.

17 (d) An amount that does not exceed the costs incurred by the State Board of  
18 Equalization, a private party, or other public agency, to administer and collect the  
19 fees imposed pursuant to **Article 9.1 (commencing with Section 25205.1)** and  
20 deposited into the Toxic Substances Control Account, for the purpose of  
21 reimbursing the State Board of Equalization, public agency, or private party, for  
22 those costs.

23 (e) Not less than one million fifty thousand dollars (\$1,050,000) for purposes of  
24 establishing and implementing a program pursuant to **Sections 25244.15.1,**  
25 **25244.17.1, 25244.17.2, and 25244.22** to encourage hazardous waste generators to  
26 implement pollution prevention measures.

27 (f) Funds not appropriated as specified in subdivisions (a) to (e), inclusive, may  
28 be appropriated for any of the purposes specified in subdivision (a) of Section  
29 84005, except the purposes specified in subparagraph (C) of paragraph (1) of, and  
30 paragraph (13) of, subdivision (a) of Section 84005.

31 **Comment.** Section 84025 continues former Section 25173.7(a) without substantive change.  
32 See Sections 60160 (“department”), 60210 (“hazardous waste”).

33 **§ 84030. Annual adjustments for cost of living**

34 84030. (a) The amounts specified in subdivisions (b) to (e), inclusive, of Section  
35 84025 shall be adjusted annually to reflect increases or decreases in the cost of living  
36 during the prior fiscal year, as measured by the Consumer Price Index issued by the  
37 Department of Industrial Relations or by a successor agency.

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

41 (1) Reduce the amounts specified in subdivisions (a) to (e), inclusive, of Section  
42 84025, if there are insufficient funds in the Toxic Substances Control Account.

1 (2) Suspend the transfer specified in subdivision (c) of Section 84025, if there are  
2 no orphan shares pending payment pursuant to Chapter 6.86 (commencing with  
3 Section 25396) of Division 20.

4 **Comment.** Section 84030 continues former Section 25173.7(b) without substantive change.  
5 See Section 60160 (“department”).

6 CHAPTER 3. DEPARTMENT RESPONSIBILITIES AND AUTHORITY

7 Article 1. Reporting on Budget

8 **§ 84045. Reporting on specified budget amounts**

9 84045. (a) The department shall, at the time of the release of the annual  
10 Governor’s Budget, describe the budgetary amounts proposed to be allocated to the  
11 California Department of Tax and Fee Administration, as specified in subdivision  
12 (b) of Section 83905.

13 (b) It is the intent of the Legislature that moneys appropriated in the annual Budget  
14 Act each year for the purpose of reimbursing the California Department of Tax and  
15 Fee Administration, a private party, or other public agency, for the administration  
16 and collection of the fees collected pursuant to **Sections 25205.5 and 25205.5.2**, or  
17 described in Section **25205.25**, and deposited into the Hazardous Waste Control  
18 Account, shall not exceed the costs incurred by the California Department of Tax  
19 and Fee Administration, the private party, or other public agency, for the  
20 administration and collection of those fees.

21 **Comment.** Section 84045 continues former Section 25174(c) without substantive change.  
22 See Section 60160 (“department”).

23 **§ 84050. Report regarding estimated funding for direct site remediation costs**

24 84050. (a) The department shall submit to the Legislature with the Governor’s  
25 Budget each year a report that includes an estimate of the funding needed to fund  
26 direct site remediation costs at state orphan sites and meet the state’s obligation to  
27 pay for direct site remediation costs at federal Superfund orphan sites pursuant to  
28 paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive  
29 Environmental Response, Compensation, and Liability Act of 1980, as amended (42  
30 U.S.C. Sec. 9604(c)(3)).

31 (b) The estimate shall include projected costs for the current budget year and the  
32 two following budget years, including, but not limited to, the state’s 10-percent  
33 funding obligation for remedial actions at federal Superfund orphan sites, the state’s  
34 100-percent funding obligation for ongoing operation and maintenance at federal  
35 Superfund orphan sites, and ongoing operation and maintenance costs at state  
36 orphan sites.

37 **Comment.** Section 84050 continues former Section 25173.7(c) without substantive change.  
38 See Section 60160 (“department”).

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

7 **Article 2. Assumption of Administration of Contracts**

8 **§ 84075. Authority relating to required payments generally**

9 84075. (a) Notwithstanding anything to the contrary in this division or Part 22  
10 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code,  
11 the department, with the approval of the secretary, may take either of the following  
12 actions relating to fees, surcharges, fines, penalties, or funds required to be  
13 deposited in the Hazardous Waste Control Account, the Hazardous Waste Facilities  
14 Account, or the Toxic Substances Control Account:

15 (1) Assume responsibility, or contract with a private party or another public  
16 agency other than the California Department of Tax and Fee Administration, for the  
17 collection of any fees, surcharges, fines, penalties or funds described in Part 2  
18 (commencing with Section 78000) of Division 45 for deposit in the Toxic  
19 Substances Control Account.

20 (2) Administer, or contract with a private party or another public agency for,  
21 determinations and functions for which the California Department of Tax and Fee  
22 Administration is responsible pursuant to Part 2 (commencing with Section 78000)  
23 of Division 45, or pursuant to Part 22 (commencing with Section 43001) of Division  
24 2 of the Revenue and Taxation Code, if those determinations and functions become  
25 the responsibility of either the department or, by mutual agreement, a contractor  
26 selected by the department.

27 (b) Notwithstanding subdivision (a), final responsibility for the administrative  
28 adjustment of fee rates or the administrative appeal of any fees or penalty  
29 assessments made pursuant to this article may be assigned by the department only  
30 to a public agency.

31 **Comment.** Subdivision (a) of Section 84075 restates former Section 25174.02(a) without  
32 substantive change.

33 Subdivision (b) restates the second sentence of former Section 25174.02(b) without substantive  
34 change.

35 See Sections 83160 (“department”), 83350 (“secretary”).

36 **Staff Note.** Proposed Section 84075 would restate and combine existing Section 25174.02(a)  
37 and the final sentence of Section 25174.02(b), for clarity. Those existing provisions read as follows:

38 25174.02. (a) Notwithstanding this chapter, or Part 22 (commencing with Section 43001) of  
39 Division 2 of the Revenue and Taxation Code, for any fees, surcharges, fines, penalties, and funds  
40 that are required to be deposited into the Hazardous Waste Control Account, the Hazardous Waste  
41 Facilities Account, or the Toxic Substances Control Account, the department, with the approval of  
42 the secretary, may take either of the following actions:

1 (1) Assume responsibility for, or enter into a contract with a private party or with another public  
2 agency, other than the California Department of Tax and Fee Administration, for the collection of  
3 any fees, surcharges, fines, penalties and funds described in Part 2 (commencing with Section  
4 78000) of Division 45, for deposit into the Toxic Substances Control Account.

5 (2) Administer, or by mutual agreement, contract with a private party or another public agency,  
6 for the making of those determinations and the performance of functions that would otherwise be  
7 the responsibility of the California Department of Tax and Fee Administration pursuant to Part 2  
8 (commencing with Section 78000) of Division 45, or Part 22 (commencing with Section 43001) of  
9 Division 2 of the Revenue and Taxation Code, if those activities and functions for which the  
10 California Department of Tax and Fee Administration would otherwise be responsible become the  
11 responsibility of the department or, by mutual agreement, the contractor selected by the  
12 department.”

13 (b)... Final responsibility for the administrative adjustment of fee rates and the administrative  
14 appeal of any fees or penalty assessments made pursuant to this section may only be assigned by  
15 the department to a public agency.

16 **The staff welcomes comment on whether this restatement of these provisions of existing**  
17 **Section 25174.02 improves the clarity of the provisions without substantively changing their**  
18 **meaning.**

19 **§ 84080. Due process rights**

20 84080. If, pursuant to Section 84075, the department, or a private party or another  
21 public agency, pursuant to a contract with the department, performs the  
22 determinations and functions that would otherwise be the responsibility of the  
23 California Department of Tax and Fee Administration, the department shall be  
24 responsible for ensuring that persons subject to the fees specified in Section 84075  
25 have equivalent rights to public notice and comment, and procedural and substantive  
26 rights of appeal, as afforded by the procedures of the California Department of Tax  
27 and Fee Administration pursuant to Part 22 (commencing with Section 43001) of  
28 Division 2 of the Revenue and Taxation Code.

29 **Comment.** Section 84080 continues the first sentence of former Section 25174.02(b) without  
30 substantive change.

31 See Section 83160 (“department”).

32 **§ 84085. Authority to make collections and enforce judgments**

33 84085. (a) If, pursuant to Section 84075, the department, or a private party or  
34 another public agency, pursuant to a contract with the department, performs the  
35 determinations and functions that would otherwise be the responsibility of the  
36 California Department of Tax and Fee Administration, the department shall have  
37 equivalent authority to make collections and enforce judgments as provided to the  
38 California Department of Tax and Fee Administration pursuant to Part 22  
39 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

40 (b) Unpaid amounts, including penalties and interest, shall be a perfected and  
41 enforceable state tax lien in accordance with Section 43413 of the Revenue and  
42 Taxation Code.

43 **Comment.** Section 84085 continues former Section 25174.02(c) without substantive change.

1 See Section 83160 (“department”).

2 **§ 84090. Assignment of administrative functions**

3 84090. The department, with the concurrence of the secretary, shall determine  
4 which administrative functions should be retained by the California Department of  
5 Tax and Fee Administration, administered by the department, or assigned to another  
6 public agency or private party pursuant to Sections 84075, 84080, and  
7 84085.

8 **Comment.** Section 84090 continues former Section 25174.02(d) without substantive change.  
9 See Sections 83160 (“department”), 83350 (“secretary”).

10 **§ 84095. Adoption of regulations**

11 84095. The department may adopt regulations to implement this article.

12 **Comment.** Section 84095 continues former Section 25174.02(e) without substantive change.  
13 See Section 83160 (“department”).

14 CHAPTER 4. FACILITY AND GENERATOR FEES

15 Article 1. Definitions

16 **§ 84150. Application of definitions**

17 84150. For purposes of this chapter, the definitions in this article shall apply.

18 **Comment.** Section 84150 continues the introductory clause of former Section 25205.1 without  
19 substantive change.

20 **Staff Note.** Proposed Section 84150 would restate the introductory clause of existing Section  
21 25205.1 for clarity. The existing clause reads as follows:

22 25205.1. For purposes of this article, the following definitions apply:

23 **The staff welcomes comment on whether this restatement of this clause improves its clarity**  
24 **without substantively changing its meaning.**

25 **§ 84155. “Board”**

26 84155. “Board” means the State Board of Equalization.

27 **Comment.** Section 84155 continues former Section 25205.1(a) without substantive change.

28 **Staff Note.** The introductory clause of existing Section 25205.1 (proposed Section 84150)  
29 indicates that the definition of the term “Board” in subdivision (a) of that section is intended to  
30 apply “for purposes of” the article in which Section 25205.1 appears. However, existing Section  
31 25110.3 provides a different definition of the term “Board,” and existing Section 25110 provides  
32 that different definition is intended to govern the entirety of Chapter 6.5.

33 **The staff welcomes public comment on whether statutory text should be added to proposed**  
34 **Section 84155, clarifying that the definition of the term “Board” in proposed Section 84155 is**  
35 **intended to apply to the proposed chapter in which Section 84155 appears, notwithstanding**  
36 **the overarching definition of the term in existing Section 25110.3.**

1 § 84160. “Class 1 modification”

2 84160. “Class 1 modification” has the meaning provided in regulations adopted  
3 by the department.

4 **Comment.** Section 84160 continues the part of former Section 25205.1(*l*) applicable to Class 1  
5 modifications without substantive change.

6 See Section 83160 (“department”).

7 **Staff Note.** Proposed Section 84160 would restate the part of existing Section 25205.1(*l*)  
8 applicable to the term “class 1 modification” for clarity. Existing Section 25205.1(*l*) reads as  
9 follows:

10 25205.1(*l*) “Class 1 modification,” “class 2 modification,” and “class 3 modification” have the  
11 meanings provided in regulations adopted by the department.

12 **The staff welcomes comment on whether this restatement of this provision improves its**  
13 **clarity without substantively changing its meaning.**

14 § 84165. “Class 2 modification”

15 84165. “Class 2 modification” has the meaning provided in regulations adopted  
16 by the department.

17 **Comment.** Section 84165 continues the part of former Section 25205.1(*l*) applicable to Class 2  
18 modifications without substantive change.

19 See Section 83160 (“department”).

20 **Staff Note.** Proposed Section 84165 would restate the part of existing Section 25205.1(*l*)  
21 applicable to the term “class 2 modification” for clarity. Existing Section 25205.1(*l*) reads as  
22 follows:

23 25205.1(*l*) “Class 1 modification,” “class 2 modification,” and “class 3 modification” have the  
24 meanings provided in regulations adopted by the department.

25 **The staff welcomes comment on whether this restatement of this provision improves its**  
26 **clarity without substantively changing its meaning.**

27 § 84170. “Class 3 modification”

28 84170. “Class 3 modification” has the meaning provided in regulations adopted  
29 by the department.

30 **Comment.** Section 84170 continues the part of former Section 25205.1(*l*) applicable to Class 3  
31 modifications without substantive change.

32 See Section 83160 (“department”).

33 **Staff Note.** Proposed Section 84170 would restate the part of existing Section 25205.1(*l*)  
34 applicable to the term “class 3 modification” for clarity. Existing Section 25205.1(*l*) reads as  
35 follows:

36 25205.1(*l*) “Class 1 modification,” “class 2 modification,” and “class 3 modification” have the  
37 meanings provided in regulations adopted by the department.

38 **The staff welcomes comment on whether this restatement of this provision improves its**  
39 **clarity without substantively changing its meaning.**

1 § 84175. “Disposal”

2 84175. “Disposal” means only the placement of hazardous waste satisfying all of  
3 the following criteria:

4 (1) The placement is engaged in at a facility pursuant to and requiring a permit or  
5 grant of interim status issued by the department pursuant to **Article 9 (commencing**  
6 **with Section 25200)**.

7 (2) The placement is onto or into the ground for permanent disposition.

8 (3) The placement is not onto or into the ground solely for purposes of land  
9 treatment.

10 (4) The placement is not in surface impoundments, as defined in regulations  
11 adopted by the department.

12 **Comment.** Section 84175 restates the part of former Section 25205.1(o) applicable to the  
13 definition of “disposal” without substantive change.

14 See Sections 83160 (“department”), 84180 (“facility”), 84190 (“hazardous waste”), 84240  
15 (“treatment”).

16 **Staff Notes. (1)** Proposed Section 84240 would restate the part of existing Section 25214.12(o)  
17 applicable to the definition of “disposal” for clarity. Existing Section 25214.12(o) reads as follows:

18 25205.1(o) “Treatment,” “storage,” and “disposal” mean only that treatment, storage, or  
19 disposal of hazardous waste engaged in at a facility pursuant to a permit or grant of interim status  
20 issued by the department pursuant to Article 9 (commencing with Section 25200). Treatment,  
21 storage, or disposal that does not require this permit or grant of interim status shall not be considered  
22 treatment, storage, or disposal for purposes of this article.

23 (1) “Disposal” includes only the placement of hazardous waste onto or into the ground for  
24 permanent disposition and does not include the placement of hazardous waste in surface  
25 impoundments, as defined in regulations adopted by the department, or the placement of hazardous  
26 waste onto or into the ground solely for purposes of land treatment.

27 (2) “Storage” does not include the ongoing presence of hazardous wastes in the ground or in  
28 surface impoundments after the facility has permanently discontinued accepting new hazardous  
29 wastes for placement into the ground or into surface impoundments. **The staff welcomes comment**  
30 **on whether this restatement of the part of existing Section 25214.12(o) applicable to the**  
31 **definition of “disposal” improves its clarity without substantively changing its meaning.**

32  
33 (2) The introductory clause of existing Section 25205.1 (proposed Section 84150) indicates that  
34 the definition of the term “disposal” in existing Section 25205.1(o) is intended to apply “for  
35 purposes of” the article in which Section 25205.1 appears. However, existing Section 25113  
36 provides a different definition of the term “disposal,” and existing Section 25110 provides that  
37 definition in Section 25113 is intended to govern the entirety of Chapter 6.5.

38 **The staff welcomes public comment on whether statutory text should be added to proposed**  
39 **Section 84175, or perhaps to Section 84150, clarifying that the definition of the term**  
40 **“disposal” in proposed Section 84175 is intended to apply to the proposed chapter in which**  
41 **Section 84175 appears, notwithstanding the overarching definition of the term that presently**  
42 **appears in existing Section 25113.**

43 § 84180. “Facility”

44 84180, “Facility” means any units or other structures, and all contiguous land,  
45 used for the treatment, storage, disposal, or recycling of hazardous waste, for which

1 a permit or a grant of interim status has been issued by the department for that  
2 activity pursuant to **Article 9 (commencing with Section 25200)**.

3 **Comment.** Section 84180 continues former Section 25205.1(b) without substantive change.  
4 See Sections 83160 (“department”) 84175 (“disposal”), 84190 (“hazardous waste”), 84235  
5 (“storage”), 84240 (“treatment”).

6 **§ 84185. “Generator”**

7 84185. “Generator” means a person who generates hazardous waste at an  
8 individual site commencing on or after July 1, 1988, including but not limited to a  
9 person identified on a manifest as the generator and whose identification number is  
10 listed on that manifest, if that identifying information was provided by that person  
11 or by an agent or employee of that person.

12 **Comment.** Section 84185 continues former Section 25205.1(e) without substantive change.  
13 See Sections 83160 (“department”), 83295 (“person”), 84190 (“hazardous waste”).

14 **§ 84190. “Hazardous waste”**

15 84190. (a) “Hazardous waste” has the meaning provided in **Section 25117**.

16 (b) The total tonnage of hazardous waste, unless otherwise provided by law,  
17 includes the hazardous substance as well as any soil or other substance that is  
18 commingled with the hazardous substance.

19 **Comment.** Section 84190 continues former Section 25205.1(m) without substantive change.

20 **Staff Note.** The second sentence of existing Section 25205.1(m), which would be continued as  
21 subdivision (b) of proposed Section 84190, appears to be out of place as a substantive provision  
22 within a statutory section or article otherwise containing only broadly applicable definitional  
23 provisions.

24 In addition, the intended application of this substantive provision, disconnected from provisions  
25 in which “the total tonnage of hazardous waste” is relevant, is also less than clear.

26 **The staff welcomes comment on the application of this substantive provision, as well as**  
27 **whether its application might be clarified if recodified in a different location than in this**  
28 **article of the proposed recodification.**

29 **§ 84195. “Land treat”**

30 84195. “Land treat” means to apply hazardous waste onto or incorporate it into  
31 the soil surface for the sole and express purpose of degrading, transforming, or  
32 immobilizing the hazardous constituents.

33 **Comment.** Section 84195 continues former Section 25205.1(n) without substantive change.  
34 See Section 84190 (“hazardous waste”).

35 **§ 84200. “Large storage facility”**

36 84200. “Large storage facility” means the following:

37 (a) In those cases in which total storage capacity is provided in a permit, interim  
38 status document, or federal Part A application for the facility, “large storage facility”  
39 means a storage facility with capacity to store 1,000 or more tons of hazardous  
40 waste.

1 (b) In those cases in which total storage capacity is not provided in a permit,  
2 interim status document, or federal Part A application for the facility, “large storage  
3 facility” means a storage facility that stores 1,000 or more tons of hazardous waste  
4 during any one month of the current reporting period commencing on or after July  
5 1, 1991.

6 **Comment.** Section 84200 restates former Section 25205.1(c) without substantive change.

7 See Sections 83360 (“storage facility”), 84180 (“facility”), 84190 (“hazardous waste”), 84235  
8 (“storage”).

9 **Staff Note.** Proposed Section 84200 would restate existing Section 25205.1(c) for clarity. The  
10 existing provision reads as follows:

11 25205.1. (c) “Large storage facility,” in those cases in which total storage capacity is provided  
12 in a permit, interim status document, or federal Part A application for the facility, means a storage  
13 facility with capacity to store 1,000 or more tons of hazardous waste. In those cases in which it is  
14 not so provided, “large storage facility” means a storage facility that stores 1,000 or more tons of  
15 hazardous waste during any one month of the current reporting period commencing on or after July  
16 1, 1991.

17 **The staff welcomes comment on whether this restatement of existing Section 25205.1(c)**  
18 **improves its clarity without substantively changing its meaning.**

19 **§ 84205. “Large treatment facility”**

20 84205. “Large treatment facility” means the following:

21 (a) In those cases in which total treatment capacity is provided in a permit, interim  
22 status document, or federal Part A application for the facility, “large treatment  
23 facility” means a treatment facility with capacity to treat, land treat, or recycle 1,000  
24 or more tons of hazardous waste.

25 (b) In those cases in which total treatment capacity is not provided in a permit,  
26 interim status document, or federal Part A application for the facility, “large  
27 treatment facility” a treatment facility that treats, land treats, or recycles 1,000 or  
28 more tons of hazardous waste during any one month of the current reporting period  
29 commencing on or after July 1, 1991.

30 **Comment.** Section 84205 restates former Section 25205.1(d) without substantive change.

31 See Sections 84180 (“facility”), 84190 (“hazardous waste”), 84195 (“land treat”), 84240  
32 (“treatment”).

33 **Staff Note.** Proposed Section 84205 would restate existing Section 25205.1(d) for clarity. The  
34 existing provision reads as follows:

35 25205.1. (d) “Large treatment facility,” in those cases in which total treatment capacity is  
36 provided in a permit, interim status document, or federal Part A application for the facility, means  
37 a treatment facility with capacity to treat, land treat, or recycle 1,000 or more tons of hazardous  
38 waste. In those cases in which it is not so provided, “large treatment facility” means a treatment  
39 facility that treats, land treats, or recycles 1,000 or more tons of hazardous waste during any one  
40 month of the current reporting period commencing on or after July 1, 1991.

41 **The staff welcomes comment on whether this restatement of existing Section 25205.1(d)**  
42 **improves its clarity without substantively changing its meaning.**

1 § 84210. “Mini-storage facility”

2 84210. “Mini-storage facility” means the following:

3 (a) In those cases in in those cases in which total storage capacity is provided in a  
4 permit, interim status document, or federal Part A application for the facility, a  
5 storage facility with capacity to store 0.5 tons (1,000 pounds) or less of hazardous  
6 waste.

7 (b) In those cases in which total storage capacity is not provided in a permit,  
8 interim status document, or federal Part A application for the facility, a storage  
9 facility that stores 0.5 tons (1,000 pounds) or less of hazardous waste during any  
10 one month of the current reporting period commencing on or after July 1, 1991.

11 **Comment.** Section 84210 restates former Section 25205.1(f) without substantive change.

12 See Sections 83360 (“storage facility”), 84180 (“facility”), 84190 (“hazardous waste”), 84235  
13 (“storage”).

14 **Staff Note.** Proposed Section 84210 would restate existing Section 25205.1(f) for clarity. The  
15 existing provision reads as follows:

16 25205.1. (f) “Ministorage facility,” in those cases in which total storage capacity is provided in  
17 a permit, interim status document, or federal Part A application for the facility, means a storage  
18 facility with capacity to store 0.5 tons (1,000 pounds) or less of hazardous waste. In those cases in  
19 which it is not so provided, “ministorage facility” means a storage facility that stores 0.5 tons (1,000  
20 pounds) or less of hazardous waste during any one month of the current reporting period  
21 commencing on or after July 1, 1991.

22 **The staff welcomes comment on whether this restatement of existing Section 25205.1(f)**  
23 **improves its clarity without substantively changing its meaning.**

24 § 84215. “Mini-treatment facility”

25 84215. “Mini-treatment facility” means the following:

26 (a) In those cases in which total treatment capacity is provided in a permit, interim  
27 status document, or federal Part A application for the facility, a treatment facility  
28 with capacity to treat, land treat, or recycle 0.5 tons (1,000 pounds) or less of  
29 hazardous waste.

30 (b) In those cases in total treatment capacity is not provided in a permit, interim  
31 status document, or federal Part A application for the facility, a treatment facility  
32 that treats, land treats, or recycles 0.5 tons (1,000 pounds) or less of hazardous waste  
33 during any one month of the current reporting period commencing on or after July  
34 1, 1991.

35 **Comment.** Section 84215 continues former Section 25205.1(g) without substantive change.

36 See Sections 84180 (“facility”), 84190 (“hazardous waste”), 84195 (“land treat”), 84240  
37 (“treatment”).

38 **Staff Note.** Proposed Section 84215 would restate existing Section 25205.1(g) for clarity. The  
39 existing provision reads as follows:

40 25205.1. (g) “Minitreatment facility,” in those cases in which total treatment capacity is  
41 provided in a permit, interim status document, or federal Part A application for the facility, means  
42 a treatment facility with capacity to treat, land treat, or recycle 0.5 tons (1,000 pounds) or less of  
43 hazardous waste. In those cases in which it is not so provided, “minitreatment facility, means a

1 treatment facility that treats, land treats, or recycles 0.5 tons (1,000 pounds) or less of hazardous  
2 waste during any one month of the current reporting period commencing on or after July 1, 1991.

3 **The staff welcomes comment on whether this restatement of existing Section 25205.1(g)**  
4 **improves its clarity without substantively changing its meaning.**

5 **§ 84220. “Site”**

6 84220. “Site” means the location of an operation that generates hazardous wastes  
7 and is noncontiguous to any other location of these operations owned by the  
8 generator.

9 **Comment.** Section 84220 former Section 25205.1(h) without substantive change.

10 See Sections 84185 (“generator”), 84190 (“hazardous waste”).

11 **Staff Note.** Existing Section 25205.1(h), unlike most other provisions in Section 25205.1,  
12 expressly refers to “hazardous wastes,” rather than “hazardous waste.”

13 **The staff welcomes comment on whether the term “hazardous wastes” in this existing**  
14 **provision is intended to have a different meaning than the term “hazardous waste,” and if**  
15 **not, whether the clarity of the provision could be improved by revising the existing reference**  
16 **to instead refer to “hazardous waste.”**

17 **§ 84225. “Small storage facility”**

18 84225. “Small storage facility” means the following:

19 (a) In those cases in which total storage capacity is provided in a permit, interim  
20 status document, or federal Part A application for the facility, a storage facility with  
21 capacity to store more than 0.5 tons (1,000 pounds), but less than 1,000 tons of  
22 hazardous waste.

23 (b) In those cases in which total storage capacity is not provided in a permit,  
24 interim status document, or federal Part A application for the facility, a storage  
25 facility that stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of  
26 hazardous waste during any one month of the current reporting period commencing  
27 on or after July 1, 1991.

28 **Comment.** Section 84225 continues former Section 25205.1(i) without substantive change.

29 See Sections 83360 (“storage facility”), 84180 (“facility”), 84190 (“hazardous waste”), 84235  
30 (“storage”).

31 **Staff Note.** Proposed Section 84225 would restate existing Section 25205.1(i) for clarity. The  
32 existing provision reads as follows:

33 25205.1. (i) “Small storage facility,” in those cases in which total storage capacity is provided in  
34 a permit, interim status document, or federal Part A application for the facility, means a storage  
35 facility with capacity to store more than 0.5 tons (1,000 pounds), but less than 1,000 tons of  
36 hazardous waste. In those cases in which it is not so provided, “small storage facility” means a  
37 storage facility that stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous  
38 waste during any one month of the current reporting period commencing on or after July 1, 1991.

39 **The staff welcomes comment on whether this restatement of existing Section 25205.1(i)**  
40 **improves its clarity without substantively changing its meaning.**

1 § 84230. “Small treatment facility”

2 84230. “Small treatment facility” means the following:

3 (a) In those cases in which total treatment capacity is provided in a permit, interim  
4 status document, or federal Part A application for the facility, a treatment facility  
5 with capacity to treat, land treat, or recycle more than 0.5 tons (1,000 pounds), but  
6 less than 1,000 tons of hazardous waste.

7 (b) In those cases in which total treatment capacity is provided in a permit, interim  
8 status document, or federal Part A application for the facility, a treatment facility  
9 that treats, land treats, or recycles more than 0.5 tons (1,000 pounds), but less than  
10 1,000 tons, of hazardous waste during any month of the current reporting period  
11 commencing on or after July 1, 1991.

12 **Comment.** Section 84230 continues former Section 25205.1(j) without substantive change.

13 See Sections 84195 (“land treat”), 84180 (“facility”), 84190 (“hazardous waste”), 84240  
14 (“treatment”).

15 **Staff Note.** Proposed Section 84230 would restate existing Section 25205.1(j) for clarity. The  
16 existing provision reads as follows:

17 25205.1. (j) “Small treatment facility,” in those cases in which total treatment capacity is  
18 provided in a permit, interim status document, or federal Part A application for the facility, means  
19 a treatment facility with capacity to treat, land treat, or recycle more than 0.5 tons (1,000 pounds),  
20 but less than 1,000 tons of hazardous waste. In those cases in which this is not provided, “small  
21 treatment facility” means a treatment facility that treats, land treats, or recycles more than 0.5 tons  
22 (1,000 pounds), but less than 1,000 tons, of hazardous waste during any month of the current  
23 reporting period commencing on or after July 1, 1991.

24 **The staff welcomes comment on whether this restatement of existing Section 25205.1(j)**  
25 **improves its clarity without substantively changing its meaning.**

26 § 84235. “Storage”

27 84235. “Storage” means only the storage of hazardous waste satisfying both of  
28 the following criteria:

29 (1) The storage is engaged in at a facility pursuant to and requiring a permit or  
30 grant of interim status issued by the department pursuant to **Article 9 (commencing**  
31 **with Section 25200).**

32 (2) The storage does not include the ongoing presence of hazardous wastes in the  
33 ground or in surface impoundments after the facility has permanently discontinued  
34 accepting new hazardous wastes for placement into the ground or into surface  
35 impoundments.

36 **Comment.** Section 84235 restates the part of former Section 25205.1(o) applicable to the  
37 definition of “storage” without substantive change.

38 See Sections 83160 (“department”), 84180 (“facility”), 84190 (“hazardous waste”).

39 **Staff Notes. (1)** Proposed Section 84235 would restate the part of existing Section 25214.12(o)  
40 applicable to the definition of “storage” for clarity. Existing Section 25214.12(o) reads as follows:

41 25205.1.(o) “Treatment,” “storage,” and “disposal” mean only that treatment, storage, or  
42 disposal of hazardous waste engaged in at a facility pursuant to a permit or grant of interim status  
43 issued by the department pursuant to Article 9 (commencing with Section 25200). Treatment,

1 storage, or disposal that does not require this permit or grant of interim status shall not be considered  
2 treatment, storage, or disposal for purposes of this article.

3 (1) “Disposal” includes only the placement of hazardous waste onto or into the ground for  
4 permanent disposition and does not include the placement of hazardous waste in surface  
5 impoundments, as defined in regulations adopted by the department, or the placement of hazardous  
6 waste onto or into the ground solely for purposes of land treatment.

7 (2) “Storage” does not include the ongoing presence of hazardous wastes in the ground or in  
8 surface impoundments after the facility has permanently discontinued accepting new hazardous  
9 wastes for placement into the ground or into surface impoundments.

10 **The staff welcomes comment on whether this restatement of the part of existing Section**  
11 **25214.12(o) applicable to the definition of “storage” improves its clarity without substantively**  
12 **changing its meaning.**

13 (2) Existing Section 25205.1(o), unlike most other provisions in Section 25205.1, expressly  
14 refers to “hazardous wastes,” rather than “hazardous waste.

15 **The staff welcomes comment on whether the term “hazardous wastes” in this existing**  
16 **provision is intended to have a different meaning than the term “hazardous waste,” and if**  
17 **not, whether the clarity of the provision could be improved by revising the existing reference**  
18 **to instead refer to “hazardous waste.**

19 (3) The introductory clause of existing Section 25205.1 (proposed Section 84150) indicates that  
20 the definition of the term “storage” in existing Section 25205.1(o) is intended to apply “for purposes  
21 of” the article in which Section 25205.1 appears. However, existing Section 25123 provides a  
22 different definition of the term “storage,” and existing Section 25110 provides that different  
23 definition is intended to govern the entirety of Chapter 6.5.

24 **The staff welcomes public comment on whether statutory text should be added to proposed**  
25 **Section 84235, or perhaps to Section 84150, clarifying that the definition of the term “storage”**  
26 **in proposed Section 84235 is intended to apply to the proposed chapter in which Section 84235**  
27 **appears, notwithstanding the overarching definition of the term that presently appears in**  
28 **existing Section 25113.**

29 **§ 84240. “Treatment”**

30 84240. “Treatment” means only the treatment of hazardous waste engaged in at a  
31 facility pursuant to and requiring a permit or grant of interim status issued by the  
32 department pursuant to **Article 9 (commencing with Section 25200).**

33 **Comment.** Section 84240 restates the part of former Section 25205.1(o) applicable to the  
34 definition of “treatment” without substantive change.

35 See Sections 83160 (“department”), 84180 (“facility”), 84190 (“hazardous waste”).

36 **Staff Notes. (1)** Proposed Section 84240 would restate the part of existing Section 25214.12(o)  
37 applicable to the definition of “treatment” for clarity. Existing Section 25214.12(o) reads as  
38 follows:

39 25205.1(o) “Treatment,” “storage,” and “disposal” mean only that treatment, storage, or  
40 disposal of hazardous waste engaged in at a facility pursuant to a permit or grant of interim status  
41 issued by the department pursuant to Article 9 (commencing with Section 25200). Treatment,  
42 storage, or disposal that does not require this permit or grant of interim status shall not be considered  
43 treatment, storage, or disposal for purposes of this article.

44 (1) “Disposal” includes only the placement of hazardous waste onto or into the ground for  
45 permanent disposition and does not include the placement of hazardous waste in surface

1 impoundments, as defined in regulations adopted by the department, or the placement of hazardous  
2 waste onto or into the ground solely for purposes of land treatment.

3 (2) “Storage” does not include the ongoing presence of hazardous wastes in the ground or in  
4 surface impoundments after the facility has permanently discontinued accepting new hazardous  
5 wastes for placement into the ground or into surface impoundments.

6 **The staff welcomes comment on whether this restatement of the part of existing Section**  
7 **25214.12(o) applicable to the definition of “treatment” improves its clarity without**  
8 **substantively changing its meaning.**

9 (2) The introductory clause of existing Section 25205.1 (proposed Section 84150) indicates that  
10 the definition of the term “treatment” in existing Section 25205.1(o) is intended to apply “for  
11 purposes of” the article in which Section 25205.1 appears. However, existing Section 25123.5  
12 provides a different definition of the term “treatment,” and existing Section 25110 provides that  
13 different definition is intended to govern the entirety of Chapter 6.5.

14 **The staff welcomes public comment on whether statutory text should be added to proposed**  
15 **Section 84240, or perhaps to Section 84150, clarifying that the definition of the term**  
16 **“treatment” in proposed Section 84240 is intended to apply to the proposed chapter in which**  
17 **Section 84240 appears, notwithstanding the overarching definition of the term that presently**  
18 **appears in existing Section 25113.5.**

19 § 84245. “Unit”

20 84245. (a) “Unit” means a hazardous waste management unit, as defined in  
21 regulations adopted by the department.

22 (b) If an area is designated as a hazardous waste management unit in a permit, it  
23 shall be conclusively presumed that the area is a “unit.”

24 **Comment.** Section 84245 continues former Section 25205.1(k) without substantive change.  
25 See Sections 83160 (“department”), 84190 (“hazardous waste”).

26 **Staff Note.** The second sentence of existing Section 25205.1(k), which would be continued by  
27 as subdivision (b) of proposed Section 84245, indicates that the designation of an area in a permit  
28 as a hazardous waste management unit creates a conclusive presumption that the area is a “unit”  
29 for purposes of at least the statutory article in which this provision appears.

30 **The staff welcomes comment on (1) whether the indication of this conclusive presumption**  
31 **is intended to convey some different meaning than a much simpler statement that an area**  
32 **“designated as a hazardous waste management unit in a permit” is a “unit,” and (2) if there**  
33 **is no different meaning intended, whether the provision should be revised to state its intended**  
34 **meaning more clearly, without reference to a presumption.**

35 Article 2. xxx

36 CHAPTER 3. ENVIRONMENTAL FEES

37 CHAPTER 4. METAL SHREDDING FEES

CHAPTER 5. OTHER HAZARDOUS WASTE FEES

PART 4. TOXICS REDUCTION

CHAPTER 1. GREEN CHEMISTRY

Article 1. Definitions

**84400. Application**

84400. The definitions in this article apply for purposes of this chapter.

**Comment.** Section 84400 restates the introductory text of former Section 25251 without substantive change.

**Note.** The introductory text of Section 25251 is restated by proposed Section 84400 as a distinct code section, to allow the definitions in Section 25251 to be recodified as distinct code sections. The introductory text of Section 25251 currently provides:

25251. For purposes of this article, the following definitions apply:

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

**84405. “Chemical manufacturer”**

84405. “Chemical manufacturer” means a person who manufactures a chemical or chemical ingredient that is used in a consumer product.

**Comment.** Section 84405 continues former Section 25251(a) without substantive change. See Sections 83295 (“person”), 84415 (“consumer product”).

**84410. “Clearinghouse”**

84410. “Clearinghouse” means the Toxics Information Clearinghouse established pursuant to Article 8 (commencing with Section 84630).

**Comment.** Section 84410 is new. It is added to enhance the clarity of other provisions of this chapter that refer to the Toxics Information Clearinghouse as “the clearinghouse.”

**Note.** This nonsubstantive definitional provision, similar to Section 25251(e) (proposed Section 84430) defining the term “panel,” is added for clarity.

**84415. “Consumer product”**

84415. (a) Except as provided in subdivision (b), “consumer product” means a product or part of the product that is used, brought, or leased for use by a person for any purpose.

(b) “Consumer product” does not include any of the following items:

(1) A “dangerous drug” or “dangerous device,” as defined in Section 4022 of the Business of Professions Code.

(2) “Dental restorative materials,” as defined in subdivision (b) of Section 1648.20 of the Business and Professions Code.

- 1 (3) A “device,” as defined in Section 4023 of the Business of Professions Code.
- 2 (4) The packaging associated with an item specified in paragraph (1), (2), or (3).
- 3 (5) “Food,” as defined in subdivision (a) of Section 109935.
- 4 (6) A “pesticide,” as defined in Section 12753 of the Food and Agricultural Code
- 5 or as defined in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.
- 6 Sec. 136 et seq.).
- 7 **Comment.** Section 84415 restates former Section 25251(b) without substantive change.
- 8 See Section 83295 (“person”).

9 **Note.** Section 25251(b) is restated by proposed Section 84415 for clarity. Section 25251(b)  
10 currently provides:

11 25251. (b) “Consumer product” means a product or part of the product that is used, brought, or  
12 leased for use by a person for any purposes. “Consumer product” does not include any of the  
13 following:

- 14 (1) A dangerous drug or dangerous device as defined in Section 4022 of the Business of
- 15 Professions Code.
- 16 (2) Dental restorative materials as defined in subdivision (b) of Section 1648.20 of the Business
- 17 and Professions Code.
- 18 (3) A device as defined in Section 4023 of the Business of Professions Code.
- 19 (4) A food as defined in subdivision (a) of Section 109935.
- 20 (5) The packaging associated with any of the items specified in paragraph (1), (2), or (3).
- 21 (6) A pesticide as defined in Section 12753 of the Food and Agricultural Code or the Federal
- 22 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

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

24 **84420. “Council”**

25 84420. “Council” means the California Environmental Policy Council established  
26 pursuant to subdivision (b) of Section 71017 of the Public Resources Code.

27 **Comment.** Section 84420 continues former Section 25251(c) without substantive change.

28 **84425. “Office”**

29 84425. “Office” means the Office of Environmental Health Hazard Assessment.

30 **Comment.** Section 84425 continues former Section 25251(d) without substantive change.

31 **84430. “Panel”**

32 84430. “Panel” means the Green Ribbon Science Panel established pursuant to  
33 Article 4 (commencing with Section 84500).

34 **Comment.** Section 84430 continues former Section 25251(e) without substantive change.

35 **84435. “Product manufacturer”**

36 84435. “Product manufacturer” means a person who manufactures, controls the  
37 manufacturing process for, or specifies the use of a chemical to be included in, a  
38 consumer product.

39 **Comment.** Section 84435 restates former Section 25251(f) without substantive change.

40 See Sections 83295 (“person”), 84415 (“consumer product”).

1 **Note.** Section 25251(f) is restated by proposed Section 84435 for clarity. Section 25251(f)  
2 currently provides:

3 25251. (f) “Product manufacturer” means a person who manufactures a consumer product or a  
4 person who controls the manufacturing process for, or specifies the use of a chemical to be included  
5 in, a consumer product.

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

7 Article 2. Relationship of Chapter to Other Authority

8 **84455. Authority relating to hazardous materials generally**

9 84455. This chapter does not limit and shall not be construed to limit the existing  
10 authority of the department, or the existing authority of any other department or  
11 agency, over hazardous materials.

12 **Comment.** Section 84455 restates former Section 25257.1(a) without substantive change.  
13 See Section 83160 (“department”).

14 **Notes. (1)** Section 25257.1(a) is restated by proposed Section 84455 for clarity. Section  
15 25257.1(a) currently provides:

16 25257.1. (a) This article does not limit and shall not be construed to limit the department’s or  
17 any other department’s or agency’s existing authority over hazardous materials.

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

19 **(2)** Section 25257.1(a) refers to “hazardous materials,” which is not a defined term in Chapter  
20 6.5. although the term is defined in a chapter of Part 2 of Division 45 (formerly Chapter 6.8), “for  
21 purposes of [that] chapter.” See Sections 80200, 80235.

22 The question of whether definitional provisions in Part 2 of Division 45 (formerly Chapter 6.8)  
23 should be incorporated to apply when terms are used without definition in proposed Division 46  
24 has already been added to the cumulative list of substantive issues for possible future study.

25 **84460. Regulatory authority of other departments or agencies**

26 84460. This chapter does not authorize the department to supersede the regulatory  
27 authority of any other department or agency.

28 **Comment.** Section 84460 continues former Section 25257.1(b) without substantive change.  
29 See Section 83160 (“department”).

30 **84465. Duplication or adoption of conflicting regulations**

31 84465. The department shall not duplicate or adopt conflicting regulations for  
32 product categories already regulated or subject to pending regulation consistent with  
33 the purposes of this chapter.

34 **Comment.** Section 84465 continues former Section 25257.1(c) without substantive change.  
35 See Section 83160 (“department”).

Article 3. Priorities

**84480. Policy**

84480. The Legislature hereby declares that it is the policy goal of the state to ensure the safety of consumer products sold in California through timely administrative and legislative action on consumer products and chemicals of concern in those products, particularly those products that may have disproportionate impacts on sensitive populations.

**Comment.** Section 84480 continues former Section 25253.6 without substantive change. See Section 84415 (consumer product).

**84485. Priority Product Work Plan of 2015-17**

84485. The department shall revise its 2015–17 Priority Product Work Plan to include lead acid batteries for consideration and evaluation as a potential priority product.

**Comment.** Section 84485 continues former Section 25253.5 without substantive change.

**Note.** This provision requires that a specific product be addressed in a revision to the 2015-17 Priority Product Work Plan. That plan and two subsequent plans have been prepared. See <https://dtsc.ca.gov/scp/priority-product-work-plan/>. It is unclear whether the revision required by this provision was undertaken (and, if so, whether this provision is now obsolete).

**Comment on this issue is welcome.**

**84490. Priority Product Work Plans**

84490. Subject to an appropriation by the Legislature for purposes of this section, the department shall include in each Priority Product Work Plan, commencing with the 2024–26 Priority Product Work Plan, in addition to any other information that the department is required to include pursuant to Section 69503.4 of Title 22 of the California Code of Regulations, or any successor regulation, a brief description of all of the following information:

(a) Information that the department has at the time the work plan is issued on the chemicals or chemical ingredients that may be chemicals of concern that are contained in consumer products within each product category or subcategory.

(b) Any additional ingredient information that is needed for the department to evaluate the safety of those consumer products, including, but not limited to, the information specified in Article 9 (commencing with Section 84670).

(c) Information specifying how the department plans to collect the additional information, if any, described in subdivision (b).

(d)(1) Timelines for completion of all of the following with regard to at least five product categories or subcategories in each work plan:

(A) The collection of information described in subdivision (b).

(B) All actions required pursuant to this chapter for a consumer product that contains a chemical of concern, including, but not limited to, the listing of that

1 product as a priority product, the completion of an alternatives analysis for the  
2 product, and the finalization of regulatory response determinations.

3 (2) The length of a timeline pursuant to paragraph (1) shall not exceed seven years  
4 from the date of issuance of the work plan.

5 (3) In determining the data needed and actions required pursuant to paragraph (1),  
6 the department shall take into account all chemicals that are known to serve or can  
7 potentially serve the same function in the product categories or subcategories, such  
8 as surfactants, preservatives, or plasticizers, in order to avoid the substitution of one  
9 chemical with another chemical on the candidate chemical list.

10 (4) An action to enforce the timelines shall be brought pursuant to Section 1085  
11 of the Code of Civil Procedure.

12 **Comment.** Section 84490 continues former Section 25253.9 without substantive change.  
13 See Sections 83160 (“department”), 84415 (“consumer product”).

#### 14 Article 4. Green Ribbon Science Panel

##### 15 **84500. Establishment of panel**

16 84500. (a) In implementing this chapter, the department shall establish a Green  
17 Ribbon Science Panel. The panel shall be composed of members whose expertise  
18 shall encompass all of the following disciplines:

19 (1) Chemistry.

20 (2) Chemical engineering.

21 (3) Environmental law.

22 (4) Toxicology.

23 (5) Public policy.

24 (6) Pollution prevention.

25 (7) Cleaner production methods.

26 (8) Environmental health.

27 (9) Public health.

28 (10) Risk analysis.

29 (11) Materials science.

30 (12) Nanotechnology.

31 (13) Chemical synthesis.

32 (14) Research.

33 (15) Maternal and child health.

34 (b) The department shall appoint all members to the panel on or before July 1,  
35 2009.

36 (c) The department shall appoint the members for staggered three-year terms, and  
37 may reappoint a member for additional terms, without limitation.

38 (d) The department shall provide for staff and administrative support to the panel.

39 **Comment.** Subdivision (a) of Section 84500 continues former Section 25254(a) without  
40 substantive change.

41 Subdivision (b) continues the first sentence of former Section 25254(b) without substantive  
42 change.

1 Subdivision (c) continues the second sentence of former Section 25254(b) without substantive  
2 change.

3 Subdivision (d) continues the second sentence of former Section 25254(c) without substantive  
4 change.

5 See Sections 83160 (“department”), 84430 (“panel”).

6 **Note.** Section 25254(b) (which would be continued by proposed Section 84500(b)) requires that  
7 all members of the Green Ribbon Science Panel be appointed by July 1, 2009. It is unclear whether  
8 this required appointment has occurred (and, if so, whether this provision is now obsolete).

9 **Comment on this issue is welcome.**

#### 10 **84505. Meetings**

11 84505. (a) The panel shall meet as often as the department deems necessary, with  
12 consideration of available resources, but not less than twice each year.

13 (b) The panel meetings shall be open to the public and are subject to the Bagley-  
14 Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter  
15 1 of Part 1 of Division 3 of Title 2 of the Government Code).

16 **Comment.** Subdivision (a) of Section 84505 continues the first sentence of former Section  
17 25254(c) without substantive change.

18 Subdivision (b) continues former Section 25254(d) without substantive change.

19 See Sections 60610 (“department”), 84430 (“panel”).

#### 20 **84510. Authorized action by panel**

21 84510. The panel may take any of the following actions:

22 (a) Advise the department and the council on scientific and technical matters in  
23 support of the goals of this chapter of significantly reducing adverse health and  
24 environmental impacts of chemicals used in commerce, as well as the overall costs  
25 of those impacts to the state’s society, by encouraging the redesign of consumer  
26 products, manufacturing processes, and approaches.

27 (b) Assist the department in developing green chemistry and chemicals policy  
28 recommendations and implementation strategies and details, and ensure these  
29 recommendations are based on a strong scientific foundation.

30 (c) Advise the department and make recommendations for chemicals the panel  
31 views as priorities for which hazard traits and toxicological end-point data should  
32 be collected.

33 (d) Advise the department in the adoption of regulations required by this chapter.

34 (e) Advise the department on any other pertinent matter in implementing this  
35 chapter, as determined by the department.

36 **Comment.** Section 84510 continues former Section 25255 without substantive change.

37 See Sections 60610 (“department”), 84415 (“consumer product”), 84440 (“council”), 84430  
38 (“panel”).

1 Article 5. Regulations Identifying and Prioritizing Chemicals of Concern

2 **84525. Adoption of regulations**

3 84525. (a) On or before January 1, 2011, the department shall adopt regulations  
4 to establish a process to identify and prioritize those chemicals or chemical  
5 ingredients in consumer products that may be considered as being a chemical of  
6 concern, in accordance with the review process specified in Article 7 (commencing  
7 with Section 84595).

8 (b) The department shall adopt these regulations in consultation with the office  
9 and all appropriate state agencies and after conducting one or more public  
10 workshops for which the department provides public notice and provides an  
11 opportunity for all interested parties to comment.

12 **Comment.** Section 84525 continues the first two sentences of former Section 25252(a) without  
13 substantive change.

14 See Sections 83160 (“department”), 84415 (“consumer product”), 84425 (“office”).

15 **84530. Identification and prioritization process**

16 84530. The regulations adopted pursuant to this article shall establish an  
17 identification and prioritization process that includes, but is not limited to, all of the  
18 following considerations:

19 (a) The volume of the chemical in commerce in this state.

20 (b) The potential for exposure to the chemical in a consumer product.

21 (c) Potential effects on sensitive subpopulations, including infants and children.

22 **Comment.** Section 84530 continues the third sentence of former Section 25252(a) without  
23 substantive change.

24 See Section 84415 (“consumer product”).

25 **84535. Development of evaluation criteria**

26 84535. (a) In adopting regulations pursuant to this article, the department shall  
27 develop criteria by which chemicals and their alternatives may be evaluated.

28 (b) These criteria shall include, but not be limited to, the traits, characteristics, and  
29 endpoints that are referenced in Article 8 (commencing with Section 84630).

30 **Comment.** Section 84535 continues former Section 25252(b)(1) without substantive change.

31 See Section 83160 (“department”).

32 **84540. Reference and use of information from other sources**

33 84540. (a) In adopting regulations pursuant to this article, the department shall  
34 reference and use, to the maximum extent feasible, available information from other  
35 nations, governments, and authoritative bodies that have undertaken similar  
36 chemical prioritization processes, so as to leverage the work and costs already  
37 incurred by those entities and to minimize costs and maximize benefits for the  
38 state’s economy.

1 (b) Subdivision (a) does not require the department, when adopting regulations  
2 pursuant to this article, to reference and use only the available information specified  
3 in subdivision (a).

4 **Comment.** Section 84540 continues former Section 25252(b)(2) and (b)(3) without substantive  
5 change.

6 See Section 83160 (“department”)

## 7 Article 6. Regulations Evaluating Chemicals of Concern

### 8 **84555. Adoption of regulations**

9 84555. (a) On or before January 1, 2011, the department shall adopt regulations  
10 pursuant to this article that establish a process for evaluating chemicals of concern  
11 in consumer products, and their potential alternatives, to determine how best to limit  
12 exposure or to reduce the level of hazard posed by a chemical of concern, in  
13 accordance with the review process specified in Article 9 (commencing with Section  
14 84670).

15 (b) The department shall adopt the regulations in consultation with all appropriate  
16 state agencies and after conducting one or more public workshops for which the  
17 department provides public notice and provides an opportunity for all interested  
18 parties to comment.

19 **Comment.** Section 84555 continues former Section 25253(a)(1) without substantive change.

20 See Sections 83160 (“department”), 84415 (“consumer product”).

### 21 **84560. Process for evaluation**

22 84560. The regulations adopted pursuant to this article shall establish a process  
23 that includes all of the following:

24 (a) An evaluation of the availability of potential alternatives and potential hazards  
25 posed by those alternatives.

26 (b) An evaluation of critical exposure pathways.

27 (c) Life cycle assessment tools that take into consideration, but shall not be limited  
28 to, all of the following:

29 (1) Product function or performance.

30 (2) Useful life.

31 (3) Materials and resource consumption.

32 (4) Water conservation.

33 (5) Water quality impacts.

34 (6) Air emissions.

35 (7) Production, in-use, and transportation energy inputs.

36 (8) Energy efficiency.

37 (9) Greenhouse gas emissions.

38 (10) Waste and end-of-life disposal.

39 (11) Public health impacts, including potential impacts to sensitive  
40 subpopulations, including infants and children.

1 (12) Environmental impacts.

2 (13) Economic impacts.

3 **Comment.** Section 84560 continues former Section 25253(a)(2) without substantive change.  
4 See Sections 83175 (“disposal”), 83395 (“waste”).

5 **Note.** Section 25253(a)(2) is restated by proposed Section 84560 for clarity. Section 25253(a)(2)  
6 currently provides:

7 25253. (a)(2) The regulations adopted pursuant to this section shall establish a process that  
8 includes an evaluation of the availability of potential alternatives and potential hazards posed by  
9 those alternatives, as well as an evaluation of critical exposure pathways. This process shall include  
10 life cycle assessment tools that take into consideration, but shall not be limited to, all of the  
11 following:

12 (A) Product function or performance.

13 (B) Useful life.

14 (C) Materials and resource consumption.

15 (D) Water conservation.

16 (E) Water quality impacts.

17 (F) Air emissions.

18 (G) Production, in-use, and transportation energy inputs.

19 (H) Energy efficiency.

20 (I) Greenhouse gas emissions.

21 (J) Waste and end-of-life disposal.

22 (K) Public health impacts, including potential impacts to sensitive subpopulations, including  
23 infants and children.

24 (L) Environmental impacts.

25 (M) Economic impacts.

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

27 **84565. Use of tools**

28 84565. (a) The department, in developing the processes and regulations pursuant  
29 to this article, shall ensure that the tools available are in a form that allows for ease  
30 of use and transparency of application.

31 (b) The department shall also make every feasible effort to devise simplified and  
32 accessible tools that consumer product manufacturers, consumer product  
33 distributors, product retailers, and consumers can use to make consumer product  
34 manufacturing, sales, and purchase decisions.

35 **Comment.** Section 84565 continues former Section 25253(c) without substantive change.

36 See Sections 83160 (“department”), 84415 (“consumer product”), 84435 (“product  
37 manufacturers”).

38 **Note.** Are the “tools” referenced in Section 25253(c) intended to be a shorthand reference to the  
39 life cycle assessment tools discussed in Section 25253(a)(2)? If not, is the meaning of the term  
40 “tools” as used in Section 25253(c) sufficiently clear in practice?

41 **Comment is welcome on this issue. Depending on the comment received, the issue may be  
42 added to the list of substantive issues for possible future study.**

1 **84570. Range of regulatory responses**

2 84570. The regulations adopted pursuant to this article shall specify the range of  
3 regulatory responses that the department may take following the completion of the  
4 alternatives analysis, including, but not limited to, any of the following actions:

5 (a) Not requiring any action.

6 (b) Imposing requirements to provide additional information needed to assess a  
7 chemical of concern and its potential alternatives.

8 (c) Imposing requirements on the labeling or other type of consumer product  
9 information.

10 (d) Imposing a restriction on the use of the chemical of concern in the consumer  
11 product.

12 (e) Prohibiting the use of the chemical of concern in the consumer product.

13 (f) Imposing requirements that control access to or limit exposure to the chemical  
14 of concern in the consumer product.

15 (g) Imposing requirements for the manufacturer to manage the product at the end  
16 of its useful life, including recycling or responsible disposal of the consumer  
17 product.

18 (h) Imposing a requirement to fund green chemistry challenge grants where no  
19 feasible safer alternative exists.

20 (i) Any other outcome the department determines accomplishes the requirements  
21 of this chapter.

22 **Comment.** Section 84570 continues former Section 25253(b) without substantive change.  
23 See Sections 83160 (“department”), 83175 (“disposal”), 84415 (“consumer product”).

24 **84575. Reliance on studies or evaluations in lieu of alternatives analysis**

25 84575. (a) In lieu of requiring an analysis of alternatives, as specified in Sections  
26 84555, 84560, and 84570, the department may instead rely on all or part of one or  
27 more applicable publicly available studies or evaluations of alternatives to the  
28 chemical of concern under consideration in a consumer product, in existence at the  
29 time of consideration, and may proceed directly to a regulatory response.

30 (b) Any study or evaluation that the department proposes to rely on pursuant to  
31 this section shall satisfy one of the reliability criteria in paragraphs (1) to (3),  
32 inclusive, of subparagraph (A) of paragraph (57) of subdivision (a) of, and also meet  
33 the requirements of subparagraph (B) of paragraph (57) of subdivision (a) of,  
34 Section 69501.1 of Title 22 of the California Code of Regulations.

35 (c)(1) The department shall provide public notice and an opportunity for comment  
36 from the public, including responsible entities, on the proposal to rely on the studies  
37 or evaluations.

38 (2) The proposal may be combined with the proposal to list a chemical-product  
39 combination as a priority product.

40 (d)(1) The proposal shall address any relevant factors listed in subdivision (c) of  
41 Section 69506 of Title 22 of the California Code of Regulations, as that section may

1 be amended, that product manufacturers would be required to address as part of the  
2 regulatory response.

3 (2) If the department determines that a study or evaluation upon which it is relying  
4 pursuant to this section does not address one or more relevant factors, the  
5 department may augment the study or evaluation with additional information that  
6 addresses the relevant factors as part of the proposal to rely on the studies or  
7 evaluations.

8 (e)(1) Following public notice and comment, the department shall make a formal  
9 determination of whether the studies or evaluations are applicable and meet the  
10 reliability criteria and requirements specified in subdivision (b), and whether all  
11 relevant factors have been addressed.

12 (2) The department shall publish a summary of its determination, including  
13 whether the department plans to proceed to regulatory responses. If regulatory  
14 responses are planned, the summary shall not be judicially reviewable until  
15 regulatory responses are finalized.

16 (f)(1) Following a formal determination pursuant to subdivision (e), the  
17 department may issue regulatory responses based on the studies or evaluations, after  
18 providing public notice and an opportunity for comment from the public, including  
19 responsible entities, on the regulatory responses.

20 (2) The department shall respond to all comments it receives.

21 **Comment.** Section 84575 continues former Section 25253(d) without substantive change.

22 See Sections 83160 (“department”), 84415 (“consumer product”), 84435 (“product  
23 manufacturers”).

#### 24 **84580. Public involvement**

25 84580. (a) The department shall amend Sections 69504 and 69504.1 of Title 22  
26 of the California Code of Regulations to allow a person to petition the department  
27 for a regulatory response pursuant to Section 84575.

28 (b) The revision of regulations pursuant to subdivision (a) shall be deemed to be  
29 a change without regulatory effect.

30 (c) If the department provides public notice of a proposed regulation pursuant to  
31 this chapter and an opportunity to comment prior to the adoption of the regulation,  
32 the dispute resolution procedures specified in Sections 69507.1 and 69507.2 of Title  
33 22 of the California Code of Regulations, as those sections read on January 1, 2021,  
34 shall not be available to a person who seeks to dispute the regulation and the  
35 requirement to exhaust administrative remedies in subdivision (b) of Section 69507  
36 of Title 22 of the California Code of Regulations does not apply.

37 **Comment.** Subdivision (a) of Section 84580 continues former Section 25253(e)(1) without  
38 substantive change.

39 Subdivision (b) continues former Section 25253(e)(2) without substantive change.

40 Subdivision (c) continues former Section 25253(f) without substantive change.

41 See Sections 83160 (“department”), 83295 (“person”).

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Article 7. Multimedia Life Cycle Evaluation

**84595. “Multimedia life cycle evaluation”**

84595. For the purposes of this article, “multimedia life cycle evaluation” means the identification and evaluation of a significant adverse impact on public health or the environment, including air, water, or soil, that may result from the production, use, or disposal of a consumer product or consumer product ingredient.

**Comment.** Section 84595 continues former Section 25252.5(g) without substantive change. See Sections 83175 (“disposal”), 84415 (“consumer product”).

**84600. Preparation of evaluation**

84600. (a) Except as provided in subdivision (c), the department, in adopting the regulations pursuant to Article 5 (commencing with Section 84525) and Article 6 (commencing with Section 84555), shall prepare a multimedia life cycle evaluation conducted by affected agencies and coordinated by the department, and shall submit the regulations and the multimedia life cycle evaluation to the council for review.

(b) In coordinating a multimedia life cycle evaluation pursuant to subdivision (a), the department shall consult with other boards and departments within the California Environmental Protection Agency, the State Department of Public Health, the State and Consumer Services Agency, the Department of Homeland Security, the Department of Industrial Relations, and other state agencies with responsibility for, or expertise regarding, impacts that could result from the production, use, or disposal of consumer products and the ingredients they may contain.

(c) Notwithstanding subdivision (a), the department may adopt regulations pursuant to Article 5 (commencing with Section 84525) and Article 6 (commencing with Section 84555) without subjecting the proposed regulation to a multimedia life cycle evaluation if the council, following an initial evaluation of the proposed regulation, conclusively determines that the regulation will not have any significant adverse impact on public health or the environment.

**Comment.** Subdivision (a) of Section 84600 continues former Section 25252.5(a) without substantive change.

Subdivision (b) continues former Section 25252.5(e) without substantive change.

Subdivision (c) continues former Section 25252.5(f) without substantive change.

See Sections 83160 (“department”), 83175 (“disposal”), 84415 (“consumer product”), 84440 (“council”), 84595 (“multimedia life cycle evaluation”).

**84605. Basis of evaluation**

84605. The multimedia life cycle evaluation prepared in accordance with this article shall be based on the best available scientific data, written comments submitted by interested persons, and information collected by the department in preparation for adopting the regulations, and shall address, but is not limited to, the impacts associated with all the following:

(a) Emissions of air pollutants, including ozone forming compounds, particulate matter, toxic air contaminants, and greenhouse gases.

- 1 (b) Contamination of surface water, groundwater, and soil.
- 2 (c) Disposal or use of the byproducts and waste materials.
- 3 (d) Worker safety and impacts to public health.
- 4 (e) Other anticipated impacts to the environment.

5 **Comment.** Section 84605 restates former Section 25252.5(b) without substantive change.  
6 See Sections 83160 (“department”), 83295 (“person”), 83175 (“disposal”), 84595 (“multimedia  
7 life cycle evaluation”).

8 **Note.** The introduction to Section 25252.5(b) is restated by proposed Section 84605 for clarity.  
9 The introduction to Section 25252.5(b) currently provides:

10 25252.5. (b) The multimedia evaluation shall be based on the best available scientific data, ....

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

12 **84610. Review by council**

13 84610. (a) The council shall complete its review of the multimedia life cycle  
14 evaluation prepared in accordance with this article within 90 calendar days  
15 following notice from the department that it intends to adopt regulations.

16 (b) If the council determines that the proposed regulations will cause a significant  
17 adverse impact on the public health or the environment, or that alternatives exist  
18 that would be less adverse, the council shall recommend alternative measures that  
19 the department or other state agencies may take to reduce the adverse impact on  
20 public health or the environment.

21 (c) The council shall make all information relating to its review available to the  
22 public.

23 **Comment.** Section 84610 restates former Section 25252.5(c) without substantive change.  
24 See Sections 83160 (“department”), 84440 (“council”), 84595 (“multimedia life cycle  
25 evaluation”).

26 **Note.** The first sentence of Section 25252.5(c) is restated by proposed Section 84610(a) for  
27 clarity. The first sentence of Section 25252.5(c) currently provides:

28 25252.5. (c) The council shall complete its review of the multimedia evaluation within 90  
29 calendar days following notice from the department that it intends to adopt regulations.

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

31 **84615. Significant adverse impact determination**

32 84615. Within 60 days of receiving notification from the council of a  
33 determination of significant adverse impact, the department shall adopt revisions to  
34 the proposed regulation to avoid or reduce the adverse impact, or the affected  
35 agencies shall take appropriate action that will, to the extent feasible, mitigate the  
36 adverse impact so that, on balance, there is no significant adverse impact on public  
37 health or the environment.

38 **Comment.** Section 84615 continues former Section 25252.5(d) without substantive change.  
39 See Sections 83160 (“department”), 84440 (“council”).

1 Article 8. Toxics Information Clearinghouse

2 **84630. Establishment of clearinghouse**

3 84630. The department shall establish the Toxics Information Clearinghouse,  
4 which shall provide a decentralized, Web-based system for the collection,  
5 maintenance, and distribution of specific chemical hazard trait and environmental  
6 and toxicological end-point data.

7 **Comment.** Section 84630 continues the first sentence of former Section 25256 without  
8 substantive change.

9 See Section 83160 (“department”).

10 **84635. Data to be initially included in clearinghouse**

11 84635. (a) On or before January 1, 2011, the office shall evaluate and specify the  
12 hazard traits and environmental and toxicological end-points and any other relevant  
13 data that are to be included in the clearinghouse.

14 (b) The office shall conduct this evaluation in consultation with the department  
15 and all appropriate state agencies, after one or more public workshops, and an  
16 opportunity for all interested parties to comment.

17 (c) The office may seek information from other states, the federal government,  
18 and other nations in implementing this section.

19 **Comment.** Section 84635 continues former Section 25256.1 without substantive change.

20 See Sections 83160 (“department”), 84410 (“clearinghouse”), 84425 (“office”), 84630  
21 (“clearinghouse”).

22 **84640. Operation of clearinghouse**

23 84640. (a) The department shall develop requirements and standards related to the  
24 design of the clearinghouse and data quality and test methods that govern the data  
25 that is eligible to be available through the clearinghouse.

26 (b) The department may phase in the access to eligible information and data in the  
27 clearinghouse as that information and data become available.

28 (c) The department shall ensure the clearinghouse is capable of displaying  
29 updated information as new data becomes available.

30 **Comment.** Section 84640 continues former Section 25256.2 without substantive change.

31 See Sections 83160 (“department”), 84410 (“clearinghouse”).

32 **84645. Department consultation with other governmental entities**

33 84645. The department shall consult with other states, the federal government,  
34 and other nations to identify available data related to hazard traits and environmental  
35 and toxicological end-points, and to facilitate the development of regional, national,  
36 and international data sharing arrangements to be included in the clearinghouse.

37 **Comment.** Section 84645 continues former Section 25256.3 without substantive change.

38 See Sections 83160 (“department”), 84410 (“clearinghouse”).

1 **84650. Accessibility to the public**

2 84650. The department shall make the clearinghouse accessible to the public  
3 through a single internet web portal.

4 **Comment.** Section 84650 continues the first part of the second sentence of former Section 25256  
5 without substantive change.

6 See Sections 83160 (“department”), 84410 (“clearinghouse”).

7 **84655. Operational cost**

8 84655. The department shall, to the maximum extent possible, operate the  
9 clearinghouse at the least possible cost to the state.

10 **Comment.** Section 84655 continues the second part of the second sentence of former Section  
11 25256 without substantive change.

12 See Sections 83160 (“department”), 84410 (“clearinghouse”).

13 **Article 9. Department Requests for Information**

14 **84670. Request for information from product manufacturers**

15 84670. (a) The department may issue a formal request for information from  
16 product manufacturers.

17 (b) The request shall be accompanied by a brief statement on why the department  
18 is requesting the information.

19 (c) The department’s request may include, but is not limited to, all of the  
20 following:

21 (1) Information on ingredient chemical identity, concentration, and functional  
22 use.

23 (2) Existing information, if any, related to the use of the products by children,  
24 pregnant women, or other sensitive populations.

25 (3) Data on state product sales, or national product sales in the absence of state  
26 product sales data.

27 **Comment.** Subdivision (a) of Section 84670 continues the first sentence of former Section  
28 25253.7(a)(1) without substantive change.

29 Subdivision (b) continues the second sentence of former Section 25253.7(a)(1) without  
30 substantive change.

31 Subdivision (c) continue the fourth sentence of former Section 25253.7(a)(1) without substantive  
32 change.

33 See Sections 83160 (“department”), 84435 (“product manufacturer”).

34 **84675. Response by product manufacturer**

35 84675. (a) A product manufacturer shall provide to the department data and  
36 information on the ingredients and use of a consumer product upon the department’s  
37 request within the time specified in Section 84690.

38 (b) If the product manufacturer certifies in writing that it does not have access to  
39 information requested pursuant to Section 84670, in whole or in part, and that it has  
40 attempted to, but cannot, obtain that information from one or more suppliers or

1 chemical manufacturers, the product manufacturer shall provide the identity and  
2 contact information of those suppliers or chemical manufacturers to the department.

3 (c) To the extent that the product manufacturer satisfies the requirements of  
4 subdivision (b), the product manufacturer shall be considered to be in compliance  
5 with the requirement to provide the data and information specified in Section 84670,  
6 with respect to the information that the product manufacturer has attempted to  
7 obtain from the supplier or chemical manufacturer, and shall be absolved of liability  
8 for violating this article as it pertains to the provision of that information.

9 **Comment.** Subdivision (a) of Section 84675 continues the third sentence of former Section  
10 25253.7(a)(1) without substantive change.

11 Subdivision (b) continues former Section 25253.7(a)(2)(A) without substantive change.

12 Subdivision (c) continues former Section 25253.7(a)(2)(B) without substantive change.

13 See Sections 83160 (“department”), 84405 (“chemical manufacturer”), 84415 (“consumer  
14 product”), 84435 (“product manufacturer”).

### 15 **84680. Request for information from supplier or chemical manufacturer**

16 84680. (a) The department may issue an independent information request to a  
17 supplier or chemical manufacturer identified by the product manufacturer pursuant  
18 to subdivision (b) of Section 84675 for the unknown information that the product  
19 manufacturer certifies it does not have access to, as well as for the identity and  
20 contact information of other suppliers or chemical manufacturers, as necessary to  
21 access the information requested pursuant to Section 84670.

22 (b) Upon the department’s request, a supplier or chemical manufacturer shall  
23 provide the information requested pursuant to this section to the department.

24 (c) The supplier or chemical manufacturer shall be considered to be in violation  
25 of this section, and is liable for civil penalties pursuant to Section 84700, to the  
26 extent that it fails to comply with an information request, pursuant to subdivisions  
27 (b) or (c) of Section 84675, in its entirety.

28 **Comment.** Section 84680 continues former Section 25253.7(a)(2)(C) without substantive  
29 change.

30 See Sections 83160 (“department”), 84405 (“chemical manufacturer”), 84435 (“product  
31 manufacturer”).

32 **Note.** The last sentence of Section 25253.7(a)(2)(C) (which would be continued by proposed  
33 Section 84680(c)) provides that a supplier or chemical manufacturer shall be considered in violation  
34 of Section 25253.7, and liable for civil penalties, “to the extent that it fails to comply with an  
35 information request, pursuant to subparagraph (A) or (B), in its entirety.”

36 However, neither of the two cross-referenced subparagraphs, which would be continued by  
37 proposed subdivisions (b) and (c) of Section 84675, seem to impose any obligation on a supplier  
38 or chemical manufacturer.

39 **Comment is welcome on this issue. Depending on the comment received, the issue may be  
40 added to the list of substantive issues for possible future study.**

### 41 **84685. Request for information for category in Priority Product Work Plan**

42 84685. The department may seek data and information pursuant to Sections  
43 84670, 84675, and 84680 for any product category or subcategory published in a

1 previous Priority Product Work Plan or being considered for inclusion in an  
2 upcoming Priority Product Work Plan.

3 **Comment.** Section 84685 continues former Section 25253.7(a)(3) without substantive change.  
4 See Section 83160 (“department”).

5 **84690. Allowed time for response to request**

6 84690. (a) The department shall provide 30 days for a response to a request for  
7 data or information, unless the department concludes additional time is necessary  
8 for the entity to obtain the necessary information.

9 (b) If the department determines that a longer time is required, it shall identify the  
10 deadline for response, which shall not exceed 120 days.

11 (c) If the entity is in communication with the department and is working in good  
12 faith to fulfill the department’s request, the department may exceed 120 days by  
13 granting additional time in an amount not to exceed 60 days.

14 **Comment.** Section 84690 continues former Section 25253.7(a)(4) without substantive change.  
15 See Section 83160 (“department”).

16 **84695. Assertion of trade secret claims**

17 84695. In providing data or information in response to a request from the  
18 department, a product manufacturer, chemical manufacturer, or supplier may raise  
19 trade secret claims in accordance with Article 10 (commencing with Section 84720).

20 **Comment.** Section 84695 continues former Section 25253.7(a)(5) without substantive change.  
21 See Sections 83160 (“department”), 84405 (“chemical manufacturer”), 84435 (“product  
22 manufacturer”).

23 **84700. Penalties for noncompliance**

24 84700. (a) A person who violates this article shall be liable for a civil penalty not  
25 to exceed fifty thousand dollars (\$50,000) for each separate violation or, for  
26 continuing violations, for each day that violation continues.

27 (b) Liability under this section may be imposed in a civil action or may be imposed  
28 administratively.

29 (c) A penalty collected pursuant to this section shall be deposited in the Toxic  
30 Substances Control Account in the General Fund.

31 (d) In imposing an administrative penalty pursuant to this section, the department  
32 shall take into consideration the nature, circumstances, extent, and gravity of the  
33 violation, the history of previous violations, the violator’s ability to pay the penalty,  
34 and the deterrent effect of the penalty.

35 (e) Nothing in this section shall be construed to impose liability for a civil penalty  
36 pursuant to subdivision (a) for a violation of this article resulting from another  
37 party’s failure to comply with an independent information request issued by the  
38 department pursuant to Section 84680.

39 **Comment.** Section 84700 continues former Section 25253.7(b) without substantive change.  
40 See Sections 83160 (“department”), 83295 (“person”).

Article 10. Trade Secrets

**84720. Claim of trade secret**

84720. (a) A person providing information pursuant to this chapter may, at the time of submission, identify a portion of the information submitted to the department as a trade secret and, upon the written request of the department, shall provide support for the claim that the information is a trade secret.

(b) Except as provided in Section 84730, a state agency shall not release to the public, subject information supplied pursuant to this chapter that is a trade secret, and that is so identified at the time of submission, in accordance with Sections 7924.510 and 7924.700 of the Government Code and Section 1060 of the Evidence Code.

(c) Information not identified as a trade secret pursuant to subdivisions (a) or (b) shall be available to the public unless exempted from disclosure by other provisions of law.

(d) The fact that information is claimed to be a trade secret is public information.

**Comment.** Subdivision (a) of Section 84720 continues the first sentence of former Section 25257(a) without substantive change.

Subdivision (b) continues the second sentence of former Section 25257(a) without substantive change.

Subdivision (c) continues the first sentence of former Section 25257(c) without substantive change.

Subdivision (d) continues the second sentence of former Section 25257(c) without substantive change.

See Sections 83160 (“department”), 83295 (“person”).

**Note.** In the second sentence of Section 25257(a) (continued by proposed Section 84720(b)), the meaning of the term “subject information” is unclear.

**Comment on this issue is welcome. Depending on the comment received, the issue may be added to the list of substantive issues for possible future study.**

**84725. Duty of department employees**

84725. An employee of the department that has access to a properly designated trade secret shall maintain the confidentiality of that trade secret by complying with this section.

**Comment.** Section 84725 continues the second sentence of former Section 25257(b) without substantive change.

See Section 83160 (“department”).

**84730. Request for release of information claimed to be trade secret**

84730. (a) Upon receipt of a request for the release of information that has been claimed to be a trade secret, the department shall immediately notify the person who submitted the information.

(b) Based on the request, the department shall determine whether or not the information claimed to be a trade secret is to be released to the public.

1 (c) The department shall make the determination specified in subdivision (b), no  
2 later than 60 days after the department receives the request for disclosure, but not  
3 before 30 days following the notification of the person who submitted the  
4 information.

5 (d) If the department decides that the information requested pursuant to this  
6 section should be made public, the department shall provide the person who  
7 submitted the information 30 days' notice prior to public disclosure of the  
8 information, unless, prior to the expiration of the 30-day period, the person who  
9 submitted the information obtains an action in an appropriate court for a declaratory  
10 judgment that the information is subject to protection under this article or for a  
11 preliminary injunction prohibiting disclosure of the information to the public and  
12 promptly notifies the department of that action.

13 **Comment.** Section 84730 continues former Section 25257(d) without substantive change.  
14 See Sections 83160 (“department”), 83295 (“person”).

15 **Note.** Two aspects of the text of Section 25257(d)(3) (which would be continued by proposed  
16 Section 84730(d)) are somewhat unclear:

- 17 1. The required calculation of the 30-day notice period, based on the intended application of the  
18 text of the provision beginning with the word “unless.”
- 19 2. The reference to a specified person “obtain[ing]” a specified action in an appropriate court,  
20 which might be understood as either (a) *commencing* an action, or (b) obtaining one of the specified  
21 *results* in an action.

22 **Comment on whether these issues should be added to the list of substantive issues for**  
23 **possible future study is welcome.**

#### 24 **84735. Exchange of information between public agencies**

25 84735. This article does not prohibit the exchange of a properly designated trade  
26 secret between public agencies, if the trade secret is relevant and necessary to the  
27 exercise of the agency’s jurisdiction and the public agency exchanging the trade  
28 secrets complies with this section.

29 **Comment.** Section 84735 continues the first sentence of former Section 25257(b) without  
30 substantive change.

#### 31 **84740. Refusal to disclose information to department**

32 84740. This article does not authorize a person to refuse to disclose to the  
33 department information required to be submitted to the department pursuant to this  
34 article.

35 **Comment.** Section 84740 continues the first sentence of former Section 25257(e) without  
36 substantive change.

37 See Section 83160 (“department”), 83295 (“person”).

#### 38 **84745. Application of article to hazardous trait submissions**

39 84745. This article does not apply to hazardous trait submissions for chemicals  
40 and chemical ingredients pursuant to this chapter.

1       **Comment.** Section 84745 continues the first sentence of former Section 25257(f) without  
2 substantive change.

3       See Section 83160 (“department”).

## 4                                   Article 11. Healthy Nail Salon Recognition Programs

### 5       **84765. Publication of guidelines**

6       84765. The department shall, by January 1, 2018, publish guidelines for healthy  
7 nail salon recognition (HNSR) programs voluntarily implemented by local cities  
8 and counties.

9       **Comment.** Section 84765 continues former Section 25257.2(a) without substantive change.

10       See Section 83160 (“department”).

### 11       **84770. Content of guidelines**

12       84770. The guidelines for an HNSR program adopted pursuant to Section 84765  
13 may include, but shall not be limited to, all of the following:

14       (a) A list of specific chemical ingredients that should not be used by a nail salon  
15 seeking recognition. In determining whether to include a chemical on the list, the  
16 department shall consider:

17           (1) Whether the chemical is identified as a candidate chemical pursuant to the  
18 regulations adopted pursuant to Section 25252.

19           (2) Whether an existing healthy nail salon program has restricted the use of the  
20 chemical.

21           (3) The potential for exposure of nail salon workers and customers to the  
22 chemical.

23           (4) The availability of existing, safer alternatives to the chemical in products  
24 available to nail salons in California.

25       (b) Specific best practices for minimizing exposure to hazardous chemicals,  
26 including:

27           (1) A list of specific personal protective equipment that should be used by  
28 personnel in a salon seeking recognition and guidance on when and how to use it.

29           (2) Engineering controls that should be adopted by salons seeking recognition,  
30 including specific ventilation practices and equipment.

31           (3) Prohibiting nail polishes that contain dibutyl phthalate, formaldehyde, or  
32 toluene.

33           (4) Prohibiting nail polish thinners that contain methyl ethyl ketone or toluene.

34           (5) Prohibiting nail polish removers that contain ethyl or butyl acetate.

35       (c) A list of specific training topics for salon owners and staff, whether on payroll  
36 or contract, on safer practices delineated in the HNSR program guidelines.

37       (d) Criteria for the use of outside products brought in by clients.

38       (e) Verification that a salon seeking recognition is in compliance with Chapter 10  
39 (commencing with Section 7301) of Division 3 of the Business and Professions  
40 Code, and all applicable regulations enforced by the State Board of Barbering and  
41 Cosmetology.

1 (f) Any other guidelines or best practices determined by the department to further  
2 the goals of an HNSR program.

3 **Comment.** Section 84770 continues former Section 25257.2(b) without substantive change.  
4 See Section 83160 (“department”).

5 **84775. Criteria for cities and counties adopting program**

6 84775. (a) The guidelines adopted pursuant to Section 84765 shall include criteria  
7 for cities and counties that adopt an HNSR program.

8 (b) The criteria referred to in subdivision (a) may cover, but are not limited to:

9 (1) Coordination with other local HNSR programs to assist businesses in  
10 achieving and moving beyond regulatory compliance.

11 (2) Training and certification requirements for the salon owners and staff to  
12 ensure thorough knowledge of safe and environmentally friendly procedures.

13 (3) Issuance of an approved seal or certificate to salons that have met certification  
14 requirements.

15 (4) The process by which a salon can enroll in an HNSR program and be verified  
16 by the local entity.

17 (5) The frequency at which the local entity shall verify continued compliance by  
18 a salon that has previously met all specified requirements.

19 **Comment.** Section 84775 continues former Section 25257.2(c) without substantive change.  
20 See Section 83100 (“business”).

21 **84780. Consultation with other agencies**

22 84780. In developing guidelines pursuant to Section 84765, the department shall  
23 consult with the Division of Occupational Safety and Health, the State Department  
24 of Public Health, and the State Board of Barbering and Cosmetology.

25 **Comment.** Section 84780 continues former Section 25257.2(d) without substantive change.  
26 See Section 83160 (“department”).

27 **84785. Promotion of guidelines**

28 84785. In collaboration with existing healthy nail salon programs, the department  
29 shall promote the HNSR guidelines developed pursuant to Section 84765 by doing  
30 all of the following:

31 (a) Developing and implementing a consumer education program.

32 (b) Presenting the HNSR guidelines to local health officers, local environmental  
33 health departments, and other local agencies as appropriate.

34 (c) Developing and either distributing or posting on its internet website  
35 information for local entities, including, but not limited to the following:

36 (1) Suggestions for successful implementation of HNSR programs.

37 (2) Resource lists that include names and contact information of vendors,  
38 consultants, or providers of financial assistance or loans for purchases of ventilation  
39 equipment.

1 (d) Developing an internet website or a section on the department’s internet  
2 website that links to county HNSR internet websites.

3 **Comment.** Section 84785 restates former Section 25257.2(e) without substantive change.  
4 See Section 60610 (“department”).

5 **Note.** Section 25257.2(e)(3) is restated by proposed Section 84785(c) for clarity. The existing  
6 provision currently provides:

7 25257. (e) In collaboration with existing healthy nail salon programs, the department shall  
8 promote the HNSR guidelines developed pursuant to subdivision (a) by doing all of the following:

9 ...

10 (3) Developing and either distributing or posting on its Internet Web site information for local  
11 entities, including, but not limited to, suggestions for successful implementation of HNSR  
12 programs and resource lists that include names and contact information of vendors, consultants, or  
13 providers of financial assistance or loans for purchases of ventilation equipment.

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

15 **84790. Outreach**

16 84790. The department may prioritize its outreach to those counties that have the  
17 greatest number of nail salons.

18 **Comment.** Section 84790 continues former Section 25257.2(f) without substantive change.  
19 See Section 83160 (“department”).

20 **84795. Violation of regulation by salon**

21 84795. (a) The State Board of Barbering and Cosmetology may notify the city,  
22 county, or city and county if a recognized salon is found in violation of Article 12  
23 (commencing with Section 977) of Division 9 of Title 16 of the California Code of  
24 Regulations.

25 (b) A violation shall result in the removal of healthy nail salon recognition from  
26 that salon.

27 **Comment.** Section 84795 restates former Section 25257.2(g) without substantive change.

28 **84800. Local rules and ordinances**

29 84800. This article does not prevent the adoption or enforcement of any local rules  
30 or ordinances.

31 **Comment.** Section 84800 continues former Section 25257.2(h) without substantive change.

32 CHAPTER 2. POLLUTION PREVENTION AND HAZARDOUS WASTE SOURCE  
33 REDUCTION AND MANAGEMENT REVIEW ACT

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Article 1. Preliminary Provisions

**§ 84850. Short title**

84850. This chapter shall be known and may be cited as the Pollution Prevention and Hazardous Waste Source Reduction and Management Review Act.

**Comment.** Section 84850 continues former Section 25244.12 without substantive change.

**§ 84855. Legislative findings and declarations**

84855. The Legislature finds and declares as follows:

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

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

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

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

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

(1) Reduce the generation of hazardous waste.

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

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

1 (f) It is the intent of this chapter to promote the reduction of hazardous waste at  
2 its source, and wherever source reduction is not feasible or practicable, to encourage  
3 recycling. Where it is not feasible to reduce or recycle hazardous waste, the waste  
4 should be treated in an environmentally safe manner to minimize the present and  
5 future threat to health and the environment.

6 (g) It is the intent of the Legislature not to preclude the regulation of  
7 environmentally harmful releases to all media, including air, land, surface water,  
8 and groundwater, and to encourage and promote the reduction of these releases to  
9 air, land, surface water, and groundwater.

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

15 **Comment.** Section 84855 continues former Section 25244.13 without substantive change.

16 See Sections 84895 (“business”), 83110 (“CUPA”), 83160 (“department”), 83175 (“disposal”),  
17 83210 (“hazardous waste”), 83260 (“natural resources”), 83325 (“recycling”), 83330 (“release”),  
18 84915 (“pollution prevention”), 83395 (“waste”).

19 **§ 84860. Application of chapter**

20 84860. (a) This chapter establishes a program for pollution prevention, including,  
21 but not limited to, hazardous waste source reduction.

22 (b) The department shall coordinate the activities of all state agencies with  
23 responsibilities and duties relating to hazardous waste and shall promote  
24 coordinated efforts to encourage the reduction of hazardous waste. Coordination  
25 between the program and other relevant state agencies and programs shall, to the  
26 fullest extent possible, include joint planning processes and joint research and  
27 studies.

28 (c) The department shall adopt regulations to carry out the requirements imposed  
29 upon generators pursuant to this chapter.

30 (d)(1) Except as provided in paragraph (3), **Sections 25244.19, 25244.20, and**  
31 **25244.21** apply only to generators who, by site, routinely generate, through ongoing  
32 processes and operations, more than 12,000 kilograms of hazardous waste in a  
33 calendar year, or more than 12 kilograms of extremely hazardous waste in a calendar  
34 year.

35 (2) The department shall adopt regulations to establish procedures for exempting  
36 generators from the requirements of this chapter where the department determines  
37 that no source reduction opportunities exist for the generator.

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

42 **Comment.** Section 84860 continues former Section 25244.15 without substantive change.

1 See Sections 83160 (“department”), 83195 (“extremely hazardous waste”), 83210 (“hazardous  
2 waste”), 83300 (“processing”), 84915 (“pollution prevention”).

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

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

7 **§ 84865. Funding contingency**

8 63695. (a) The department’s duties to implement this chapter are contingent upon,  
9 and limited to, the availability of funding.

10 (b) Subdivision (a) does not eliminate a requirement of this chapter that is  
11 imposed upon a generator.

12 **Comment.** Section 84865 continues former Section 25244.13.1 without substantive change.  
13 See Section 83160 (“department”).

14 **Article 2. Definitions**

15 **§ 84880. Definitions**

16 84880. For purposes of this chapter, the definitions in this article shall apply.

17 **Comment.** Section 84880 continues the introductory clause of former Section 25244.14 without  
18 substantive change.

19 **§ 84885. “Advisory Committee”**

20 84885. “Advisory committee” means the California Pollution Prevention  
21 Advisory Committee established pursuant to **Section 25244.15.1**.

22 **Comment.** Section 84885 continues former Section 25244.14(a) without substantive change.

23 **§ 84890. “Appropriate local agency”**

24 84890. “Appropriate local agency” means a county, city, or regional association  
25 that has adopted a hazardous waste management plan pursuant to **Article 3.5**  
26 **(commencing with Section 25135)**.

27 **Comment.** Section 84890 continues former Section 25244.14(b) without substantive change.  
28 See Section 83220 (“hazardous waste management”).

29 **§ 84895. “Business”**

30 84895. “Business” has the same meaning as defined in **Section 25501**.

31 **Comment.** Section 84895 continues former Section 25244.14(c) without substantive change.

32 **§ 84900. “Hazardous waste management approaches”**

33 84900. “Hazardous waste management approaches” means approaches, methods,  
34 and techniques of managing the generation and handling of hazardous waste,  
35 including source reduction, recycling, and the treatment of hazardous waste.

36 **Comment.** Section 84900 continues former Section 25244.14(d) without substantive change.

1 See Sections 83205 (“handling”), 83210 (“hazardous waste”), 83220 (“hazardous waste  
2 management”), 83325 (“recycling”), 83370 (“treatment”), 84925 (“source reduction”).

3 **§ 84905. “Hazardous waste management performance report” or “report”**

4 84905. “Hazardous waste management performance report” or “report” means the  
5 report required by **subdivision (b) of Section 25244.20** to document and evaluate  
6 the results of hazardous waste management practices.

7 **Comment.** Section 84905 continues former Section 25244.14(e) without substantive change.  
8 See Section 83220 (“hazardous waste management”).

9 **§ 84910. “NAICS Code”**

10 84910. “NAICS Code” means the identification number assigned to specific types  
11 of businesses by the North American Industry Classification System (NAICS)  
12 adopted by the United States Census Bureau.

13 **Comment.** Section 84910 continues former Section 25244.14(f) without substantive change.  
14 See Section 84895 (“business”).

15 **§ 84915. “Pollution prevention”**

16 84915. “Pollution prevention” means the reduction of chemical sources that have  
17 adverse impacts on public health and the environment, including, but not limited to,  
18 source reduction.

19 **Comment.** Section 84915 continues former Section 25244.14(g) without substantive change.  
20 See Section 84925 (“source reduction”).

21 **§ 84920. “SIC Code”**

22 84920. “SIC Code” means the identification number assigned to specific types of  
23 businesses by the Standard Industrial Classification (SIC) system established by the  
24 United States Department of Commerce.

25 **Comment.** Section 84920 continues former Section 25244.14(h) without substantive change.  
26 See Section 84895 (“business”).

27 **§ 84925. “Source reduction”**

28 84925. (a) “Source reduction” means either of the following:

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

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

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

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

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

38 (3) “Production process change,” which means a change in a process, method, or  
39 technique that is used to produce a product or a desired result, including the return

1 of materials or their components, for reuse within the existing processes or  
2 operations, so as to reduce, avoid, or eliminate the generation of hazardous waste.

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

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

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

8 (2) Actions that merely concentrate the constituents of a hazardous waste to  
9 reduce its volume or that dilute the hazardous waste to reduce its hazardous  
10 characteristics.

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

13 (4) Treatment.

14 **Comment.** Section 84925 continues former Section 25244.14(i) without substantive change.  
15 See Section 83210 (“hazardous waste”), 83370 (“treatment”).

16 **§ 84930. “Source reduction evaluation review and plan” or “review and plan”**

17 84930. “Source reduction evaluation review and plan” or “review and plan”  
18 means a review conducted by the generator of the processes, operations, and  
19 procedures in use at a generator’s site, in accordance with the format established by  
20 the department pursuant to **subdivision (a) of Section 25244.16**, and that does both  
21 of the following:

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

25 (b) Includes a plan to document and implement source reduction measures for the  
26 hazardous wastes specified in subdivision (a) that are technically feasible and  
27 economically practicable for the generator, including a reasonable implementation  
28 schedule.

29 **Comment.** Section 84930 continues former Section 25244.14(j) without substantive change.  
30 See Sections 83160 (“department”), 83210 (“hazardous waste”), 84925 (“source reduction”).

31 **§ 84935. Generally defined terms**

32 84935. The following terms have the same meanings as defined in **Article 2**  
33 **(commencing with Section 25110)**:

34 (a) “Hazardous waste.”

35 (b) “Person.”

36 (c) “Recycle.”

37 (d) “Treatment.”

38 **Comment.** Section 84935 restates former Section 25244.14(k) without substantive change.  
39 See Sections 83210 (“hazardous waste”), 83295 (“person”), 83370 (“treatment”).

40 **Note.** Proposed Section 84935 would restate existing Section 25244.14(k) for clarity. The  
41 existing subdivision reads as follows:

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

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

5 Article 3. California Pollution Prevention Advisory Committee

6 **§ 84950. Creation and membership**

7 84950. The California Pollution Prevention Advisory Committee is hereby  
8 created and consists of the following members:

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

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

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

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

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

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

18 (g) Ten public members with experience in pollution prevention as appointed by  
19 the department, which shall include all of the following:

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

21 (2) One representative of a publicly owned treatment works.

22 (3) Two representatives of industry.

23 (4) One representative of small business.

24 (5) One representative of organized labor.

25 (6) Two representatives of statewide environmental advocacy organizations.

26 (7) One representative of a statewide public health advocacy organization.

27 (h) The department may appoint up to two additional public members with  
28 experience in pollution prevention and detailed knowledge of one of the priority  
29 categories of businesses selected in accordance with **Section 25244.17.1**.

30 **Comment.** Section 84950 continues former Section 25244.15.1(a) without substantive change.  
31 See Sections 84895 (“business”), 83160 (“department”), 83370 (“treatment”).

32 **§ 84955. Chairperson**

33 84955. The advisory committee shall select one member to serve as chairperson.

34 **Comment.** Section 84955 continues former Section 25244.15.1(b) without substantive change.  
35 See Section 84885 (“advisory committee”).

36 **§ 84960. Compensation and expense reimbursement**

37 84960. The members of the advisory committee shall serve without  
38 compensation, but each member, other than officials of the state, upon request, shall

1 be reimbursed for all reasonable expenses incurred in the performance of their  
2 duties, as authorized by the department.

3 **Comment.** Section 84960 continues former Section 25244.15.1(c) without substantive change.  
4 See Sections Section 84885 (“advisory committee”), 83160 (“department”).

5 **§ 84965. Public forum**

6 84965. When convened by the department, the advisory committee shall provide  
7 a public forum for discussion and deliberation on matters pertaining to the  
8 implementation of this division.

9 **Comment.** Section 84965 continues former Section 25244.15.1(d) without substantive change.  
10 See Sections Section 84885 (“advisory committee”), 83160 (“department”).

11 **§ 84970. Committee responsibilities**

12 84970. The advisory committee’s responsibilities shall include, but not be limited  
13 to, the following:

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

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

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

20 (4) Making recommendations to the department concerning strategies to more  
21 effectively align its pollution prevention program with the goals of the department’s  
22 green chemistry program, including the implementation of **Article 14**  
23 **(commencing with Section 25251)**.

24 **Comment.** Section 84970 continues former Section 25244.15.1(e) without substantive change.  
25 See Sections 84885 (“advisory committee”), 83160 (“department”).

26 **Article 4. Publication of Prepared Material**

27 **§ 84985. Draft work plan**

28 84985. (a) The department may, on a periodic basis, prepare and make available  
29 for public review a draft work plan for the department’s operations and activities in  
30 carrying out this chapter.

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

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

36 (d) The work plan shall include an outline of the department’s proposed  
37 operations and activities under this chapter.

1 (e) The department shall use the data summary analysis prepared pursuant to  
2 Section 84990 to develop criteria for the selection of targets for pollution prevention  
3 efforts.

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

9 **Comment.** Section 84985 continues former Section 25244.22(a) without substantive change.  
10 See Sections Section 84885 (“advisory committee”), 83160 (“department”).

11 **§ 84990. Publication of data summary analysis**

12 84990. (a) The department may periodically prepare, and make available to the  
13 public on its Internet Web site, a summary analysis of readily available data on the  
14 state’s hazardous waste generation and management patterns.

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

18 (c) The department shall estimate the quantities of hazardous waste generated in  
19 the state, by hazardous waste stream, the amounts of hazardous waste generated in  
20 the state, by industry SIC or NAICS Code, and the amounts of hazardous waste that  
21 state generators sent offsite for management, by management method.

22 **Comment.** Section 84990 continues former Section 25244.22(b) without substantive change.  
23 See Sections 83160 (“department”), 83210 (“hazardous waste”), 83250 (“manifest”), 84910  
24 (“NAICS Code”).

25 **Note.** Existing Section 25244.22(b), which would be continued by proposed Section 84990,  
26 indicates in its first sentence, which would be continued by subdivision (a) of proposed Section  
27 84990, that the department “may” prepare a summary analysis as described in that first sentence.

28 Section 25244.22(b) then provides in its second sentence, which would be continued by  
29 subdivision (b) of proposed Section 84990, that the analysis referenced in the first sentence of the  
30 section “may” include information specified in the second sentence.

31 Finally, Section 25244.22(b) provides in its third sentence, which would be continued by  
32 subdivision (c) of proposed Section 84990, that the department “shall” estimate quantities of  
33 various categories of hazardous waste by various identified methods.

34 This phrasing of Section 25244.22(b) raises the following questions:

35 1. Is the use of the word “may” in the second sentence of Section 25244.22(b) intended to be a  
36 *limitation* on what may be included in the summary analysis described in the first sentence of the  
37 section, or simply a permissive and non-exclusive authorization of what may be included?

38 2. Is the different use of the word “shall” in the third sentence of Section 25244.22(b) intended  
39 to *require* the department to include quantities of hazardous waste as described in the sentence, in  
40 any summary analysis prepared pursuant to Section 25244.22(b), or is the word “shall” intended  
41 only to compel the department to use the methods identified for measuring hazardous waste, *if* the  
42 department includes estimates of hazardous waste in a prepared analysis?

43 **The Commission welcomes comment on these questions.**

Article 5. Pollution Prevention

§ 85000. Technical and Research Assistance Programs

85000. (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:

(1) Assistance to smaller businesses that have inadequate technical and financial resources for obtaining information.

(2) Assessing pollution prevention methods.

(3) Developing and applying pollution prevention techniques.

(c) The program 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 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 85000 continues former Section 25244.17 without substantive change.

See Sections 84895 (“business”), 83160 (“department”), 83210 (“hazardous waste”), 84930 (“review and plan”).

**Note.** Existing Section 25244.17(a), which would be continued by proposed Section 85000(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 84905)?**

§ 85005. Implementation of model pollution prevention in priority business categories

85005. (a) The department may establish a technical assistance and outreach program to promote implementation of model pollution prevention measures in priority business categories.

(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, in compliance with the following requirements:

(1) At least one identified category of businesses shall be a category that consists primarily of small businesses.

1 (2) At least one identified category of businesses shall be a category that consists  
2 primarily of businesses affected by an action taken by the department pursuant to  
3 **Article 14 (commencing with Section 25251).**

4 (c) For each priority business category identified pursuant to subdivision (b), the  
5 department may implement a cooperative pollution prevention technical assistance  
6 and outreach program that includes the following elements:

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

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

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

12 **Comment.** Section 85005 continues former Section 25244.17.1 without substantive change.

13 See Sections 84885 (“advisory committee”), 84895 (“business”), 83160 (“department”), 84910  
14 (“NAICS Code”), 84915 (“pollution prevention”).

15 Article 6. Outreach by Department

16 **§ 85015. Pollution prevention training and resources**

17 85015. (a) The department may provide pollution prevention training and  
18 resources to CUPAs, small business development corporations, business  
19 environmental assistance centers, and other regional and local government  
20 environmental programs to enable those entities to provide technical assistance to  
21 businesses in identifying and applying methods of pollution prevention.

22 (b) The activities conducted pursuant to paragraph (a) shall emphasize activities  
23 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, the elements of which may include, but are not limited to,  
29 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  
40 corporations, business environmental assistance centers, and other regional and  
41 local government environmental programs.

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

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

5 **Comment.** Subdivisions (a) and (b) of Section 85015 continue former Section 25244.17.2(a)  
6 without substantive change.

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

8 See Sections 84885 (“advisory committee”), 84895 (“business”), 83110 (“CUPA”), 83160  
9 (“department”) , 84915 (“pollution prevention”).

10 **§ 85020. California Green Business Program**

11 85020. (a) As part of implementing the program authorized by this article, the  
12 department may develop a California Green Business Program would voluntarily  
13 certify small businesses that adopt environmentally preferable business practices,  
14 including, but not limited to, increased energy efficiency, reduced greenhouse gas  
15 emissions, promotion of water conservation, and reduced waste generation, and that  
16 provides support and assistance to programs operated by local governments to meet  
17 the following requirements:

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

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

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

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

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

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

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

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

41 (b) The California Green Business Program may also do any or all of the  
42 following:

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

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

8 (3) Solicit participation of additional local programs and facilitate the startup of  
9 new local programs.

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

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

18 **Comment.** Subdivision (a) of Section 85020 combines and restates the first sentence of former  
19 Section 25244.17.2(b) and former Section 25244.17.2(c), without substantive change.

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

22 See Sections 84895 (“business”), 83160 (“department”), 84915 (“pollution prevention”).

23 **Notes. (1)** Proposed Section 85020(a) would combine and restate the first sentence of existing  
24 Section 25244.17.2(b), and 25244.17.2(c). That text in the existing section reads as follows:

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

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

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

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

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

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

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

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

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

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

8 **The Commission welcomes comment on this restatement of existing text in Section**  
9 **25244.17.2.**

10 (2) Existing Section 25244.17.2(b), which would be continued in part by proposed Section  
11 85020(a), begins with the phrase “As part of implementing the program authorized by this section,  
12 ....”

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

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

22 **The Commission welcomes comment on this question.**

23 Article 7. Generator Requirements

24 **§ 85030. Source reduction evaluation review and plan**

25 85030. (a) On or before September 1, 1991, and every four years thereafter, each  
26 generator shall conduct a source reduction evaluation review and plan pursuant to  
27 subdivision (b).

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

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

33 (2) The SIC Code of the site.

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

41 (A) It is processed in a wastewater treatment unit that discharges to a publicly  
42 owned treatment works or under a national pollutant discharge elimination system

1 (NPDES) permit, as specified in the Federal Water Pollution Control Act, as  
2 amended (33 U.S.C. Sec. 1251 and following).

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

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

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

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

12 (i) Input change.

13 (ii) Operational improvement.

14 (iii) Production process change.

15 (iv) Product reformulation.

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

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

25 (7) A timetable for making reasonable and measurable progress towards  
26 implementation of the selected source reduction measures specified in paragraph  
27 (5).

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

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

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

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

4 (d) Every review and plan conducted pursuant to this section shall be submitted  
5 by the generator for review and certification by an engineer who is registered as a  
6 professional engineer pursuant to Section 6762 of the Business and Professions  
7 Code and who has demonstrated expertise in hazardous waste management, by an  
8 individual who is responsible for the processes and operations of the site, or by an  
9 environmental assessor who has demonstrated expertise in hazardous waste  
10 management. The engineer, individual, or environmental assessor shall certify the  
11 review and plan only if the review and plan meet all of the following requirements:

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

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

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

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

24 (e) At the time a review and plan is submitted to the department or the unified  
25 program agency, the generator shall certify that the generator has implemented, is  
26 implementing, or will be implementing, the source reduction measures identified in  
27 the review and plan in accordance with the implementation schedule contained in  
28 the review and plan. A generator may determine not to implement a measure  
29 selected in paragraph (5) of subdivision (b) only if the generator determines, upon  
30 conducting further analysis or due to unexpected circumstances, that the selected  
31 measure is not technically feasible or economically practicable, or if attempts to  
32 implement that measure reveal that the measure would result in, or has resulted in,  
33 any of the following:

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

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

37 (3) Adverse impacts on product quality.

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

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

1 **Comment.** Section 85030 continues former Section 25244.19 without substantive change.  
2 See Sections 83160 (“department”), 83190 (“environmental assessor”), 83195 (“extremely  
3 hazardous waste”), 83210 (“hazardous waste”), 83330 (“release”), 83370 (“treatment”), 83375  
4 (“unified program agency”), (“SIC Code”), 84930 (“review and plan”), 84925 (“source reduction”),  
5 83395 (“waste”).

6 **Notes. (1)** Several provisions in existing Section 25244.19, which would be continued by  
7 proposed Section 85030, refer to an unspecified “generator.” One of those existing provisions,  
8 Section 25244.19(a)(9), which would be continued by proposed Section 85030(a)(9), refers to “[a]  
9 generator subject to this article.”

10 Another section in the existing article, Section 25244.14, specifies a number of definitions that  
11 apply for purposes of the article, but the list of definitions does not include the term “generator.”

12 However, the term “generator” *is* defined, expressly for purposes of *another* existing statutory  
13 article, by existing Section 25205.1(e).

14 **The Commission welcomes comment on two issues relating to the use of the term**  
15 **“generator” in existing Section 25244.19:**

16 1. Despite apparent statutory language to the contrary, is the definition of the term “generator”  
17 in existing Section 25205.1(e) meant to define that term as used throughout existing Section  
18 25244.19?

19 2. What is the intended meaning of the term “generator subject to this article” in existing Section  
20 25244.19(a)(9)?

21 **(2)** Existing Section 25244.19(e), which would be continued by proposed Section 85030(f),  
22 begins with the phrase “At the time a review and plan is submitted to the department or the unified  
23 program agency,....”

24 **The Commission welcomes comment on whether there is a statutory provision, which could**  
25 **be cross-referenced in the recodification of Section 25244.29(e), specifying when the**  
26 **referenced review and plan is required to be submitted to the department or unified program**  
27 **agency.**

28 **§ 85035. Hazardous waste management performance report**

29 85035. (a) On or before September 1, 1991, and every four years thereafter, each  
30 generator shall prepare a hazardous waste management performance report  
31 documenting hazardous waste management approaches implemented by the  
32 generator.

33 (b) Except as provided in subdivision (d), the hazardous waste management  
34 performance report required by subdivision (a) shall be prepared for each site in  
35 accordance with the format adopted pursuant to **subdivision (a) of Section**  
36 **25244.16** and shall include all of the following:

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

38 (2) The SIC Code for the site.

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

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

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

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

7 (i) Changes in business activity.

8 (ii) Changes in waste classification.

9 (iii) Natural phenomena.

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

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

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

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

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

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

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

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

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

35 **Comment.** Section 85035 continues former Section 25244.20 without substantive change.

36 Sections 84895 (“business”), 83190 (“environmental assessor”), 83210 (“hazardous waste”),  
37 83325 (“recycling”), 83370 (“treatment”), 84900 (“hazardous waste management approaches”),  
38 84905 (“hazardous waste management performance report”), 84920 (“SIC Code”), 84925 (“source  
39 reduction”), 83395 (“waste”).

#### 40 § 85040. Generator retention of review and plan and report

41 85040. (a) Every generator shall retain the original of the current review and plan  
42 and report, shall maintain a copy of the current review and plan and report at each  
43 site, or, for a multisite review and plan or report, at a central location, and upon

1 request, shall make it available to any authorized representative of the department  
2 or the unified program agency conducting an inspection pursuant to **Section 25185**.

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

10 (c) If a generator fails to respond to a request for a copy of its review and plan or  
11 report made by the department or a unified program agency pursuant to **subdivision**  
12 **(a) of Section 25244.18**, or by a local agency pursuant to **subdivision (e) of Section**  
13 **25244.18**, within 30 days from the date of the request, the department or unified  
14 program agency shall, if appropriate, assess a civil penalty pursuant to **Section**  
15 **25187**, in an amount not to exceed one thousand dollars (\$1,000) for each day the  
16 violation of this chapter continues, notwithstanding **Section 25189.2**.

17 **Comment.** Section 85040 continues former Section 25244.21(a) and (b) without substantive  
18 change.

19 See Sections 83160 (“department”), 83375 (“unified program agency”), 84905 (“report”), 84930  
20 (“review and plan”).

## 21 **§ 85045. Evaluation of generator review and plan or report**

22 85045. (a) The department or the unified program agency may request from any  
23 generator, and the generator shall provide within 30 days from the date of the  
24 request, a copy of the generator’s review and plan or report conducted and  
25 completed pursuant to **Section 25244.19 or 25244.20**.

26 (b) The department or the unified program agency may evaluate any of those  
27 documents submitted to the department or the unified program agency to determine  
28 whether it satisfies the requirements of this chapter.

29 (c) If the department or the unified program agency determines that a generator  
30 has not completed the review and plan in the manner required by **Section 25244.19**,  
31 or the report in the manner required by **Section 25244.20**, the department or the  
32 unified program agency shall provide the generator with a notice of noncompliance,  
33 specifying the deficiencies in the review and plan or report identified by the  
34 department.

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

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

41 (f) The department or the unified program agency may grant, in response to a  
42 written request from the generator, an extension of the 60-day deadline, for cause,

1 except that the department or the unified program agency shall not grant that  
2 extension for more than an additional 60 days.

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

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

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

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

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

22 (C) Adverse impacts on product quality.

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

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

27 (i) When taking enforcement action pursuant to this chapter, the department or the  
28 unified program agency shall not judge the appropriateness of any decisions or  
29 proposed measures contained in a review and plan or report, but shall only  
30 determine whether the review and plan or report is complete, prepared, and  
31 implemented in accordance with this chapter.

32 (j) In addition to the unified program agency, an appropriate local agency that has  
33 jurisdiction over a generator’s site may request from the generator, and the generator  
34 shall provide within 30 days from the date of that request, a copy of the generator’s  
35 current review and plan and report.

36 (k) In carrying out this chapter, the department shall not disseminate information  
37 determined to be a trade secret pursuant to **Section 25244.23**.

38 **Comment.** Section 85045 continues former Section 25244.18 without substantive change.

39 See Sections 84890 (“appropriate local agency”), 83160 (“department”), 83210 (“hazardous  
40 waste”), 83330 (“release”), 83375 (“unified program agency”), 84905 (“report”), 84930 (“review  
41 and plan”).

1 **§ 85050. Request for certification of generator compliance**

2 85050. (a) A person may request the department to certify that a generator is in  
3 compliance with this chapter by having the department certify that the generator has  
4 properly completed the review and plan and report required pursuant to **Sections**  
5 **25244.19 and 25244.20.**

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

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

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

15 (e) The department shall protect trade secrets in accordance with **Section**  
16 **25244.23** in a review and plan or report, requested to be released pursuant to this  
17 section.

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

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

23 **Comment.** Section 85050 continues former Section 25244.21(c) without substantive change.

24 See Sections 83160 (“department”), 83295 (“person”), 84905 (“report”), 84930 (“review and  
25 plan”).

26 Article 8. Department Responsibilities

27 **§ 85065. Department adoption of format to be used by generators**

28 85065. (a) The department shall adopt a format to be used by generators for  
29 completing the review and plan required by **Section 25244.19**, and the report  
30 required by **Section 25244.20.**

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

33 (c) The department may include any other factor determined by the department to  
34 be necessary to carry out this chapter.

35 (d) The adoption of a format pursuant to this subdivision is not subject to Chapter  
36 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the  
37 Government Code.

38 **Comment.** Section 85065 continues former Section 25244.16(a) without substantive change.

39 See Sections 83160 (“department”), 84905 (“report”), 84930 (“review and plan”).

1 **§ 85070. Department establishment of system to process generator information**

2 85070. (a) The department shall establish a data and information system to be  
3 used by the department for processing and evaluating the source reduction and other  
4 hazardous waste management information submitted by generators pursuant to  
5 **Section 25244.18**.

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

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

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

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

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

15 **Comment.** Section 85070 continues former Section 25244.16(b) without substantive change.

16 See Sections 83160 (“department”), 83210 (“hazardous waste”), 83220 (“hazardous waste  
17 management”), 83300 (“processing”), 84925 (“source reduction”).

18 **§ 85075. Protection of trade secrets**

19 85075. (a) The department shall adopt regulations to ensure that trade secrets  
20 designated by a generator in all or a portion of the review and plan or the report  
21 required by this chapter are utilized by the director, the department, the unified  
22 program agency, or the appropriate local agency only in connection with the  
23 responsibilities of the department pursuant to this chapter, and that those trade  
24 secrets are not otherwise disseminated by the director, the department, the unified  
25 program agency, or any authorized representative of the department, or the  
26 appropriate local agency, without the consent of the generator.

27 (b) Any information subject to this section shall be made available to  
28 governmental agencies for use in making studies and for use in judicial review or  
29 enforcement proceedings involving the person furnishing the information.

30 (c) As provided by **Section 25159.5**, the regulations adopted pursuant to  
31 subdivision (a) shall conform with the corresponding trade secret regulations  
32 adopted by the Environmental Protection Agency pursuant to the federal act, except  
33 that the regulations adopted by the department may be more stringent or more  
34 extensive than the federal trade secret regulations.

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

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

6 (f) This section does not permit a generator to refuse to disclose the information  
7 required pursuant to this chapter to the department, the unified program agency, or  
8 the appropriate local agency, an officer or employee of the department, the unified  
9 program agency, or the appropriate local agency, in connection with the official  
10 duties of that officer or employee under this chapter.

11 (g) Any officer or employee of the department, the unified program agency, or the  
12 appropriate local agency, or any other person, who, because of their employment or  
13 official position, has possession of, or has access to, confidential information, and  
14 who, knowing that disclosure of the information to the general public is prohibited  
15 by this section, knowingly and willfully discloses the information in any manner to  
16 any person not entitled to receive it, is guilty of a misdemeanor and, upon conviction  
17 thereof, shall be punished by imprisonment in the county jail not exceeding six  
18 months, by a fine not exceeding one thousand dollars (\$1,000), or by both the fine  
19 and imprisonment.

20 **Comment.** Section 85075 continues former Section 25244.23 without substantive change.

21 See Sections 84890 (“appropriate local agency”), 84895 (“business”), 83160 (“department”),  
22 83165 (“director”), 83200 (“federal act”), 83295 (“person”), 84915 (“pollution prevention”), 84905  
23 (“report”), 84930 (“review and plan”).

## 24 CHAPTER 3. TOXICS IN PACKAGING

### 25 Article 1. Preliminary Provisions

#### 26 § 85150. Short title

27 85150. This chapter shall be known and may be cited as the Toxics in Packaging  
28 Prevention Act.

29 **Comment.** Section 85150 continues former Section 25214.11(b) without substantive change.

#### 30 § 85155. Legislative findings and declarations

31 85155. The Legislature finds and declares all of the following:

32 (a) The management of solid waste can pose a wide range of hazards to public  
33 health and safety and to the environment.

34 (b) Packaging comprises a significant percentage of the overall solid waste  
35 stream.

36 (c) The presence of heavy metals in packaging is a part of the total concern  
37 regarding the disposal of hazardous constituents in the solid waste stream, in light  
38 of the presence of heavy metals in emissions or ash when packaging is incinerated,  
39 or in leachate when packaging is disposed of in a solid waste landfill.

1 (d) Lead, mercury, cadmium, and hexavalent chromium, on the basis of available  
2 scientific and medical evidence, are of particular concern.

3 (e) It is desirable, as a first step in reducing the toxicity of packaging waste, and  
4 reducing the hazardous materials that may be disposed of in solid waste landfills, to  
5 eliminate the addition of these heavy metals to packaging.

6 (f) The intent of this chapter is to achieve this reduction in toxicity without  
7 impeding or discouraging the expanded use of recycled materials in the production  
8 of packaging and its components.

9 **Comment.** Section 85155 continues former Section 25214.11(a) without substantive change.  
10 See Sections 60175 (“disposal”), 60320 (“recycled material”), 60390 (“waste”).

11 **§ 85160. Severability of provisions**

12 85160. (a) The provisions of this chapter are severable, and if a court holds that  
13 a phrase, clause, sentence, or provision of this chapter is invalid, or that its  
14 applicability to a person or circumstance is invalid, the remainder of the chapter and  
15 its applicability to other persons and circumstances may not be affected.

16 (b) The provisions of this chapter shall be liberally construed to give effect to the  
17 purposes of this chapter.

18 **Comment.** Section 85160 continues former Section 25214.20 without substantive change.  
19 See Section 60295 (“person”).

20 **§ 85165. Nonapplication of chapter**

21 85165. This chapter does not do any of the following:

22 (a) Affect a duty or other requirement imposed under federal or state law.

23 (b) Alter or diminish a legal obligation otherwise required in common law or by  
24 statute or regulation.

25 (c) Create or enlarge a defense in an action to enforce a legal obligation otherwise  
26 required in common law or by statute or regulation.

27 **Comment.** Section 85165 continues former Section 25214.19 without substantive change.

28 **Article 2. Definitions**

29 **§ 85180. Application of definitions**

30 85180. For purposes of this chapter, the definitions in this article shall apply.

31 **Comment.** Section 85180 continues the introductory clause of former Section 25214.12 without  
32 substantive change.

33 **§ 85185. “ASTM”**

34 85185. “ASTM” means the American Society for Testing and Materials.

35 **Comment.** Section 85185 continues former Section 25214.12(b) without substantive change.

1 § 85190. “Authorized official”

2 85190. “Authorized official” means a representative of a manufacturer or supplier  
3 who is authorized pursuant to the laws of this state to bind the manufacturer or  
4 supplier regarding the accuracy of the content of a certificate of compliance.

5 **Comment.** Section 85190 continues former Section 25214.12(a) without substantive change.  
6 See Section 85210 (“manufacturer”), 85245 (“supplier”).

7 § 85195. “Distribution”

8 85195. (a) “Distribution” means the practice of taking title to a package or a  
9 packaging component for promotional purposes or resale.

10 (b) A person involved solely in delivering a package or a packaging component  
11 on behalf of a third party is not engaging in distribution.

12 **Comment.** Section 85195 continues former Section 25214.12(c) without substantive change.  
13 See Sections 85220 (“package”), 85225 (“packaging component”), 60295 (“person”).

14 § 85200. “Incidental presence”

15 85200. “Incidental presence” means the presence of a regulated metal as an  
16 unintended or undesired ingredient of a package or packaging component.

17 **Comment.** Section 85200 continues former Section 25214.12(e) without substantive change.  
18 See Sections 85220 (“package”), 85225 (“packaging component”), 85240 (“regulated metal”).

19 § 85205. “Intentional introduction”

20 85205. (a) “Intentional introduction,” except as provided in subdivision (b),  
21 means the act of deliberately utilizing a regulated metal in the formation of a  
22 package or packaging component where its continued presence is desired in the final  
23 package or packaging component to provide a specific characteristic, appearance,  
24 or quality.

25 (b) “Intentional introduction” does not include either of the following:

26 (1) The use of a regulated metal as a processing agent or intermediate to impart  
27 certain chemical or physical changes during manufacturing, where the incidental  
28 retention of a residue of that metal in the final package or packaging component is  
29 not desired or deliberate, if the final package or packaging component is in  
30 compliance with subdivision (b) of Section 85310.

31 (2) The use of recycled materials as feedstock for the manufacture of new  
32 packaging materials, where some portion of the recycled materials may contain  
33 amounts of a regulated metal, if the new package or packaging component is in  
34 compliance with subdivision (b) of Section 85310.

35 **Comment.** Section 85205 continues former Section 25214.12(d) without substantive change.

36 See Sections 85220 (“package”), 85225 (“packaging component”), 85215 (“manufacturing”),  
37 85235 (“recycled material”), 85240 (“regulated metal”).

38 § 85210. “Manufacturer”

39 85210. “Manufacturer” means any person, firm, association, partnership, or  
40 corporation producing a package or packaging component.

1 **Comment.** Section 85210 continues former Section 25214.12(f) without substantive change.  
2 See Sections 85220 (“package”), 85225 (“packaging component”), 60295 (“person”).

3 **§ 85215. “Manufacturing”**

4 85215. “Manufacturing” means the physical or chemical modification of a  
5 material to produce packaging or a packaging component.

6 **Comment.** Section 85215 continues former Section 25214.12(g) without substantive change.  
7 See Sections 85220 (“package”), 85225 (“packaging component”).

8 **§ 85220. “Package”**

9 85220. (a) “Package,” except as provided in subdivision (c), means any container,  
10 produced either domestically or in a foreign country, providing a means of  
11 marketing, protecting, or handling a product from its point of manufacture to its sale  
12 or transfer to a consumer, including a unity package, an intermediate package, or a  
13 shipping container, as defined in the ASTM specification D 996.

14 (b) “Package” also includes, but is not limited to, unsealed receptacles, including  
15 carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping  
16 films, bags, and tubs.

17 (c) “Package” does not include a reusable bag, as defined in subdivision (d) of  
18 Section 42250 of the Public Resources Code.

19 **Comment.** Section 85220 continues former Section 25214.12(h) without substantive change.

20 **Staff Notes. (1)** Existing Section 25214.12(h), which would be continued by proposed Section  
21 85220, as well as existing Section 25214.14(d)(2), which would be continued by proposed Section  
22 85330(c), and existing Section 25214.15(e), which would be continued by proposed Section 85365,  
23 all contain at least one reference to “handling” a product, or a package’s contents.

24 Existing Section 25116, which would be continued by proposed Section 60205, defines the term  
25 “handling” to mean “the transporting or transferring from one place to another, or pumping,  
26 processing, storing, or packaging of hazardous waste, but does not include the handling of any  
27 substance before it becomes a waste.” And existing Section 25110, which would be continued by  
28 proposed Section 60075, states that the definition of “handling” in existing Section 25116 “governs  
29 the construction” of the entirety of Chapter 20 of the Health and Safety Code, which includes  
30 existing Section 25214.12(h).

31 Based on this chapter-wide assignment of this definition, the use of the term “handling” in  
32 existing Section 25214.14(d)(2), (e), and (h) raises two questions:

33 1. Is the term “handling” as used in existing Section 25214.14(d)(2), (e), or (h) intended to be  
34 defined as provided by existing Section 25116?

35 2. If not, would any statutory resolution of this issue in proposed Section 85220, 85330, or 85365  
36 be helpful? For example, a synonym for “handling” could be substituted in the three proposed  
37 sections, or each provision could be revised to provide that the term “handling” as used in the  
38 section is not intended as a defined term.

39 **The staff welcomes comment on these questions.**

40 **(2)** Existing Section 25214.12(h) excludes from the definition of “package” a “reusable bag, as  
41 defined in subdivision (d) of Section 42250 of the Public Resources Code.”

1 However, Section 42250 of the Public Resources Code was repealed in 2012, and its provided  
2 definition of “reusable bag” does not appear to have been continued in any other code section. The  
3 definition that section provided prior to its repeal was as follows:

4 “Reusable bag” means either of the following:

5 (1) A bag made of cloth or other machine washable fabric that has handles.

6 (2) A durable plastic bag with handles that is at least 2.25 mils thick and is specifically designed  
7 and manufactured for multiple reuse.

8 **The staff welcomes comment on whether the definition of “reusable bag” above should be**  
9 **incorporated in the text of proposed Section 85220 or offering another suggestion as to how**  
10 **to address this recodification issue.**

11 **§ 85225. “Packaging component”**

12 85225. (a) “Packaging component” means any individual assembled part of a  
13 package that is produced either domestically or in a foreign country, including, but  
14 not necessarily limited to, any interior or exterior blocking, bracing, cushioning,  
15 weatherproofing, exterior strapping, coatings, closures, inks, labels, dyes, pigments,  
16 adhesives, stabilizers, or any other additives.

17 (b) Tin-plated steel that meets the ASTM specification A 623, shall be considered  
18 as a single package component.

19 (c) Electrogalvanized coated steel and hot dipped coated galvanized steel that  
20 meet the ASTM qualifications A 591, A 653, A 879, and A 924 shall be treated in  
21 the same manner as tin-plated steel.

22 **Comment.** Section 85225 continues former Section 25214.12(i) without substantive change.  
23 See Section 85220 (“package”).

24 **Staff Note.** The intended meaning of the third sentence of existing Section 25214.12(i), which  
25 would be continued as proposed Section 85225(c), is unclear. The staff has two questions:

26 (1) Is the direction in that sentence that the steel specified in that sentence “shall be treated in the  
27 same manner as tin-plated steel” intended to mean that the steel specified is to be considered a  
28 single package component?

29 (2) If so, is the reference in that third sentence to “tin-plated steel” intended to refer to *any* tin-  
30 plated steel, or only to “tin-plated steel that meets the ASTM specification A 623,” as referenced  
31 in the second sentence of existing Section 25214.12(i), which would be continued by proposed  
32 Section 85215(b)?

33 **The staff welcomes comment on these questions.**

34 **§ 85230. “Purchaser”**

35 85230. “Purchaser” means a person who purchases and takes title to a package or  
36 a packaging component, from a manufacturer or supplier, for the purpose of  
37 packaging a product manufactured, distributed, or sold by the purchaser.

38 **Comment.** Section 85230 continues former Section 25214.12(j) without substantive change.

39 See Sections 85210 (“manufacturer”), 85220 (“package”), 85225 (“packaging component”),  
40 60295 (“person”), 85245 (“supplier”).

1 § 85235. “Recycled material”

2 85235. (a) “Recycled material,” except as provided in subdivision (c), means a  
3 material that has been separated from solid waste for the purpose of recycling the  
4 material as a secondary material feedstock.

5 (b) Recycled material includes paper, plastic, wood, glass, ceramics, metals, and  
6 other materials, except as provided in subdivision (c).

7 (c) Recycled material does not include a regulated metal that has been separated  
8 from other materials into its elemental or other chemical state for recycling as a  
9 secondary material feedstock.

10 **Comment.** Section 85235 continues former Section 25214.12(k) without substantive change.  
11 See Sections 60325 (“recycling”), 85240 (“regulated metal”), 60390 (“waste”).

12 § 85240. “Regulated metal”

13 85240. “Regulated metal” means lead, mercury, cadmium, or hexavalent  
14 chromium.

15 **Comment.** Section 85240 continues former Section 25214.12(l) without substantive change.

16 § 85245. “Supplier”

17 85245. (a) “Supplier,” except as provided in subdivision (b), means a person who  
18 does or is one or more of the following:

19 (1) Sells, offers for sale, or offers for promotional purposes, a package or  
20 packaging component that is used by any other person to package a product.

21 (2) Takes title to a package or packaging component, produced either  
22 domestically or in a foreign country, that is purchased for resale or promotional  
23 purposes.

24 (3) Acts as an intermediary for the purchase of a package or packaging component  
25 for resale from a manufacturer located in another country to a purchaser located in  
26 this state, and who may receive a commission or a fee on that sale.

27 (4) Listed as the importer of record on a United States Customs Service form for  
28 an imported package or packaging component.

29 (b) “Supplier” does not include a person involved solely in delivering a package  
30 or packaging component on behalf of a third party.

31 **Comment.** Section 85245 continues former Section 25214.12(m) without substantive change.  
32 See Sections 85210 (“manufacturer”), 85220 (“package”), 85225 (“packaging component”),  
33 60295 (“person”), 85230 (“purchaser”).

34 § 85250. “Toxics in Packaging Clearinghouse”

35 64323. “Toxics in Packaging Clearinghouse” means the Toxics in Packaging  
36 Clearinghouse (TPCH) of the Council of State Governments.

37 **Comment.** Section 85250 continues former Section 25214.12(n) without substantive change.

Article 3. Department Authority and Responsibilities

§ 85270. Enforcement of chapter

85270. (a) The department may enforce the requirements of this chapter pursuant to its authority to enforce this division under all applicable provisions of law.

(b) The department may also adopt regulations to implement this chapter, as deemed necessary to further the purposes of this chapter.

**Comment.** Subdivision (a) of Section 85270 continues former Section 25214.21 without substantive change.

Subdivision (b) continues former Section 25214.26 without substantive change.

See Section 60160 (“department”).

§ 85275. Entry and inspection

85275. (a) For the purpose of administering and enforcing this chapter, an authorized representative of the department, upon obtaining consent or after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, may, upon presenting appropriate credentials and at a reasonable time, do any of the following:

(1) Enter a factory, warehouse, or establishment in which a package or packaging component is manufactured, packed, held, or sold.

(2) Enter a vehicle that is being used to transport, hold, or sell the package or packaging component.

(3) Enter a place where a package or packaging component is suspected of being held or sold in violation of this chapter.

(4) Inspect a factory, warehouse, establishment, vehicle, or place described in paragraph (1), (2), or (3) and all pertinent equipment, raw material, finished and unfinished materials, containers, and labeling in the factory, warehouse, establishment, vehicle, or place.

(5) Inspect, in the case of a factory, warehouse, or establishment in which a package or packaging component is manufactured, packed, held, or sold, any record, file, paper, process, control, and facility that has a bearing on whether the package, packaging component, or product in a package is being manufactured, packed, held, transported, sold, offered for sale, or offered for promotional purposes in violation of this chapter.

(6) Access all records of a carrier in commerce relating to the movement in commerce of a package or packaging component, or the holding of that package or packaging component during or after the movement, and the quantity, shipper, and consignee of the package or packaging component.

(b) An authorized representative of the department shall be deemed to have received implied consent to enter a retail establishment for purposes of this section, if the authorized representative enters the location of that retail establishment where the public is generally granted access.

**Comment.** Section 85275 continues former Section 25214.23 with the exception of the second sentence of Section 25214.23(a)(3), without substantive change.

1 The second sentence of Section 25214.23(a)(3) is continued by Section 85395.  
2 See Section 60160 (“department”), 85220 (“package”), 85225 (“packaging component”).

3 **§ 85280. Securing of samples**

4 85280. (a) When taking an action authorized pursuant to Section 85275, an  
5 authorized representative of the department may secure a sample of a package,  
6 packaging component, or product in a package. If the representative obtains a  
7 sample prior to leaving the premises, he or she shall leave a receipt describing the  
8 sample obtained.

9 (b) The department shall return, upon request, a sample that is not destroyed  
10 during testing when the department no longer has any purpose for retaining the  
11 sample.

12 (c) A sample that is secured in compliance with this section and found in  
13 compliance with this chapter that is destroyed during testing shall be subject to a  
14 claim for reimbursement.

15 **Comment.** Section 85280 continues former Section 25214.24 without substantive change.  
16 See Section 60160 (“department”), 85220 (“package”), 85225 (“packaging component”).

17 **§ 85285. Recommendations to Governor and Legislature**

18 85285. If the department determines that other substances contained in packaging  
19 should be added as regulated metals to the list set forth in Section 85240 in order to  
20 further reduce the toxicity of packaging waste, the department may submit  
21 recommendations to the Governor and the Legislature for additions to the list, along  
22 with a description of the nature of the substitutes used in lieu of the recommended  
23 additions to the list.

24 **Comment.** Section 85285 continues former Section 25214.18 without substantive change.  
25 See Sections 60160 (“department”), 85240 (“regulated metal”), 60390 (“waste”).

26 **§ 85290. Public access to information**

27 85290. Except as provided in Section 85295, the department, pursuant to the  
28 California Public Records Act (Division 10 (commencing with Section 7920.000)  
29 of Title 1 of the Government Code), shall provide the public with access to all  
30 information relating to a package or packaging component that has been submitted  
31 to the department by a manufacturer or supplier of a package or packaging  
32 component pursuant to this chapter.

33 **Comment.** Section 85290 continues former Section 25214.17(a) without substantive change.  
34 See Sections 60160 (“department”), 85240 (“regulated metal”), 60390 (“waste”).

35 **§ 85295. Trade secrets**

36 85295. (a) A manufacturer or supplier providing information to the department  
37 pursuant to this article shall, at the time of submission, identify all information that  
38 the manufacturer or supplier believes is a trade secret as defined in **Section 25173**.

39 (b) The department shall keep confidential any information identified by the  
40 manufacturer or supplier as a trade secret in accordance with departmental

1 procedures that have been adopted pursuant to **Section 25173**, if the department  
2 determines that the information is a trade secret as defined in **Section 25173**.

3 (c) The department shall make available to the public any information identified  
4 by the manufacturer or supplier as a trade secret that the department determines is  
5 not a trade secret.

6 **Comment.** Section 85295 restates former Section 25214.17(b) without substantive change.

7 See Section 60160 (“department”), 85210 (“manufacturer”), 85220 (“package”), 85225  
8 (“packaging component”), 85245 (“supplier”).

9 **Staff Notes. (1)** Proposed Section 85295 would restate existing Section 25214.17 for clarity.  
10 The existing section reads as follows:

11 “(a) Except as provided in subdivision (b), the department, pursuant to the California Public  
12 Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government  
13 Code), shall provide the public with access to all information relating to a package or packaging  
14 component that has been submitted to the department by a manufacturer or supplier of a package  
15 or packaging component pursuant to this article.

16 (b)(1) The department shall keep confidential any information identified by the manufacturer or  
17 supplier, pursuant to paragraph (2), as a trade secret, as defined in Section 25173, in accordance  
18 with departmental procedures that have been adopted pursuant to Section 25173, if the department  
19 determines that this information meets that definition of a trade secret.

20 (2) A manufacturer or supplier providing information to the department pursuant to this article  
21 shall, at the time of submission, identify all information that the manufacturer or supplier believes  
22 is a trade secret. The department shall make available to the public any information that is not a  
23 trade secret.”

24 **The staff welcomes comment on whether this restatement of existing Section 25214.17**  
25 **improves the clarity of the section without substantively changing its meaning.**

26 (2) The second sentence of existing Section 25214.17(b)(2) (which would be continued by  
27 proposed Section 85295(c)) provides that if a manufacturer or supplier identifies information that  
28 it believes to be a trade secret, and the department determines the identified information is *not* a  
29 trade secret, the department “shall make [that information] available to the public.” This second  
30 sentence, read in conjunction with the text of existing Section 25214.17(a) (which would be  
31 continued by proposed Section 85290), suggests that information provided pursuant to existing  
32 Section 25214.17(b)(2) that the department determined was not a trade secret would then need to  
33 be made available to the public without consideration of any other exemptions from disclosure  
34 under the California Public Records Act, such as those listed in Part 6 (commencing with Section  
35 7930.000) of Division 10 of title 1 of the Government Code.

36 **The staff welcomes comment on whether that construction of the two existing subdivisions**  
37 **is correct, and if not, whether and how the text of the existing section should be clarified.**

38 Article 4. Prohibited Offering of Item for Sale or Promotional Purposes

39 § 85310. Generally applicable prohibitions

40 85310. Except as provided in Section 85330, on and after January 1, 2006, a  
41 person may not offer for sale or for promotional purposes in this state any of the  
42 following:

1 (a) A product in a package that includes a regulated metal in the package, or in a  
2 packaging component, if the regulated metal has been intentionally introduced into  
3 the package or packaging component during manufacturing or distribution.

4 (b) A package, packaging component, or product in a package if the sum of the  
5 incidental total concentration levels of all regulated metals present in a single-  
6 component package or in an individual packaging component exceeds 100 parts per  
7 million by weight.

8 **Comment.** Subdivision (a) of Section 85310 continues former Section 25214.13(b) without  
9 substantive change.

10 Subdivision (b) continues former Section 25214.13(c) without substantive change.

11 See Sections 85195 (“distribution”), 85215 (“manufacturing”), 60295 (“person”), 85220  
12 (“package”), 85225 (“packaging component”), 85240 (“regulated metal”).

13 **Staff Note.** Existing Section 25214.13, which would be continued by proposed Sections 85310  
14 and 85315, prohibit the “offer for sale or for promotional purposes in this state” of a number of  
15 specified items.

16 The phrasing of the quoted text above fails to make clear whether the act that must occur “in this  
17 state” to trigger the prohibition of the section is the *making of the offer* identified in the quoted text,  
18 or the *sale or promotional purpose*. For example, an offer could be made in a state other than  
19 California, to arrange for a prohibited item to be delivered in California where it could be used for  
20 a promotional purpose. Alternatively, the reverse scenario could occur. To which scenarios are the  
21 prohibitions in Section 25214.13 intended to apply?

22 **The staff welcomes comment clarifying this possible ambiguity in existing Section 25214.13.**

23 **§ 85315. Additional manufacturer or supplier prohibitions**

24 85315. Except as provided in Section 85330, on and after January 1, 2006, a  
25 manufacturer or supplier may not offer for sale or for promotional purposes in this  
26 state a package or packaging component that includes a regulated metal, in the  
27 package itself, or in a packaging component, if the regulated metal has been  
28 intentionally introduced into the package or packaging component during  
29 manufacturing or distribution.

30 **Comment.** Section 85315 continues former Section 25214.13(a) without substantive change.

31 See Sections 85195 (“distribution”), 85210 (“manufacturer”), 85215 (“manufacturing”), 85220  
32 (“package”), 85225 (“packaging component”), 85240 (“regulated metal”) , 85245 (“supplier”).

33 **Article 5. Exemptions for Specified Packages or Components**

34 **§ 85330. Packages and packaging components**

35 85330. A package or a packaging component is exempt from the requirements of  
36 Sections 85310 and 85315, and shall be deemed in compliance with this chapter, if  
37 the manufacturer or supplier complies with the applicable documentation  
38 requirements specified in Article 6 (commencing with Section 85350 Section  
39 25214.15 and the package or packaging component meets any of the following  
40 conditions:

1 (a) The package or packaging component is marked with a code indicating a date  
2 of manufacture prior to January 1, 2006.

3 (b) A regulated metal has been added to the package or packaging component in  
4 the manufacturing, forming, printing, or distribution process, to comply with the  
5 health or safety requirements of a federal or state law.

6 (c) A regulated metal has been added to the package or packaging component in  
7 the manufacturing, forming, printing, or distribution process for a use, other than  
8 for purposes of marketing, for which a regulated metal is essential to the protection,  
9 safe handling, or function, of the package’s contents, and technical constraints  
10 preclude the substitution of other materials.

11 **Comment.** Section 85330 continues former Section 25214.14(a), (b), and (d) without substantive  
12 change.

13 See Sections 85195 (“distribution”), 85210 (“manufacturer”), 85215 (“manufacturing”), 85220  
14 (“package”), 85225 (“packaging component”), 85240 (“regulated metal”), 85245 (“supplier”).

15 **Staff Note.** See Staff Note following proposed Section 85220 relating to the use of the term  
16 “handling” in proposed Section 85330(c).

17 **§ 85335. Expired exemptions**

18 85335. The following exemptions to the requirements of former Section  
19 25214.13, which had been available pursuant to former Section 25214.14, expired  
20 on January 1, 2010:

21 (a) A package or packaging component contains no intentionally introduced  
22 regulated metals but exceeds the applicable maximum concentration level set forth  
23 in subdivision (c) of former Section 25214.13 only because of the addition of a  
24 recycled material.

25 (b) A package or packaging component is reused and contains no intentionally  
26 introduced regulated metals, but exceeds the applicable maximum concentration  
27 level set forth in subdivision (c) of former Section 25214.13, and all of the following  
28 apply:

29 (1) The product being conveyed by the package, the package, or packaging  
30 component is otherwise regulated under a federal or state health or safety  
31 requirement.

32 (2) The transportation of the packaged product is regulated under federal or state  
33 transportation requirements.

34 (3) The disposal of the package is otherwise performed according to the  
35 requirements of this chapter or Chapter 8 (commencing with Section 114960) of  
36 Part 9 of Division 104.

37 (c) A package or packaging component has a controlled distribution and reuse and  
38 contains no intentionally introduced regulated metals but exceeds the applicable  
39 maximum concentration level set forth in subdivision (c) of Section 25214.13.

40 (d) A packaging or packaging component is a glass or ceramic package or  
41 packaging component that has a vitrified label, and that, when tested in accordance  
42 with the Waste Extraction Test, described in Appendix II of Chapter 11

1 (commencing with Section 66261.1) of Division 4.5 of Title 22 of the California  
2 Code of Regulations does not exceed 1.0 ppm for cadmium, 5.0 ppm for hexavalent  
3 chromium, or 5.0 ppm for lead, does not contain mercury, and is not a glass bottle  
4 package with paint or applied ceramic decoration on the bottle and the paint or  
5 applied ceramic decoration contains lead or lead compounds in excess of 0.06  
6 percent by weight.

7 **Comment.** Section 85335 would restate former Section 25214.14(c), (e), (f), (g) without  
8 substantive change.

9 See Sections 60175 (“disposal”), 85195 (“distribution”), 85220 (“package”), 85225 (“packaging  
10 component”), 85235 (“recycled material”), 85240 (“regulated metal”).

11 **Staff Note.** The text of existing Section 25214.14 lists several exemptions from the prohibitions  
12 of existing Section 25214.13 that expired in 2010. Proposed Section 85335 would preserve the  
13 published record of these expired exemptions to allow for a claimed exemption for conduct that  
14 occurred prior to 2010.

15 **The staff welcomes comment on whether this preservation is necessary, and if so, whether**  
16 **the restatement of these expired exemptions in proposed Section 85335 continues the**  
17 **provisions establishing the exemptions without substantive change.**

## 18 Article 6. Documentation Required for Exemptions

### 19 § 85350. Biennially updated information

20 85350. A package or packaging component qualifies for an exemption pursuant  
21 to Section 85330 or Section 85335 only if the manufacturer or supplier prepares,  
22 retains, and biennially updates documentation containing all of the following  
23 information for that package or packaging component:

24 (a) A statement that the documentation applies to an exemption from any  
25 applicable requirements of Sections 85310 and 85315.

26 (b) The name, position, and contact information for the person who is the  
27 manufacturer’s or supplier’s contact person on all matters concerning the  
28 exemption.

29 (c) An identification of the exemption and a reference to the applicable  
30 subdivision in Section 85330 or Section 85335 setting forth the conditions for the  
31 exemption.

32 (d) A description of the type of package or packaging component to which the  
33 exemption applies.

34 (e) Identification of the type and concentration of the regulated metal or metals  
35 present in the package or packaging component, and a description of the testing  
36 methods used to determine the concentration.

37 (f) An explanation of the reason for the exemption.

38 (g) Supporting documentation that fully and clearly demonstrates that the package  
39 or packaging component is eligible for the exemption.

40 (h) Any other required documentation specified in this article.

41 **Comment.** Section 85350 restates former Section 25214.15(a) without substantive change.

1 See Sections 85210 (“manufacturer”), 85220 (“package”), 85225 (“packaging component”),  
2 60295 (“person”), 85240 (“regulated metal”), 85245 (“supplier”).

3 **Staff Notes. (1)** Proposed Section 85350(h) is intended to restate existing Section 25214.15(a)(8)  
4 without substantive change. The existing paragraph reads as follows:

5 “The documentation listed in subdivisions (b), (c), (d), (e), (f), (g), or (h), whichever is  
6 applicable for the exemption.”

7 **The staff welcomes comment on this restatement of existing Section 25214.5(a)(8).**

8 (2) Several subdivisions of existing Section 25214.15 referenced in subdivision (a)(8) of that  
9 section specify documentation required for exemptions that were previously authorized under  
10 Section 25214.14 but expired in 2010. See existing Section 25214.14(c)(2), (e)(2), (f)(2), (g)(3).  
11 Based on their apparent obsolescence for that reason, subdivisions (d), (f), (g), and (h) of Section  
12 25214.15 would not be continued in this recodification.

13 **The staff welcomes comment on the discontinuation of those subdivisions.**

14 **§ 85355. Additional information required for exemption under subdivision (a) of Section**  
15 **85330**

16 85355. In addition to the requirements specified in Section 85350, if an exemption  
17 is being claimed under subdivision (a) of Section 85330, the manufacturer or  
18 supplier shall prepare, retain, and biennially update documentation containing all of  
19 the following information for the package or packaging component to which the  
20 exemption applies:

21 (a) Date of manufacture.

22 (b) Estimated time needed to exhaust current inventory.

23 (c) Alternative package or packaging component that meets the requirements of  
24 Sections 85310 and 85315.

25 **Comment.** Section 85355 continues former Section 25214.15(b) without substantive change.

26 See Sections 85210 (“manufacturer”), 85220 (“package”), 85225 (“packaging component”),  
27 85245 (“supplier”).

28 **§ 85360. Additional information required for exemption under subdivision (b) of Section**  
29 **85330**

30 85360. In addition to the requirements specified in Section 85350, if an exemption  
31 is being claimed under subdivision (b) of Section 85330, the manufacturer or  
32 supplier shall prepare, retain, and biennially update documentation that contains all  
33 of the following information for each regulated metal intentionally introduced in the  
34 package or packaging component to which the exemption applies:

35 (a) Identification of the specific federal or state law requiring the addition of the  
36 regulated metal to the package or packaging component.

37 (b) Detailed information that fully and clearly demonstrates that the addition of  
38 the regulated metal to the package or packaging component is necessary to comply  
39 with the law identified pursuant to subdivision (a).

1 (c) A description of past, current, and planned future efforts to seek or develop  
2 alternatives to eliminate the use of the regulated metal in the package or packaging  
3 component.

4 (d) A description of all alternative measures that have been considered, and, for  
5 each alternative, an explanation as to why the alternative is not satisfactory for  
6 purposes of achieving compliance with the law identified pursuant to subdivision  
7 (a).

8 **Comment.** Section 85360 continues former Section 25214.15(c) without substantive change.

9 See Sections 85210 (“manufacturer”), 85220 (“package”), 85225 (“packaging component”),  
10 85240 (“regulated metal”), 85245 (“supplier”).

11 **§ 85365. Additional information required for exemption under subdivision (c) of Section**  
12 **85330**

13 85365. In addition to the requirements specified in Section 85350, if an exemption  
14 is being claimed under subdivision (c) of Section 85330, the manufacturer or  
15 supplier shall prepare, retain, and biennially update documentation containing all of  
16 the following information for each regulated metal intentionally introduced into the  
17 package or packaging component to which the exemption applies:

18 (a) Detailed information and evidence that fully and clearly demonstrates how the  
19 regulated metal contributes to, and is essential to, the protection, safe handling, or  
20 functioning of the package’s contents.

21 (b) A description of past, current, and planned future efforts to seek or develop  
22 alternatives to minimize or eliminate the use of the regulated metal in the package  
23 or packaging component.

24 (c) A description of all alternative measures that have been considered, and, for  
25 each alternative, an explanation as to the technical constraints that preclude  
26 substitution of the alternative for the use of the regulated metal.

27 (d) Documentation that the regulated metal is not being used for the purposes of  
28 marketing.

29 **Comment.** Section 85365 continues former Section 25214.15(e) without substantive change.

30 See Sections 85210 (“manufacturer”), 85220 (“package”), 85225 (“packaging component”),  
31 85240 (“regulated metal”), 85245 (“supplier”).

32 **Staff Note.** See Staff Note following proposed Section 85220 relating to the use of the term  
33 “handling” in proposed Section 85365(a).

34 **§ 85370. Submission of required documentation**

35 85370. A manufacturer or supplier shall submit the documentation required  
36 pursuant to this article to the department, as follows:

37 (a) Upon receipt of a written request from the department, the manufacturer or  
38 supplier shall, on or before 30 calendar days after the date of receipt, do one of the  
39 following:

40 (1) Submit the required documentation to the department.

1 (2) Submit a letter to the department indicating the date by which the  
2 documentation shall be submitted, which may be no more than 90 calendar days  
3 after the date of receipt of the department’s request.

4 (b) If the department finds that the documentation supplied pursuant to  
5 subdivision (a) is incomplete or incorrect, the department shall notify the  
6 manufacturer or supplier that the documentation is incomplete or incorrect, and the  
7 manufacturer or supplier shall submit complete and correct documentation to the  
8 department within 60 calendar days after the date of receipt of the notification.

9 (c) If a manufacturer or supplier fails to comply with subdivision (a) or (b) by any  
10 of the specified dates in that subdivision, the manufacturer or supplier shall, with  
11 respect to the package or packaging component to which the documentation request  
12 applies, comply with one of the following:

13 (1) Immediately cease to offer the package or packaging component for sale or  
14 for promotional purposes in this state.

15 (2) Replace the package or packaging component with a package or packaging  
16 component that conforms with the regulated metals limitations specified in Sections  
17 85310 and 85315, in accordance with a schedule approved in writing by the  
18 department.

19 (3) Submit complete and correct documentation for the package or packaging  
20 component, in accordance with a schedule approved in writing by the department.

21 **Comment.** Subdivisions (a) and (b) of Section 85370 continues former Section 25214.15(i)  
22 without substantive change.

23 Subdivision (c) continues former Section 25214.15(j) without substantive change.

24 See Sections 60160 (“department”), 85210 (“manufacturer”), 85220 (“package”), 85225  
25 (“packaging component”), 85240 (“regulated metal”) , 85245 (“supplier”).

26 **§ 85375. Required furnishing of certificate of compliance**

27 85375. (a) On and after January 1, 2006, each manufacturer or supplier shall  
28 furnish a certificate of compliance to the purchaser of a package or packaging  
29 component, including instances in which the purchaser is also a supplier, stating that  
30 the package or packaging component is in compliance with the requirements of this  
31 chapter.

32 (b) If the package is exempt from the requirements of Sections 85310 and 85315  
33 pursuant to Section 85330, the certificate of compliance shall state the specific basis  
34 upon which the exemption is claimed.

35 (c) The certificate of compliance shall be signed by an authorized official of the  
36 manufacturer or supplier.

37 (d) A copy of the certificate of compliance shall be kept on file by the  
38 manufacturer or supplier of the package or packaging component.

39 (e) A purchaser of a package or packaging component subject to subdivision (a)  
40 shall retain the certificate of compliance for as long as the package or packaging  
41 component is in use by the purchaser.

42 (f) The manufacturer or supplier shall furnish to the department a copy of the  
43 certificate of compliance for each package or packaging component for which an

1 exemption is claimed under Section 85330 at the time when a certificate of  
2 compliance for that package or packaging component is first furnished to a  
3 purchaser. If no exemption is claimed for a package or packaging component, the  
4 manufacturer or supplier shall provide to the department upon request a copy of the  
5 certificate of compliance for that package or packaging component.

6 (g) If a manufacturer or supplier of a package or packaging component subject to  
7 subdivision (a) reformulates or creates a new package or packaging component, the  
8 manufacturer or supplier shall provide the purchaser, and, if the package or  
9 packaging component is exempt, the department, with an amended or new  
10 certificate of compliance for the reformulated or new package or packaging  
11 component.

12 **Comment.** Section 85375 continues former Section 25214.16 without substantive change.

13 See Sections 85190 (“authorized official”), 60160 (“department”), 85210 (“manufacturer”),  
14 85220 (“package”), 85225 (“packaging component”), 85230 (“purchaser”), 85245 (“supplier”).

15 **Staff Note. The staff welcomes comment on whether the introductory clause of existing**  
16 **Section 25214.16, which reads “On and after January 1, 2006,” may be safely deleted from**  
17 **the recodification of the section.**

## 18 Article 7. Exemptions for Specified Persons

### 19 § 85390. Unknowing violation of chapter

20 85390. (a) Except as provided in subdivision (b), a person who offers for retail  
21 sale or for promotional purposes a product in a package or in a packaging component  
22 that includes a regulated metal shall not be subject to any administrative or civil  
23 penalty for a violation of this chapter, if the person proves, by a preponderance of  
24 evidence, all of the following:

25 (1) The person received a certificate of compliance for the package or packaging  
26 component from the manufacturer or supplier.

27 (2) The certificate of compliance received pursuant to paragraph (1) stated that  
28 the package or packaging component is in compliance with the requirements of this  
29 chapter.

30 (3) The person relied on the certificate of compliance and did not know or had no  
31 reason to know that the package or packaging component was in violation of this  
32 chapter.

33 (4) Upon receiving a notice of violation from the department, the person took  
34 corrective action by immediately removing the package or packaging component  
35 from commerce.

36 (b) The affirmative defense specified in subdivision (a) does not apply to, and  
37 may not be raised by, a person who has been found to be in violation of this chapter  
38 on at least two prior occasions in the preceding three years from the filing date of  
39 the current action.

40 **Comment.** Section 85390 continues former Section 25214.22 without substantive change.

1 See Sections 60160 (“department”), 85220 (“package”), 85225 (“packaging component”), 60295  
2 (“person”), 85210 (“manufacturer”), 85240 (“regulated metal”), 85245 (“supplier”).

3 **§ 85395. Carrier exemption**

4 85395. Except as provided in paragraph (6) of subdivision (a) of Section 85275,  
5 a carrier shall not be subject to any provision of this chapter by reason of its receipt,  
6 carriage, holding, or delivery of a product in a package or packaging component, in  
7 the usual course of business as a carrier.

8 **Comment.** Section 85395 continues the second sentence of former Section 25214.23(a)(3)  
9 without substantive change.

10 See Sections 85220 (“package”), 85225 (“packaging component”).

11 Article 8. Criminal Violations

12 **§ 85410. Offering package or component in violation of chapter**

13 85410. A manufacturer or supplier of a package or packaging component who  
14 knowingly and intentionally offers for sale or for promotional purposes a package  
15 or packaging component in violation of this chapter is guilty of a misdemeanor, and  
16 punishable by a fine of not less than five thousand dollars (\$5,000) nor more than  
17 one hundred thousand dollars (\$100,000), imprisonment in a county jail for not  
18 more than one year, or by both fine and imprisonment.

19 **Comment.** Section 85410 continues former Section 25214.22.1 without substantive change.

20 See Section 85210 (“manufacturer”), 85220 (“package”), 85225 (“packaging component”),  
21 85245 (“supplier”).

22 CHAPTER 4. PERCHLORATE

23 Article 1. Management (*Article 10.01. Management Of Perchlorate*)

24 Article 2. Contamination (*Article 12.5. The Perchlorate*  
25 *Contamination Prevention Program*)

26 CHAPTER 5. RULES FOR SPECIFIC PRODUCTS

27 Article 1. Chemical Toilets, Recreational Vehicles, Vessel Waste Facilities, and  
28 Prohibited Chemicals (*Article 10. Prohibited Chemicals*)

29 Article 2. Lighting (*Article 10.02. Lighting Toxics Reduction*)

30 Article 3. Discarded Appliances (*Article 10.1. Management of*  
31 *Hazardous Wastes Removed From Discarded Appliances*)

32 Article 4. Metal-Containing Jewelry (*Article 10.1.1. Metal-*  
33 *Containing Jewelry*)

1 Article 5. Lead Plumbing (*Article 10.1.2. Lead Plumbing Monitoring*  
2 *and Compliance Testing*)

3 Article 6. Motor Vehicle Switches (*Article 10.2. Motor Vehicle Switches*)

4 Article 7. Mercury-Added Equipment (*Article 10.2.1. Mercury-*  
5 *Added Thermostats, Relays, Switches, And Measuring Devices,*  
6 *Article 10.2.2. Mercury Thermostat Collection Act of 2021*)

7 Article 8. Electronic Waste (*Article 10.3. Electronic Waste*)

8 Article 9. Lead-Acid Batteries (*Article 10.5. The Lead-Acid Battery*  
9 *Recycling Act of 2016*)

10 Article 10. Electronic Waste (*Article 10.3. Electronic Waste*)

11 Article 11. Lead Wheel Weights (*Article 10.5.1. Lead Wheel Weights*)

12 Article 12. Household Batteries (*Article 10.6. Management of Small Household*  
13 *Batteries*)

14 Article 13. Paint (*Article 10.7. Recyclable Latex Paint and Oil-Based Paint*)

15 Article 14. Household and Generator Waste (*Article 10.8. Household*  
16 *Hazardous Waste and Small Quantity Generator Waste*)

17 Article 15. Battery Management: Federal Regulation (*Article 10.9* )

18 Article 16. Treated Wood (*Article 11.2*)

19 PART 5. HAZARDOUS WASTE AND SPECIFIC WASTES

20 CHAPTER 1. IDENTIFICATION OF HAZARDOUS WASTE

21 Article 1. Listing (*Article 4. Listings*)

22 Article 2. Identification and Management of Specific Hazardous Waste  
23 (*Article 6.6. Hazardous Waste of Concern and Public Safety Act*)

24 CHAPTER 2. RULES FOR SPECIFIC WASTES

25 Article 1. Electronic Wastes (*Article 10.3. Electronic Waste*)

26 Article 2. Household Batteries (*Article 10.6. Management Of Small*  
27 *Household Batteries*)

1 Article 3. Lead Acid Batteries (*Article 10.5. The Lead-Acid Battery*  
2 *Recycling Act of 2016*)

3 Article 4. Mercury Thermostats (*Article 10.2.2. Mercury*  
4 *Thermostat Collection Act Of 2008*)

5 Article 5. Motor Vehicle Switches (*Article 10.2. Motor Vehicle Switches*)

6 Article 6. Paint (*Article 10.7. Recyclable Latex Paint And Oil-Based Paint*)

7 Article 7. Photovoltaic Modules (*Article 17. Photovoltaic Modules*)

8 Article 8. Treated Wood Waste (part of *Article 5. Standards*)

9 Article 9. Used Oil (*Article 13. Management of Used Oil*)

10 Article 10. Waste From Discarded Appliances (*Article 10.1. Management of*  
11 *Hazardous Wastes Removed from Discarded Appliances*)

12 CHAPTER 3. LABORATORY ANALYSIS

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

19 Further, as indicated below, the reference to the “state department” appears to be out of date. See  
20 Note to proposed Section 90000.

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

23 **§ 90000. Laboratory accreditation for analyses**

24 90000. Except as provided in subdivision (a) of Section 90005, the analysis of any  
25 material required by this division shall be performed by a laboratory accredited by  
26 the State Water Resources Control Board pursuant to Article 3 (commencing with  
27 Section 100825) of Chapter 4 of Part 1 of Division 101.

28 **Comment.** Section 90000 restates the first part of former Section 25198(b) without substantive  
29 change. The reference to the “state department” (defined as the “State Department of Health  
30 Services”) in former Section 25198 has been replaced with a reference to the “State Water  
31 Resources Control Board.” Formerly, the State Department of Health Services was the state agency  
32 authorized to accredit laboratories under Article 3 (commencing with Section 100825) of Chapter  
33 4 of Part 1 of Division 101. See former Section 100825(c)(1), (4), (18) as added by 2005 Cal. Stat.  
34 ch. 406, § 2. Currently, the State Water Resources Control Board is the agency authorized to  
35 accredit laboratories under that article. See Section 100825(c)(1), (4), (11), (12).

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

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

9 **(1)** Proposed Section 90000 would restate the first part of this subdivision to make the  
10 terminology consistent with Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of  
11 Division 101.

12 In addition, proposed Section 90000 would replace a reference to the “state department” (defined  
13 as the “State Department of Health Services”) with a reference to the “State Water Resources  
14 Control Board.” Formerly, the State Department of Health Services had the accreditation authority  
15 under the referenced article. See former Section 100825(c)(1), (4), (18), as added by 2005 Cal. Stat.  
16 ch. 406, § 2 (AB 1317). Currently, the State Water Resources Control Board is the agency granted  
17 the authority to accredit laboratories under that article. See Section 100825(c)(1), (4), (11), (12).

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

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

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

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

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

35 In 1988, the Environmental Laboratory Improvement Act of 1988 was enacted, which  
36 consolidated, reorganized, and revised the laboratory certification functions. See 1988 Cal. Stat.  
37 ch. 894, § 1. At that time, Section 25198 was amended to refer to laboratories that were previously  
38 issued certificates under the section. See 1988 Cal. Stat. ch. 894, § 6. The rule in Section 25198  
39 deems laboratories previously issued a certificate under this section to be certified “until the time  
40 that [the new] certification ... has been granted or denied, *but not beyond the expiration date shown*  
41 *on the certificate previously issued under this section*” (emphasis added). It seems almost certain  
42 that a laboratory certification issued over 30 years ago would have expired in the intervening years.  
43 See former Section 25198.3, as enacted by 1982 Cal. Stat. ch. 1209, § 2 (“The department shall  
44 issue a certificate valid for two years from the date of issue to a laboratory when the department  
45 determines that the laboratory is competent and equipped to conduct the type of analysis for which  
46 certification is sought.”).

47 **The Commission welcomes comment on whether the rule pertaining to laboratories**  
48 **previously issued certification under Section 25198 has any ongoing validity.**

1 **§ 90005. Exceptions to certification requirements**

2 90005. (a) The requirements of Section 90000 shall not apply to analyses  
3 performed by a laboratory pursuant to the facility’s waste analysis plan if all of the  
4 following conditions are met:

5 (1) The laboratory is owned or operated by the same person who owns or operates  
6 the facility at which the waste will be managed, and the facility is a hazardous waste  
7 treatment, storage, or disposal facility that is required to obtain a hazardous waste  
8 facilities permit pursuant to **Article 9 (commencing with Section 25200)**.

9 (2) The analysis is conducted for any of the following purposes:

10 (A) To determine whether a facility will accept the hazardous waste for transfer,  
11 storage, or treatment, as described in paragraph (3) of subdivision (a) of Section  
12 66264.13 of, and paragraph (3) of subdivision (a) of Section 66265.13 of, Title 22  
13 of the California Code of Regulations, as those sections read on January 1, 2001.

14 (B) To ensure that the analysis used to determine whether a facility will accept  
15 the hazardous waste for transfer, storage, or treatment is accurate and up to date, as  
16 described in paragraph (4) of subdivision (a) of Section 66264.13 of, and paragraph  
17 (4) of subdivision (a) of Section 66265.13 of, Title 22 of the California Code of  
18 Regulations, as those sections read on January 1, 2001.

19 (C) To determine whether the hazardous waste received at the facility for transfer,  
20 storage, or treatment matches the identity of the hazardous waste designated on an  
21 accompanying manifest or shipping paper, as described in paragraph (5) of  
22 subdivision (a) of Section 66264.13 of, and paragraph (5) of subdivision (a) of  
23 Section 66265.13 of, the California Code of Regulations, as those sections read on  
24 January 1, 2001.

25 (3) The facility’s waste analysis plan is prepared in accordance with the  
26 regulations adopted by the department pursuant to this division.

27 (b)(1) An analysis performed in accordance with subdivision (a) is not an analysis  
28 performed for regulatory purposes within the meaning of paragraph (9) of  
29 subdivision (c) of Section 100825.

30 (2) The exemption provided by subdivision (a) does not exempt the analyses of  
31 waste for purposes of disposal from the requirements of Section 90000 requiring  
32 certified laboratory analyses. The analyses described in subdivision (a) are not  
33 exempt from any other requirement of law, regulation, or guideline governing  
34 quality assurance and quality control.

35 **Comment.** Section 90005 restates former Section 25198(c), (d), and (e) without substantive  
36 change. An erroneous cross-reference to Section 100825(c)(19) was corrected to refer to Section  
37 100825(c)(9).

38 See Sections 83160 (“department”), 83175 (“disposal”), 83210 (“hazardous waste”),  
39 83215 (“hazardous waste facility”), 83250 (“manifest”), 83295 (“person”), 83355 (“storage”),  
40 83370 (“treatment”), 83395 (“waste”).

41 **Notes. (1)** The introductory clause of Section 25198(c) provides as follows:

42 “The requirements of subdivision (b) shall not apply to analyses performed by a laboratory  
43 pursuant to the facility’s waste analysis plan, that is prepared in accordance with the regulations

1 adopted by the Department of Toxic Substances Control pursuant to this chapter, if both of the  
2 following conditions are met:”

3 This provision is restated for readability and to make clear that the waste analysis plan being  
4 prepared in accordance with the regulations is a condition that must be satisfied for this rule to  
5 apply.

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

7 In addition, the reference to the “Department of Toxic Substances Control” in Section 25198(c)  
8 was replaced with the defined term “department.” See proposed Section 83160.

9 (2) Section 25198(d) refers to an “analysis performed for regulatory purposes within the meaning  
10 of paragraph (19) of subdivision (c) of Section 100825.” This reference appears to be erroneous, as  
11 the definition of “regulatory purposes” is found in paragraph (9) of Section 100825(c). The  
12 reference has been corrected accordingly.

13 **Absent comment, this correction will be presumed correct.**

14 (3) Section 25198(c)(1) refers to a “hazardous waste treatment, storage, or disposal facility.”  
15 This term is similar to the defined term “hazardous waste facility.” See proposed Section 83215;  
16 see also proposed Section 83180 (defining another similar term, “disposal site”). A “hazardous  
17 waste facility” means “all contiguous land and structures, other appurtenances, and improvements  
18 on the land used for the treatment, transfer, storage, resource recovery, disposal, or recycling of  
19 hazardous waste.”

20 **The Commission welcomes comment on whether the defined term “hazardous waste  
21 facility” could be substituted here or whether this reference intends a narrower set of facilities  
22 (e.g., not hazardous waste recycling facilities).**

23 **§ 90010. Certification required for contracts for laboratory analyses**

24 90010. No person or public entity of the state shall contract with a laboratory for  
25 environmental analyses for which certification is required pursuant to this division,  
26 unless the laboratory holds a valid certificate.

27 **Comment.** Section 90010 continues former Section 25198(f) without substantive change.  
28 See Section 83295 (“person”).

29 **Note.** Section 25198(f) refers to a “person or public entity of the state.” “Person” is a defined  
30 term, which seems to include public entities of the state. Specifically, proposed Section 83295  
31 provides that “person” includes “the state or any department, agency, or political subdivision  
32 thereof.” It is unclear what the “or public entity of the state” adds to this provision. It appears to be  
33 redundant.

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

1 CHAPTER 4. HAZARDOUS WASTE REDUCTION, RECYCLING, AND TREATMENT  
2 RESEARCH AND DEMONSTRATION ACT OF 1985

3 Article 1. Preliminary Provisions

4 § 90050. Short title

5 90050. This chapter shall be known and may be cited as the Hazardous Waste  
6 Reduction, Recycling, and Treatment Research and Demonstration Act of 1985.

7 **Comment.** Section 90050 continues former Section 25244 without substantive change.

8 § 90055. Legislative findings and intent

9 90055. (a) The Legislature hereby finds and declares that, whenever possible, the  
10 generation of hazardous waste is to be reduced or eliminated as expeditiously as  
11 possible, and that waste that is generated should be recycled, treated, or disposed of  
12 in a manner that minimizes any present or future threats to human health or the  
13 environment.

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

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

22 (d) It is the intent of the Legislature, in enacting this chapter, to promote the  
23 research, development, and expeditious demonstration of technologies that have the  
24 potential to reduce, recycle, and treat hazardous waste, and to encourage private  
25 sector participation in this program to the greatest extent possible.

26 **Comment.** Section 90055 continues former Section 25244.1 without substantive change.

27 See Sections 83210 (“hazardous waste”), 83325 (“recycling”), 83355 (“treatment”), 83395  
28 (“waste”).

29 § 90060. “Hazardous waste reduction, recycling, and treatment technologies”

30 90060. (a) For purposes of this chapter, “hazardous waste reduction, recycling,  
31 and treatment technologies” means technologies and techniques that have as their  
32 primary purpose the reduced generation of hazardous waste, the recycling of  
33 hazardous waste, or the conversion of hazardous waste into a less hazardous form.

34 (b) For purposes of this chapter, “hazardous waste reduction, recycling, and  
35 treatment technologies” does not include solidification or treatment occurring  
36 directly in or on the land, such as techniques using evaporation, surface  
37 impoundments, or land farming.

38 **Comment.** Section 90060 continues former Section 25244.2 without substantive change.

39 See Sections 83210 (“hazardous waste”), 83325 (“recycling”), 83355 (“treatment”).

Article 2. Department Responsibilities

§ 90075. Department duty to implement contingent on funding

90075. (a) Except as provided in subdivision (b), the department’s duty to implement this chapter is contingent upon, and limited to, the availability of funding.

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

**Comment.** Section 90075 continues former Section 25244.01 without substantive change. See Section 83160 (“department”).

§ 90080. Hazardous Waste Technology, Research, Development, and Demonstration Program

90080. (a) The department shall establish a Hazardous Waste Technology, Research, Development, and Demonstration Program, which shall consist of all of the following elements:

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

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

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

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

(i) Repay the amount of the grant to the department, if the grant results in the development of a commercially successful technology.

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

(3) The department shall deposit any funds it receives pursuant to this subdivision in the Hazardous Waste Control Account, and upon appropriation by the Legislature may expend those funds to carry out this chapter.

**Comment.** Section 90080 restates former Section 25244.5 without substantive change.

See Sections 83160 (“department”), 83210 (“hazardous waste”), 90060 (“hazardous waste reduction, recycling, and treatment technologies”), 83325 (“recycling”), 83370 (“treatment”).

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

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

1 (2) Proposed Section 90080(b)(2) would restate existing Section 25244.5(b)(2) to clarify that the  
2 payment of royalties referenced in that subdivision to the department — as contrasted with the  
3 referenced repayment of the amount of the received grant — is *not* contingent on the development  
4 of “commercially successful technology.” The existing subdivision reads as follows:

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

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

11 (3) Proposed Section 90080(b)(3) would restate existing Section 25244.5(b)(3) for clarity. The  
12 existing subdivision reads as follows:

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

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

18 **§ 90085. Department responsibilities requiring consultation with other agencies and parties**

19 90085. The department, in consultation with the State Water Resources Control  
20 Board, the State Air Resources Board, and the California Waste Management  
21 Board, shall do all of the following:

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

25 (b) On or before January 1, 1987, in consultation with industry and interested  
26 parties, adopt criteria for selecting projects that would receive grants for the  
27 construction of equipment that would be used to demonstrate hazardous waste  
28 reduction, recycling, or treatment technologies, including provisions requiring the  
29 department in assessing each project to consider the feasibility of following matters:

30 (1) The project’s particular technology.

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

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

34 (4) The consistency and contributions of the project to the state’s hazardous waste  
35 management program.

36 (c) Using the criteria adopted pursuant to subdivision (b), select projects to  
37 receive grants to construct equipment that would be used to demonstrate hazardous  
38 waste reduction, recycling, or treatment technologies, and meet at least one of the  
39 following requirements:

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

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

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

1 (d) A grant issued by the department pursuant to this section is not subject to  
2 Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public  
3 Contract Code, including, but not limited to, Section 10295 of the Public Contract  
4 Code, or Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of  
5 the Government Code.

6 **Comment.** Section 90085 restates former Section 25244.6 without substantive change.

7 See Sections 83160 (“department”), 83210 (“hazardous waste”), 83220 (“hazardous waste  
8 management”), 90060 (“hazardous waste reduction, recycling, and treatment technologies”), 83325  
9 (“recycling”), 83370 (“treatment”).

10 **Notes. (1)** Proposed Section 90085(b)(3) would restate existing Section 25244.6 for clarity. The  
11 existing section reads as follows:

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

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

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

24 (c) Using the criteria adopted pursuant to subdivision (b), select projects to receive grants to  
25 construct equipment which would be used to demonstrate hazardous waste reduction, recycling, or  
26 treatment technologies. A grant issued by the department pursuant to this section is not subject to  
27 Chapter 2 (commencing with Section 10290) of Part 2 of the Public Contract Code, including, but  
28 not limited to, Section 10295 of the Public Contract Code, or Chapter 10 (commencing with Section  
29 4525) of Division 5 of Title 1 of the Government Code. The department shall select projects which  
30 also meet at least one of the following requirements:

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

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

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

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

36 **(2)** Existing Section 25244.6(b) requires the department to adopt specified criteria “on or before  
37 January 1, 1987.” Is this requirement now obsolete, and if so, can the requirement in the subdivision  
38 be deleted from proposed Section 90085 without creating any substantive change to any aspect of  
39 existing law?

### 40 Article 3. Grants and Contracts

#### 41 § 90100. Grants and contracts for research and development

42 90100. (a) The department may issue grants to, and enter into contracts with,  
43 universities, governmental agencies, and private organizations to research and  
44 develop hazardous waste reduction, recycling, or treatment technology.

1 (b) Grants issued pursuant to subdivision (a) may be applied to personnel,  
2 equipment, and administrative costs and shall, to the extent possible, be used to  
3 augment other sources of research and development funding, including federal and  
4 private funds.

5 (c) Any grant issued by the department pursuant to this section is not subject to  
6 Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public  
7 Contract Code, including, but not limited to, Section 10295 of the Public Contract  
8 Code.

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

11 **Comment.** Section 90100 continues former Section 25244.10 without substantive change.

12 See Sections 83160 (“department”), 83210 (“hazardous waste”), 90060 (“hazardous waste  
13 reduction, recycling, and treatment technologies”), 83325 (“recycling”), 83370 (“treatment”).

14 **Note.** Proposed Section 90100 would restate existing Section 25244.10 for clarity. The existing  
15 section reads as follows:

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

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

27 **§ 90105. Grant funding for relevant equipment construction**

28 90105. Grant funding for equipment construction needed for demonstration of  
29 hazardous waste reduction, recycling, and treatment technologies shall be provided  
30 to projects selected pursuant to **Section 25244.6** in four consecutive steps:

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

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

35 (2) In activities funded by a step I grant, the applicant shall develop information  
36 needed to select the waste reduction, recycling, or treatment alternative that would  
37 be most cost effective.

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

40 (1) Seventy percent of the costs of the design of the project, or 90 percent if the  
41 grant applicant is a small business, shall be eligible for grant funding, up to a  
42 maximum of fifty thousand dollars (\$50,000) per grant.

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

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

6 (1) Fifty percent of the costs of constructing the project, or 80 percent if the grant  
7 applicant is a small business, shall be eligible for grant funding, up to a maximum  
8 of four hundred thousand dollars (\$400,000) per grant.

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

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

14 (d)(1) Step IV grants shall be made for the following activities:

15 (i) Evaluation of the effectiveness of grant-funded facilities.

16 (ii) Development of information on compliance with regulatory permits.

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

19 (2) Ninety percent of the costs of the activities identified in paragraph (1), or 100  
20 percent if the grant applicant is a small business, shall be eligible for grant funding,  
21 up to a maximum of one hundred thousand dollars (\$100,000) per grant.

22 **Comment.** Section 90105 restates former Section 25244.8 without substantive change.

23 See Sections 83085 (“applicant”), 90060 (“hazardous waste reduction, recycling, and treatment  
24 technologies”), 83325 (“recycling”), 83370 (“treatment”), 83395 (“waste”).

25 **Note.** Proposed Section 90105 would restate existing Section 25244.8 for clarity. The existing  
26 section reads as follows:

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

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

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

40 (c) Step III grants shall be made for the construction of the facilities. Fifty percent of the costs  
41 of constructing the project shall be eligible for grant funding, except that a small business may be  
42 eligible for 80 percent of those costs, up to a maximum of four hundred thousand dollars (\$400,000)  
43 per grant. As a condition of receiving a step III grant, the grantee shall allow the results of the  
44 project to be evaluated and the information disseminated to other parties. In activities funded by a

1 step III grant, the applicant shall construct the facilities as designed under a step II grant, procure  
2 needed equipment, and obtain necessary permits to operate the facility.

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

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

10 **§ 90110. Compilation and availability of project evaluations**

11 90110. (a) The department shall compile the results of all evaluations of projects  
12 funded by step IV grants, as specified in **subdivision (d) of Section 25244.8**, or the  
13 evaluations of any other project that are available to the department.

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

17 **Comment.** Section 90110 restates former Section 25244.9 without substantive change.  
18 See Section 83160 (“department”).

19 **Notes. (1)** Proposed Section 90110 would restate existing Section 25244.9 for clarity. The  
20 existing section reads as follows:

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

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

27 **(2)** The Commission seeks comment on the intended meaning of the phrase in existing Section  
28 25244.9 that reads as follows: “or the evaluations of any other project which are available to the  
29 department.” Specifically,

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

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

34 **§ 90115. Contracting by department for services to carry out chapter**

35 90115. Consistent with Article VII of the California Constitution, the department  
36 may contract for services to be performed to carry out this chapter, including but  
37 not limited to environmental control assessment, feasibility analysis, review of  
38 project design, field management responsibilities, and project scheduling and  
39 control.

40 **Comment.** Section 90115 continues former Section 25244.7 without substantive change.  
41 See Section 83160 (“department”).

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Article 4. Generator Responsibilities

**§ 90130. Required waste reduction reports to department**

90130. Every generator of hazardous waste shall submit a report to the department, at least once every two years, reporting the changes in volume and toxicity of waste achieved through waste reduction during the period for which the report is issued.

**Comment.** Section 90130 continues former Section 25244.4 without substantive change. See Sections 83160 (“department”), 83210 (“hazardous waste”), 83395 (“waste”).

PART 6. HAZARDOUS WASTE GENERATION AND MANAGEMENT

CHAPTER 1. GENERAL PROVISIONS

Article 1. Hazardous Waste Management Plans (*Article 3.5. Hazardous Waste Management Plans*)

Article 2. Land Use Restrictions (*Article 11.1. Institutional Control*)

Article 3. Cost Reimbursement (*Article 9.2. Cost Reimbursement*)

Article 4. Standards (*part of Article 5. Standards*)

CHAPTER 2. GENERATORS OF HAZARDOUS WASTE

Article 1. Obligations For Hazardous Waste Generation And Management (*parts of Sections 25150-25158.1*)

CHAPTER 3. TRANSPORTATION OF HAZARDOUS WASTE

Article 1. Transportation (*Article 6. Transportation*)

Article 2. Haulers (*Article 6.5. Hazardous Waste Haulers*)

CHAPTER 4. DISPOSAL ON PUBLIC LAND (*ARTICLE 11.5. HAZARDOUS WASTE*)

CHAPTER 5. COLLECTION PROGRAMS

Article 1. Household Hazardous Waste and Conditionally Exempt Small Quantity Generator Waste (*Article 10.8. Household Hazardous Waste And Small Quantity Generator Waste*)

1 Article 2. Banned, Unregistered, or Outdated Agricultural Wastes (*Article 9.4.*  
2 *Banned, Unregistered, or Outdated Agricultural Wastes*)

3 CHAPTER 7. DEVELOPMENT OF HAZARDOUS WASTE FACILITIES

4 Article 1. Approval Procedures for New Facilities (*Article 8.7.*  
5 *Procedures For The Approval Of New Facilities*)

6 Article 2. Development of Facilities on Indian Country (*Article 8.6.*  
7 *Development of Hazardous Waste Management Facilities on Indian*  
8 *Country*)

9 CHAPTER 8. HAZARDOUS WASTE FACILITIES

10 Article 1. Permitting (*Article 9. Permitting of Facilities*)

11 Article 2. Existing Facilities as of May 1, 1981 (*Article 4.5. State*  
12 *Regulation of Existing Hazardous Waste Facilities*)

13 CHAPTER 9. RULES FOR SPECIFIC TYPES OF FACILITIES OR TREATMENTS

14 Article 1. Hazardous Waste Treatment Reform Act of 1995 (*Article*  
15 *7.7. Hazardous Waste Treatment Reform Act of 1995*)

16 Article 2. Land Treatment Units (*Article 9.6. Land Treatment Units*)

17 Article 3. Metal Shredding Facilities (*parts of Article 5. Standards*  
18 *Re Metal Shredding Facilities*)

19 Article 4. Solar Evaporators For on-Farm Drainage Management  
20 (*Article 9.7. Integrated on-Farm Drainage Management*)

21 Article 5. Surface Impoundments (*Article 9.5. Surface*  
22 *Impoundments*)

23 Article 6. Toxic Injection Wells (*Article 5.6. The Toxic Injection*  
24 *Well Control Act of 1985*)

25 CHAPTER 10. FACILITY CLOSURE (*Article 12. Financial Responsibility and*  
26 *Closure And Maintenance of Facilities*)

27 CHAPTER 11. HAZARDOUS WASTE ENFORCEMENT COORDINATOR AND STRIKE  
28 FORCE (*Article 8.3. Hazardous Waste Enforcement Coordinator and Strike Force*)

PART 7. ENFORCEMENT

CHAPTER 1. AUTHORITY

§ 95000. General authority to enforce standards and regulations

95000. (a) Except as provided in subdivision (b), the standards in this division and the regulations adopted by the department to implement this division shall be enforced by the department, and by any local health officer or any local public officer designated by the director.

(b) The standards of this division listed in **paragraph (1) of subdivision (c) of Section 25404**, and the regulations adopted to implement the standards of this division listed in **paragraph (1) of subdivision (c) of Section 25404**, shall be enforced by the department and one of the following:

(1) If there is no CUPA, the officer or agency authorized, pursuant to **subdivision (f) of Section 25404.3**, to implement and enforce the requirements of this division listed in **paragraph (1) of subdivision (c) of Section 25404**.

(2) Within the jurisdiction of a CUPA, the unified program agencies, to the extent provided by this division and **Sections 25404.1 and 25404.2**.

(c) Within the jurisdiction of a CUPA, the unified program agencies shall be the only local agencies authorized to enforce the requirements of this chapter listed in **paragraph (1) of subdivision (c) of Section 25404**.

**Comment.** Section 95000 restates former Section 25180(a) without substantive change.

See Sections 83110 (“CUPA”), 83160 (“department”), 83165 (“director”), 83240 (“local health officer”), 83375 (“unified program agency”).

**Staff Note.** Proposed Section 95000 would restate Section 25180(a) for clarity. Currently, Section 25180(a) provides:

“25180. (a)(1) Except as provided in paragraph (2), the standards in this chapter and the regulations adopted by the department to implement this chapter shall be enforced by the department, and by any local health officer or any local public officer designated by the director.

(2) The standards of this chapter listed in paragraph (1) of subdivision (c) of Section 25404, and the regulations adopted to implement the standards of this chapter listed in paragraph (1) of subdivision (c) of Section 25404, shall be enforced by the department and one of the following:

(A) If there is no CUPA, the officer or agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(B) Within the jurisdiction of a CUPA, the unified program agencies, to the extent provided by this chapter and Sections 25404.1 and 25404.2. Within the jurisdiction of a CUPA, the unified program agencies shall be the only local agencies authorized to enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.”

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

§ 95005. Other persons authorized to enforce specific standards and regulations

95005. (a) In addition to the persons specified in Section 95000, any traffic officer, as defined by Section 625 of the Vehicle Code, and any peace officer specified in

1 Section 830.1 of the Penal Code, may enforce **Section 25160, subdivision (a) of**  
2 **Section 25163, and Sections 25250.18, 25250.19, and 25250.23.**

3 (b) Traffic officers and peace officers are authorized representatives of the  
4 department for purposes of enforcing the provisions set forth in this section.

5 (c)(1) A peace officer specified in subdivision (a) of Section 830.37 of the Penal  
6 Code may, upon approval of the local district attorney, enforce the standards in this  
7 division and regulations adopted by the department to implement this division.

8 (2) A peace officer authorized to enforce the standards and regulations referenced  
9 in paragraph (1) pursuant to this subdivision shall perform those duties in  
10 coordination with the appropriate local officer or agency authorized to enforce this  
11 division pursuant to Section 95000, and shall complete a training program  
12 equivalent to that required by the department for local officers and agencies  
13 authorized to enforce this division pursuant to Section 95000.

14 **Comment.** Section 95005 continues former Section 25180(b) without substantive change.  
15 See Section 83160 (“department”).

16 **§ 95010. Authority of California Highway Patrol**

17 95010. Notwithstanding any limitation in Section 95005, a member of the  
18 California Highway Patrol may enforce **Sections 25185, 25189, 25189.2, 25189.5,**  
19 **25191, and 25195, and Article 6 (commencing with Section 25160) and Article**  
20 **6.5 (commencing with Section 25167.1),** as those provisions relate to the  
21 transportation of hazardous waste.

22 **Comment.** Section 95010 continues former Section 25180(c) without substantive change.  
23 See Section 83210 (“hazardous waste”).

24 **§ 95015. Authority of city attorney**

25 95015. Actions pursuant to **Sections 25189.5, 25189.6, 25189.7, 25190, and**  
26 **25191** may be brought by any city attorney.

27 **Comment.** Section 95015 continues former Section 25191.2 without substantive change.

28 **§ 95020. Equal and consistent treatment of similar violations**

29 95020. In enforcing this division, including, but not limited to, the issuance of  
30 orders imposing administrative penalties, the referral of violations to prosecutors  
31 for civil or criminal prosecution, the settlement of cases, and the adoption of  
32 enforcement policies and standards related to those matters, the department and the  
33 local officers and agencies authorized to enforce this division pursuant to Section  
34 95000 shall exercise their enforcement authority in such a manner that generators,  
35 transporters, and operators of storage, treatment, transfer, and disposal facilities are  
36 treated equally and consistently with regard to the same types of violations.

37 **Comment.** Section 95020 continues former Section 25180(d) without substantive change.  
38 See Sections 83175 (“disposal”), 83355 (“storage”), 83370 (“treatment”).

39 **CHAPTER 2. PRIORITIES AND COORDINATION**

1 **§ 95050. Prioritization of actions affecting most impacted communities**

2 95050. The department shall prioritize an enforcement action authorized by this  
3 division affecting communities that have been identified by the California  
4 Environmental Protection Agency as being the most impacted environmental justice  
5 communities.

6 **Comment.** Section 95050 continues former Section 25180.2 without substantive change.  
7 See Section 83160 (“department”).

8 **§ 95055. Required notices to other entities**

9 95055. (a) The department, the State Water Resources Control Board, and the  
10 California regional water quality control boards shall notify the local health officer  
11 and director of environmental health of a county, city, or district, and the CUPA for  
12 the jurisdiction, as specified in subdivision (c), within 15 days after any of the  
13 following occur:

14 (1) The department’s or board’s employees are informed or discover that a  
15 disposal of hazardous waste has occurred within that county, city, or district and  
16 that the disposal violates a state or local law, ordinance, regulation, rule, license, or  
17 permit or that the disposal is potentially hazardous to the public health or the  
18 environment.

19 (2) The department or board proposes to issue an abatement order or a cease and  
20 desist order, to file a civil or criminal action, or to settle a civil or criminal action,  
21 concerning a disposal of hazardous waste within that county, city, or district.

22 (b) The notice given by the department or board pursuant to subdivision (a) shall  
23 include all test results and any relevant information which the department or board  
24 has obtained and which do not contain trade secrets, as defined by **Section 25173**,  
25 as determined by the department or board.

26 (c) If the department or board determines that the test results or information cannot  
27 be disseminated because of current or potential litigation, the department or board  
28 shall inform the local health officer, the director of environmental health, and the  
29 CUPA for the jurisdiction that the test results and information shall be used by the  
30 local health officer, the director of environmental health, and the unified program  
31 agencies only in connection with their statutory responsibilities, and shall not  
32 otherwise be released to the public.

33 **Comment.** Section 95055 restates former Section 25180.5(a) and (b) without substantive  
34 change.

35 See Sections 83110 (“CUPA”), 83160 (“department”), 83175 (“disposal”), 83210 (“hazardous  
36 waste”), 83240 (“local health officer”), 83375 (“unified program agency”).

37 **Staff Note.** Proposed Section 95055 would restate subdivisions (a) and (b) of Section 25180.5  
38 for clarity. Currently, those subdivisions provide:

39 “25180.5. (a) The department, the State Water Resources Control Board, and the California  
40 regional water quality control boards shall notify the local health officer and director of  
41 environmental health of a county, city, or district, and the CUPA for the jurisdiction as specified in  
42 subdivision (b), within 15 days after any of the following occur:

1 (1) The department’s or board’s employees are informed or discover that a disposal of hazardous  
2 waste has occurred within that county, city, or district and that the disposal violates a state or local  
3 law, ordinance, regulation, rule, license, or permit or that the disposal is potentially hazardous to  
4 the public health or the environment.

5 (2) The department or board proposes to issue an abatement order or a cease and desist order, to  
6 file a civil or criminal action, or to settle a civil or criminal action, concerning a disposal of  
7 hazardous waste within that county, city, or district.

8 (b) The notice given by the department or board pursuant to subdivision (a) shall include all test  
9 results and any relevant information which the department or board has obtained and which do not  
10 contain trade secrets, as defined by Section 25173, as determined by the department or board. If  
11 the department or board determines that the test results or information cannot be disseminated  
12 because of current or potential litigation, the department or board shall inform the local health  
13 officer, the director of environmental health, and the CUPA for the jurisdiction that the test results  
14 and information shall be used by the local health officer, the director of environmental health, and  
15 the unified program agencies, only in connection with their statutory responsibilities and shall not  
16 otherwise be released to the public.”

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

18 **§ 95060. Coordination of agencies**

19 95060. The department, the State Water Resources Control Board, and the  
20 California regional water quality control boards shall coordinate with the unified  
21 program agencies regarding violations of this chapter, or violations of regulations  
22 adopted pursuant to this chapter, at a unified program facility.

23 **Comment.** Section 95060 continues former Section 25180.5(c) without substantive change.

24 See Sections 83160 (“department”), 83375 (“unified program agency”), 83380 (“unified  
25 program facility”).

26 **§ 95065. Obligations of prosecuting attorney**

27 95065. (a) In any case filed in any court or administrative tribunal, including, but  
28 not limited to, the Office of Administrative Hearings, which alleges any violations  
29 of this chapter or any statute, regulation, or requirement specified in **Section 25186**,  
30 the prosecuting attorney shall, within 30 days of the date of filing, forward, to the  
31 office of Attorney General located in the City of Los Angeles, a summary of the  
32 case which provides all of the following information:

33 (1) The case name and court or administrative number.

34 (2) The court or administrative tribunal in which the case is being prosecuted.

35 (3) The agency prosecuting the case.

36 (4) The name, business address, and telephone number of the prosecuting  
37 attorney.

38 (5) The statutes, regulations, or requirements which are alleged to have been  
39 violated.

40 (6) The date of filing and date or dates of alleged violations.

41 (7) A brief summary of the action.

42 (8) The names, addresses, and telephone numbers of all respondents or defendants  
43 in the action.

1 (9) The status of the case.

2 (b) Within 30 days of the conclusion of a case specified in subdivision (a) by  
3 verdict, award, judgment, dismissal, or settlement, the prosecuting attorney shall  
4 forward, to the office of the Attorney General located in the City of Los Angeles,  
5 an update of the information required by subdivision (a), including a statement  
6 describing the final outcome of the case.

7 (c) The cases subject to this section shall include those cases which are brought  
8 for purposes of clarifying, enforcing, limiting, or overturning any case which arose  
9 out of a violation of this chapter or statute, regulation, or requirement specified in  
10 **Section 25186**, including, but not limited to, appeals, actions for contempt, and  
11 revocations of probation.

12 **Comment.** Section 95065 continues former Section 25186.6 without substantive change.  
13 See Section 83160 (“department”).

14 CHAPTER 3. PROCEDURES

15 Article 1. General Provisions

16 **§ 95075. Activities by authorized representative**

17 95075. (a) In order to carry out the purposes of this chapter, any authorized  
18 representative of the department or the local officer or agency authorized to enforce  
19 this chapter pursuant to Section 95000, may, at any reasonable hour of the day, or  
20 as authorized pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of  
21 the Code of Civil Procedure, do any of the following:

22 (1) Enter and inspect a factory, plant, construction site, disposal site, transfer  
23 facility, or any establishment or any other place or environment where hazardous  
24 wastes are stored, handled, processed, disposed of, or being treated to recover  
25 resources.

26 (2) Stop and inspect any vehicle reasonably suspected of transporting hazardous  
27 wastes when accompanied by a uniformed peace officer in a clearly marked vehicle.

28 (3) Inspect and copy any records, reports, test results, or other information  
29 required to carry out this chapter.

30 (4) Photograph any waste, waste container, waste container label, vehicle, waste  
31 treatment process, waste disposal site, or condition constituting a violation of law  
32 found during an inspection.

33 (5) Carry out any sampling activities necessary to carry out this chapter, including  
34 obtaining samples from any individual or taking samples from the property of any  
35 person or from any vehicle in which any authorized representative of the department  
36 or the local officer or agency authorized to enforce this chapter pursuant to Section  
37 95000 reasonably believes has transported or is transporting hazardous waste.

38 (b) Upon request, split samples obtained pursuant to paragraph (5) of subdivision  
39 (a) shall be given to the person from whom, or from whose property or vehicle, the  
40 samples were obtained.

1 **Comment.** Section 95075 restates former Section 25185(a) without substantive change.  
2 See Sections 83160 (“department”), 83180 (“disposal site”), 83210 (“hazardous waste”), 83245  
3 (“local officer”), 83370 (“treatment”), 83395 (“waste”).

4 **Staff Note.** Proposed Section 95075 would restate existing Section 25185(a) for clarity.  
5 Currently, Section 25185(a) provides:

6 “25185. (a) In order to carry out the purposes of this chapter, any authorized representative of  
7 the department or the local officer or agency authorized to enforce this chapter pursuant to  
8 subdivision (a) of Section 25180, may, at any reasonable hour of the day, or as authorized pursuant  
9 to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, do any of  
10 the following:

11 (1) Enter and inspect a factory, plant, construction site, disposal site, transfer facility, or any  
12 establishment or any other place or environment where hazardous wastes are stored, handled,  
13 processed, disposed of, or being treated to recover resources.

14 (2) Carry out any sampling activities necessary to carry out this chapter, including obtaining  
15 samples from any individual or taking samples from the property of any person or from any vehicle  
16 in which any authorized representative of the department or the local officer or agency authorized  
17 to enforce this chapter pursuant to subdivision (a) of Section 25180 reasonably believes has  
18 transported or is transporting hazardous waste. However, upon request, split samples shall be given  
19 to the person from whom, or from whose property or vehicle, the samples were obtained.

20 (3) Stop and inspect any vehicle reasonably suspected of transporting hazardous wastes when  
21 accompanied by a uniformed peace officer in a clearly marked vehicle.

22 (4) Inspect and copy any records, reports, test results, or other information required to carry out  
23 this chapter.

24 (5) Photograph any waste, waste container, waste container label, vehicle, waste treatment  
25 process, waste disposal site, or condition constituting a violation of law found during an  
26 inspection.”

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

28 **§ 95080. Application for order enjoining or directing compliance**

29 95080. (a) If the department determines that a person has engaged in, is engaged  
30 in, or is about to engage in any acts or practices that constitute or will constitute a  
31 violation of this division, or any rule, regulation, permit, covenant, standard,  
32 requirement, or order issued, promulgated, or executed thereunder, and when  
33 requested by the department, the city attorney of the city in which those acts or  
34 practices occur, occurred, or will occur, the county counsel or the district attorney  
35 of the county in which those acts or practices occur, occurred, or will occur, or the  
36 Attorney General may apply to the superior court for an order enjoining those acts  
37 or practices, or for an order directing compliance, and upon a showing by the  
38 department that the person has engaged in or is about to engage in those acts or  
39 practices, a permanent or temporary injunction, restraining order, or other order may  
40 be granted.

41 (b) If the unified program agency determines that a person has engaged in, is  
42 engaged in, or is about to engage in any acts or practices which constitute or will  
43 constitute a violation of this division, or any rule, regulation, permit, covenant,  
44 standard, requirement, or order issued, promulgated, or executed thereunder, and  
45 when requested by the unified program agency, the city attorney of the city in which

1 those acts or practices occur, occurred, or will occur, the county counsel or the  
2 district attorney of the county in which those acts or practices occur, occurred, or  
3 will occur, or the Attorney General, may apply to the superior court for an order  
4 enjoining those acts or practices, or for an order directing compliance, and upon a  
5 showing by the unified program agency that the person has engaged in or is about  
6 to engage in those acts or practices, a permanent or temporary injunction, restraining  
7 order, or other order may be granted.

8 (c) If a county counsel or the district attorney brings an action pursuant to  
9 subdivision (a) or (b), the county counsel or the district attorney shall, within seven  
10 days of the filing of the action, notify the district attorney or county counsel, as  
11 applicable, of the county in which the acts or practices occur, occurred, or will occur.

12 **Comment.** Section 95080 continues former Section 25181 without substantive change.  
13 See Sections 83160 (“department”), 83375 (“unified program agency”).

14 **§ 95085. Judgment to collect administrative penalty**

15 95085. (a) If any administrative order or decision that imposes a penalty is issued  
16 pursuant to this division or Part 2 (commencing with Section 78000) of Division 45,  
17 the administrative order or decision has become final, and, if applicable, a petition  
18 for judicial review of the final order or decision has not been filed within the time  
19 limits prescribed in Section 11523 of the Government Code, the department may  
20 apply to the clerk of the appropriate court for a judgment to collect the  
21 administrative penalty.

22 (b) The department’s application, which shall include a certified copy of the final  
23 administrative order or decision, constitutes a sufficient showing to warrant issuance  
24 of the judgment.

25 (c) The court clerk shall enter the judgment immediately in conformity with the  
26 application.

27 (d) The judgment so entered has the same force and effect as, and is subject to all  
28 the provisions of law relating to, a judgment in a civil action, and may be enforced  
29 in the same manner as any other judgment of the court in which it is entered.

30 **Comment.** Section 95085 continues former Section 25184.1 without substantive change.  
31 See Section 83160 (“department”).

32 **§ 95090. Reward for providing information**

33 95090. (a) A person who provides information that materially contributes to the  
34 imposition of a civil penalty or criminal fine against a person for violating this  
35 division shall be paid a reward pursuant to regulations adopted by the department  
36 under subdivision (j).

37 (b) The reward shall be equal to 10 percent of the amount of the civil penalty or  
38 criminal fine collected by the department, district attorney, county counsel, or city  
39 attorney.

40 (c) The department shall pay the award to the person who provides information  
41 that results in the imposition of a civil penalty, and the county shall pay the award

1 to the person who provides information that results in the imposition of a criminal  
2 fine.

3 (d) No reward paid pursuant to this subdivision shall exceed five thousand dollars  
4 (\$5,000).

5 (e) No informant shall be eligible for a reward for a violation known to the  
6 department, unless the information materially contributes to the imposition of  
7 criminal or civil penalties for a violation specified in this section.

8 (f) If there is more than one informant for a single violation, the first notification  
9 received by the department shall be eligible for the reward.

10 (g) If the notifications are postmarked on the same day or telephoned notifications  
11 are received on the same day, the reward shall be divided equally among those  
12 informants.

13 (h) Public officers and employees of the United States, the State of California, or  
14 counties and cities in California are not eligible for the reward pursuant to  
15 subdivision (a), unless reporting those violations does not relate in any manner to  
16 their responsibilities as public officers or employees.

17 (i) An informant who is an employee of a business and who provides information  
18 that the business violated this division is not eligible for a reward if the employee  
19 intentionally or negligently caused the violation or if the employee's primary and  
20 regular responsibilities included investigating the violation, unless the business  
21 knowingly caused the violation.

22 (j) The department shall adopt regulations that establish procedures for the receipt  
23 and review of claims for payment of rewards.

24 (k) All decisions concerning the eligibility for an award and the materiality of the  
25 provided information shall be made pursuant to these regulations.

26 (l) In each case brought under subdivision (a), the department, the office of the  
27 city attorney, the county counsel, or the district attorney, whichever office brings  
28 the action, shall determine whether the information materially contributed to the  
29 imposition of civil or criminal penalties for violations of this division.

30 (m) The department shall continuously publicize the availability of the rewards  
31 pursuant to this section for persons who provide information pursuant to this section.

32 (n) Claims may be submitted only for those referrals made on or after January 1,  
33 1982.

34 **Comment.** Section 95090 continues former Section 25191.7 without substantive change.  
35 See Section 83160 ("department").

## 36 Article 2. Inspections

### 37 § 95100. Inspection requirements

38 95100. (a) During an inspection pursuant to Section 95075, the inspector shall  
39 comply with all reasonable security, safety, and sanitation measures, and reasonable  
40 precautionary measures specified by the operator.

1 (b) At the conclusion of the inspection, the inspector shall deliver to the operator  
2 of the facility or site a written summary of all violations alleged by the inspector.

3 (c) The inspector shall, prior to leaving the facility or site, deliver the written  
4 summary to the operator and shall discuss any questions or observations that the  
5 operator might have concerning the inspection.

6 (d) The department or the local officer or agency authorized to enforce this  
7 division pursuant to Section 95000 shall prepare an inspection report that shall fully  
8 detail all observations made at the facility or site, all alleged violations, the factual  
9 basis for alleging those violations, and any corrective actions that should be taken  
10 by the operator of the facility or site.

11 (e) The department or the local officer or agency shall provide a copy of the  
12 inspection report to the operator within five days from the date of the preparation of  
13 the inspection report, and, in any event, not later than 65 days from the date of the  
14 inspection.

15 (f) The inspection report shall include all pertinent information, including, but not  
16 limited to, documents, photographs, and sampling results concerning the alleged  
17 violations.

18 (g) The department or the local officer or agency shall provide the information  
19 described in subdivision (f) to the operator with the inspection report, including all  
20 photographs taken by the department in the course of the inspection and all  
21 laboratory results obtained as a result of the inspection.

22 (h)(1) If sampling or laboratory results are not available at the time that the  
23 inspection report is prepared, that fact shall be contained in the report.

24 (2) The results referenced in paragraph (1) shall be provided to the operator within  
25 10 working days of their receipt by the department or the local officer or agency.

26 **Comment.** Subdivision (a) of Section 95100 continues former Section 25185(b) without  
27 substantive change.

28 Subdivision (b) continues the first sentence of former Section 25185(c)(1) without substantive  
29 change.

30 Subdivision (c) continues the second sentence of former Section 25185(c)(1) without substantive  
31 change.

32 Subdivision (d) continues the first sentence of former Section 25185(c)(2)(A) without  
33 substantive change.

34 Subdivision (e) continues the second sentence of former Section 25185(c)(2)(A) without  
35 substantive change.

36 Subdivision (f) continues the third sentence of former Section 25185(c)(2)(A) without  
37 substantive change.

38 Subdivision (g) continues the fourth sentence of former Section 25185(c)(2)(A) without  
39 substantive change.

40 Paragraph (1) of subdivision (h) continues the fifth sentence of former Section 25185(c)(2)(A)  
41 without substantive change.

42 Paragraph (2) of subdivision (h) continues the sixth sentence of former Section 25185(c)(2)(A)  
43 without substantive change.

44 See Sections 83160 (“department”), 83245 (“local officer”).

1 **§ 95105. Extension of time period**

2 95105. A time period specified in subdivision (e) or subdivision (h) of Section  
3 95100 may be extended as a result of a natural disaster, inspector illness, or other  
4 circumstances beyond the control of the department, or the local officer or agency,  
5 if the department or the local officer or agency so notifies the operator within 70  
6 days from the date of the inspection and provides the inspection report to the  
7 operator in a timely manner after the reason for the delay is ended.

8 **Comment.** Section 95105 continues former Section 25185(c)(2)(B) without substantive change.  
9 See Sections 83160 (“department”), 83245 (“local officer”).

10 **§ 95110. Withholding of information if necessary to investigation**

11 95110. Information from the inspection report, or the report itself, may be  
12 withheld by the department or the local officer or agency if necessary to a criminal  
13 investigation or other ongoing investigation in which the department or the local  
14 officer or agency determines, in writing, that disclosure of the information will  
15 result in a substantial probability of destruction of evidence, intimidation of  
16 witnesses, or other obstruction of justice.

17 **Comment.** Section 95110 continues former Section 25185(c)(2)(C) without substantive change.  
18 See Sections 83160 (“department”), 83245 (“local officer”).

19 **§ 95115. Discussion and review of inspection report**

20 95115. The department or the local officer or agency shall, at the operator’s  
21 request, discuss the inspection report with the operator and shall, upon the request  
22 of the operator, review the inspection report and determine whether the operator’s  
23 responses and documented or proposed corrective actions would be sufficient to  
24 comply with this division, or if any allegation of a violation is unwarranted.

25 **Comment.** Section 95115 continues former Section 25185(c)(2)(D) without substantive change.  
26 See Sections 83160 (“department”), 83245 (“local officer”).

27 **§ 95120. Written response to inspection report**

28 95120. (a) The operator of the site or facility that receives an inspection report  
29 pursuant to Section 95100 shall submit a written response to the department or the  
30 local officer or agency authorized to enforce this division pursuant to Section 95000  
31 within 60 days of receipt of the inspection report, or within a shorter time as the  
32 department or the local officer or agency may reasonably require, which shall  
33 include a statement documenting corrective actions taken by the operator or  
34 proposing corrective actions that will be taken by the operator, for purposes of  
35 compliance with this division, or disputing the existence of the violation.

36 (b) Upon receiving the written response from the operator, the department or the  
37 local officer or agency shall, upon the request of the operator, meet and confer with  
38 the operator regarding any questions, concerns, or comments that the operator may  
39 have concerning the inspection report.

1 (c) The department or the local officer or agency shall, within 30 working days  
2 from the date of receipt of a response that documents or proposes corrective action,  
3 or which disputes the existence of a violation, determine whether the corrective  
4 actions documented or proposed to be taken by the operator, if implemented as  
5 stated or proposed, will achieve compliance with this division, or whether a  
6 violation is still alleged, as applicable, and shall submit a written copy of that  
7 determination to the operator, in the form of a report of violation or other appropriate  
8 document.

9 (d) If the department or the local officer or agency fails to make the determination  
10 and submit a copy of the determination within 30 working days from the date of  
11 receipt of the operator’s response, the department or the local officer or agency may  
12 not seek penalties for continuing violations or any alleged new violations caused by  
13 the corrective actions taken by the operator, until the department or the local officer  
14 or agency submits the determination to the operator and provides the operator with  
15 a reasonable time in which to make necessary operational modifications that differ  
16 from those proposed to the department or local officer or agency.

17 **Comment.** Subdivision (a) of Section 95120 continues the first sentence of former Section  
18 25185(c)(3) without substantive change.

19 Subdivision (b) continues the second sentence of former Section 25185(c)(3) without substantive  
20 change.

21 Subdivision (c) continues the third sentence of former Section 25185(c)(3) without substantive  
22 change.

23 Subdivision (d) continues the fourth sentence of former Section 25185(c)(3) without substantive  
24 change.

25 See Sections 83160 (“department”), 83245 (“local officer”).

26 **§ 95125. Trade secret issues**

27 95125. (a) Whenever information, including, but not limited to, documents,  
28 photographs, and sampling results, has been gathered pursuant to Section 95075,  
29 the department or the local officer or agency shall comply with all procedures  
30 established pursuant to **Section 25173** and shall notify the person whose facility was  
31 inspected prior to public disclosure of the information, and, upon request of that  
32 person, shall submit a copy of any information to that person for the purpose of  
33 determining whether trade secret information, as defined in **Section 25173**, or  
34 facility security would be revealed by the information.

35 (b) “Public disclosure,” as used in this section, shall not include review of the  
36 information by a court of competent jurisdiction or an administrative law judge,  
37 which may be conducted in camera at the discretion of the court or judge.

38 **Comment.** Subdivision (a) of Section 95125 continues the first sentence of former Section  
39 25185(d) without substantive change.

40 Subdivision (b) of Section 95125 continues the second and third sentences of former Section  
41 25185(d) without substantive change.

42 See Sections 83160 (“department”), 83245 (“local officer”).

1 **§ 95130. Inspection of hazardous waste or border zone property**

2 95130. (a) For a property that is designated as a hazardous waste property or  
3 border zone property pursuant to **the former Article 11 (commencing with Section**  
4 **25220)**, an authorized representative of the department may, at any reasonable hour  
5 of the day, or as authorized pursuant to Title 13 (commencing with Section 1822.50)  
6 of Part 3 of the Code of Civil Procedure, enter and inspect any real property that is  
7 within 2,000 feet of a deposit of hazardous waste or a hazardous waste property and  
8 do any of the following:

9 (1) Obtain samples of the soil, vegetation, air, water, and biota on or beneath the  
10 land.

11 (2) Set up and maintain monitoring equipment for the purpose of assessing or  
12 measuring the actual or potential migration of hazardous wastes on, beneath, or  
13 toward the land.

14 (3) Survey and determine the topography and geology of the land.

15 (4) Photograph any equipment, sample, activity, or environmental condition  
16 described in paragraphs (1), (2), or (3), with the photographs subject to the  
17 requirements of Section 95125.

18 (b) This section does not apply to any hazardous waste facility that is required to  
19 be permitted pursuant to this division and that is subject to inspection pursuant to  
20 Section 95075.

21 (c) An inspector who inspects pursuant to this section shall do all of the following:

22 (1) Make a reasonable effort to inform the owner or their authorized representative  
23 of the inspection.

24 (2) Provide split samples to the owner or representative upon request.

25 (3) Comply with the provisions of subdivision (a) of Section 95100.

26 **Comment.** Section 95130 continues former Section 25185.5 without substantive change.

27 See Section 83210 (“hazardous waste”), 83215 (“hazardous waste facility”).

28 **Staff Note.** Proposed Section 95130 would restate existing Section 25185.5 for clarity.  
29 Currently, Section 25185.5 provides:

30 “25185.5. For a property that is designated as a hazardous waste property or border zone property  
31 pursuant to the former Article 11 (commencing with Section 25220), an authorized representative  
32 of the department may, at any reasonable hour of the day, or as authorized pursuant to Title 13  
33 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, enter and inspect any  
34 real property that is within 2,000 feet of a deposit of hazardous waste or a hazardous waste property  
35 and do any of the following:

36 (a) Obtain samples of the soil, vegetation, air, water, and biota on or beneath the land.

37 (b) Set up and maintain monitoring equipment for the purpose of assessing or measuring the  
38 actual or potential migration of hazardous wastes on, beneath, or toward the land.

39 (c) Survey and determine the topography and geology of the land.

40 (d) Photograph any equipment, sample, activity, or environmental condition described in  
41 subdivision (a), (b), or (c). The photographs shall be subject to the requirements of subdivision (d)  
42 of Section 25185.

43 (e) This section does not apply to any hazardous waste facility that is required to be permitted  
44 pursuant to this chapter and that is subject to inspection pursuant to Section 25185.

1 (f) An inspector who inspects pursuant to this section shall make a reasonable effort to inform  
2 the owner or his or her authorized representative of the inspection and shall provide split samples  
3 to the owner or representative upon request and shall comply with the provisions of subdivision (b)  
4 of Section 25185.”

5 Absent comment, this proposed restatement will be presumed correct.

## 6 Article 3. Compelled Disclosure of Information

### 7 § 95150. Persons subject to compelled disclosure

8 95150. The department or a local officer or agency authorized to enforce this  
9 division pursuant to Section 95000, in connection with any action authorized by this  
10 division, may require any of the following persons to furnish and transmit, upon  
11 reasonable notice, to the designated offices of the department or the local officer or  
12 agency, any existing information relating to hazardous substances, hazardous  
13 wastes, or hazardous materials:

14 (a) Any person who owns or operates any hazardous waste facility.

15 (b) Any person who generates, stores, treats, transports, disposes of, or otherwise  
16 handles hazardous waste.

17 (c) Any person who has generated, stored, treated, transported, disposed of, or  
18 otherwise handled hazardous waste.

19 (d) Any person who arranges, or has arranged, by contract or other agreement, to  
20 store, treat, transport, dispose of, or otherwise handle hazardous waste.

21 (e) Any person who applies, or has applied, for any permit, registration, or  
22 certification under this division.

23 **Comment.** Section 95150 continues former Section 25185.6(a)(1) without substantive change.  
24 See Sections 83160 (“department”), 83210 (“hazardous waste”), 83245 (“local officer”).

### 25 § 95155. Information relating to ability to pay for or perform corrective action

26 95155. (a) The department, or a local officer or agency authorized to enforce this  
27 division pursuant to Section 95000, may require a person described in Section 95150  
28 to furnish and transmit, upon reasonable notice, to the designated offices of the  
29 department or the local officer or agency, any information relating to the person’s  
30 ability to pay for, or to perform, a response or corrective action.

31 (b) Subdivision (a) applies only if there is a reasonable basis to believe that there  
32 has been or may be a release or threatened release of a hazardous substance,  
33 hazardous wastes, or hazardous material, and only for the purpose of determining  
34 under this division how to finance a response or corrective action or otherwise for  
35 the purpose of enforcing this division.

36 **Comment.** Section 95155 continues former Section 25185.6(a)(2) without substantive change.  
37 See Sections 83160 (“department”), 83210 (“hazardous waste”), 83245 (“local officer”).

1 **§ 95160. Activity relating to hazardous substances, waste or materials**

2 95160. (a) The department may require any person who has information regarding  
3 the activities of a person described in Section 95150 relating to hazardous  
4 substances, hazardous wastes, or hazardous materials to furnish and transmit, upon  
5 reasonable notice, that information to the designated offices of the department.

6 (b) (1) The department may require any person who has information regarding the  
7 activities of a person described in Section 95150 relating to the ability of the person  
8 described in that section to pay for, or to perform, a response or corrective action,  
9 upon reasonable notice, to furnish and transmit that information to the designated  
10 offices of the department.

11 (2) This subdivision applies only if there is a reasonable basis to believe that there  
12 has been or may be a release or threatened release of a hazardous substance,  
13 hazardous wastes, or hazardous material, and only for the purpose of determining  
14 under this division how to finance a response or corrective action or otherwise for  
15 the purpose of enforcing this division.

16 **Comment.** Section 95160 continues former Section 25185.6(b) without substantive change.  
17 See Sections 83160 (“department”), 83210 (“hazardous waste”), 83245 (“local officer”).

18 **§ 95165. Costs of photocopying or transmitting information**

19 95165. Any person required to furnish information pursuant to this article shall  
20 pay any costs of photocopying or transmitting this information.

21 **Comment.** Section 95165 continues former Section 25185.6(c) without substantive change.

22 **§ 95170. Trade secrets**

23 95170. (a) When requested by the person furnishing information pursuant to this  
24 article, the department or the local officer or agency shall follow the procedures  
25 established under **Section 25173**.

26 (b) A person providing information pursuant to this article shall, at the time of its  
27 submission, identify all information that the person believes is a trade secret.

28 (c) Any information or record provided pursuant to this article that is not identified  
29 as a trade secret pursuant is available to the public, unless exempted from disclosure  
30 by other provisions of law.

31 (d) For purposes of this section, “trade secret” is defined as in **Section 25173**.

32 **Comment.** Subdivision (a) of Section 95170 continues former Section 25185.6(d) without  
33 substantive change.

34 Subdivisions (b) through (d) restate former Section 25185.6(h) without substantive change.

35 See Sections 83160 (“department”), 83245 (“local officer”).

36 **Staff Note.** Proposed Section 95170 would restate existing Section 25185.6(d) and (h) for clarity.  
37 The other subdivisions of existing Section 25185.6 are continued in other sections of this proposed  
38 article.

39 Currently, Section 25185.6 in its entirety provides:

40 “25185.6. (a) (1) The department or a local officer or agency authorized to enforce this chapter  
41 pursuant to subdivision (a) of Section 25180, in connection with any action authorized by this  
42 chapter, may require any of the following persons to furnish and transmit, upon reasonable notice,

1 to the designated offices of the department or the local officer or agency any existing information  
2 relating to hazardous substances, hazardous wastes, or hazardous materials:

3 (A) Any person who owns or operates any hazardous waste facility.

4 (B) Any person who generates, stores, treats, transports, disposes of, or otherwise handles  
5 hazardous waste.

6 (C) Any person who has generated, stored, treated, transported, disposed of, or otherwise  
7 handled hazardous waste.

8 (D) Any person who arranges, or has arranged, by contract or other agreement, to store, treat,  
9 transport, dispose of, or otherwise handle hazardous waste.

10 (E) Any person who applies, or has applied, for any permit, registration, or certification under  
11 this chapter.

12 (2) (A) The department, or a local officer or agency authorized to enforce this chapter pursuant  
13 to subdivision (a) of Section 25180, may require a person described in paragraph (1) to furnish and  
14 transmit, upon reasonable notice, to the designated offices of the department or the local officer or  
15 agency, any information relating to the person's ability to pay for, or to perform, a response or  
16 corrective action.

17 (B) This paragraph applies only if there is a reasonable basis to believe that there has been or  
18 may be a release or threatened release of a hazardous substance, hazardous wastes, or hazardous  
19 material, and only for the purpose of determining under this chapter how to finance a response or  
20 corrective action or otherwise for the purpose of enforcing this chapter.

21 (b) (1) The department may require any person who has information regarding the activities of a  
22 person described in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) relating  
23 to hazardous substances, hazardous wastes, or hazardous materials to furnish and transmit, upon  
24 reasonable notice, that information to the designated offices of the department.

25 (2) (A) The department may require any person who has information regarding the activities of  
26 a person described in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a),  
27 relating to the ability of the person described in those subparagraphs to pay for, or to perform, a  
28 response or corrective action, upon reasonable notice, to furnish and transmit that information to  
29 the designated offices of the department.

30 (B) This paragraph applies only if there is a reasonable basis to believe that there has been or  
31 may be a release or threatened release of a hazardous substance, hazardous wastes, or hazardous  
32 material, and only for the purpose of determining under this chapter how to finance a response or  
33 corrective action or otherwise for the purpose of enforcing this chapter.

34 (c) Any person required to furnish information pursuant to this section shall pay any costs of  
35 photocopying or transmitting this information.

36 (d) When requested by the person furnishing information pursuant to this section, the department  
37 or the local officer or agency shall follow the procedures established under Section 25173.

38 (e) If a person intentionally or negligently fails to furnish and transmit to the designated offices  
39 of the department or the local officer or agency any existing information required pursuant to this  
40 section, the department may issue an order pursuant to Section 25187 directing compliance with  
41 the request.

42 (f) The department may disclose information submitted pursuant to this section to authorized  
43 representatives, contractors, or other governmental agencies only in connection with the  
44 department's responsibilities pursuant to this chapter. The department shall establish procedures to  
45 ensure that information submitted pursuant to this section is used only in connection with these  
46 responsibilities and is not otherwise disseminated without the consent of the person who provided  
47 the information to the department.

48 (g) The department may also make available to the United States Environmental Protection  
49 Agency any and all information required by law to be furnished to that agency. The sharing of  
50 information between the department and that agency pursuant to this section does not constitute a

1 waiver by the department or any affected person of any privilege or confidentiality provided by law  
2 that pertains to the information.

3 (h) A person providing information pursuant to subdivision (a) or (b) shall, at the time of its  
4 submission, identify all information that the person believes is a trade secret. Any information or  
5 record not identified as a trade secret is available to the public, unless exempted from disclosure by  
6 other provisions of law. For purposes of this subdivision, “trade secret” is defined as in Section  
7 25173.

8 (i) Notwithstanding Section 25190, a person who knowingly and willfully disseminates  
9 information protected by Section 25173 or procedures established by the department pursuant to  
10 Section 25173 shall, upon conviction, be punished by a fine of not more than five thousand dollars  
11 (\$5,000), imprisonment in a county jail not to exceed one year, or by both that fine and  
12 imprisonment.”

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

14 **§ 95175. Order directing compliance for failure to provide information**

15 95175. If a person intentionally or negligently fails to furnish and transmit to the  
16 designated offices of the department or the local officer or agency any existing  
17 information required pursuant to this article, the department may issue an order  
18 pursuant to Article 3 (commencing with Section 95350) directing compliance with  
19 the request.

20 **Comment.** Section 95175 continues former Section 25185.6(e) without substantive change.  
21 See Sections 83160 (“department”), 83245 (“local officer”).

22 **§ 95180. Disclosure of information by department**

23 95180. (a) The department may disclose information submitted pursuant to this  
24 article to authorized representatives, contractors, or other governmental agencies  
25 only in connection with the department’s responsibilities pursuant to this division.

26 (b) The department shall establish procedures to ensure that information  
27 submitted pursuant to this article is used only in connection with these  
28 responsibilities and is not otherwise disseminated without the consent of the person  
29 who provided the information to the department.

30 (c) (1) The department may also make available to the United States  
31 Environmental Protection Agency any and all information required by law to be  
32 furnished to that agency.

33 (2) The sharing of information between the department and that agency pursuant  
34 to this article does not constitute a waiver by the department or any affected person  
35 of any privilege or confidentiality provided by law that pertains to the information.

36 **Comment.** Subdivision (a) of Section 95180 continues the first sentence of former Section  
37 25186.5(f) without substantive change.

38 Subdivision (b) continues the second sentence of former Section 25186.5(f) without substantive  
39 change.

40 Subdivision (c) continues former Section 25186.5(g) without substantive change.

41 See Sections 83160 (“department”), 83245 (“local officer”).

1 **§ 95185. Required disclosure statements by hazardous waste licenseholder or applicant**

2 95185. (a) Every hazardous waste licenseholder or applicant, other than a federal,  
3 state, or local agency, who is not otherwise required to file a disclosure statement  
4 on or before January 1, 1989, shall file a disclosure statement with the department  
5 on or before January 1, 1989.

6 (b) If changes or additions of information regarding majority ownership, the  
7 business name, or the information required by **paragraphs (6) and (8) of**  
8 **subdivision (a) of Section 25112.5** occur after the filing of the statement, the  
9 licenseholder or applicant shall provide that information to the department, in  
10 writing, within 30 days of the change or addition.

11 (c) Any person submitting a disclosure statement shall pay a fee set by the  
12 department in an amount adequate to defray the costs of implementing this section,  
13 per person, officer, director, or partner required to be listed in the disclosure  
14 statement, in addition to any other fees required.

15 (d) The department shall deposit fees paid pursuant to subdivision (c) in the  
16 Hazardous Waste Control Account.

17 (e) Fees deposited pursuant to subdivision (d) shall be made available, upon  
18 appropriation by the Legislature, to cover the costs of conducting the necessary  
19 background searches.

20 (f) Any person who knowingly makes any false statement or misrepresentation in  
21 a disclosure statement filed pursuant to the requirements of this division is, upon  
22 conviction, subject to the penalties specified in **Sections 25189 and 25189.2 and**  
23 **subdivision (a) of Section 25191.**

24 (g) The disclosure statement submitted pursuant to subdivision (b) is exempt from  
25 the requirements of the California Public Records Act (Division 10 (commencing  
26 with Section 7920.000) of Title 1 of the Government Code).

27 **Comment.** Subdivision (a) of Section 95185 continues former Section 25186.5(b) without  
28 substantive change.

29 Subdivision (b) continues former Section 25186.5(c) without substantive change.

30 Subdivision (c) continues the first sentence of former Section 25186.5(d) without substantive  
31 change.

32 Subdivision (d) continues the second sentence of former Section 25186.5(d) without substantive  
33 change.

34 Subdivision (e) continues the third sentence of former Section 25186.5(d) without substantive  
35 change.

36 Subdivision (f) continues former Section 25186.5(e) without substantive change.

37 Subdivision (g) continues former Section 25186.5(f) without substantive change.

38 See Sections 83065 (“applicant”), 83160 (“department”), 83170 (“disclosure statement”).

39 **Article 4. Permits**

40 **§ 95200. Proceedings generally relating to permit, registration or certificate**

41 95200. (a) Proceedings to determine whether to grant, issue, modify, or deny a  
42 permit, registration, or certificate shall be conducted in accordance with the  
43 regulations adopted by the department.

1 (b) The petition for judicial review of a final decision of the department to grant,  
2 issue, modify, or deny a permit, registration, or certificate shall not be filed later  
3 than 90 days after the date that the notice of the final decision is served.

4 **Comment.** Subdivision (a) of Section 95200 continues the third sentence of former Section  
5 25186.1 without substantive change.

6 Subdivision (b) continues the fourth sentence of former Section 25186.1 without substantive  
7 change.

8 See Section 83160 (“department”).

9 **§ 95205. Special requirement for issuance of hazardous waste facilities permit**

10 95205. (a) The department shall prepare a written report pursuant to subdivision  
11 (b) whenever the department proposes to issue a hazardous waste facilities permit  
12 applied for pursuant to **Section 25200** and the department has information that the  
13 applicant, or the applicant under any previous name or names, or, if the applicant is  
14 a business concern, any officer, director, or partner of the business concern, has been  
15 named as a party in any action involving violation of any statute, regulation, or  
16 requirement specified in **Section 25186**, excluding civil and administrative penalties  
17 of one thousand dollars (\$1,000) or less at any hazardous waste facility issued a  
18 permit pursuant to this division, and that a conviction, judgment, or settlement has  
19 been entered during a three-year period preceding the date of application.

20 (b) The report shall list all convictions, judgments, and settlements relating to  
21 violations of any statutes, regulations, or requirements specified in **Section 25186**,  
22 excluding civil and administrative penalties of one thousand dollars (\$1,000) or less  
23 at any hazardous waste facility issued a permit pursuant to this division, that  
24 occurred during the three-year period preceding the date of application.

25 (c) Any listing of settlements shall include the following statement: “Settlements  
26 may or may not include admissions of guilt.”

27 (d) The report shall separately list all criminal convictions and violations resulting  
28 in penalties of fifty thousand dollars (\$50,000) or more, and shall be included in the  
29 administrative record for the proposed permit.

30 (e) For the purposes of this section, the department may use criminal history  
31 information obtained from the Department of Justice to the extent that the  
32 information is necessary to list all convictions, judgments, and settlements as  
33 required by subdivision (b).

34 (f) This section does not apply to facilities that meet the requirements necessary  
35 to operate pursuant to the department’s permit-by-rule regulations.

36 **Comment.** Section 95205 continues former Section 25186.3 without substantive change.

37 See Sections 83160 (“department”), 83210 (“hazardous waste”), 83215 (“hazardous waste  
38 facility”), 8320 (“permit-by-rule”).

39 **§ 95210. Suspension of permit**

40 95210. (a) For purposes of this section, the term “permit” means a hazardous  
41 waste facilities permit, interim status authorization, or standardized permit.

1 (b) The department shall suspend the permit of any facility for nonpayment of any  
2 facility fee assessed pursuant to **Section 25205.2** or activity fee assessed pursuant  
3 to **Section 25205.7**, if the operator of the facility is subject to the fee, and if the  
4 department or State Board of Equalization has certified in writing to all of the  
5 following:

6 (1) The facility's operator is delinquent in the payment of the fee for one or more  
7 reporting periods.

8 (2) The department or State Board of Equalization has notified the facility's  
9 operator of the delinquency.

10 (3)(A) For a facility operator that elected to pay the flat activity fee rate pursuant  
11 to **subdivision (d) of Section 25205.7**, as that section read on January 1, 2016, the  
12 operator has exhausted his or her administrative rights of appeal provided by  
13 Chapter 3 (commencing with Section 43151) of Part 22 of Division 2 of the Revenue  
14 and Taxation Code, and the State Board of Equalization has determined that the  
15 operator is liable for the fee, or that the operator has failed to assert those rights.

16 (B) For a facility operator that pays the activity fee under a reimbursement  
17 agreement with the department pursuant to **subdivision (a) of Section 25205.7**, the  
18 operator has exhausted the dispute resolution procedures adopted by the department  
19 pursuant to **subparagraph (H) of paragraph (2) of subdivision (b) of Section**  
20 **25206.2**.

21 (c)(1) The department shall suspend the permit of any facility for nonpayment of  
22 a penalty assessed upon the owner or operator for failure to comply with this  
23 division or the regulations adopted pursuant to this division, if the penalty has been  
24 imposed by a trial court judge or by an administrative hearing officer, if the person  
25 has agreed to pay the penalty pursuant to a written agreement resolving a lawsuit or  
26 an administrative order, or if the penalty has become final due to the person's failure  
27 to respond to the lawsuit or order.

28 (2) The department may suspend a permit pursuant to this subdivision only if the  
29 owner or operator is delinquent in the payment of the penalty and the department  
30 has notified the owner or operator of the delinquency pursuant to subdivision (d).

31 (d) Before suspending a permit pursuant to this section, the department shall  
32 notify the owner or operator of its intent to do so, and shall allow the owner or  
33 operator a minimum of 30 days in which to cure the delinquency.

34 (e) The department may deny a new permit or refuse to renew a permit on the  
35 same grounds for which the department is required to suspend a permit under this  
36 section, subject to the same requirements and conditions.

37 (f)(1) The department shall reinstate a permit that is suspended pursuant to this  
38 section upon payment of the amount due if the permit has not otherwise been  
39 revoked or suspended pursuant to any other provision of this division or regulation.

40 (2) Until the department reinstates a permit suspended pursuant to this section, if  
41 the facility stores, treats, disposes of, or recycles hazardous wastes, the facility shall  
42 be in violation of this division.

1 (3) If the operator of the facility subsequently pays the amount due, the period of  
2 time for which the operator shall have been in violation of this division shall be from  
3 the date of the activity that is in violation until the day after the owner or operator  
4 submits the payment to the department.

5 (4) Except as otherwise provided in this section, the department is not required to  
6 take any other statutory or regulatory procedures governing the suspension of the  
7 permit before suspending a permit in compliance with the procedures of this section.

8 (g) (1) A suspension under this section shall be stayed while an authorized appeal  
9 of the fee or penalty is pending before a court or an administrative agency.

10 (2) For purposes of this subdivision, “an authorized appeal” means any appeal  
11 allowed pursuant to an applicable regulation or statute.

12 (h) The department may suspend a permit under this section based on a failure to  
13 pay the required fee or penalty that commenced before January 1, 2002, if the failure  
14 to pay has been ongoing for at least 30 days following that date.

15 (i) Notwithstanding Section 43651 of the Revenue and Taxation Code, the  
16 suspension of a permit pursuant to this section, the reason for the suspension, and  
17 any documentation supporting the suspension, shall be a matter of public record.

18 (j)(1) This section does not authorize the department to suspend a permit held by  
19 a government agency if the agency does not dispute the payment but nonetheless is  
20 unable to process the payment in a timely manner.

21 (2) This section does not apply to a site owned or operated by a federal agency if  
22 the department has entered into an agreement with that federal agency regarding the  
23 remediation of that site.

24 (k) This section does not limit or supersede **Section 25186**.

25 **Comment.** Section 95210 continues former Section 25189.3 without substantive change.

26 See Sections 83160 (“department”), 83210 (“hazardous waste”).

27 CHAPTER 4. SANCTIONS

28 Article 1. Denial, Suspension, or Revocation of Permit, Registration, or Certificate

29 § 95250. Grounds in general

30 95250. The department may deny, suspend, or revoke any permit, registration, or  
31 certificate applied for, or issued, pursuant to this division in accordance with the  
32 procedures specified in **Sections 25186.1 and 25186.2**, where the applicant or  
33 holder of the permit, registration, or certificate, or in the case of a business concern,  
34 any trustee, officer, director, partner, or any person holding more than 5 percent of  
35 the equity in, or debt liability of, that business concern, has engaged in any of the  
36 following:

37 (a) Any violation of, or noncompliance with, this division, Chapter 6.7  
38 (commencing with Section 25280), Part 2 (commencing with Section 78000) of  
39 Division 45, the Porter-Cologne Water Quality Control Act (Division 7  
40 (commencing with Section 13000) of the Water Code), the Resource Conservation

1 and Recovery Act of 1976, as amended, (42 U.S.C. Sec. 6901 et seq.), the Hazardous  
2 Materials Transportation Act (49 U.S.C. Sec. 5101 et seq.), the Comprehensive  
3 Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec.  
4 9601 et seq.), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.), or  
5 any other equivalent federal or state statute or any requirement or regulation adopted  
6 pursuant thereto relating to the generation, transportation, treatment, storage,  
7 recycling, disposal, or handling of a hazardous waste, as defined in **Section 25117**,  
8 a hazardous substance, as defined in subdivision (a) of Section 78075, or a  
9 hazardous material, as defined in Section 353 of the Vehicle Code, if the violation  
10 or noncompliance shows a repeating or recurring pattern or may pose a threat to  
11 public health or safety or the environment.

12 (b) The aiding, abetting, or permitting of any violation of, or noncompliance with,  
13 this division, Chapter 6.7 (commencing with Section 25280), Part 2 (commencing  
14 with Section 78000) of Division 45, the Porter-Cologne Water Quality Act  
15 (Division 7 (commencing with Section 13000) of the Water Code), the Resource  
16 Conservation and Recovery Act of 1976, as amended, (42 U.S.C. Sec. 6901 et seq.),  
17 the Hazardous Materials Transportation Act (49 U.S.C. Sec. 5101 et seq.), the  
18 Comprehensive Environmental Response, Compensation, and Liability Act of 1980  
19 (42 U.S.C. Sec. 9601 et seq.), the Toxic Substances Control Act (15 U.S.C. Sec.  
20 2601 et seq.), or any other equivalent federal or state statute or any requirement or  
21 regulation adopted pursuant thereto relating to the generation, transportation,  
22 treatment, storage, recycling, disposal, or handling of a hazardous waste, as defined  
23 in **Section 25117**, a hazardous substance, as defined in subdivision (a) of Section  
24 78075, or a hazardous material, as defined in Section 353 of the Vehicle Code, if  
25 the violation or noncompliance shows a repeating or recurring pattern or may pose  
26 a threat to public health or safety or the environment.

27 (c) Any violation of, or noncompliance with, any order issued by a state or local  
28 agency or by a hearing officer or a court relating to the generation, transportation,  
29 treatment, storage, recycling, disposal, or handling of a hazardous waste, as defined  
30 in **Section 25117**, a hazardous substance, as defined in subdivision (a) of Section  
31 78075, or a hazardous material, as defined in Section 353 of the Vehicle Code.

32 (d) Any misrepresentation or omission of a significant fact or other required  
33 information in the application for the permit, registration, or certificate, or in  
34 information subsequently reported to the department or to a local officer or agency  
35 authorized to enforce this division pursuant to subdivision (a) of Section 25180.

36 (e) Activities resulting in the revocation or suspension of a license, permit,  
37 registration, or certificate held by the applicant or holder of the permit, registration,  
38 or certificate or, if the applicant or holder of the permit, registration, or certificate is  
39 a business concern, by any trustee, officer, director, partner, or any person holding  
40 more than 5 percent of the equity in, or debt liability of, that business concern  
41 relating to, the generation, transportation, treatment, storage, recycling, disposal, or  
42 handling of a hazardous waste, as defined in **Section 25117**, a hazardous substance,

1 as defined in subdivision (a) of Section 78075, or a hazardous material, as defined  
2 in Section 353 of the Vehicle Code.

3 **Comment.** Subdivision (a) of Section 95250 continues former Section 25186(a) without  
4 substantive change.

5 Subdivision (b) continues former Section 25186(b) without substantive change.

6 Subdivision (c) continues former Section 25186(c) without substantive change.

7 Subdivision (d) continues former Section 25186(d) without substantive change.

8 Subdivision (e) continues former Section 25186(f) without substantive change.

9 See Sections 83160 (“department”), 83175 (“disposal”), 83210 (“hazardous waste”), 83245  
10 (“local officer”), 83355 (“storage”), 83370 (“treatment”).

11 **§ 95255. Activities relating to federal or state conviction**

12 95255. (a) The department may deny, suspend, or revoke any permit, registration,  
13 or certificate applied for, or issued, pursuant to this division in accordance with the  
14 procedures specified in **Sections 25186.1 and 25186.2**, where the applicant or  
15 holder of the permit, registration, or certificate, or in the case of a business concern,  
16 any trustee, officer, director, partner, or any person holding more than 5 percent of  
17 the equity in, or debt liability of, that business concern, has engaged in activities  
18 resulting in any federal or state conviction that are significantly related to the fitness  
19 of the applicant or holder of the permit, registration, or certificate to perform the  
20 applicant’s duties or activities under the permit, registration, or certificate.

21 (b) An action that the department may take pursuant to this paragraph relating to  
22 the denial, suspension, or revocation of a permit, registration, or certificate may be  
23 based upon a conviction for which any of the following has occurred:

24 (1) The time for appeal has elapsed.

25 (2) The judgment of conviction has been affirmed on appeal.

26 (3) Any order granting probation is made suspending the imposition of sentence,  
27 notwithstanding a subsequent order pursuant to Section 1203.4 of the Penal Code  
28 permitting that person to withdraw the person’s plea of guilty, and to enter a plea of  
29 not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
30 information, or indictment.

31 (c) For purposes of this paragraph, “conviction” means a plea or verdict of guilty  
32 or a conviction following a plea of nolo contendere.

33 **Comment.** Section 95255 continues former Section 25186(e) without substantive change.

34 See Section 83160 (“department”).

35 **§ 95260. Obtaining information from other agencies**

36 95260. (a) In making a determination pursuant to Section 95250 or 95255, the  
37 director may contact the district attorney, local agencies, the Attorney General, the  
38 United States Department of Justice, the Environmental Protection Agency, or other  
39 agencies outside of the state that have, or have had, regulatory or enforcement  
40 jurisdiction over the applicant in connection with any hazardous waste or hazardous  
41 materials activities.

42 **Comment.** Section 95260 continues former Section 25186.5(a) without substantive change.

43 See Sections 83165 (“director”), 83210 (“hazardous waste”).

1 **§ 95265. Multiple incidents of violation or noncompliance**

2 95265. (a) For the purposes of this section, “violation” and “noncompliance”  
3 mean only the following:

4 (1) A violation or noncompliance pursuant to Section 95250 or 95255 that creates  
5 a significant risk of harm to the public health or safety of the environment resulting  
6 from acute or chronic exposure to hazardous waste or hazardous waste constituents,  
7 and that threat makes it reasonably necessary to take action to prevent, reduce, or  
8 mitigate that exposure.

9 (2) A violation of, or noncompliance with, any order issued by the department to  
10 the applicant or holder of the permit.

11 (3) A federal or state felony conviction for a violation of this division or its  
12 equivalent in the federal act, or of any requirement or regulation adopted pursuant  
13 to that authority relating to the generation, transportation, treatment, storage,  
14 recycling, disposal, or handling of hazardous waste, as described in subdivision (e)  
15 of Section 25186.

16 (b) A violation or noncompliance by a federal hazardous waste facility, pursuant  
17 to Section 6961 of Title 42 of the United States Code, shall, for purposes of this  
18 section, be limited to a violation or noncompliance caused by an action or inaction  
19 within the boundaries identified in Part B of the federal hazardous waste permit  
20 application, pursuant to Section 270.14 of Title 40 of the Code of Federal  
21 Regulations, for that facility.

22 (c) “Violation” and “noncompliance” shall not include a minor violation as  
23 defined in Section 25117.6.

24 (d) (1) Except as provided in paragraph (2), the department shall consider three or  
25 more incidents of violation of, or noncompliance with, a requirement specified in  
26 subdivision (a) or (b) of Section 95250 for which a person or entity has been found  
27 liable or has been convicted, with respect to a single facility within a five-year  
28 period, as compelling cause to deny, suspend, or revoke the permit, registration, or  
29 certificate.

30 (2) This subdivision does not apply to a third violation or noncompliance if the  
31 department finds that extraordinary circumstances exist, including that a denial,  
32 suspension, or revocation would endanger the public health or safety or the  
33 environment.

34 (3) This subdivision does not limit or modify the department’s authority to deny,  
35 suspend, or revoke any permit, registration, or certificate pursuant to Section 95250,  
36 Section 95255, or any other law.

37 **Comment.** Section 95265 continues former Section 25186.05 without substantive change.

38 See Sections 83160 (“department”), 83175 (“disposal”), 83210 (“hazardous waste”), 83215  
39 (“hazardous waste facility”), 83355 (“storage”), 83370 (“treatment”).

40 **§ 95270. Proceedings relating to permit, registration or certificate**

41 95270. (a) Except as specified in Section 95275, proceedings for the suspension  
42 or revocation of a permit, registration, or certificate under this division shall be

1 conducted in accordance with Chapter 5 (commencing with Section 11500) of Part  
2 1 of Division 3 of Title 2 of the Government Code, and the department shall have  
3 all the powers granted by those provisions.

4 (b) In the event of a conflict between this division and Chapter 5 (commencing  
5 with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the  
6 provisions of the Government Code shall prevail.

7 **Comment.** Section 95270 continues the first two sentences of former Section 25186.1 without  
8 substantive change.

9 See Section 83160 (“department”).

10 **Staff Note.** Existing Section 25186.1(a) (which would be continued by proposed Section  
11 95270(a) and (b)), as well as most other sections in the existing statutory article in which Section  
12 25186.1 appears, relates generally to enforcement activity by the Department of Toxic Substances  
13 Control.

14 However, existing Section 25186.1(b) appears to relate solely to process relating to whether the  
15 department grants, issues, modifies, or denies a permit, registration, or certificate, and is therefore  
16 proposed to be relocated to proposed Article 4 of Chapter 3 of this proposed Part. See proposed  
17 Section 95200.

18 **Public comment on this issue is welcome and invited.**

19 **§ 95275. Temporary suspension of permit, registration, or certificate due to endangerment**

20 95275. (a) The department may temporarily suspend any permit, registration, or  
21 certificate issued pursuant to this division prior to any hearing if the department  
22 determines that conditions may present an imminent and substantial endangerment  
23 to the public health or safety or the environment.

24 (b) In making this determination, the department may rely on any information,  
25 including, but not limited to, information concerning an actual, threatened, or  
26 potential harm to the public health or safety or the environment, information  
27 concerning a release or threat of a release, or a human health or ecological risk  
28 assessment.

29 (c) The department shall notify the holder of the permit, registration, or certificate  
30 of a temporary suspension and the effective date thereof, and at the same time shall  
31 serve the person with an accusation.

32 (d) Upon receipt by the department of a notice of defense to the accusation from  
33 the holder of the permit, registration, or certificate, the department shall, within 15  
34 days, set the matter for a hearing, which shall be held as soon as possible, but not  
35 later than 30 days after receipt of the notice.

36 (e) The temporary suspension shall remain in effect until the hearing is completed  
37 and the department has made a final determination on the merits, which shall be  
38 made within 60 days after the completion of the hearing.

39 (f) If the determination is not transmitted within this period, the temporary  
40 suspension shall be of no further effect.

41 **Comment.** Subdivision (a) of Section 95275 continues the first sentence of former Section  
42 25186.2 without substantive change.

1 Subdivision (b) continues the second sentence of former Section 25186.2 without substantive  
2 change.

3 Subdivision (c) continues the third sentence of former Section 25186.2 without substantive  
4 change.

5 Subdivision (d) continues the fourth sentence of former Section 25186.2 without substantive  
6 change.

7 Subdivision (e) continues the fifth sentence of former Section 25186.2 without substantive  
8 change.

9 Subdivision (f) continues the sixth sentence of former Section 25186.2 without substantive  
10 change.

11 See Section 83160 (“department”).

12 **Staff Note.** The third sentence of existing Section 25186.2 (which would be continued by  
13 proposed Section 95275(c)) requires service of an “accusation” by the department, with no further  
14 detail as to content or process.

15 If no such statutory detail presently exists, would the absence of that detail be an appropriate  
16 topic to be included in the list of substantive issues that the Legislature has requested be reported  
17 for possible future study?

18 **Public comment on this issue is welcome and invited.**

19 **§ 95280. Temporary suspension of operation of facility with extended permit**

20 95280. (a) The department may temporarily suspend the operation of a facility  
21 operating under an expired permit that has been extended pursuant to  
22 **subparagraph (B) of paragraph (1) of subdivision (c) of Section 25200** or an  
23 interim status pursuant to **Section 25200.5** prior to a hearing, if the department  
24 determines that the action is necessary to prevent or mitigate a risk to the public  
25 health or safety or the environment.

26 (b) The department shall notify the owner and operator of the facility of the  
27 temporary suspension and the effective date of the temporary suspension and at the  
28 same time shall serve the person with an accusation.

29 (c) Upon receipt by the department of a notice of defense to the accusation from  
30 the owner or operator of the facility, the department shall, within 15 days, set the  
31 matter for a hearing, which shall be held as soon as possible, but not later than 30  
32 days after receipt of the notice.

33 (d) The temporary suspension shall remain in effect until the hearing is completed  
34 and the department has made a final determination on the merits, which shall be  
35 made within 60 days after the completion of the hearing.

36 (e) If the determination is not transmitted within this period, the temporary  
37 suspension shall be of no further effect.

38 **Comment.** Subdivision (a) of Section 95280 continues the first sentence of former Section  
39 25186.2.5 without substantive change.

40 Subdivision (b) continues the second sentence of former Section 25186.2.5 without substantive  
41 change.

42 Subdivision (c) continues the third sentence of former Section 25186.2.5 without substantive  
43 change.

44 Subdivision (d) continues the fourth sentence of former Section 25186.2.5 without substantive  
45 change.

1 Subdivision (e) continues the fifth sentence of former Section 25186.2.5 without substantive  
2 change.

3 See Section 83160 (“department”).

4 **Staff Note.** The second sentence of existing Section 25186.2.5 (which would be continued by  
5 proposed Section 95280(b)) requires service of an “accusation” by the department, with no further  
6 detail as to content or process.

7 If no such statutory detail presently exists, would the absence of that detail be an appropriate  
8 topic to be included in the list of substantive issues identified by the Commission for possible future  
9 study?

10 **Public comment on this issue is welcome and invited.**

11 **§ 95285. Suspension or revocation of other authorizations**

12 95285. (a) The department may suspend or revoke any grant of authorization to  
13 operate pursuant to a permit-by-rule or authorization to conduct treatment pursuant  
14 to **subdivision (a) or (c) of Section 25201.5**, in accordance with the procedures  
15 specified in Sections **25186.1** and **25186.2**, for any of the grounds specified in  
16 **Section 25186.**

17 (b) The department may suspend or revoke any grant of conditional authorization  
18 granted pursuant to **Section 25200.3** in accordance with the procedures specified in  
19 **Sections 25186.1 and 25186.2**, for any of the grounds specified in **Section 25186**  
20 or as specified in **subdivision (j) of Section 25200.3.**

21 **Comment.** Section 95285 continues former Section 25186.7 without substantive change.  
22 See Sections 83160 (“department”), 83290 (“permit-by-rule”), 83370 (“treatment”).

23 **Article 2. Order to Conduct Monitoring, Testing, Analysis, and Reporting**

24 **§ 95300. Basis for order**

25 95300. (a) If the department or a unified program agency authorized pursuant to  
26 subdivision (b) determines, upon receipt of any information, that the presence of  
27 any hazardous waste at a facility or site at which hazardous waste is, or has been,  
28 stored, treated, or disposed of, or the release of any hazardous waste from the facility  
29 or site may present a substantial hazard to human health or the environment, the  
30 department or authorized unified program agency may issue an order requiring the  
31 owner or operator of the facility or site to conduct monitoring, testing, analysis, and  
32 reporting with respect to the facility or site which the department or authorized  
33 unified program agency deems reasonable to ascertain the nature and extent of the  
34 hazard.

35 (b) The authority granted under this article to a unified program agency is limited  
36 to the issuance of orders pursuant to subdivision (a) to a unified program facility  
37 within the jurisdiction of the CUPA, and is subject to **Section 25404.1.**

38 **Comment.** Section 95300 continues former Section 25187.1(a) without substantive change.

39 See Sections 83110 (“CUPA”), 83160 (“department”), 83210 (“hazardous waste”), 83375  
40 (“unified program agency”), 83380 (“unified program facility”).

1    **§ 95305. Order to previous owner or operator**

2       95305. If a facility or site subject to Section 95300 is not in operation at the time  
3 a determination pursuant to Section 95300 is made, and the department finds that  
4 the owner of the facility or site could not reasonably be expected to have actual  
5 knowledge of the presence of hazardous waste at the facility or site and of its  
6 potential for release, the department may issue an order requiring the most recent  
7 previous owner or operator of the facility or site who could reasonably be expected  
8 to have the actual knowledge to carry out the actions specified in Section 95400.

9       **Comment.** Section 95305 continues former Section 25187.1(b) without substantive change.  
10      See Sections 83160 (“department”), 83210 (“hazardous waste”).

11    **§ 95310. Submission of proposal**

12       95310. (a) Any order issued pursuant to Section 95300 or 95305 shall require the  
13 person to whom the order is issued to submit to the department or authorized unified  
14 program agency, within 30 days from the issuance of the order, a proposal for  
15 carrying out the required monitoring, testing, analysis, and reporting.

16       (b) The department or authorized unified program agency may, after providing  
17 the person to whom the order is issued an opportunity to confer with the department  
18 or authorized unified program agency concerning the proposal, require the person  
19 to carry out the monitoring, testing, analysis, and reporting in accordance with the  
20 proposal, and with any modifications in the proposal that the department or  
21 authorized unified program agency deems reasonable to ascertain the nature and  
22 extent of the hazard.

23       **Comment.** Section 95310 continues former Section 25187.1(c) without substantive change.  
24      See Sections 83160 (“department”), 83375 (“unified program agency”).

25    **§ 95315. Conduct of work by other parties**

26       95315. (a) If the department or authorized unified program agency determines that  
27 there is no owner or operator as specified in Section 95300 or 95305 to conduct  
28 monitoring, testing, analysis, or reporting satisfactory to the department or  
29 authorized unified program agency, deems action carried out by an owner or  
30 operator unsatisfactory, or cannot initially determine that there is an owner or  
31 operator specified in Section 95400 or 94505 who is able to conduct monitoring,  
32 testing, analysis, or reporting, the department or authorized unified program agency  
33 may do either of the following:

34       (1) Conduct monitoring, testing, or analysis, or any combination of these actions  
35 that the department or authorized unified program agency deems reasonable, to  
36 ascertain the nature and extent of the hazard associated with the site.

37       (2) Authorize a local authority or other person to carry out the action needed, and  
38 order the owner or operator specified in Section 95300 or 95305 to reimburse the  
39 department or authorized unified program agency or other authority or person for  
40 the costs of the action.

1 (b) The department or authorized unified program agency shall not issue an order  
2 pursuant to this article that requires the department or authorized unified program  
3 agency to be reimbursed for the costs of any action carried out by the department or  
4 authorized unified program agency to conduct monitoring, testing, and analysis to  
5 determine the results of the actions carried out by a person pursuant to an order  
6 issued pursuant to Section 95300 or 95305.

7 **Comment.** Subdivision (a) of Section 95315 restates former Section 25187.1(d) without  
8 substantive change.

9 Subdivision (b) continues former Section 25187.1(e) without substantive change.

10 See Sections 83160 (“department”), 83375 (“unified program agency”).

11 **Staff Note.** Proposed Section 95315(a) would restate existing Section 25187.1(d) for clarity.  
12 Currently, Section 25187(h) provides:

13 “25187.1(d). If the department or authorized unified program agency determines that there is no  
14 owner or operator specified in subdivision (a) or (b) to conduct monitoring, testing, analysis, or  
15 reporting satisfactory to the department or authorized unified program agency, if the department or  
16 authorized unified program agency deems the action carried out by an owner or operator is  
17 unsatisfactory, or if the department or authorized unified program agency cannot initially determine  
18 that there is an owner or operator specified in subdivision (a) or (b) who is able to conduct  
19 monitoring, testing, analysis, or reporting, the department or authorized unified program agency  
20 may do either of the following:

21 (1) Conduct monitoring, testing, or analysis, or any combination of these actions, which the  
22 department or authorized unified program agency deems reasonable, to ascertain the nature and  
23 extent of the hazard associated with the site.

24 (2) Authorize a local authority or other person to carry out the action, and require, by order, the  
25 owner or operator specified in subdivision (a) or (b) to reimburse the department or authorized  
26 unified program agency or other authority or person for the costs of the activity.”

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

28 **§ 95320. Other authorized action**

29 95320. For purposes of carrying out this article, the department, an authorized  
30 unified program agency, any other local agency, or other person authorized under  
31 paragraph (2) of subdivision (a) of Section 95315, may take action pursuant to  
32 **Section 25185.**

33 **Comment.** Section 95320 continues former Section 25187.1(f) without substantive change.

34 See Sections 83160 (“department”), 83375 (“unified program agency”).

35 **Article 3. Order Requiring Corrective Action**

36 **Staff Note.** The following article proposes a nonsubstantive recodification and reorganization of  
37 existing Section 25187.

38 **Public comment on whether this proposed recodification and reorganization would cause**  
39 **any substantive change is welcome and invited.**

1 **§ 95350. “Hazardous waste facility”**

2 95350. For purposes of this article, “hazardous waste facility” includes the entire  
3 site that is under the control of an owner or operator engaged in the management of  
4 hazardous waste.

5 **Comment.** Section 95350 continues former Section 25187(b)(6) without substantive change.  
6 See Sections 83210 (“hazardous waste”), 83215 (“hazardous waste facility”).

7 **§ 95355. Limitation on orders issued by unified program agency**

8 95355. The authority granted under this article to a unified program agency is  
9 limited to issuance of the following orders:

10 (a) An order to impose penalties and to correct violations of the requirements of  
11 this chapter and its implementing regulations, only when the violations are  
12 violations of requirements applicable to hazardous waste generators and persons  
13 operating pursuant to a permit-by-rule, conditional authorization, or conditional  
14 exemption, when the violations occur at a unified program facility within the  
15 jurisdiction of the CUPA.

16 (b) An order to require corrective action when there has been a release of  
17 hazardous waste or constituents only when the unified program agency is authorized  
18 to do so pursuant to **Section 25404.1**.

19 **Comment.** Section 95355 continues former Section 25187(l) without substantive change.

20 See Sections 83110 (“CUPA”), 83125 (“conditional authorization”), 83130 (“conditional  
21 exemption”), 83210 (“hazardous waste”), 83290 (permit-by-rule”), 83330 (“release”), 83380  
22 (“unified program facility”).

23 **§ 95360. Order correcting violation and imposing administrative penalty**

24 95360. (a) For purposes of this section, “threaten” has the meaning set forth in  
25 subdivision (e) of Section 13304 of the Water Code.

26 (b) The department or a unified program agency, upon a determination that a  
27 person has violated, is in violation of, or threatens to violate, a provision of this  
28 division or a provision of Part 2 (commencing with Section 78000) of Division 45,  
29 or any permit, rule, regulation, standard, or requirement issued or adopted pursuant  
30 to this division or pursuant to Part 2 (commencing with Section 78000) of Division  
31 45, may issue an order requiring that the violation or threat of violation be corrected,  
32 and imposing an administrative penalty.

33 (c) In an order proposing a penalty pursuant to this section, the department or  
34 unified program agency shall take into consideration the nature, circumstances,  
35 extent, and gravity of the violation, the violator’s past and present efforts to prevent,  
36 abate, or clean up conditions posing a threat to the public health or safety or the  
37 environment, the violator’s ability to pay the proposed penalty, and the prophylactic  
38 effect that the imposition of the proposed penalty would have on both the violator  
39 and the regulated community as a whole.

40 **Comment.** Subdivision (a) and (b) of Section 95360 restate former Section 25187(a)(1) without  
41 substantive change.

42 Subdivision (c) continues former Section 25187(a)(2) without substantive change.

1 See Sections 83160 (“department”), (“unified program agency”).

2 **Staff Note.** Proposed Section 95360, in conjunction with proposed Section 95355, would restate  
3 existing Section 25187(a)(1) for clarity. Currently, Section 25187(a)(1) provides:

4 “25187. (a)(1) The department or a unified program agency, in accordance with subdivision (l),  
5 may issue an order requiring that the violation be corrected and imposing an administrative penalty,  
6 for any violation of this chapter or any permit, rule, regulation, standard, or requirement issued or  
7 adopted pursuant to this chapter, whenever the department or unified program agency determines  
8 that a person has violated, is in violation of, or threatens, as defined in subdivision (e) of Section  
9 13304 of the Water Code, to violate, this chapter or Part 2 (commencing with Section 78000) of  
10 Division 45, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to  
11 this chapter or Part 2 (commencing with Section 78000) of Division 45.”

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

13 **§ 95365. Issuance of order for corrective action**

14 95365. (a) The department or a unified program agency may issue an order  
15 requiring corrective action whenever the department or unified program agency  
16 determines that there is or has been a release, as defined in Part 2 (commencing with  
17 Section 78000) of Division 45, of hazardous waste or constituents into the  
18 environment from a hazardous waste facility.

19 (b) The order shall include a requirement that the person issued the order take  
20 corrective action with respect to the release of hazardous waste or constituents, abate  
21 the effects thereof, and take any other necessary remedial action.

22 (c) If the order requires corrective action at a hazardous waste facility, the order  
23 shall require that corrective action be taken beyond the facility boundary, where  
24 necessary to protect human health or the environment.

25 (d) The order shall incorporate, as a condition of the order, any applicable waste  
26 discharge requirements issued by the State Water Resources Control Board or a  
27 California regional water quality control board, and shall be consistent with all  
28 applicable water quality control plans adopted pursuant to Section 13170 of the  
29 Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of  
30 Division 7 of the Water Code and state policies for water quality control adopted  
31 pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7  
32 of the Water Code existing at the time of the issuance of the order, to the extent that  
33 the department or unified program agency determines that those plans and policies  
34 are not less stringent than this division and regulations adopted pursuant to this  
35 division.

36 (e) The order may include any more stringent requirement that the department or  
37 unified program agency determines is necessary or appropriate to protect water  
38 quality.

39 **Comment.** Subdivision (a) of Section 95365, in conjunction with Section 95305, continues the  
40 introductory paragraph of former Section 25187(b) without substantive change.

41 Subdivision (b) continues former Section 25187(b)(2) without substantive change.

42 Subdivision (c) continues former Section 25187(b)(3) without substantive change.

43 Subdivision (d) continues the first sentence of former Section 25187(b)(4) without substantive  
44 change.

1 Subdivision (e) continues the second sentence of former Section 25187(b)(4) without substantive  
2 change.

3 See Sections 83160 (“department”), 83210 (“hazardous waste”), 83215 (“hazardous waste  
4 facility”), 83330 (“release”), 83375 (“unified program agency”), 83380 (“unified program  
5 facility”), 83395 (“waste”).

6 **§ 95370. Preference for remedies under Division 46**

7 95370. In the case of a release of hazardous waste or constituents into the  
8 environment from a hazardous waste facility that is required to obtain a permit  
9 pursuant to **Article 9 (commencing with Section 25200)**, the department shall  
10 pursue the remedies available under this division, including the issuance of an order  
11 for corrective action pursuant to this article, before using legal remedies available  
12 pursuant to Part 2 (commencing with Section 78000) of Division 45, except in any  
13 of the following circumstances:

14 (a) The person who is responsible for the release voluntarily requests in writing  
15 that the department issue an order to that person to take corrective action pursuant  
16 to Part 2 (commencing with Section 78000) of Division 45.

17 (b) The person who is responsible for the release is unable, as determined in  
18 accordance with the policies of the Environmental Protection Agency for the  
19 implementation of Section 9605 of Title 42 of the United States Code, to pay for the  
20 cost of corrective action to address the release.

21 (c) The person responsible for the release is unwilling, as determined in  
22 accordance with the policies of the Environmental Protection Agency for the  
23 implementation of Section 9605 of Title 42 of the United States Code, to perform  
24 corrective action to address the release.

25 (d) The release is part of a regional or multisite groundwater contamination  
26 problem that cannot, in its entirety, be addressed using the legal remedies available  
27 pursuant to this division and for which other releases that are part of the regional or  
28 multisite groundwater contamination problem are being addressed using the legal  
29 remedies available pursuant to Part 2 (commencing with Section 78000) of Division  
30 45.

31 (e) An order for corrective action has already been issued against the person  
32 responsible for the release, or the department and the person responsible for the  
33 release have, prior to January 1, 1996, entered into an agreement to address the  
34 required cleanup of the release pursuant to Part 2 (commencing with Section 78000)  
35 of Division 45.

36 (f) The hazardous waste facility is owned or operated by the federal government.

37 **Comment.** Section 95370 restates former Section 25187(b)(1) without substantive change.

38 See Sections 83160 (“department”), 83210 (“hazardous waste”), 83215 (“hazardous waste  
39 facility”).

40 **Staff Note.** Proposed Section 95370 would restate existing Section 25187(b)(1) for clarity.  
41 Currently, Section 25187(a)(1) provides:

42 “25187. (b)(1) In the case of a release of hazardous waste or constituents into the environment  
43 from a hazardous waste facility that is required to obtain a permit pursuant to Article 9

1 (commencing with Section 25200), the department shall pursue the remedies available under this  
2 chapter, including the issuance of an order for corrective action pursuant to this section, before  
3 using the legal remedies available pursuant to Part 2 (commencing with Section 78000) of Division  
4 45, except in any of the following circumstances:

5 (A) If the person who is responsible for the release voluntarily requests in writing that the  
6 department issue an order to that person to take corrective action pursuant to Part 2 (commencing  
7 with Section 78000) of Division 45.

8 (B) If the person who is responsible for the release is unable to pay for the cost of corrective  
9 action to address the release. For purposes of this subparagraph, the inability of a person to pay for  
10 the cost of corrective action shall be determined in accordance with the policies of the  
11 Environmental Protection Agency for the implementation of Section 9605 of Title 42 of the United  
12 States Code.

13 (C) If the person responsible for the release is unwilling to perform corrective action to address  
14 the release. For purposes of this subparagraph, the unwillingness of a person to take corrective  
15 action shall be determined in accordance with the policies of the Environmental Protection Agency  
16 for the implementation of Section 9605 of Title 42 of the United States Code.

17 (D) If the release is part of a regional or multisite groundwater contamination problem that  
18 cannot, in its entirety, be addressed using the legal remedies available pursuant to this chapter and  
19 for which other releases that are part of the regional or multisite groundwater contamination  
20 problem are being addressed using the legal remedies available pursuant to Part 2 (commencing  
21 with Section 78000) of Division 45.

22 (E) If an order for corrective action has already been issued against the person responsible for  
23 the release, or the department and the person responsible for the release have, prior to January 1,  
24 1996, entered into an agreement to address the required cleanup of the release pursuant to Part 2  
25 (commencing with Section 78000) of Division 45.

26 (F) If the hazardous waste facility is owned or operated by the federal government.”

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

28 **§ 95375. Persons subject to correction action order**

29 95375. Persons subject to an order pursuant to this article include present and  
30 prior owners, lessees, or operators of the property where the hazardous waste is  
31 located, present or past generators, storers, treaters, transporters, disposers, and  
32 handlers of hazardous waste, and persons who arrange, or have arranged, by contract  
33 or other agreement, to store, treat, transport, dispose of, or otherwise handle  
34 hazardous waste.

35 **Comment.** Section 95375 continues former Section 25187(b)(5) without substantive change.  
36 See Section 83210 (“hazardous waste”).

37 **§ 95380. Service and form of order**

38 95380. (a) Any order issued pursuant to this article shall be served by personal  
39 service or certified mail and shall inform the person served of the right to a hearing.

40 (b) If a unified program agency issues the order, the order shall state whether the  
41 hearing procedure specified in paragraph (2) of subdivision (a) of Section 95340  
42 may be requested by the person served with the order.

43 **Comment.** Section 95380 continues former Section 25187(c) without substantive change.  
44 See Section 83375 (“unified program agency”).

1 **§ 95385. Request for hearing and filing notice of defense**

2 95385. (a) Any person served with an order pursuant to this article who has been  
3 unable to resolve any violation or deficiency on an informal basis with the  
4 department or unified program agency may, within 15 days after service of the  
5 order, request that a hearing be conducted pursuant to Section 95390 by filing a  
6 notice of defense with the department or unified program agency.

7 (b)(1) If a hearing is requested on an order issued by a unified program agency,  
8 and as of the date the order is issued the agency has selected a designated hearing  
9 officer and established a program for conducting a hearing in accordance with  
10 paragraph (2) of subdivision (a) of Section 95340, the person requesting the hearing  
11 may select that hearing process in the notice of defense.

12 (b) The notice of defense shall be filed with the office that issued the order.

13 (c) A notice of defense shall be deemed filed within the 15-day period provided  
14 by this subdivision if it is postmarked within that 15-day period.

15 (d) If a notice of defense is not filed within the time limits provided by this  
16 subdivision, the order shall become final.

17 **Comment.** Section 95385 restates former Section 25187(d) without substantive change.  
18 See Section 83375 (“unified program agency”).

19 **Staff Note.** Proposed Section 95385 would restate existing Section 25187(d) for clarity.  
20 Currently, Section 25187(d) provides:

21 “25187. (d) Any person served with an order pursuant to this section who has been unable to  
22 resolve any violation or deficiency on an informal basis with the department or unified program  
23 agency may, within 15 days after service of the order, request a hearing pursuant to subdivision (e)  
24 or (f) by filing with the department or unified program agency a notice of defense. The notice shall  
25 be filed with the office that issued the order. A notice of defense shall be deemed filed within the  
26 15-day period provided by this subdivision if it is postmarked within that 15-day period. If a notice  
27 of defense is not filed within the time limits provided by this subdivision, the order shall become  
28 final.”

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

30 **§ 95390. Hearing process**

31 95390. (a) Within 90 days of receipt of the notice of defense by the unified  
32 program agency, the hearing shall be conducted using one of the following  
33 procedures:

34 (1) An administrative law judge of the Office of Administrative Hearings of the  
35 Department of General Services shall conduct the hearing in accordance with  
36 Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of  
37 the Government Code, at which the department shall have all the authority granted  
38 to an agency by those provisions.

39 (2) If the unified program agency has selected a designated hearing officer and  
40 established a program for conducting a hearing in accordance with this section as of  
41 the date the order is issued, a hearing officer designated by the unified program  
42 agency shall conduct the hearing in accordance with Chapter 4.5 (commencing with  
43 Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, at which

1 the unified program agency shall have all the authority granted to an agency by those  
2 provisions.

3 (b) When a hearing is conducted by a unified program agency pursuant to  
4 subdivision (b), the unified program agency shall issue a decision within 60 days of  
5 the hearing.

6 (c) The hearing decision is effective and final upon issuance.

7 (d) Copies of the decision shall be served by personal service or by certified mail  
8 upon the party served with the order and upon other persons who appeared at the  
9 hearing and requested a copy.

10 **Comment.** Subdivision (a) of Section 95390 restates former Section 25187(e), the second  
11 sentence of former Section 25187(f), former Section 25187(f)(1), and the first sentence of former  
12 Section 25187(f)(2)(A) without substantive change.

13 Subdivision (b) restates the second sentence of former Section 25187(f)(2)(A) without  
14 substantive change.

15 Subdivision (c) restates the first sentence of former Section 25187(g) without substantive change.

16 Subdivision (d) continues the second sentence of former Section 25187(g) without substantive  
17 change.

18 See Sections 83160 (“department”), 83375 (“unified program agency”).

19 **Staff Notes. (1)** Proposed Section 95390 would restate former Section 25187(e), the second  
20 sentence of former Section 25187(f), former Section 25187(f)(1) and (f)(2)(A), and the first  
21 sentence of former Section 25187(g), for clarity. Currently those provisions provide as follows:

22 “25187. (e) Any hearing requested on an order issued by the department shall be conducted  
23 within 90 days after receipt of the notice of defense by an administrative law judge of the Office of  
24 Administrative Hearings of the Department of General Services in accordance with Chapter 4.5  
25 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and  
26 the department shall have all the authority granted to an agency by those provisions.

27 (f) ... Within 90 days of receipt of the notice of defense by the unified program agency, the  
28 hearing shall be conducted using one of the following procedures:

29 (1) An administrative law judge of the Office of Administrative Hearings of the Department of  
30 General Services shall conduct the hearing in accordance with Chapter 4.5 (commencing with  
31 Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

32 (2) (A) A hearing officer designated by the unified program agency shall conduct the hearing in  
33 accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2  
34 of the Government Code, and the unified program agency shall have all the authority granted to an  
35 agency by those provisions. ....

36 (g) The hearing decision issued pursuant to subdivision (f) is effective and final upon issuance.”

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

38 **(2)** Proposed Section 95390(a)(2), which would continue the second sentence of existing Section  
39 25187(f)(2)(A), requires that following a hearing on a correction order at which a hearing officer  
40 designated by a uniform program agency has conducted the hearing, the unified program agency  
41 shall issue a decision within 60 days of the hearing. However, the section appears to provide no  
42 deadline for the issuance of a decision if the hearing is conducted by an administrative law judge  
43 pursuant to existing Section 25187(f)(1) (which would be continued by proposed Section  
44 95340(a)(1)). **Is or should there be a deadline specified in this section?**

45 **(3)** The procedure that existing Section 25187(f)(1) specifies for conducting a hearing by an  
46 administrative law judge indicates that the hearing is to be conducted in accordance with Chapter  
47 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

1 **Should this citation be to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3**  
2 **of Title 2 of the Government Code?**

3 **Public comment on these questions is welcome and invited.**

4 **§ 95395. Effective date of order**

5 95395. (a) Notwithstanding a request for a hearing or a pending hearing decision,  
6 any provision of any order issued pursuant to this article other than a provision  
7 imposing an administrative penalty takes effect upon issuance of the order, if the  
8 department or unified program agency finds that a violation of law associated with  
9 the provision may pose an imminent and substantial endangerment to the public  
10 health or safety or the environment.

11 (b) Notwithstanding a request for a hearing or a pending hearing decision, if the  
12 department or unified program agency determines that any or all provisions of an  
13 order are so related that the public health or safety or the environment can be  
14 protected only by immediate compliance with the order as a whole, the order as a  
15 whole, other than a provision imposing an administrative penalty, takes effect upon  
16 issuance of the order.

17 **Comment.** Section 95395 restates former Section 25187(h) without substantive change.  
18 See Sections 83160 (“department”), 83375 (“unified program agency”).

19 **Staff Note.** Proposed Section 95395 would restate existing Section 25187(h) for clarity.  
20 Currently, Section 25187(h) provides:

21 “25187. (h) Any provision of an order issued under this section, except the imposition of an  
22 administrative penalty, takes effect upon issuance by the department or unified program agency if  
23 the department or unified program agency finds that the violation or violations of law associated  
24 with that provision may pose an imminent and substantial endangerment to the public health or  
25 safety or the environment, and a request for a hearing shall not stay the effect of that provision of  
26 the order pending a hearing decision. However, if the department or unified program agency  
27 determines that any or all provisions of the order are so related that the public health or safety or  
28 the environment can be protected only by immediate compliance with the order as a whole, then  
29 the order as a whole, except the imposition of an administrative penalty, takes effect upon issuance  
30 by the department or unified program agency. A request for a hearing shall not stay the effect of  
31 the order as a whole pending a hearing decision.”

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

33 **§ 95400. Court review of decision**

34 95400. (a) A decision issued pursuant to this article may be reviewed by the court  
35 pursuant to Section 11523 of the Government Code.

36 (b) In all proceedings pursuant to this article, the court shall uphold the decision  
37 of the department or unified program agency if the decision is based upon  
38 substantial evidence in the whole record.

39 (c) The filing of a petition for writ of mandate shall not stay any action required  
40 pursuant to this division or the accrual of any penalties assessed pursuant to this  
41 division.

1 (d) This section does not prohibit a court from granting any appropriate relief  
2 within its jurisdiction.

3 **Comment.** Section 95400 continues former Section 25187(i) without substantive change.  
4 See Sections 83160 (“department”), 83375 (“unified program agency”).

5 **§ 95405. Collected administrative penalties**

6 95405. (a) All administrative penalties collected from actions brought by the  
7 department pursuant to this article shall be placed in a separate subaccount in the  
8 Toxic Substances Control Account and shall be available only for transfer to the  
9 Site Remediation Account or the Expedited Site Remediation Trust Fund and for  
10 expenditure by the department upon appropriation by the Legislature.

11 (b) The administrative penalties collected from an action brought by the  
12 department pursuant to **Sections 25214.3, 25214.22.1, and 25215.82**, in accordance  
13 with this chapter, shall be deposited in the Toxic Substances Control Account, for  
14 expenditure by the department for implementation and enforcement activities, upon  
15 appropriation by the Legislature, pursuant to **Section 25173.6**.

16 (c) All administrative penalties collected from an action brought by a unified  
17 program agency pursuant to this article shall be paid to the unified program agency  
18 that imposed the penalty, and shall be deposited into a special account that shall be  
19 expended to fund the activities of the unified program agency in enforcing this  
20 chapter pursuant to **Section 25180**.

21 **Comment.** Subdivision (a) of Section 95405 continues former Section 25187(j)(1) without  
22 substantive change.

23 Subdivision (b) continues former Section 25187(j)(2) without substantive change.

24 Subdivision (c) continues former Section 25187(k) without substantive change.

25 See Sections 83160 (“department”), 83375 (“unified program agency”).

26 **§ 95410. Responsibilities of CUPA**

27 95410. (a) The CUPA shall annually submit a summary report to the department  
28 on the status of orders issued by the unified program agencies under this article and  
29 under **Section 25187.1**.

30 (b) The CUPA shall consult with the local district attorney on the development of  
31 policies to be followed in exercising the authority delegated pursuant to this article  
32 and **Section 25187.1**, as they relate to the authority of unified program agencies to  
33 issue orders.

34 (c) The CUPA shall arrange to have appropriate legal representation in  
35 administrative hearings that are conducted by an administrative law judge of the  
36 Office of Administrative Hearings of the Department of General Services, and when  
37 a decision issued pursuant to this section is appealed to the superior court.

38 **Comment.** Subdivision (a) of Section 95410 continues former Section 25187(m) without  
39 substantive change.

40 Subdivision (b) continues former Section 25187(n) without substantive change.

41 Subdivision (c) continues former Section (o) without substantive change.

42 See Sections 83110 (“CUPA”), 83160 (“department”), 83375 (“unified program agency”).

1 **Staff Note.** Subdivisions (m), (n), and (o) of existing Section 25187, which would be continued  
2 by proposed Section 95410, could likely be more easily understood if the CUPAs referenced in  
3 those subdivisions were more clearly identified.

4 **Public comment on this issue is welcome and invited.**

5 **§ 95415. Implementation of regulations**

6 95415. (a) The department may adopt regulations to implement this article and  
7 **paragraph (2) of subdivision (a) of Section 25187.1** as they relate to the authority  
8 of unified program agencies to issue orders.

9 (b) The regulations shall include, but not be limited to, all of the following  
10 requirements:

11 (1) Provisions to ensure coordinated and consistent application of this section and  
12 **Section 25187.1** when both the department and the unified program agency have  
13 issued or will be issuing orders under one or both of these sections with regard to  
14 the same facility.

15 (2) Provisions to ensure that the enforcement authority granted to the unified  
16 program agencies will be exercised consistently throughout the state.

17 (3) Minimum training requirements for staff of the unified program agency  
18 relative to this section and **Section 25187.1**.

19 (4) Procedures to be followed by the department to rescind the authority granted  
20 to a unified program agency under this section and **Section 25187.1**, if the  
21 department finds that the unified program agency is not exercising that authority in  
22 a manner consistent with this chapter and **Chapter 6.11 (commencing with Section**  
23 **25404)** and the regulations adopted pursuant thereto.

24 **Comment.** Subdivision (a) of Section 95415 continues the first sentence of former Section  
25 25187(p) without substantive change.

26 Subdivision (b) continues the second sentence of former Section 25187(p) without substantive  
27 change.

28 See Sections 83160 (“department”), 83375 (“unified program agency”).

29 **§ 95420. Authority of local agency**

30 95420. Except for an enforcement action taken pursuant to this division or Part 2  
31 (commencing with Section 78000) of Division 45, this article does not otherwise  
32 affect the authority of a local agency to take any action under any other law.

33 **Comment.** Section 95420 continues former Section 25187(q) without substantive change.

34 **Article 4. Financial Assurances**

35 **§ 95450. Corrective action cost estimate**

36 95450. An owner or operator of a facility for which corrective action under  
37 department oversight is required shall include a corrective action cost estimate in  
38 any corrective measures study submitted to the department pursuant to an order  
39 issued or agreement entered into pursuant to Article 3 (commencing with Section  
40 95350) for a release, as defined in Part 2 (commencing with Section 78000) of

1 Division 45, of hazardous waste, hazardous waste constituents, or hazardous  
2 substances, as defined in Part 2 (commencing with Section 78000) of Division 45,  
3 into the environment from the facility.

4 **Comment.** Section 95450 continues former Section 25187.3(a) without substantive change.  
5 See Sections 83160 (“department”), 83210 (“hazardous waste”), 83330 (“release”).

6 **§ 95455. Continuing assurances**

7 95455. (a) An owner or operator of a facility for which corrective action under  
8 department oversight is required shall demonstrate financial assurances within 90  
9 days of the department’s approval of a corrective action cost estimate as required  
10 by Section 95450, or by **Section 25246.1**, and shall maintain financial assurances  
11 until the department determines that all required corrective actions are complete.

12 (b) The department shall waive the financial assurances required by subdivision  
13 (a) if the owner or operator of the facility is a federal or state governmental entity.

14 **Comment.** Subdivision (a) of Section 95455 continues former Section 25187.3(b) without  
15 substantive change.

16 Subdivision (b) continues former Section 25187.3(d) without substantive change.

17 See Section 83160 (“department”).

18 **§ 95460. Approved financial assurance mechanisms**

19 94560. (a) For purposes of Section 94555, an owner or operator of a facility for  
20 which corrective action under department oversight is required shall demonstrate  
21 and maintain one or more of the financial assurance mechanisms set forth in  
22 subdivisions (a) to (e), inclusive, of Section 66265.143 of Title 22 of the California  
23 Code of Regulations.

24 (b) As an alternative to the financial assurance requirement of subdivision (a), an  
25 owner or operator of a facility for which corrective action under department  
26 oversight is required may demonstrate and maintain financial assurances by means  
27 of a financial assurance mechanism other than those described in subdivision (a), if  
28 the alternative financial assurance mechanism has been submitted to, and approved  
29 by, the department as being at least equivalent to the financial assurance  
30 mechanisms described in subdivision (a).

31 (c) The department shall evaluate the equivalency of the proposed alternative  
32 financial assurance mechanism described in subdivision (b), principally in terms of  
33 the certainty of the availability of funds for required corrective action activities and  
34 the amount of funds that will be made available.

35 (d) The department shall require the owner or operator of the facility to submit  
36 any information deemed necessary by the department to make a determination  
37 regarding the equivalency of the proposed alternative financial assurance  
38 mechanism described in subdivision (b).

39 **Comment.** Subdivision (a) of Section 95460 continues former Section 25187.3(c)(1) without  
40 substantive change.

41 Subdivision (b) continues former Section 25187.3(c)(2)(A) without substantive change.

1 Subdivision (c) continues the first sentence of former Section 25187.3(c)(2)(B) without  
2 substantive change.

3 Subdivision (d) continues the second sentence of former Section 25187.3(c)(2)(B) without  
4 substantive change.

5 See Section 83160 (“department”).

6 **§ 95465. Prior financial assurances to water control board**

7 95465. An owner or operator may satisfy the requirements of this article by  
8 demonstrating to the department that it has provided financial assurance for  
9 corrective action to the State Water Resources Control Board or a California  
10 regional water quality control board for the same release identified by the  
11 department.

12 **Comment.** Section 95465 continues former Section 25187.3(e) without substantive change.

13 See Section 83160 (“department”), 83330 (“release”).

14 **§ 95470. Exemption based on participation in hazardous waste facility regulation and**  
15 **permitting consolidation program**

16 95470. For facilities for which sole jurisdiction has been granted pursuant to  
17 **subdivision (b) of Section 25204.6**, the department shall not require additional  
18 financial assurances unless it is the lead agency or is directed by the lead agency  
19 that has sole jurisdiction pursuant to **subdivision (b) of Section 25204.6**.

20 **Comment.** Section 95470 continues the first sentence of former Section 25187.3(f) without  
21 substantive change.

22 See Section 83160 (“department”).

23 **§ 95475. Impact of State Water Resources Control Board rules and regulations**

24 95475. This article does not alter the State Water Resources Control Board’s rules  
25 and regulations regarding financial assurances.

26 **Comment.** Section 95475 continues the second sentence of former Section 25187.3(f) without  
27 substantive change.

28 **Article 5. Corrective Action by Department**

29 **§ 95500. Grounds for corrective action by department**

30 95500. (a) If corrective action is not taken on or before the date specified in an  
31 order issued pursuant to Article 3 (commencing with Section 95350), or if in the  
32 judgment of the department immediate corrective action is necessary to remedy or  
33 prevent an imminent substantial danger to the public health, domestic livestock,  
34 wildlife, or the environment, the department may take, or contract for the taking of,  
35 that corrective action, and recover the cost for doing so, as provided in Section  
36 95510.

37 **Comment.** Section 95470 continues former Section 25187.5(a) without substantive change.

38 See Section 83160 (“department”).

1    **§ 95505. Expenditure of funds**

2       94505. (a) The department may expend up to one hundred thousand dollars  
3 (\$100,000) in a 12-month period of available funds in the Hazardous Waste Control  
4 Account in the General Fund to take corrective action pursuant to Section 95500.

5       (b) Notwithstanding any other provision of law, the department may enter into  
6 written contracts for corrective action taken or to be taken pursuant to subdivision  
7 (a).

8       (c) Notwithstanding any other provision of law, the department may enter into  
9 oral contracts, not to exceed ten thousand dollars (\$10,000) in obligation, when in  
10 the judgment of the department immediate corrective action is necessary to remedy  
11 or prevent an imminent substantial danger to the public health, domestic livestock,  
12 wildlife, or the environment.

13       (d) The contracts entered into pursuant to this section, whether written or oral,  
14 may include provisions for the rental of tools or equipment, either with or without  
15 operators furnished, and for the furnishing of labor and materials necessary to  
16 accomplish the work.

17       (e) Any contract entered into by the department pursuant to this subdivision shall  
18 be exempt from approval by the Department of General Services pursuant to Section  
19 10295 of the Public Contract Code.

20       **Comment.** Section 95505 continues former Section 25187.5(b) without substantive change.  
21 See Section 83160 (“department”).

22    **§ 95510. Financial liability to department**

23       95510. (a) If corrective action is taken pursuant to Section 95500, the person or  
24 persons who were subject to the order issued pursuant to Article 3 (commencing  
25 with Section 95350), or any person or persons whose violation resulted in the  
26 imminent and substantial danger to health or the environment, shall be liable to the  
27 department for the reasonable cost actually incurred in taking corrective action.

28       (b) In addition to the liability specified in subdivision (a), the person or persons  
29 referenced in subdivision (a) shall be liable to the department for administrative  
30 costs in an amount equal to 10 percent of the reasonable cost actually incurred or  
31 five hundred dollars (\$500), whichever is greater.

32       (c) The amount of cost determined pursuant to this section shall be recoverable in  
33 a civil action by the department, in addition to any other fees or penalties.

34       (d) Persons who may be liable pursuant to this section shall include, but not be  
35 limited to, present or prior owners, lessees, or operators of the property where the  
36 hazardous waste is located and producers, transporters or disposers of the hazardous  
37 waste.

38       **Comment.** Section 95510 continues former Section 25187.5(c) without substantive change.  
39 See Sections 83160 (“department”), 83210 (“hazardous waste”).



1 (b) No person shall remove, transfer, or dispose of the hazardous waste until  
2 permission for removal, transfer, or disposal is given by an authorized agent of the  
3 department or by a court.

4 (c) The person notified may request, and shall be granted, an immediate hearing  
5 before a person designated by the director to review the validity of the authorized  
6 agent’s order, which shall be held within 24 hours after a hearing is requested by  
7 the person subject to the order.

8 **Comment.** Section 95560 restates former Section 25187.6(b) without substantive change.  
9 See Sections 83160 (“department”), 83175 (“disposal”), 83210 (“hazardous waste”).

10 **Staff Note.** Proposed Section 95560 would restate existing Section 25187.6(b) for clarity.  
11 Currently, Section 25187.6(b) provides:

12 “25187.6 (b) Upon issuing an order of quarantine pursuant to subdivision (a), the authorized  
13 agent shall notify the person who owns the hazardous waste, or the owner or lessee of the vehicle  
14 in which the wastes are transported, of all of the following:

15 (1) The hazardous waste has been subject to a quarantine order because the hazardous waste is,  
16 or is suspected of being, stored, transported, disposed of, or handled in violation of this chapter.

17 (2) No person shall remove, transfer, or dispose of the hazardous waste until permission for  
18 removal, transfer, or disposal is given by an authorized agent of the department or by a court.

19 (3) The person so notified may request, and shall be granted, an immediate hearing before a  
20 person designated by the director to review the validity of the authorized agent’s order. For  
21 purposes of this section, an immediate hearing shall be held within 24 hours after a hearing is  
22 requested by the person subject to the order.”

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

24 **§ 95565. Duration of quarantine order**

25 95565. Any order of quarantine issued pursuant to Section 95555 shall take effect  
26 upon issuance and shall remain effective for 30 days thereafter, until an authorized  
27 agent removes the quarantine order pursuant to Section 95570, or until the  
28 quarantine order is revoked pursuant to a hearing conducted in accordance with  
29 subdivision (c) of Section 95560, whichever event occurs first.

30 **Comment.** Section 95565 continues former Section 25187.6(c) without substantive change.  
31 See Sections 83160 (“department”), 83210 (“hazardous waste”).

32 **§ 95570. Revocation of quarantine order**

33 95570. If an authorized agent of the department determines that a hazardous waste  
34 subject to a quarantine order is not being stored, handled, transported, or disposed  
35 of in violation of this division, or does not threaten public health and safety or the  
36 environment, the authorized agent shall revoke the order of quarantine.

37 **Comment.** Section 95570 continues former Section 25187.6(d) without substantive change.  
38 See Sections 83160 (“department”), 83210 (“hazardous waste”).

39 **§ 95575. Removal of hazardous waste subject to quarantine order**

40 95575. If an authorized agent of the department has probable cause to believe that  
41 a hazardous waste subject to a quarantine order will, or is likely to, be removed,

1 transferred or disposed of in violation of this section, the authorized agent may  
2 remove the hazardous waste to a place of safekeeping.

3 **Comment.** Section 95575 continues former Section 25187.6(e) without substantive change.  
4 See Sections 83160 (“department”), 83210 (“hazardous waste”).

5 **§ 95580. Storage of hazardous waste subject to quarantine order**

6 95580. (a) A hazardous waste in transit for which a quarantine order has been  
7 issued pursuant to Section 95555 shall be stored or held at one of the following  
8 locations that the authorized agent determines will represent the least risk to the  
9 public health and safety or the environment:

10 (1) The facility owned or operated by the producer of the waste, except when the  
11 producer is located outside the state.

12 (2) The transporter’s yard, facility, or terminal.

13 (3) The treatment, storage, or disposal facility to which the hazardous waste is to  
14 be transported.

15 (4) Any other site designated by the authorized agent.

16 (b) All fees for storage and any other expenses incurred in carrying out this section  
17 or Section 95575 shall be a charge against the person who owns the hazardous waste  
18 or the owner or lessee of the vehicle in which the wastes are transported.

19 **Comment.** Subdivision (a) of Section 95580 continues former Section 25187.6(f) without  
20 substantive change.

21 Subdivision (b) continues former Section 25187.6(g) without substantive change.

22 See Sections 83160 (“department”), 83165 (“disposal”), 83210 (“hazardous waste”), 83305  
23 (“producer”), 83355 (“storage”), 83370 (“treatment”), 83395 (“waste”).

24 **Article 7. Notices to Comply**

25 **§ 95600. Issuance of notice**

26 95600. An authorized representative of the department or local officer or agency  
27 authorized to enforce this division pursuant to **subdivision (a) of Section 25180**,  
28 who, in the course of conducting an inspection of a facility, detects a minor violation  
29 of any permit conditions, rule, regulation, standard, or other requirement, shall issue  
30 a notice to comply before leaving the site in which the minor violation is alleged to  
31 have occurred.

32 **Comment.** Section 95600 continues former Section 25187.8(a) without substantive change.  
33 See Sections 83160 (“department”), 83245 (“local officer”).

34 **§ 95605. Notice to contain advisement about reinspection**

35 95605. A notice to comply issued to a facility pursuant to this article shall contain  
36 an explicit statement that the facility may be subject to reinspection at any time by  
37 the department or authorized local officer or agency that issued the notice to comply.

38 **Comment.** Section 95605 continues the first sentence of former Section 25187.8(h) without  
39 substantive change.

40 See Sections 83160 (“department”), 83245 (“local officer”).

1 **§ 95610. Compliance with notice**

2 95610. (a) A facility that receives a notice to comply pursuant to Section 95600  
3 shall have not more than 30 days from the date of receipt of the notice to comply in  
4 which to achieve compliance with the permit conditions, rule, regulation, standard,  
5 or other requirement cited on the notice to comply.

6 (b) Within five working days of achieving compliance, an appropriate person who  
7 is an owner or operator of or an employee at the facility shall sign the notice to  
8 comply stating that the facility has complied with the notice, and return the signed  
9 notice to the department representative or to the authorized local officer or agency.

10 (c) A false statement that compliance has been achieved is a violation of this  
11 division pursuant to Section 25191.

12 (d) A department representative or authorized local officer or agency shall not  
13 take any other enforcement action specified in this division against a facility for a  
14 violation alleged in a notice to comply, if the facility complies with this article.

15 **Comment.** Subdivision (a) of Section 95610 continues the first sentence of former Section  
16 25187.8(b) without substantive change.

17 Subdivision (b) restates the second sentence of former Section 25187.8(b) without substantive  
18 change.

19 Subdivision (c) continues the third sentence of former Section 25187.8(b) without substantive  
20 change.

21 Subdivision (d) restates the second sentence of former Section 25187.8(e) without substantive  
22 change.

23 See Sections 83160 (“department”), 83245 (“local officer”).

24 **Staff Notes.** (1) Proposed Section 95610(b) would restate the second sentence of existing Section  
25 25187.8(b) for clarity. Currently, that sentence reads:

26 “25187.8. (b) ... Within five working days of achieving compliance, an appropriate person who  
27 is an owner or operator of, or an employee at, the facility shall sign the notice to comply and return  
28 it to the department representative or to the authorized local officer or agency, as the case may be,  
29 which states that the facility has complied with the notice to comply.”

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

31 (2) Proposed Section 95610(d) would restate the second sentence of existing Section 25187.8(e)  
32 for clarity. Currently, that sentence reads:

33 “25187.8. (e) ... The department representative or the authorized local officer or agency shall  
34 not take any other enforcement action specified in this chapter against a facility which has received  
35 a notice to comply if the facility complies with this section.”

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

37 **§ 95615. Enforcement action based on failure to comply with notice**

38 (i) Nothing in this article shall be construed as preventing the department, or  
39 authorized local officer or agency, on a case-by-case basis, from requiring a facility  
40 to submit reasonable and necessary documentation to support the facility’s claim of  
41 compliance pursuant to Section 95615.

42 **Comment.** Section 95615 continues the second sentence of former Section 25187.8(h) without  
43 substantive change.

44 See Sections 83160 (“department”), 83245 (“local officer”).

1 **§ 95620. Multiple violations**

2 95620. A single notice to comply shall be issued for all minor violations cited  
3 during the same inspection that shall separately list each of the cited minor  
4 violations and the manner in which each of the minor violations may be brought  
5 into compliance.

6 **Comment.** Section 95615 continues former Section 25187.8(c) without substantive change.  
7 See Sections 83160 (“department”), 83245 (“local officer”).

8 **§ 95625. Immediate correction of violation in presence of an inspector**

9 95625. Immediate correction of a minor violation in the presence of an inspector  
10 may be noted in an inspection report, but a notice to comply shall not be issued for  
11 the violation, and the facility shall not be subject to any further action by the  
12 department representative or by the authorized local officer or agency.

13 **Comment.** Section 95615 restates former Section 25187.8(d) without substantive change.  
14 See Sections 83160 (“department”), 83245 (“local officer”).

15 **Staff Note.** Proposed Section 95625 would restate existing Section 25187.8(d) for clarity.  
16 Currently, Section 25187.8(d) provides:

17 “(d) A notice to comply shall not be issued for any minor violation which is corrected  
18 immediately in the presence of the inspector. Immediate compliance in that manner may be noted  
19 in the inspection report, but the facility shall not be subject to any further action by the department  
20 representative or by the authorized local officer or agency.”

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

22 **§ 95630. Exclusive means of citation for minor violation**

23 95630. Except as otherwise provided in Sections 95635 and 95650, a notice to  
24 comply shall be the only means by which a department representative or authorized  
25 local officer or agency shall cite a minor violation.

26 **Comment.** Section 95630 continues the first sentence of former Section 25187.8(e) without  
27 substantive change.

28 See Sections 83160 (“department”), 83245 (“local officer”).

29 **§ 95635. Additional assessment of civil penalty**

30 95635. Notwithstanding any other provision of this article, if the department, or  
31 an authorized local officer or agency, determines that the circumstances surrounding  
32 a particular minor violation or combination of minor violations are such that the  
33 assessment of a civil penalty pursuant to this division is warranted or is required by  
34 the federal act, in addition to issuance of a notice to comply, the department or  
35 authorized local officer or agency shall assess that civil penalty in accordance with  
36 this division, if the department or authorized local officer or agency makes written  
37 findings that set forth the basis for the department’s or authorized local officer’s or  
38 agency’s determination.

39 **Comment.** Section 95635 continues former Section 25187.8(g)(2) without substantive change.  
40 See Sections 83160 (“department”), 83200 (“federal act”), 83245 (“local officer”).



1 **§ 95705. Non-abatement of action or proceeding**

2 95705. Any action brought pursuant to this division against a person shall not  
3 abate by reason of a sale or other transfer of ownership, except with the express  
4 written consent of the director.

5 **Comment.** Section 95705 continues former Section 25194 without substantive change.

6 **§ 95710. Proceeding relating to withdrawn application**

7 95710. (a) The withdrawal of an application for a permit, registration, or  
8 certificate after it has been filed with the department shall not, unless the department  
9 consents in writing to the withdrawal, deprive the department of its authority to  
10 institute or continue a proceeding against the applicant for the denial of the permit,  
11 registration, or certificate upon any ground provided by law, or enter an order  
12 denying the permit, registration, or certificate on any ground.

13 (b) A withdrawal described in subdivision (a) shall not affect the authority of the  
14 department, or a local officer or agency authorized to enforce this division pursuant  
15 to **subdivision (a) of Section 25180**, to institute or continue a proceeding against  
16 the applicant pertaining to any violation of this division or any rule, regulation,  
17 standard, or requirement issued or promulgated pursuant to this division.

18 (c) The suspension, expiration, or forfeiture by operation of law of a permit,  
19 registration, or certificate issued by the department, or its suspension, forfeiture, or  
20 cancellation by order of the department or by order of a court, or its surrender or  
21 attempted or actual transfer without the written consent of the department shall not  
22 affect the authority of the department, or a local officer or agency authorized to  
23 enforce this division pursuant to **subdivision (a) of Section 25180**, to institute or  
24 continue a disciplinary proceeding against the holder of a permit, registration, or  
25 certificate upon any ground, or the authority of the department to enter an order  
26 suspending or revoking the permit, registration, or certificate, or otherwise taking  
27 an action against the holder of a permit, registration, or certificate on any ground.

28 **Comment.** Section 95710 continues former Section 25194.5 without substantive change.  
29 See Sections 83160 (“department”), 83245 (“local officer”).

30 **§ 95715. Apportionment of penalties**

31 95715. (a) All civil and criminal penalties collected pursuant to this division shall  
32 be apportioned in the following manner:

33 (1) Fifty percent shall be deposited in the Toxic Substances Control Account in  
34 the General Fund.

35 (2) Twenty-five percent shall be paid to the office of the city attorney, city  
36 prosecutor, county counsel, district attorney, or the Attorney General, whichever  
37 office brought the action.

38 (3) Twenty-five percent shall be paid to the department and used to fund the  
39 activity of the CUPA, the local health officer, or other local public officer or agency  
40 authorized to enforce the provisions of this division pursuant to **Section 25180**,  
41 whichever entity investigated the matter that led to the bringing of the action.

1 (4) If investigation by the local police department or sheriff’s office or the  
2 Department of the California Highway Patrol led to the bringing of the action, the  
3 CUPA, the local health officer, or the authorized officer or agency, shall pay a total  
4 of 40 percent of its portion under this subdivision to that investigating agency or  
5 agencies to be used for the same purpose.

6 (5) If more than one agency is eligible for payment under this paragraph, division  
7 of payment among the eligible agencies shall be in the discretion of the CUPA, the  
8 local health officer, or the authorized officer or agency.

9 (b) If a reward is paid to a person pursuant to Section 95715, the amount of the  
10 reward shall be deducted from the amount of the civil penalty before the amount is  
11 apportioned pursuant to subdivision (a).

12 **Comment.** Section 95715 continues former Section 25192 without substantive change.  
13 See Sections 83110 (“CUPA”), 83160 (“department”), 83240 (“local health officer”).

14 **§ 95720. Reimbursement to department for overseeing or carrying out corrective action**

15 95720. If an order or agreement issued by the department pursuant to Article 3  
16 (commencing with Section 95350) of Chapter 4 to a potentially responsible party  
17 requires a person to take corrective action with respect to a release of hazardous  
18 waste or hazardous waste constituents into the environment, that person shall pay  
19 for the department’s costs incurred in overseeing or carrying out the corrective  
20 action.

21 **Comment.** Section 95720 continues former Section 25187.2 without substantive change.  
22 See Sections 83160 (“department”), (“hazardous waste”).

23 **Article 2. Civil Liability Generally**

24 **§ 95800. Prosecution of civil action**

25 95800. Every civil action brought under this division at the request of the  
26 department or a unified program agency shall be brought by the city attorney, the  
27 county counsel, the district attorney, or the Attorney General in the name of the  
28 people of the State of California, and any such actions relating to the same  
29 processing or disposal of hazardous wastes may be joined or consolidated.

30 **Comment.** Section 95800 continues former Section 25182 without substantive change.  
31 See Sections 83160 (“department”), 83375 (“unified program agency”).

32 **§ 95805. Venue for civil action**

33 95805. Any civil action brought pursuant to this division shall be brought in the  
34 county in which the processing or disposal of hazardous waste is made or proposed  
35 to be made, the county in which the principal office of the defendant is located, or  
36 the county in which the Attorney General has an office nearest to the county in  
37 which the principal office of the defendants, or any of them, is located in this state.

38 **Comment.** Section 95805 continues former Section 25183 without substantive change.  
39 See Sections 83175 (“disposal”), 83210 (“hazardous waste”).

1    **§ 95810. Temporary restraining order or injunctive relief**

2       95810. In any civil action brought pursuant to this division in which a temporary  
3    restraining order, preliminary injunction, or permanent injunction is sought, it shall  
4    not be necessary to allege or prove at any stage of the proceeding that irreparable  
5    damage will occur should the temporary restraining order, preliminary injunction,  
6    or permanent injunction not be issued, or that the remedy at law is inadequate, and  
7    the temporary restraining order, preliminary injunction, or permanent injunction  
8    shall issue without such allegations and without such proof.

9       **Comment.** Section 95810 continues former Section 25184 without substantive change.

10   **§ 95815. Additional liability for costs and expenses**

11       95815. (a) In addition to liability under any other provision of law, any person  
12    who is liable for a civil penalty pursuant to **subdivision (c) or (d) of Section 25189**  
13    **or subdivision (c) of Section 25189.2**, or is convicted pursuant to **subdivision (b)**  
14    **of Section 25189.5**, is also civilly liable for all the costs or expenses which may be  
15    incurred by the state, or by a local agency, in doing any of the following:

16       (1) Assess short-term or long-term injury to, degradation or destruction of, or any  
17    loss of, any natural resource resulting from the disposal of the hazardous waste  
18    which is the subject of the civil penalty or conviction.

19       (2) Restore, rehabilitate, replace, or acquire the equivalent of, any natural resource  
20    injured, degraded, destroyed, or lost as a result of the disposal of the hazardous  
21    waste which is the subject of the civil penalty or conviction.

22       (b) The liability imposed by subdivision (a) is separate and in addition to any civil  
23    penalty imposed pursuant to **subdivision (c) or (d) of Section 25189 or subdivision**  
24    **(c) of Section 25189.2** or any fine imposed pursuant to **subdivision (e) of Section**  
25    **25189.5**.

26       (c) Any funds collected pursuant to this section are in addition to any other funds  
27    which may be collected pursuant to this division.

28       (d) A state or local agency may collect funds pursuant to this section prior to  
29    carrying out the actions specified in paragraph (1) or (2) of subdivision (a).

30       (e) An action brought pursuant to this section may be brought by the trustee of the  
31    natural resources specified in **Section 79685**.

32       (f) The action may be prosecuted by the Attorney General or the district attorney,  
33    but by the district attorney only after the trustee, in consultation with the Office of  
34    the Attorney General, approves that prosecution in writing.

35       (g) The trustee shall have 30 days to consider any requested action, and approval  
36    shall be presumed to have been granted if a written denial is not issued within 30  
37    days.

38       (h) The trustee may not unreasonably withhold approval.

39       (i) All funds collected pursuant to this section by the trustee of the natural  
40    resources shall be deposited, at the discretion of the trustee, in the Fish and Wildlife  
41    Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund  
42    or in a special deposit trust fund.

1 **Comment.** Section 95815 continues former Section 25189.1 without substantive change.  
2 See Sections 83175 (“disposal”), 83210 (“hazardous waste”), 83260 (“natural resource”).

3 Article 3. Primary Civil Liability [Former Section 25189]

4 **§ 95850. False statements**

5 95850. A person who intentionally or negligently makes a false statement or  
6 representation in an application, label, manifest, record, report, permit, or other  
7 document filed, maintained, or used for purposes of compliance with this division,  
8 shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000)  
9 for each separate violation, or for continuing violations, for each day that violation  
10 continues.

11 **Comment.** Section 95850 continues former Section 25189(a) without substantive change.  
12 83210 (“hazardous waste”).

13 **Staff Note.** Proposed Sections 95820 through 95850 would continue existing Section 25189  
14 without substantive change. These provisions of existing Section 25189 appear to be largely  
15 duplicative of the provisions of existing Section 25189.2.

16 Pending further study and consideration of public comment, proposed recodification of the  
17 provisions of existing Section 25189.2 are temporarily not included in this draft, in anticipation of  
18 possible merger and/or coordination in the recodification of the provisions of both Section 25189  
19 and 25189.2.

20 **Public comment on this issue is invited and welcome.**

21 **§ 95855. Violation of provision of division**

22 95855. Except as provided in Sections 95830, 95835, or 95840, a person who  
23 intentionally or negligently violates a provision of this division or a permit, rule,  
24 regulation, standard, or requirement issued or promulgated pursuant to this division  
25 shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000)  
26 for each violation of a separate provision, or for continuing violations, for each day  
27 that violation continues.

28 **Comment.** Section 95855 continues former Section 25189(b) without substantive change.

29 **§ 95860. Intentional disposal of hazardous or extremely hazardous waste**

30 95860. (a) A person who intentionally disposes or causes the disposal of a  
31 hazardous or extremely hazardous waste at a point that is not authorized according  
32 to the provisions of this division shall be subject to a civil penalty of not less than  
33 one thousand dollars (\$1,000) or more than seventy thousand dollars (\$70,000) for  
34 each violation, and may be ordered to disclose the fact of this violation or these  
35 violations to those persons as the court may direct.

36 (b) Each day on which the deposit remains and the person has knowledge of the  
37 deposit is a separate additional violation, unless the person immediately files a  
38 report of the deposit with the department and is complying with an order concerning  
39 the deposit issued by the department, a hearing officer, or a court of competent  
40 jurisdiction for the cleanup.

1       **Comment.** Section 95860 continues former Section 25189(c) without substantive change.  
2       See Sections 83160 (“department”), 83175 (“disposal”), 83195 (“extremely hazardous waste”),  
3       83210 (“hazardous waste”).

4       **§ 95865. Negligent disposal of hazardous or extremely hazardous waste**

5       95865. (a) A person who negligently disposes or causes the disposal of a  
6       hazardous or extremely hazardous waste at a point that is not authorized according  
7       to the provisions of this division shall be subject to a civil penalty of not more than  
8       seventy thousand dollars (\$70,000) for each violation and may be ordered to  
9       disclose the fact of this violation or these violations to those persons as the court  
10      may direct.

11      (b) Each day on which the deposit remains and the person had knowledge of the  
12      deposit is a separate additional violation, unless the person immediately files a  
13      report of the deposit with the department and is complying with an order concerning  
14      the deposit issued by the department, a hearing officer, or a court of competent  
15      jurisdiction for the cleanup.

16      **Comment.** Section 95865 continues former Section 25189(d) without substantive change.  
17      See Sections 83160 (“department”), 83175 (“disposal”), 83195 (“extremely hazardous waste”),  
18      83210 (“hazardous waste”).

19      **§ 95870. Treatment or storage of hazardous waste**

20      95870. A person who intentionally or negligently treats or stores, or causes the  
21      treatment or storage of, a hazardous waste at a point that is not authorized according  
22      to this division shall be liable for a civil penalty not to exceed seventy thousand  
23      dollars (\$70,000) for each separate violation or, for continuing violations, for each  
24      day that the violation continues.

25      **Comment.** Section 95870 continues former Section 25189(e) without substantive change.  
26      See Sections 83210 (“hazardous waste”), 83370 (“treatment”).

27      **§ 95875. Separate penalties for separate violations**

28      95875. Each civil penalty imposed for a separate violation pursuant to this section  
29      shall be separate and in addition to any other civil penalty imposed pursuant to this  
30      section or any other provision of law.

31      **Comment.** Section 95875 continues former Section 25189(f) without substantive change.

32      **§ 95880. Duplication of penalties**

33      95880. A person shall not be liable for a civil penalty imposed under this section  
34      and for a civil penalty imposed under **Section 25189.2** for the same act or failure to  
35      act.

36      **Comment.** Section 95880 continues former Section 25189(g) without substantive change.

1 Article 4. Alternative Civil Liability [Former Section 25189.2]

2 **§ 95900. False statements**

3 95900. A person who makes a false statement or representation in an application,  
4 label, manifest, record, report, permit, or other document filed, maintained, or used  
5 for purposes of compliance with this chapter, is liable for a civil penalty not to  
6 exceed seventy thousand dollars (\$70,000) for each separate violation or, for  
7 continuing violations, for each day that the violation continues.

8 **Comment.** Section 95900 continues former Section 25189.2(a) without substantive change.

9 See Sections 83160 (“department”), 83175 (“disposal”), 83195 (“extremely hazardous waste”),  
10 83210 (“hazardous waste”).  
11

12 **§ 95905. Violation of provision of division**

13 95905. Except as provided in Section 95910 or 95915, a person who violates a  
14 provision of this division or a permit, rule, regulation, standard, or requirement  
15 issued or adopted pursuant to this division, is liable for a civil penalty not to exceed  
16 seventy thousand dollars (\$70,000) for each violation of a separate provision or, for  
17 continuing violations, for each day that the violation continues.

18 **Comment.** Section 95905 continues former Section 25189.2(b) without substantive change.

19 **§ 95910. Unauthorized disposal of hazardous or extremely hazardous waste**

20 95910. (a) A person who disposes, or causes the disposal of, a hazardous or  
21 extremely hazardous waste at a point that is not authorized according to the  
22 provisions of this chapter is liable for a civil penalty of not more than seventy  
23 thousand dollars (\$70,000) for each violation and may be ordered to disclose the  
24 fact of this violation or these violations to those persons as the court or, in the case  
25 of an administrative action, a hearing officer, may direct.

26 (b) Each day on which the deposit remains is a separate additional violation,  
27 unless the person immediately files a report of the deposit with the department and  
28 is complying with an order concerning the deposit issued by the department, a  
29 hearing officer, or a court of competent jurisdiction for the cleanup.

30 **Comment.** Section 95910 continues former Section 25189.2(c) without substantive change.

31 See Sections 83160 (“department”), 83175 (“disposal”), 83195 (“extremely hazardous waste”),  
32 83210 (“hazardous waste”).

33 **§ 95915. Treatment or storage of hazardous waste**

34 95915. A person who treats or stores, or causes the treatment or storage of, a  
35 hazardous waste at a point that is not authorized according to this chapter, shall be  
36 liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each  
37 separate violation or, for continuing violations, for each day that the violation  
38 continues.

39 **Comment.** Section 95915 continues former Section 25189.2(d) without substantive change.

40 See Sections 83355 (“storage”), 83370 (“treatment”), 83210 (“hazardous waste”).



1 (c)(1) Any designated government employee who knowingly and intentionally  
2 fails to disclose information required to be disclosed under subdivision (b) shall,  
3 upon conviction, be punished by imprisonment in a county jail for not more than  
4 one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the  
5 Penal Code.

6 (2) The court may also impose upon the person a fine of not less than five thousand  
7 dollars (\$5000) or more than twenty-five thousand dollars (\$25,000).

8 (3) The felony conviction for violation of this section shall require forfeiture of  
9 government employment within thirty days of conviction.

10 (d) Any local health officer who receives information pursuant to subdivision (b)  
11 shall take appropriate action to notify local news media and shall make that  
12 information available to the public without delay.

13 **Comment.** Section 95950 continues former Section 25180.7 without substantive change.  
14 See Sections 83210 (“hazardous waste”), 83240 (“local health officer”).

15 **§ 95955. Knowing disposal of hazardous waste**

16 95955. (a) The disposal of any hazardous waste, or the causing thereof, is  
17 prohibited when the disposal is at a facility which does not have a permit from the  
18 department issued pursuant to this division, or at any point which is not authorized  
19 according to this division.

20 (b) Any person who is convicted of knowingly disposing or causing the disposal  
21 of any hazardous waste, or who reasonably should have known that he or she was  
22 disposing or causing the disposal of any hazardous waste, at a facility which does  
23 not have a permit from the department issued pursuant to this division, or at any  
24 point which is not authorized according to this division shall, upon conviction, be  
25 punished by imprisonment in a county jail for not more than one year or by  
26 imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

27 (c) Any person who knowingly transports or causes the transportation of  
28 hazardous waste, or who reasonably should have known that he or she was causing  
29 the transportation of any hazardous waste, to a facility which does not have a permit  
30 from the department issued pursuant to this division, or at any point which is not  
31 authorized according to this division, shall, upon conviction, be punished by  
32 imprisonment in a county jail for not more than one year or by imprisonment  
33 pursuant to subdivision (h) of Section 1170 of the Penal Code.

34 (d) Any person who knowingly treats or stores any hazardous waste at a facility  
35 which does not have a permit from the department issued pursuant to this division,  
36 or at any point which is not authorized according to this division, shall, upon  
37 conviction, be punished by imprisonment in a county jail for not more than one year  
38 or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

39 (e) The court also shall impose upon a person convicted of violating subdivision  
40 (b), (c), or (d), a fine of not less than five thousand dollars (\$5,000) nor more than  
41 one hundred thousand dollars (\$100,000) for each day of violation, except as further  
42 provided in this subdivision. If the act which violated subdivision (b), (c), or (d)

1 caused great bodily injury, or caused a substantial probability that death could result,  
2 the person convicted of violating subdivision (b), (c), or (d) may be punished by  
3 imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for one,  
4 two, or three years, in addition and consecutive to the term specified in subdivision  
5 (b), (c), or (d), and may be fined up to two hundred fifty thousand dollars (\$250,000)  
6 for each day of violation.

7 (f) For purposes of this section, except as otherwise provided in this subdivision,  
8 “each day of violation” means each day on which a violation continues. In any case  
9 where a person has disposed or caused the disposal of any hazardous waste in  
10 violation of this section, each day that the waste remains disposed of in violation of  
11 this section and the person has knowledge thereof is a separate additional violation,  
12 unless the person has filed a report of the disposal with the department and is  
13 complying with any order concerning the disposal issued by the department, a  
14 hearing officer, or court of competent jurisdiction.

15 **Comment.** Section 95955 continues former Section 25189.5 without substantive change.  
16 See Sections 83175 (“disposal”), 83210 (“hazardous waste”), 83395 (“waste”).

17 **§ 95960. Treatment, handling, transport, disposal, or storage of hazardous waste**

18 95960. (a) Any person who knowingly, or with reckless disregard for the risk,  
19 treats, handles, transports, disposes, or stores any hazardous waste in a manner  
20 which causes any unreasonable risk of fire, explosion, serious injury, or death is  
21 guilty of a public offense and shall, upon conviction, be punished by a fine of not  
22 less than five thousand dollars (\$5,000) nor more than two hundred fifty thousand  
23 dollars (\$250,000) for each day of violation, or by imprisonment in a county jail for  
24 not more than one year, or by imprisonment pursuant to subdivision (h) of Section  
25 1170 of the Penal Code, or by both that fine and imprisonment.

26 (b) Any person who knowingly, at the time the person takes the actions specified  
27 in subdivision (a), places another person in imminent danger of death or serious  
28 bodily injury, is guilty of a public offense and shall, upon conviction, be punished  
29 by a fine of not less than five thousand dollars (\$5,000) nor more than two hundred  
30 fifty thousand dollars (\$250,000) for each day of violation, and by imprisonment  
31 pursuant to subdivision (h) of Section 1170 of the Penal Code for three, six, or nine  
32 years.

33 **Comment.** Section 95960 continues former Section 25189.6 without substantive change.  
34 See Section 83210 (“hazardous waste”).

35 **§ 95965. Burning or incineration of hazardous waste**

36 95965. (a) The burning or incineration of any hazardous waste, or the causing  
37 thereof, is prohibited when the burning or incineration is at a facility which does not  
38 have a permit from the department issued pursuant to this division, or at any point  
39 which is not authorized according to this division.

40 (b) Any person who is convicted of knowingly burning or incinerating, or causing  
41 the burning or incineration of, any hazardous waste, or who reasonably should have

1 known that he or she was burning or incinerating, or causing the burning or  
2 incineration of, any hazardous waste, at a facility which does not have a permit from  
3 the department issued pursuant to this division, or at any point which is not  
4 authorized according to this division, shall, upon conviction, be punished by  
5 imprisonment in a county jail for not more than one year or by imprisonment  
6 pursuant to subdivision (h) of Section 1170 of the Penal Code.

7 (c) The court also shall impose upon a person convicted of violating subdivision  
8 (b) a fine of not less than five thousand dollars (\$5,000) nor more than one hundred  
9 thousand dollars (\$100,000) for each day of violation, except as otherwise provided  
10 in this subdivision.

11 (d) If the act which violated subdivision (b) caused great bodily injury or caused  
12 a substantial probability that death could result, the person convicted of violating  
13 subdivision (b) may be punished by imprisonment pursuant to subdivision (h) of  
14 Section 1170 of the Penal Code for one, two, or three years, in addition and  
15 consecutive to the term specified in subdivision (b), and may be fined up to two  
16 hundred fifty thousand dollars (\$250,000) for each day of violation.

17 **Comment.** Section 95965 continues former Section 25189.7 without substantive change.  
18 See Sections 83160 (“department”), 83210 (“hazardous waste”).

19 **§ 95970. Violation of provision of division**

20 95970. (a) Except as otherwise provided in **Sections 25185.6, 25189.5, 25189.6,**  
21 **25189.7, and 25191,** any person who violates any provision of this division, or any  
22 permit, rule, regulation, standard, or requirement issued or adopted pursuant to this  
23 division, is, upon conviction, guilty of a misdemeanor and shall be punished by a  
24 fine of not more than one thousand dollars (\$1,000) or by imprisonment for up to  
25 six months in a county jail or by both that fine and imprisonment.

26 (b) If the conviction is for a second or subsequent violation, the person shall, upon  
27 conviction, be punished by imprisonment in the county jail for not more than one  
28 year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal  
29 Code for 16, 20, or 24 months. The court shall also impose upon the person a fine  
30 of not less than five thousand dollars (\$5,000) or more than twenty-five thousand  
31 dollars (\$25,000).

32 **Comment.** Section 95970 continues former Section 25190 without substantive change.

33 **§ 95975. Dissemination of protected information**

34 95975. Notwithstanding Section 25190, a person who knowingly and willfully  
35 disseminates information protected by **Section 25173** or procedures established by  
36 the department pursuant to **Section 25173** shall, upon conviction, be punished by a  
37 fine of not more than five thousand dollars (\$5,000), imprisonment in a county jail  
38 not to exceed one year, or by both that fine and imprisonment.

39 **Comment.** Section 95975 continues former Section 25185.6(i) without substantive change.

1 **§ 95980. Miscellaneous criminal liability**

2 95980. (a)(1) Any person who knowingly does any of the acts specified in  
3 subdivision (b) shall, upon conviction, be punished by a fine of not less than two  
4 thousand dollars (\$2,000) or more than twenty-five thousand dollars (\$25,000) for  
5 each day of violation, or by imprisonment in a county jail for not more than one  
6 year, or by both that fine and imprisonment.

7 (2) If the conviction is for a second or subsequent violation of subdivision (b), the  
8 person shall be punished by imprisonment pursuant to subdivision (h) of Section  
9 1170 of the Penal Code for 16, 20, or 24 months, or in a county jail for not more  
10 than one year, or by a fine of not less than two thousand dollars (\$2,000) or more  
11 than fifty thousand dollars (\$50,000) for each day of violation, or by both that fine  
12 and imprisonment.

13 (3) Each day or partial day that a violation occurs is a separate violation.

14 (b) A person who does any of the following is subject to the punishment  
15 prescribed in subdivision (a):

16 (1) Makes any false statement or representation in any application, label, manifest,  
17 record, report, permit, notice to comply, or other document filed, maintained, or  
18 used for the purposes of compliance with this division.

19 (2) Has in his or her possession any record relating to the generation, storage,  
20 treatment, transportation, disposal, or handling of hazardous waste required to be  
21 maintained pursuant to this division, that has been altered or concealed.

22 (3) Destroys, alters, or conceals any record relating to the generation, storage,  
23 treatment, transportation, disposal, or handling of hazardous waste required to be  
24 maintained pursuant to this division.

25 (4) Withholds information regarding a real and substantial danger to the public  
26 health or safety when that information has been requested by the department, or by  
27 a local officer or agency authorized to enforce this division pursuant to **subdivision**  
28 **(a) of Section 25180**, and is required to carry out the responsibilities of the  
29 department or the authorized local officer or agency pursuant to this division in  
30 response to a real and substantial danger.

31 (5) Except as otherwise provided in this division, engages in transportation of  
32 hazardous waste in violation of **Section 25160 or 25161, or subdivision (a) of**  
33 **Section 25163**, or in violation of any regulation adopted by the department pursuant  
34 to those provisions, including, but not limited to, failing to complete or provide the  
35 manifest in the form and manner required by the department.

36 (6) Except as otherwise provided in this division, produces, receives, stores, or  
37 disposes of hazardous waste, or submits hazardous waste for transportation, in  
38 violation of **Section 25160 or 25161** or any regulation adopted by the department  
39 pursuant to those sections, including, but not limited to, failing to complete, provide,  
40 or submit the manifest in the form and manner required by the department.

41 (7) Transports any waste, for which there is provided a manifest, if the  
42 transportation is in violation of this division or the regulations adopted by the  
43 department pursuant thereto.

1 (8) Violates **Section 25162.**

2 (c)(1) The penalties imposed pursuant to subdivision (a) on any person who  
3 commits any of the acts specified in paragraph (5), (7), or (8) of subdivision (b) shall  
4 be imposed only on the owner or lessee of the vehicle in which the hazardous wastes  
5 are unlawfully transported, carried, or handled, or the person who authorizes or  
6 causes the transporting, carrying, or handling.

7 (2) The penalties shall not be imposed on the driver of the vehicle, unless the  
8 driver is also the owner or lessee of the vehicle or authorized or caused the  
9 transporting, carrying, or handling.

10 (3) If any person other than the person producing the hazardous waste prepares  
11 the manifest specified in **Section 25160**, that other person is also subject to the  
12 penalties imposed on a person who commits any of the acts specified in paragraph  
13 (6) of subdivision (b).

14 (d) Any person who knowingly does any of the following acts, each day or partial  
15 day that a violation occurs constituting a separate violation, shall, upon conviction,  
16 be punished by a fine of not more than five hundred dollars (\$500) for each day of  
17 violation, or by imprisonment in the county jail for not to exceed six months, or by  
18 both that fine and imprisonment:

19 (1) Carries or handles, or authorizes the carrying or handling of, a hazardous waste  
20 without having in the driver's possession the manifest specified in Section 25160.

21 (2) Transports, or authorizes the transportation of, hazardous waste without  
22 having in the driver's possession a valid registration issued by the department  
23 pursuant to **Section 25163**.

24 (e) Whenever any person is prosecuted for a violation pursuant to **paragraph (5),**  
25 **(6), (7), or (8) of subdivision (b), subdivision (d), or subdivision (c) of Section**  
26 **25189.5**, the prosecuting attorney may take appropriate steps to make the owner or  
27 lessee of the vehicle in which the hazardous wastes are unlawfully transported,  
28 carried, or handled, the driver of the vehicle, or any other person who authorized or  
29 directed the loading, maintenance, or operation of the vehicle, who is reasonably  
30 believed to have violated these provisions, a codefendant.

31 (f) If a codefendant is held solely responsible and found guilty, the court may  
32 dismiss the charge against the person who was initially so charged.

33 **Comment.** Section 95980 continues former Section 25191 without substantive change.  
34 See Sections 83175 ("disposal"), 83355 ("storage"), 83370 ("treatment").

35 **§ 95985. Additional misdemeanor violations**

36 95985. It is a misdemeanor for any person to do any of the following:

37 (a) Willfully prevent, interfere with, or attempt to impede in any way the work of  
38 any duly authorized representative of the department, or a local officer or agency  
39 authorized to enforce this division pursuant to subdivision (a) of Section 25180, in  
40 the lawful enforcement of any provision of this division.

1 (b) Willfully prevent or attempt to prevent any such representative from  
2 examining any relevant books or records in the conduct of his or her official duties  
3 under this division.

4 (c) Willfully prevent or interfere with any such representative in the preserving of  
5 evidence of any violation of any of the provisions of this division or of the rules and  
6 regulations promulgated pursuant to this division.

7 **Comment.** Section 95985 continues former Section 25195 without substantive change.  
8 See Sections 83160 (“department”), 83245 (“local officer”).

## 9 Article 6. Miscellaneous Liability

### 10 § 96000. Additional civil penalty based on prior liability finding

11 96000. (a) In addition to any penalty imposed under any other law, a person who  
12 is subject to the imposition of civil or criminal penalties pursuant to the provisions  
13 specified in subdivision (b) shall also be subject to an additional civil penalty of not  
14 less than five thousand dollars (\$5,000) or more than fifty thousand dollars  
15 (\$50,000) for each day of each violation, if the person has been found liable for, or  
16 has been convicted of, two or more previous violations subject to the penalties  
17 specified in subdivision (b) and those violations or convictions occurred within any  
18 consecutive 60 months.

19 (b) The additional liability specified in subdivision (a) shall apply to a penalty  
20 imposed pursuant to, or a conviction under, paragraph (2) of subdivision (g) of  
21 Section 25187.8, or Section 25189, 25189.2, 25189.3, 25189.5, 25189.6, or  
22 25189.7.

23 **Comment.** Section 96000 continues former Section 25189.4 without substantive change.

### 24 § 96005. Violation of Section 25227 or former Section 25221

25 96005. A person who knowingly violates a provision of **subdivision (a) of former**  
26 **Section 25221** as that section read on January 1, 2012, and who violated that  
27 provision prior to the effective date of Chapter 39 of the Statutes of 2012, or who  
28 knowingly violates **Section 25227**, shall be subject to a civil penalty not to exceed  
29 25 percent of the fair market value of the land and improvements, 25 percent of the  
30 sale price of the land and improvements, or fifty thousand dollars (\$50,000),  
31 whichever has been established and is greatest.

32 **Comment.** Section 96005 continues former Section 25196 without substantive change.

### 33 § 96010. Registered waste transporters

34 96010. A registered waste transporter transporting medical waste who is not  
35 subject to **Section 25097** shall be subject to penalties for violations pursuant to this  
36 part.

37 **Comment.** Section 96010 continues former Section 25181.5 without substantive change.  
38 See Section 83395 (“waste”).

1 **§ 96015. Failure to provide information relating to generated hazardous waste**

2 96015. (a) A person who generates or has generated hazardous waste that fails to  
3 provide information to the department as required pursuant to this division and  
4 regulations adopted pursuant to this division is liable for a civil or administrative  
5 penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation  
6 or, for continuing violations, for each day that the violation continues.

7 (b) The department may adopt regulations to implement subdivision (a).

8 **Comment.** Section 96015 continues former Section 25196.1 without substantive change.  
9 See Sections 83160 (“department”), 83210 (“hazardous waste”).

10 **§ 96020. Noncompliance with order requiring corrective action**

11 96020. A person subject to an order issued pursuant to Article 3 (commencing  
12 with Section 95350) of Chapter 4 who does not comply with that order shall be  
13 subject to a civil penalty of not more than seventy thousand dollars (\$70,000) for  
14 each day of noncompliance.

15 **Comment.** Section 95815 continues former Section 25188 without substantive change.

DISPOSITION OF EXISTING LAW

**Note.** This table shows the proposed disposition, as reflected in this cumulative draft, of provisions in Chapter 6.5 of Division 20 of the Health and Safety Code (§§ 25100-25259), as that law existed on January 1, 2025. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

<b>Existing Provision</b>	<b>New Provision</b>
25100.....	83000
25101.....	83005
25103.....	83010
25105.....	83015
25106.....	83020
25110.....	83075
25110.02.....	83080
25110.1.....	83085
25110.2.....	not cont'd
25110.3.....	83090
25110.4.....	83095
25110.5.....	83100
25110.8.....	83105
25110.8.5 (except 2nd sentence of subd. (b)).....	83115
25110.8.5, 2nd sentence of subd. (b).....	83120
25110.9(b).....	83140
25110.9(a).....	83135
25110.9.1(b).....	83130
25110.9.1(a).....	83125
25110.9.3.....	83145
25110.10(a).....	83150
25110.10(b)-(e).....	[not yet recodified]
25110.10.1.....	not cont'd
25110.11.....	83155
25111.....	83160
25111.1.....	not cont'd
25112.....	83165
25112.5(a) (preceding numbered paragraphs).....	83170
25112.5(a)(1)-(d).....	[not yet recodified]
25113.....	83175
25114.....	83180
25114.5.....	83190
25115.....	83195
25115.1.....	83200
25116.....	83205
25116.5.....	83220
25117(a)-(c).....	83210(a)
25117(d).....	[not yet recodified]

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25117.1.....	83215
25117.10.....	83235
25117.11.....	83275
25117.12.....	83280
25117.13.....	83230
25117.14.....	83290
25117.2.....	83220
25117.3.....	[not yet recodified]
25117.4.1(b).....	83245
25117.4.1(a).....	83240
25117.5.....	83210(b)
25117.6.....	83255
25117.8.....	83260
25117.9.....	83265
25117.9.1.....	83270
25117.10.....	83235
25117.11.....	83275
25117.12.....	83280
25117.13.....	83230
25117.14.....	83290
25118.....	83295
25119.....	83300
25120.....	83305
25120.2.....	83310
25120.5.....	83315
25120.55.....	[not yet recodified]
25121.....	83320
25121.1.....	83325
25121.2.....	83330
25121.3(a).....	83335
25121.3(b), (c).....	[not yet recodified]
25121.5.....	83340
25122.7.....	83345
25122.8.....	not cont'd
25122.9.....	83350
25123.....	83355
25123.3(a).....	[not yet recodified]
25123.3(b), initial clause.....	83360
25123.3(b) (remainder of subdivision), (c)-(i).....	[not yet recodified]
25123.4.....	83365
25123.5.....	83370
25123.6.....	83390
25123.7(a).....	83380
25123.7(b).....	83110
25123.7(c).....	83285
25123.7(d).....	83375
25123.8.....	83385

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25124.....	83395
25125(a), (b), (c).....	83650
25125(d).....	83655
25125(e).....	83700
25125(f).....	83660
25125(g).....	83725
25125(h).....	83720
25125(i).....	83705(a)
25125(j).....	83710
25125(k).....	83705(b)
25125(l).....	83675
25125(m).....	83665
25125(n).....	83715
25125(o).....	83670
25125.2(a).....	83750
25125.2(b)(1).....	83775
25125.2(b)(2).....	83780
25125.2(b)(3).....	83785
25125.2(b)(4).....	83790
25125.2(b)(5).....	83795
25125.2(b)(6).....	83800
25125.2(b)(7).....	83805
25125.3.....	83755
25125.4.....	83835
25125.5.....	83650
25125.6.....	83760
25125.7.....	83810
25125.8(a), 1st sentence.....	83845
25125.8(a), 2nd sentence.....	83850
25125.8(b).....	83855
25125.8(c).....	83860
25125.8(d).....	83865
25125.8(e).....	83870
25125.9.....	83815
25130-25149.7.....	[not yet recodified]
25150.....	83450
25150.1 – 25150.4.....	[not yet recodified]
25150.5.....	83470
25150.65.....	83460
25150.82 – 25150.86.....	[not yet recodified]
25151.....	83455
25152.....	83465
25152.5 – 25159.25.....	[not yet recodified]
25160(a)(2).....	83185
25160(a)(1), (3).....	83250
25160(b) – 25169.9.....	[not yet recodified]
25170.....	83420

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25172.6.....	83575
25173.....	83505
25173.5.....	[not yet recodified]
25173.6(a).....	84000
25173.6(b), (c).....	84005
25173.6(d), (e).....	84010
25173.6(f).....	84015
25173.6(g), (h).....	84020
25173.6(i).....	not cont'd
25173.7(a).....	84025
25173.7(b).....	84030
25173.7(c).....	84050
25174(a).....	83900
25174(b).....	83905
25174(c).....	84045
25174(d).....	83910
25174.01.....	[not yet recodified]
25174.02(a).....	84075
25174.02(b).....	84080
25174.02(c).....	84085
25174.02(d).....	84090
25174.02(e).....	84095
25174.02(f).....	not cont'd
25174.8 – 25174.8.1.....	[not yet recodified]
25174.9.....	83915
25175.....	[not yet recodified]
25177.....	83500
25178.....	83550
25178.1 – 25179.....	[not yet recodified]
25180(a).....	95000
25180(b).....	95005
25180(c).....	95010
25180(d).....	95020
25180.1.....	83288
25180.2.....	95050
25180.5(a), (b).....	95055
25180.5(c).....	95060
25180.7.....	95950
25181.....	95080
25181.5.....	96010
25182.....	95800
25183.....	95805
25184.....	95810
25184.1.....	95085
25185(a).....	95075
25185(b).....	95100(a)
25185(c)(1), 1 <sup>st</sup> sent.....	95100(b)

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25185(c)(1), 2 <sup>nd</sup> sent .....	95100(c)
25185(c)(2)(A), 1 <sup>st</sup> sent.....	95100(d)
25185(c)(2)(A), 2 <sup>nd</sup> sent.....	95100(e)
25185(c)(2)(A), 3 <sup>rd</sup> sent .....	95100(f)
25185(c)(2)(A), 4 <sup>th</sup> sent .....	95100(g)
25185(c)(2)(A), 5 <sup>th</sup> sent .....	95100(h)(1)
25185(c)(2)(A), 6 <sup>th</sup> sent .....	95100(h)(2)
25185(c)(2)(B) .....	95105
25185(c)(2)(C) .....	95110
25185(c)(2)(D).....	95115
25185(c)(3), 1 <sup>st</sup> sent .....	95120(a)
25185(c)(3), 2 <sup>nd</sup> sent .....	95120(b)
25185(c)(3), 3 <sup>rd</sup> sent.....	95120(c)
25185(c)(3), 4 <sup>th</sup> sent.....	95120(d)
25185(d), 1 <sup>st</sup> sent.....	95125(a)
25185(d), 2 <sup>nd</sup> and 3 <sup>rd</sup> sent.....	95125(b)
25185.5.....	95130
25185.6(a)(1).....	95150
25185.6(a)(2).....	95155
25185.6(b).....	95160
25185.6(c).....	95165
25185.6(d).....	95170(a)
25185.6(e).....	95175
25186.5(f), 1 <sup>st</sup> sent .....	95180(a)
25186.5(f), 2 <sup>nd</sup> sent.....	95180(b)
25185.6(g).....	95180(c)
25185.6(h), 1 <sup>st</sup> sent .....	95170(b)
25185.6(h), 2 <sup>nd</sup> sent .....	95170(c)
25185.6(h), 3 <sup>rd</sup> sent .....	95170(d)
25185.6(i).....	95975
25186.5(a) .....	95260
25186.5(b).....	95185(a)
25186.5(c).....	95185(b)
25185.6(d), 1 <sup>st</sup> sent.....	95185(c)
25185.6(d), 2 <sup>nd</sup> sent .....	95185(d)
25185.6(d), 3 <sup>rd</sup> sent .....	95185(e)
25185.6(e) .....	95185(f)
25186.5(f).....	95185(g)
25186(a) .....	95250(a)
25186(b).....	95250(b)
25186(c) .....	95250(c)
25186(d).....	95250(d)
25186(e) .....	95255
25186(f).....	95250(e)
25186.05.....	95265
25186.1, 1 <sup>st</sup> and 2 <sup>nd</sup> sent .....	95270
25186.1, 3 <sup>rd</sup> sent.....	95200(a)

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25186.1, 4 <sup>th</sup> sent .....	95200(b)
25186.2, 1 <sup>st</sup> sent .....	95275(a)
25186.2, 2 <sup>nd</sup> sent.....	95275(b)
25186.2, 3 <sup>rd</sup> sent.....	95275(c)
25186.2, 4 <sup>th</sup> sent .....	95275(d)
25186.2, 5 <sup>th</sup> sent .....	95275(e)
25186.2, 6 <sup>th</sup> sent .....	95275(f)
25186.2.5, 1 <sup>st</sup> sent .....	95280(a)
25186.2.5, 2 <sup>nd</sup> sent.....	95280(b)
25186.2.5, 3 <sup>rd</sup> sent.....	95280(c)
25186.2.5, 4 <sup>th</sup> sent .....	95280(d)
25186.2.5, 5 <sup>th</sup> sent.....	95280(e)
25186.3.....	95205
25186.6.....	95065
25186.7.....	95285
25187(a)(1).....	95360(a) and (b)
25187(a)(2).....	95360(c)
25187(b) (intro para).....	95365(a)
25187(b)(1) .....	95370
25187(b)(2) .....	95365(b)
25187(b)(3) .....	95365(c)
25187(b)(4), 1 <sup>st</sup> sent .....	95365(d)
25187(b)(4), 2 <sup>nd</sup> sent .....	95365(e)
25187(b)(5) .....	95375
25187(b)(6) .....	95350
25187(c) .....	95380
25187(d).....	95385
25187(e) .....	95390(a)
25187(f) 2 <sup>nd</sup> sent.....	95390(a)
25187(f)(1).....	95390(a)
25187(f)(2)(A) 1 <sup>st</sup> sent .....	95390(a)
25187(f)(2)(A), 2 <sup>nd</sup> sent .....	95390(b)
25187(g), 1 <sup>st</sup> sent.....	95390(c)
25187(g), 2 <sup>nd</sup> sent.....	95390(d)
25187(h).....	95395
25187(i).....	95400
25187(j)(1) .....	95405(a)
25187(j)(2) .....	95405(b)
25187(k).....	95405(c)
25187(l).....	95355
25187(m).....	95410(a)
25187(n).....	95410(b)
25187(o).....	95410(c)
25187(p), 1 <sup>st</sup> sent.....	95415(a)
25187(p), 2 <sup>nd</sup> sent.....	95415(b)
25187(q).....	95420
25187.1(a) .....	95300

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25187.1(b).....	95305
25187.1(c).....	95310
25187.1(d).....	95315(a)
25187.1(e).....	95315(b)
25187.1(f).....	95320
25187.2.....	95720
25187.3(a).....	95450
25187.3(b).....	95455(a)
25187.3(c)(1).....	95460(a)
25187.3(c)(2)(A).....	95460(b)
25187.3(c)(2)(B), 1 <sup>st</sup> sent.....	95460(c)
25187.3(c)(2)(B), 2 <sup>nd</sup> sent.....	95460(d)
25187.3(d).....	95455(b)
25187.3(e).....	95465
25187.3(f), 1 <sup>st</sup> sent.....	95470
25187.3(f), 2 <sup>nd</sup> sent.....	95475
25187.5(a).....	95500
25187.5(b).....	95505
25187.5(c).....	95510
25187.5(d).....	95515
25187.5(e).....	95520
25187.6(a).....	95555
25187.6(b).....	95560
25187.6(c).....	95565
25187.6(d).....	95570
25187.6(e).....	95575
25187.6(f).....	95580(a)
25187.6(g).....	95580(b)
25187.6(h).....	95550
25187.8(a).....	95600
25187.8(b), 1 <sup>st</sup> sent.....	95610(a)
25187.8(b), 2 <sup>nd</sup> sent.....	95610(b)
25187.8(b), 3 <sup>rd</sup> sent.....	95610(c)
25187.8(c).....	95620
25187.8(d).....	95625
25187.8(e), 1 <sup>st</sup> sent.....	95630
25187.8(e), 2 <sup>nd</sup> sent.....	95610(d)
25187.8(f), 1 <sup>st</sup> sent.....	95640
25187.8(f), 2 <sup>nd</sup> sent.....	95645
25187.8(g)(1).....	95650
25187.8(g)(2).....	95635
25187.8(h), 1 <sup>st</sup> sent.....	95605
25187.8(h), 2 <sup>nd</sup> sent.....	95615
25187.8(i).....	95655
25188.....	96020
25189(a).....	95850
25189(b).....	95855

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25189(c) .....	95860
25189(d).....	95865
25189(e).....	95870
25189(f).....	95875
25189(g).....	95880
25189.1.....	95815
25189.2(a) .....	95900
25189.2(b).....	95905
25189.2(c) .....	95910
25189.2(d).....	95915
25189.2(e).....	95920
25189.2(f).....	95925
25189.2(g).....	95930
25189.3.....	95210
25189.4.....	96000
25189.5.....	95955
25189.6.....	95960
25189.7.....	95965
25190.....	95970
25191.....	95980
25191.2.....	95015
25191.7.....	95090
25192.....	95715
25193.....	95700
25194.....	95705
25194.5.....	95710
25195.....	95985
25196.....	96005
25196.1.....	96015
25197– 25197.3.....	[not yet recodified]
25198(a).....	not cont'd
25198(b), 1st part.....	90000
25198(b), 2nd part.....	not cont'd
25198(c)-(e) .....	90005
25198(f).....	90010
25198.1 – 25214.10.2.....	[not yet recodified]
25205.1 (intro) .....	84150
25205.1(a) .....	84155
25205.1(b).....	84180
25205.1(c) .....	84200
25205.1(d).....	84205
25205.1(e) .....	84185
25205.1(f).....	84210
25205.1(g).....	84215
25205.1(h).....	84220
25205.1(i).....	84225
25205.1(j).....	84230

Existing Provision	Proposed New Provision
25205.1(k).....	84245
25205.1(l).....	84160, 84165, 84170
25205.1(m).....	84190
25205.1(n).....	84195
25205.1(o).....	84175, 84235, 84240
25214.11(a).....	85155
25214.11(b).....	85150
25214.12 (intro).....	85180
25214.12 (a).....	85180
25214.12 (b).....	85185
25214.12 (c).....	85195
25214.12 (d).....	85205
25214.12 (e).....	85200
25214.12 (f).....	85210
25214.12 (g).....	85215
25214.12 (h).....	85220
25214.12 (i).....	85225
25214.12 (j).....	85230
25214.12 (k).....	85235
25214.12 (l).....	85240
25214.12 (m).....	85245
25214.12 (n).....	85250
25214.13(a).....	85315
25214.13(b).....	85310(b)
25214.13(c).....	85310(c)
25214.14(a), (b), (d).....	85330
25214.14(c), (e), (f), (g).....	85335
25214.15(a).....	85350
25214.15(b).....	85355
25214.15(c).....	85360
25214.15(d).....	not cont'd
25214.15(e).....	85365
25214.15(f).....	not cont'd
25214.15(g).....	not cont'd
25214.15(h).....	not cont'd
25214.15(i).....	85370 (a), (b)
25214.15(j).....	85370(c)
25214.16.....	85375
25214.17(a).....	85290
25214.17(b).....	85295
25214.18.....	85285
25214.19.....	85165
25214.20.....	85160
25214.21.....	85270(a)
25214.22.....	85390
25214.22.1.....	85410
25214.23 (except 2 <sup>nd</sup> sent. of (a)(3)).....	85275

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25214.23(a)(3) (2 <sup>nd</sup> sent.).....	85395
25214.24.....	85280
25214.26.....	85270(b)
25215 – 25242.3.....	[not yet recodified]
25244.....	90050
25244.01 .....	90075
25244.1 .....	90055
25244.2.....	90060
25244.4.....	90130
25244.5.....	90080
25244.6.....	90085
25244.7.....	90115
25244.8.....	90105
25244.9.....	90110
25244.10.....	90100
25244.12.....	84850
25244.13.....	84855
25244.13.1.....	84865
25244.14 (intro) .....	84880
25244.14(a) .....	84885
25244.14(b).....	84890
25244.14(c).....	84895
25244.14(d).....	84900
25244.14(e).....	84905
25244.14(f).....	84910
25244.14(g).....	84915
25244.14(h).....	84920
25244.14(i).....	84925
25244.14(j).....	84930
25244.14(k).....	84935
25244.15.....	84860
25244.15.1(a) .....	84950
25244.15.1(b).....	84955
25244.15.1(c).....	84960
25244.15.1(d).....	84965
25244.15.1(e).....	84970
25244.16(a) .....	85065
25244.16(b).....	85050
25244.17.....	85070
25244.17.1.....	85005
25244.17.2(a) .....	85015(a), (b)
25244.17.2(b), (c).....	85020
25244.17.2(d).....	85015(c)
25244.18.....	85045
25244.19.....	85030
25244.20.....	85035
25244.21(a), (b).....	85040

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25244.21(c) .....	85050
25244.22(a) .....	84985
25244.22(b) .....	84990
25244.23 .....	85075
25251 (intro) .....	84400
25251(a) .....	84405
25251(b) .....	84415
25251(c) .....	84420
25251(d) .....	84425
25251(e) .....	84430
25251(f) .....	84435
25252(a), 1st and 2nd sent .....	84525
25252(a), 3rd sent .....	84530
25252(b)(1) .....	84535
25252(b)(2), (b)(3) .....	84540
25252.5(a) .....	84600(a)
25252.5(b) .....	84605
25252.5(c) .....	84610
25252.5(d) .....	84615
25252.5(e) .....	84600(b)
25252.5(f) .....	84600(c)
25252.5(g) .....	84595
25253(a)(1) .....	84555
25253(a)(2) .....	84560
25253(b) .....	84570
25253(c) .....	84565
25253(d) .....	84575
25253(e)(1) .....	84580(a)
25253(e)(2) .....	84580(b)
25253(f) .....	84580(c)
25253.5 .....	84485
25253.6 .....	84480
25253.7(a)(1), 1st sent .....	84670(a)
25253.7(a)(1), 2nd sent .....	84670(b)
25253.7(a)(1), 3rd sent .....	84675(a)
25253.7(a)(1), 4th sent .....	84670(c)
25253.7(a)(2)(A) .....	84675(b)
25253.7(a)(2)(B) .....	84675(c)
25253.7(a)(2)(C) .....	84680
25253.7(a)(3) .....	84685
25253.7(a)(4) .....	84690
25253.7(a)(5) .....	84695
25253.7(b) .....	84700
25253.9 .....	84490
25254(a) .....	84500(a)
25254(b), 1st sent .....	84500(b)
25254(b), 2nd sent .....	84500(c)

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25254(c), 1st sent .....	84505(a)
25254(c), 2nd sent.....	84500(d)
25254(d).....	84505(b)
25255.....	84510
25256, 1st sent .....	84630
25256, 2nd sent, 1st part .....	84650
25256, 2nd sent, 2nd part.....	84655
25256.1.....	84635
25256.2.....	84640
25256.3.....	84645
25257(a), 1st sent .....	84720(a)
25257(a), 2nd sent.....	84720(b)
25257(b).....	84725
25257(c), 1st sent.....	84720(c)
25257(c), 2nd sent.....	84720(d)
25257(d).....	84730
25257(e).....	84740
25257(f).....	84745
25257.1(a).....	84455
25257.1(b).....	84460
25257.1(c).....	84465
25257.2(a).....	84765
25257.2(b).....	84770
25257.2(c).....	84775
25257.2(d).....	84780
25257.2(e).....	84785
25257.2(f).....	84790
25257.2(g).....	84795
25257.2(h).....	84800

DERIVATION OF NEW LAW

**Note.** This table shows the derivation of each provision in proposed Division 46 of the Health and Safety Code, as reflected in this cumulative draft. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

<b>Proposed New Provision</b>	<b>Existing Provision</b>
83000 .....	25100
83005 .....	25101
83010 .....	25103
83015 .....	25105
83020 .....	25106
83035 .....	new
83040 .....	new
83045 .....	new
83050 .....	new
83055 .....	new
83060 .....	new
83075 .....	25110
83080 .....	25110.02
83085 .....	25110.1
83090 .....	25110.3
83095 .....	25110.4
83100 .....	25110.5
83105 .....	25110.8
83110 .....	25123.7(b)
83115 .....	25110.8.5 (except 2nd sentence of subd. (b))
83120 .....	25110.8.5, 2nd sentence of subd. (b)
83125 .....	25110.9.1(a)
83130 .....	25110.9.1(b)
83135 .....	25110.9(a)
83140 .....	25110.9(b)
83145 .....	25110.9.3
83150 .....	25110.10(a)
83155 .....	25110.11
83160 .....	25111
83165 .....	25112
83170 .....	25112.5(a) (preceding numbered paragraphs)
83175 .....	25113
83180 .....	25114
83185 .....	25160(a)(2)
83190 .....	25114.5
83195 .....	25115
83200 .....	25115.1
83205 .....	25116
83210(a).....	25117(a)-(c)

<b>Proposed New Provision</b>	<b>Existing Provision</b>
83210(b).....	25117.5
83215 .....	25117.1
83220 .....	25117.2
83225 .....	25116.5
83230 .....	25117.13
83235 .....	25117.10
83240 .....	25117.4.1(a)
83245 .....	25117.4.1(b)
83250 .....	25160(a)(1), (3)
83255 .....	25117.6
83260 .....	25117.8
83265 .....	25117.9
83270 .....	25117.9.1
83275 .....	25117.11
83280 .....	25117.12
83285 .....	25123.7(c)
83290 .....	25117.14
83288 .....	25180.1
83295 .....	25118
83300 .....	25119
83305 .....	25120
83310 .....	25120.2
83315 .....	25120.5
83320 .....	25121
83325 .....	25121.1
83335 .....	25121.3(a)
83330 .....	25121.2
83340 .....	25121.5
83345 .....	25122.7
83350 .....	25122.9
83355 .....	25123
83360 .....	25123.3(b), initial clause
83365 .....	25123.4
83370 .....	25123.5
83375 .....	25123.7(d)
83380 .....	25123.7(a)
83385 .....	25123.8
83390 .....	25123.6
83395 .....	25124
83420 .....	25170
83450 .....	25150
83455 .....	25151
83460 .....	25150.65
83465 .....	25152
83470 .....	25150.5
83500 .....	25177
83505 .....	25173

<b>Proposed New Provision</b>	<b>Existing Provision</b>
83550 .....	25178
83575 .....	25172.6
83650 .....	25125(a), (b), (c)
83655 .....	25125(d)
83660 .....	25125(f)
83665 .....	25125(m)
83670 .....	25125(o)
83675 .....	25125(l)
83700 .....	25125(e)
83705(a).....	25125(i)
83705(b).....	25125(k)
83710 .....	25125(j)
83715 .....	25125(n)
83720 .....	25125(h)
83725 .....	25125(g)
83750 .....	25125.2(a)
83755 .....	25125.3
83760 .....	25125.6
83775 .....	25125.2(b)(1)
83780 .....	25125.2(b)(2)
83785 .....	25125.2(b)(3)
83790 .....	25125.2(b)(4)
83795 .....	25125.2(b)(5)
83800 .....	25125.2(b)(6)
83805 .....	25125.2(b)(7)
83810 .....	25125.7
83815 .....	25125.9
83835 .....	25125.4
83845 .....	25125.8(a), 1st sentence
83850 .....	25125.8(a), 2nd sentence
83855 .....	25125.8(b)
83860 .....	25125.8(c)
83865 .....	25125.8(d)
83870 .....	25125.8(e)
83900 .....	25174(a)
83905 .....	25174(b)
83910 .....	25174(d)
83915 .....	25174.9
84000 .....	25173.6(a)
84005 .....	25173.6(b), (c)
84010 .....	25173.6(d), (e)
84015 .....	25173.6(f)
84020 .....	25173.6(g), (h)
84025 .....	25173.7(a)
84030 .....	25173.7(b)
84045 .....	25174(c)
84050 .....	25173.7(c)

<b>Proposed New Provision</b>	<b>Existing Provision</b>
84075(a).....	25174.02(a)
84075(b) .....	25174.02(b), 2 <sup>nd</sup> sent.
84080 .....	25174.02(b), 1 <sup>st</sup> sent
84085 .....	25174.02(c)
84090 .....	25174.02(d)
84095 .....	25174.02(e)
84150 .....	25205.1 (intro)
84155 .....	25205.1(a)
84160 .....	25205.1(l) (part applicable to “Class 1 modification”)
84165 .....	25205.1(l) (part applicable to “Class 2 modification”)
84170 .....	25205.1(l) (part applicable to “Class 3 modification”)
84175 .....	25205.1(o) (part applicable to “disposal”)
84180 .....	25205.1(b)
84185 .....	25205.1(e)
84190 .....	25205.1(m)
84195 .....	25205.1(n)
84200 .....	25205.1(c)
84205 .....	25205.1(d)
84210 .....	25205.1(f)
84215 .....	25205.1(g)
84220 .....	25205.1(h)
84225 .....	25205.1(i)
84230 .....	25205.1(j)
84235 .....	25205.1(o) (part applicable to “storage”)
84240 .....	25205.1(o) (part applicable to “treatment”)
84245 .....	25205.1(k)
84400 .....	25251(intro)
84405 .....	25251(a)
84410 .....	new
84415 .....	25251(b)
84420 .....	25251(c)
84425 .....	25251(d)
84430 .....	25251(e)
84435 .....	25251(f)
84455 .....	25257.1(a)
84460 .....	25257.1(b)
84465 .....	25257.1(c)
84480 .....	25253.6
84485 .....	25253.5
84490 .....	25253.9
84500(a).....	25254(a)
84500(b).....	25254(b), 1st sent
84500(c).....	25254(b), 2nd sent
84500(d).....	25254(c), 2nd sent
84505(a).....	25254(c), 1st sent
84505(b).....	25254(d)
84510 .....	25255

<b>Proposed New Provision</b>	<b>Existing Provision</b>
84525 .....	25252(a), 1st and 2nd sent
84530 .....	25252(a), 3rd sent
84535 .....	25252(b)(1)
84540 .....	25252(b)(2), (b)(3)
84555 .....	25253(a)(1)
84560 .....	25253(a)(2)
84565 .....	25253(c)
84570 .....	25253(b)
84575 .....	25253(d)
84580(a).....	25253(e)(1)
84580(b).....	25253(e)(2)
84580(c).....	25253(f)
84595 .....	25252.5(g)
84600(a).....	25252.5(a)
84600(b).....	25252.5(e)
84600(c).....	25252.5(f)
84605 .....	25252.5(b)
84610 .....	25252.5(c)
84615 .....	25252.5(d)
84630 .....	25256, 1st sent
84635 .....	25256.1
84640 .....	25256.2
84645 .....	25256.3
84650 .....	25256, 2nd sent, 1st part
84655 .....	25256, 2nd sent, 2nd part
84670(a).....	25253.7(a)(1), 1st sent
84670(b).....	25253.7(a)(1), 2nd sent
84670(c).....	25253.7(a)(1), 4th sent
84675(a).....	25253.7(a)(1), 3rd sent
84675(b).....	25253.7(a)(2)(A)
84675(c).....	25253.7(a)(2)(B)
84680 .....	25253.7(a)(2)(C)
84685 .....	25253.7(a)(3)
84690 .....	25253.7(a)(4)
84695 .....	25253.7(a)(5)
84700 .....	25253.7(b)
84720(a).....	25257(a), 1st sent
84720(b).....	25257(a), 2nd sent
84720(c).....	25257(c), 1st sent
84720(d).....	25257(c), 2nd sent
84725 .....	25257(b), 2nd sent
84730 .....	25257(d)
84735 .....	25257(b), 1st sent
84740 .....	25257(e)
84745 .....	25257(f)
84765 .....	25257.2(a)
84770 .....	25257.2(b)

<b>Proposed New Provision</b>	<b>Existing Provision</b>
84775 .....	25257.2(c)
84780 .....	25257.2(d)
84785 .....	25257.2(e)
84790 .....	25257.2(f)
84795 .....	25257.2(g)
84800 .....	25257.2(h)
84850 .....	25244.12
84855 .....	25244.13
84860 .....	25244.15
84865 .....	25244.13.1
84880 .....	25244.14 (intro)
84885 .....	25244.14(a)
84890 .....	25244.14(b)
84895 .....	25244.14(c)
84900 .....	25244.14(d)
84905 .....	25244.14(e)
84910 .....	25244.14(f)
84915 .....	25244.14(g)
84920 .....	25244.14(h)
84925 .....	25244.14(i)
84930 .....	25244.14(j)
84935 .....	25244.14(k)
84950 .....	25244.15.1(a)
84955 .....	25244.15.1(b)
84960 .....	25244.15.1(c)
84965 .....	25244.15.1(d)
84970 .....	25244.15.1(e)
84985 .....	25244.22(a)
84990 .....	25244.22(b)
85000 .....	25244.17
85005 .....	25244.17.1
85015 .....	25244.17.2(a), (d)
85020 .....	25244.17.2(b), (c)
85030 .....	25244.19
85035 .....	25244.20
85040 .....	25244.21(a), (b)
85045 .....	25244.18
85050 .....	25244.21(c)
85065 .....	25244.16(a)
85070 .....	25244.16(b)
85075 .....	25244.23
85150 .....	25214.11(b)
85155 .....	25214.11(a)
85160 .....	25214.20
85165 .....	25214.19
85180 .....	25214.12 (intro)
85185 .....	25214.12(b)

<b>Proposed New Provision</b>	<b>Existing Provision</b>
85190 .....	25214.12(a)
85195 .....	25214.12(c)
85200 .....	25214.12(e)
85205 .....	25214.12(d)
85210 .....	25214.12(f)
85215 .....	25214.12(g)
85220 .....	25214.12(h)
85225 .....	25214.12(i)
85230 .....	25214.12(j)
85235 .....	25214.12(k)
85240 .....	25214.12(l)
85245 .....	25214.12(m)
85250 .....	25214.12(n)
85270 .....	25214.21
85275 .....	25214.23 (excepting 2 <sup>nd</sup> sent. of 25214.23(a)(3))
85280 .....	25214.24
85285 .....	25214.18
85290 .....	25214.17(a)
85295 .....	25214.17(b)
85310(a).....	25214.13(b)
85310(b).....	25214.13(c)
85315 .....	25214.13(a)
85330 .....	25214.17.14(a), (b), (d)
85335 .....	25214.14(c), (e), (f), (g)
85350 .....	25214.15(a)
85355 .....	25214.15(b)
85360 .....	25214.15(c)
85365 .....	25214.15(e)
85370(a), (b).....	25214.15(i)
85370(c).....	25214.15(j)
85375 .....	25214.16
85390 .....	25214.22
85395 .....	2 <sup>nd</sup> sent. of 25214.23(a)(3)
85410 .....	25214.22.1
90000 .....	25198(b),1st part
90005 .....	25198(c), (d), (e)
90010 .....	25198(f)
90050 .....	25244
90055 .....	25244.1
90060 .....	25244.2
90075 .....	25244.01
90080 .....	25244.5
90085 .....	25244.6
90100 .....	25244.10
90105 .....	25244.8
90110 .....	25244.9
90115 .....	25244.7

<b>Proposed New Provision</b>	<b>Existing Provision</b>
90130 .....	25244.4
95000 .....	25180(a)
95005 .....	25180(b)
95010 .....	25180(c)
95015 .....	25191.2
95020 .....	25180(d)
95050 .....	25180.2
95055 .....	25180.5(a), (b)
95060 .....	25180.5(c)
95065 .....	25186.6
95075 .....	25185(a)
95080 .....	25181
95085 .....	25184.1
95090 .....	25191.7
95100(a).....	25185(b)
95100(b).....	25185(c)(1), 1 <sup>st</sup> sent
95100(c).....	25185(c)(1), 2 <sup>nd</sup> sent
95100(d).....	25185(c)(2)(A), 1 <sup>st</sup> sent
95100(e).....	25185(c)(2)(A), 2 <sup>nd</sup> sent
95100(f).....	25185(c)(2)(A), 3 <sup>rd</sup> sent
95100(g).....	25185(c)(2)(A), 4 <sup>th</sup> sent
95100(h)(1).....	25185(c)(2)(A), 5 <sup>th</sup> sent
95100(h)(2).....	25185(c)(2)(A), 6 <sup>th</sup> sent
95105 .....	25185(c)(2)(B)
95110 .....	25185(c)(2)(C)
95115 .....	25185(c)(2)(D)
95120(a).....	25185(c)(3), 1 <sup>st</sup> sent
95120(b).....	25185(c)(3), 2 <sup>nd</sup> sent
95120(c).....	25185(c)(3), 3 <sup>rd</sup> sent
95120(d).....	25185(c)(3), 4 <sup>th</sup> sent
95125(a).....	25185(d), 1 <sup>st</sup> sent
95125(b).....	25185(d), 2 <sup>nd</sup> and 3 <sup>rd</sup> sent
95130 .....	25185.5
95150 .....	25185.6(a)(1)
95155 .....	25185.6(a)(2)
95160 .....	25185.6(b)
95165 .....	25185.6(c)
95170(a).....	25185.6(d)
95170(b).....	25185.6(h), 1 <sup>st</sup> sent
95170(c).....	25185.6(h), 2 <sup>nd</sup> sent
95170(d).....	25185.6(h), 3 <sup>rd</sup> sent
95175 .....	25185.6(e)
95180(a).....	25186.5(f), 1 <sup>st</sup> sent
95180(b).....	25186.5(f), 2 <sup>nd</sup> sent
95180(c).....	25185.6(g)
95185(a).....	25186.5(b)
95185(b).....	25186.5(c)

<b>Proposed New Provision</b>	<b>Existing Provision</b>
95185(c).....	25185.6(d), 1 <sup>st</sup> sent
95185(d).....	25185.6(d), 2 <sup>nd</sup> sent
95185(e).....	25185.6(d), 3 <sup>rd</sup> sent
95185(f).....	25185.6(e)
95185(g).....	25186.5(f)
95200(a).....	25186.1, 3 <sup>rd</sup> sent
95200(b).....	25186.1, 4 <sup>th</sup> sent
95205.....	25186.3
95210.....	25189.3
95250(a).....	25186(a)
95250(b).....	25186(b)
95250(c).....	25186(c)
95250(d).....	25186(d)
95250(e).....	25186(f)
95255.....	25186(e)
95260.....	25186.5(a)
95265.....	25186.05
95270.....	25186.1, 1 <sup>st</sup> and 2 <sup>nd</sup> sent
95275(a).....	25186.2, 1 <sup>st</sup> sent
95275(b).....	25186.2, 2 <sup>nd</sup> sent
95275(c).....	25186.2, 3 <sup>rd</sup> sent
95275(d).....	25186.2, 4 <sup>th</sup> sent
95275(e).....	25186.2, 5 <sup>th</sup> sent
95275(f).....	25186.2, 6 <sup>th</sup> sent
95280(a).....	25186.2.5, 1 <sup>st</sup> sent
95280(b).....	25186.2.5, 2 <sup>nd</sup> sent
95280(c).....	25186.2.5, 3 <sup>rd</sup> sent
95280(d).....	25186.2.5, 4 <sup>th</sup> sent
95280(e).....	25186.2.5, 5 <sup>th</sup> sent
95285.....	25186.7
95300.....	25187.1(a)
95305.....	25187.1(b)
95310.....	25187.1(c)
95315(a).....	25187.1(d)
95315(b).....	25187.1(e)
95320.....	25187.1(f)
95350.....	25187(b)(6)
95355.....	25187(l)
95360(a) and (b).....	25187(a)(1)
95360(c).....	25187(a)(2)
95365(a).....	25187(b) (intro para)
95365(b).....	25187(b)(2)
95365(c).....	25187(b)(3)
95365(d).....	25187(b)(4), 1 <sup>st</sup> sent
95365(e).....	25187(b)(4), 2 <sup>nd</sup> sent
95370.....	25187(b)(1)
95375.....	25187(b)(5)

<b>Proposed New Provision</b>	<b>Existing Provision</b>
95380 .....	25187(c)
95385 .....	25187(d)
95390(a).....	25187(e), 25187(f) 2 <sup>nd</sup> sent, 25187(f)(1), 25187(f)(2)(A) 1 <sup>st</sup> sent
95390(b).....	25187(f)(2)(A), 2 <sup>nd</sup> sent
95390(c).....	25187(g), 1 <sup>st</sup> sent
95390(d).....	25187(g), 2 <sup>nd</sup> sent
95395 .....	25187(h)
95400 .....	25187(i)
95405(a).....	25187(j)(1)
95405(b).....	25187(j)(2)
95405(c).....	25187(k)
95410(a).....	25187(m)
95410(b).....	25187(n)
95410(c).....	25187(o)
95415(a).....	25187(p), 1 <sup>st</sup> sent
95415(b).....	25187(p), 2 <sup>nd</sup> sent
95420 .....	25187(q)
95450 .....	25187.3(a)
95455(a).....	25187.3(b)
95455(b).....	25187.3(d)
95460(a).....	25187.3(c)(1)
95460(b).....	25187.3(c)(2)(A)
95460(c).....	25187.3(c)(2)(B), 1 <sup>st</sup> sent
95460(d).....	25187.3(c)(2)(B), 2 <sup>nd</sup> sent
95465 .....	25187.3(e)
95470 .....	25187.3(f), 1 <sup>st</sup> sent
95475 .....	25187.3(f), 2 <sup>nd</sup> sent
95500 .....	25187.5(a)
95505 .....	25187.5(b)
95510 .....	25187.5(c)
95515 .....	25187.5(d)
95520 .....	25187.5(e)
95550 .....	25187.6(h)
95555 .....	25187.6(a)
95560 .....	25187.6(b)
95565 .....	25187.6(c)
95570 .....	25187.6(d)
95575 .....	25187.6(e)
95580(a).....	25187.6(f)
95580(b).....	25187.6(g)
95600 .....	25187.8(a)
95605 .....	25187.8(h), 1 <sup>st</sup> sent
95610(a).....	25187.8(b), 1 <sup>st</sup> sent
95610(b).....	25187.8(b), 2 <sup>nd</sup> sent
95610(c).....	25187.8(b), 3 <sup>rd</sup> sent
95610(d).....	25187.8(e), 2 <sup>nd</sup> sent
95615 .....	25187.8(h), 2 <sup>nd</sup> sent

<b>Proposed New Provision</b>	<b>Existing Provision</b>
95620 .....	25187.8(c)
95625 .....	25187.8(d)
95630 .....	25187.8(e), 1 <sup>st</sup> sent
95635 .....	25187.8(g)(2)
95640 .....	25187.8(f), 1 <sup>st</sup> sent
95645 .....	25187.8(f), 2 <sup>nd</sup> sent
95650 .....	25187.8(g)(1)
95655 .....	25187.8(i)
95700 .....	25193
95705 .....	25194
95710 .....	25194.5
95715 .....	25192
95720 .....	25187.2
95800 .....	25182
95805 .....	25183
95810 .....	25184
95815 .....	25189.1
95850 .....	25189(a)
95855 .....	25189(b)
95860 .....	25189(c)
95865 .....	25189(d)
95870 .....	25189(e)
95875 .....	25189(f)
95880 .....	25189(g)
95900 .....	25189.2(a)
95905 .....	25189.2(b)
95910 .....	25189.2(c)
95915 .....	25189.2(d)
95920 .....	25189.2(e)
95925 .....	25189.2(f)
95930 .....	25189.2(g)
95950 .....	25180.7
95955 .....	25189.5
95960 .....	25189.6
95965 .....	25189.7
95970 .....	25190
95975 .....	25185.6(i)
95980 .....	25191
95985 .....	25195
96000 .....	25189.4
96005 .....	25196
96010 .....	25181.5
96015 .....	25196.1
96020 .....	25188

**Proposed New Provision**

**Existing Provision**

## SUBSTANTIVE ISSUES FOR POSSIBLE FUTURE STUDY

When the Legislature authorized the Commission to study Chapter 6.5 of Division 20 of the Health and Safety Code, the Legislature directed the Commission to “include a list of substantive issues that the commission identifies in the course of its work, for possible future study.” See 2024 Cal. Stat. res. ch. 138. The Legislature’s grant of authority for this project precludes the Commission from making “any substantive changes to the law.” See *id.*

In the course of the Commission’s study of Chapter 6.5, the Commission has identified the substantive issues listed below for possible future study. Unless otherwise indicated, all statutory citations refer to provisions of the Health & Safety Code. All references to proposed provisions refer to provisions of the proposed legislation in this recommendation.

- (1) Should the provisions defining different types of violations (see proposed Sections 83115, 83120, and 83255, which define “class I violation,” “class II violation,” and “minor violation,” respectively) be revised for consistency and clarity?
- (2) Should the definition of “treatment” (proposed Section 83370) be restated for clarity?
- (3) Should the use of terms that are undefined in proposed Division 46, but are defined in Part 2 of Division 45, be addressed by incorporating the definitions from Part 2 of Division 45 by reference (either individually or globally)?
- (4) Should proposed Section 83550, which specifies materials that the department is obligated to post on its website, be revised to eliminate obsolescence (see DTSC Independent Review Panel Recommendations to the Governor and the Legislature Pursuant to Health and Safety Code Section 57014(f), p. 31 (January 8, 2018))?

