

## Memorandum 2021-66

**Recodification of Toxic Substance Statutes: Hazardous Substance  
Account Recodification Act — Conforming Revisions  
(2021 Legislative Updates)**

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Early in 2021, the Commission<sup>1</sup> approved a recommendation to nonsubstantively reorganize Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.<sup>2</sup> The Commission also approved an associated recommendation to make the necessary conforming revisions (updating provisions that cross-refer to Chapter 6.8 or its contents).<sup>3</sup>

During the 2021 legislative season, provisions that contained cross-references to Chapter 6.8 or its contents were amended and new provisions that cross-refer to Chapter 6.8 or its contents were added to the codes.

The attached document contains proposed legislation for sections in the Commission's conforming revision recommendation that changed in 2021, as well as new sections that need conforming revisions that were added in 2021.

Commissioners and other interested persons should review the attached document and raise any concerns that they might have. **Comments on any aspect of the document are welcome.**<sup>4</sup>

This memorandum and the attached document use the language of provisions as of January 1, 2022 (i.e., the effective date for non-urgent 2021 legislative changes).

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1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

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

2. *Hazardous Substance Account Recodification Act*, 48 Cal. L. Revision Comm'n Reports \_\_ (Feb. 2021).

3. *Hazardous Substance Account Recodification Act: Conforming Revisions*, 48 Cal. L. Revision Comm'n Reports \_\_ (Feb. 2021).

4. Written comments can be in any form. They should be directed to [kburford@clrc.ca.gov](mailto:kburford@clrc.ca.gov). Comments may also be made orally at the upcoming Commission meeting (scheduled for December 16, 2021), which will be held via zoom teleconference. The agenda is available at: [http://www.clrc.ca.gov/Menu1\\_meetings/agenda.html](http://www.clrc.ca.gov/Menu1_meetings/agenda.html).

## PROVISIONS THAT NO LONGER REQUIRE CONFORMING REVISIONS

Several provisions were amended in a way such that they no longer require a conforming revision (e.g., the provision was repealed or will be repealed before the recodification would take effect).<sup>5</sup>

The attached document includes a heading for these provisions, with bracketed text indicating that the provision no longer requires revision. In addition, below the heading for each provision, a Note describes the specific 2021 legislative change and the reason a revision is no longer required.

## PROVISIONS THAT WERE AMENDED, BUT STILL REQUIRE CONFORMING REVISIONS

Other sections that were in the Commission's original conforming revisions recommendation were amended, but still require conforming revision.<sup>6</sup> In this case, the attached document simply shows the required conforming revision using the updated language of the affected section.

For the most part, the 2021 legislative changes were entirely unrelated to the conforming revision changes. In a few cases, the 2021 legislative changes addressed minor technical corrections the Commission had originally proposed addressing in its recommendation. Since those changes are no longer required, the Comments (which originally noted the change) have been adjusted accordingly.<sup>7</sup>

Two of the sections in the attached document also contain references to the California Public Records Act ("CPRA") that require updating.<sup>8</sup> The CPRA recodification conforming revisions for these sections were chaptered out by other bills this year.<sup>9</sup> The attached draft includes the necessary revisions to CPRA cross-references.

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5. Gov't Code §§ 6276.24, 6276.44; Health & Safety Code §§ 25174, 25174.6, 25174.7.

6. Civ. Code § 2782.6; Educ. Code §§ 17210, 17213; Gov't Code §§ 6103.10, 65913.4, 65941.1; Health & Safety Code §§ 25123.3, 25152.5, 25173.6, 25207.12, 25299.50.6, 25501, 101480, 101483, 101485; Pen. Code § 803; Pub. Res. Code § 21151.8.

7. See Health & Safety Code §§ 25152.5(c) (paragraph labels were added to previously unnumbered paragraphs), 101480 (gendered pronouns were eliminated).

8. See Gov't Code § 65913.4; Health & Safety Code § 25152.5.

9. See 2021 Cal. Stat. ch. 160, 615 (both amending Government Code Section 65913.4); 2021 Cal. Stat. ch. 115, 615 (both amending Health & Safety Code § 25152.5).

## NEW CROSS-REFERENCES TO CHAPTER 6.8 OR ITS CONTENTS

In a few cases, new sections cross-referencing Chapter 6.8 or its contents were added to the codes.<sup>10</sup> One of those new sections cross-refers to a section that was added to Chapter 6.8 in 2021.<sup>11</sup>

In one case, a new cross-reference to a section of Chapter 6.8 was added to an existing provision.<sup>12</sup>

These sections are included in the attached document with the required conforming revision shown in strikeout and underscore. For one section, the staff also proposed a minor technical correction.<sup>13</sup>

One of these new provisions, Health and Safety Code Section 25246.1, includes a list referencing a few different sections of Chapter 6.8. To facilitate understanding of the cross-reference updates, the staff included Notes describing how the individual cross-references were revised.

### COMMISSION DECISION

#### **Does the Commission approve of the changes reflected in the attached draft?**

At this stage, the Commission's final recommendation has not been finalized for hard copy printing. **Does the Commission want to incorporate these changes into its recommendation before printing?**

Respectfully submitted,

Kristin Burford  
Staff Counsel

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10. Gov't Code §§ 7930.155, 7930.255; Health & Safety Code §§ 25125.2, 25135, 25174.02, 25187.3, 25205.2, 25214.8.11.2, 25246.1, 25246.2.

11. See Health & Safety Code § 25246.2(a)(5) (cross-referencing Health & Safety Code § 25355.3).

12. See Health & Safety Code § 25510.

13. See Health & Safety Code § 25205.2(j)(3) (addition of missing word).



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TECHNICAL AND CONFORMING REVISIONS:  
SUPPLEMENT REFLECTING 2021 LEGISLATIVE CHANGES

CIVIL CODE

**Civ. Code § 2782.6 (amended). Indemnification for hazardous materials services**

SEC. \_\_. Section 2782.6 of the Civil Code is amended to read:

2782.6. (a) Nothing in subdivision (a) of Section 2782 prevents an agreement to indemnify a professional engineer or geologist or the agents, servants, independent contractors, subsidiaries, or employees of that engineer or geologist from liability as described in Section 2782 in providing hazardous materials identification, evaluation, preliminary assessment, design, remediation services, or other services of the types described in Sections ~~25322 and 25323~~ 78125 and 78135 of the Health and Safety Code or the federal National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. Sec. 300.1 et seq.), if all of the following criteria are satisfied:

(1) The services in whole or in part address subterranean contamination or other concealed conditions caused by the hazardous materials.

(2) The promisor is responsible, or potentially responsible, for all or part of the contamination.

(b) The indemnification described in this section is valid only for damages arising from, or related to, subterranean contamination or concealed conditions, and is not applicable to the first two hundred fifty thousand dollars (\$250,000) of liability or a greater amount as is agreed to by the parties.

(c) This section does not authorize contracts for indemnification, by promisors specified in paragraph (2) of subdivision (a), of any liability of a promisee arising from the gross negligence or willful misconduct of the promisee.

(d) “Hazardous materials,” as used in this section, means any hazardous or toxic substance, material, or waste that is or becomes subject to regulation by any agency of the state, any municipality or political subdivision of the state, or the United States. “Hazardous materials” includes, but is not limited to, any material or substance that is any of the following:

(1) A hazardous substance, as defined in ~~Section 25316~~ subdivision (a) of Section 78075 of the Health and Safety Code.

(2) Hazardous material, as defined in subdivision (n) of Section 25501 of the Health and Safety Code.

(3) A regulated substance, as defined in subdivision (i) of Section 25532 of the Health and Safety Code.

(4) Hazardous waste, as defined in Section 25117 of the Health and Safety Code.

(5) Extremely hazardous waste, as defined in Section 25115 of the Health and Safety Code.

(6) Petroleum.

1 (7) Asbestos.

2 (8) Designated as a hazardous substance for purposes of Section 311 of the  
3 Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1321).

4 (9) Hazardous waste, as defined by subsection (5) of Section 1004 of the federal  
5 Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec.  
6 6903).

7 (10) A hazardous substance, as defined by subsection (14) of Section 101 of the  
8 federal Comprehensive Environmental Response, Compensation, and Liability Act  
9 of 1980, as amended (42 U.S.C. Sec. 9601).

10 (11) A regulated substance, as defined by subsection (7) of Section 9001 of the  
11 federal Solid Waste Disposal Act, as amended (42 U.S.C. Sec. 6991).

12 (e) Nothing in this section shall be construed to alter, modify, or otherwise affect  
13 the liability of the promisor or promisee, under an indemnity agreement meeting the  
14 criteria of this section, to third parties for damages for death or bodily injury to  
15 persons, injury to property, or any other loss, damage, or expense.

16 (f) This section does not apply to public entities, as defined by Section 811.2 of  
17 the Government Code.

18 **Comment.** Subdivisions (a) and (d) of Section 2782.6 are amended to update cross-references  
19 in accordance with the nonsubstantive recodification of Chapter 6.8 (commencing with Section  
20 25300) of Division 20 of the Health and Safety Code.

21 EDUCATION CODE

22 **Educ. Code § 17210 (amended). Definitions**

23 SEC. \_\_. Section 17210 of the Education Code is amended to read:

24 17210. As used in this article, the following terms have the following meanings:

25 (a) “Administering agency” means any agency designated pursuant to Section  
26 25502 of the Health and Safety Code.

27 (b) “Environmental assessor” means an environmental professional as defined in  
28 Section 312.10 of Title 40 of the Code of Federal Regulations.

29 (c) “Handle” has the meaning the term is given in Article 1 (commencing with  
30 Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

31 (d) “Hazardous air emissions” means emissions into the ambient air of air  
32 contaminants that have been identified as a toxic air contaminant by the State Air  
33 Resources Board or by the air pollution control officer for the jurisdiction in which  
34 the project is located. As determined by the air pollution control officer, hazardous  
35 air emissions also means emissions into the ambient air from any substance  
36 identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and  
37 Safety Code.

38 (e) “Hazardous material” has the meaning the term is given in subdivision (d) of  
39 Section 25260 of the Health and Safety Code.

40 (f) “Operation and maintenance,” “removal action work plan,” “respond,”  
41 “response,” “response action,” and “site” have the meanings those terms are given

1 in ~~Article 2 (commencing with Section 25310)~~ Article 3 (commencing with Section  
2 78035) of Chapter 1 of the state act.

3 (g) “Phase I environmental assessment” means a preliminary assessment of a  
4 property to determine whether there has been or may have been a release of a  
5 hazardous material, or whether a naturally occurring hazardous material is present,  
6 based on reasonably available information about the property and the area in its  
7 vicinity. A phase I environmental assessment shall meet the most current  
8 requirements adopted by the American Society for Testing and Materials (ASTM)  
9 for Standard Practice for Environmental Site Assessments: Phase I Environmental  
10 Site Assessment Process or meet the requirements of Part 312 (commencing with  
11 Section 312.1) of Title 40 of the Code of Federal Regulations. That ASTM Standard  
12 Practice for Environmental Site Assessments or the requirements of Part 312  
13 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations  
14 shall satisfy the requirements of this article for conducting a phase I environmental  
15 assessment unless and until the Department of Toxic Substances Control adopts  
16 final regulations that establish guidelines for a phase I environmental assessment  
17 for purposes of schoolsites that impose different requirements.

18 (h) “Preliminary endangerment assessment” means an activity that is performed  
19 to determine whether current or past hazardous material management practices or  
20 waste management practices have resulted in a release or threatened release of  
21 hazardous materials, or whether naturally occurring hazardous materials are present,  
22 which pose a threat to children’s health, children’s learning abilities, public health  
23 or the environment. A preliminary endangerment assessment requires sampling and  
24 analysis of a site, a preliminary determination of the type and extent of hazardous  
25 material contamination of the site, and a preliminary evaluation of the risks that the  
26 hazardous material contamination of a site may pose to children’s health, public  
27 health, or the environment, and shall be conducted in a manner that complies with  
28 the guidelines published by the Department of Toxic Substances Control entitled  
29 “Preliminary Endangerment Assessment: Guidance Manual,” including any  
30 amendments that are determined by the Department of Toxic Substances Control to  
31 be appropriate to address issues that are unique to schoolsites.

32 (i) “Proposed schoolsite” means real property acquired or to be acquired or  
33 proposed for use as a schoolsite, prior to its occupancy as a school.

34 (j) “Regulated substance” means any material defined in subdivision (i) of Section  
35 25532 of the Health and Safety Code.

36 (k) “Release” has the same meaning the term is given in ~~Article 2 (commencing~~  
37 ~~with Section 25310)~~ Article 3 (commencing with Section 78035) of Chapter 1  
38 of the state act, and includes a release described in ~~subdivision (d) of Section 25321~~  
39 ~~paragraph (5) of subdivision (b) of Section 78105~~ of the Health and Safety Code.

40 (l) “Remedial action plan” means a plan approved by the Department of Toxic  
41 Substances Control pursuant to ~~Section 25356.1~~ Article 12 (commencing with  
42 Section 79195) of Chapter 5 of Part 2 of Division 45 of the Health and Safety Code.

1 (m) “State act” means the Carpenter-Presley-Tanner Hazardous Substance  
2 Account Act (~~Chapter 6.8 (commencing with Section 25300) of Division 20 (Part 2~~  
3 (commencing with Section 78000) of Division 45 of the Health and Safety Code).

4 **Comment.** Subdivisions (f), (k), (l), and (m) of Section 17210 are amended to update cross-  
5 references in accordance with the nonsubstantive recodification of Chapter 6.8 (commencing with  
6 Section 25300) of Division 20 of the Health and Safety Code.

7 **Educ. Code § 17213 (amended). Schoolsite acquisition**

8 SEC. \_\_. Section 17213 of the Education Code is amended to read:

9 17213. The governing board of a school district shall not approve a project  
10 involving the acquisition of a schoolsite by a school district, unless all of the  
11 following occur:

12 (a) The school district, as the lead agency, as defined in Section 21067 of the  
13 Public Resources Code, determines that the property purchased or to be built upon  
14 is not any of the following:

15 (1) The site of a current or former hazardous waste disposal site or solid waste  
16 disposal site, unless if the site was a former solid waste disposal site, the governing  
17 board of the school district concludes that the wastes have been removed.

18 (2) A hazardous substance release site identified by the Department of Toxic  
19 Substances Control in a current list adopted pursuant to ~~Section 25356 Article 5~~  
20 (commencing with Section 78760) of Chapter 4 of Part 2 of Division 45 of the  
21 Health and Safety Code for removal or remedial action pursuant to ~~Chapter 6.8~~  
22 (commencing with Section 25300) of Division 20 Part 2 (commencing with Section  
23 78000) of Division 45 of the Health and Safety Code.

24 (3) A site that contains one or more pipelines, situated underground or  
25 aboveground, that carries hazardous substances, extremely hazardous substances,  
26 or hazardous wastes, unless the pipeline is a natural gas line that is used only to  
27 supply natural gas to that school or neighborhood.

28 (b) The school district, as the lead agency, as defined in Section 21067 of the  
29 Public Resources Code, in preparing the environmental impact report or negative  
30 declaration has consulted with the administering agency in which the proposed  
31 schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California Code  
32 of Regulations, and with any air pollution control district or air quality management  
33 district having jurisdiction in the area, to identify both permitted and nonpermitted  
34 facilities within that district’s authority, including, but not limited to, freeways and  
35 other busy traffic corridors, large agricultural operations, and railyards, within one-  
36 fourth of a mile of the proposed schoolsite, that might reasonably be anticipated to  
37 emit hazardous air emissions, or to handle hazardous or extremely hazardous  
38 materials, substances, or waste. The school district, as the lead agency, shall include  
39 a list of the locations for which information is sought.

40 (c) The governing board of the school district makes one of the following written  
41 findings:

1 (1) Consultation identified none of the facilities or significant pollution sources  
2 specified in subdivision (b).

3 (2) The facilities or other pollution sources specified in subdivision (b) exist, but  
4 one of the following conditions applies:

5 (A) The health risks from the facilities or other pollution sources do not and will  
6 not constitute an actual or potential endangerment of public health to persons who  
7 would attend or be employed at the school.

8 (B) The governing board finds that corrective measures required under an existing  
9 order by another governmental entity that has jurisdiction over the facilities or other  
10 pollution sources will, before the school is occupied, result in the mitigation of all  
11 chronic or accidental hazardous air emissions to levels that do not constitute an  
12 actual or potential endangerment of public health to persons who would attend or  
13 be employed at the proposed school. If the governing board makes this finding, the  
14 governing board shall also make a subsequent finding, prior to the occupancy of the  
15 school, that the emissions have been mitigated to these levels.

16 (C) For a schoolsite with a boundary that is within 500 feet of the edge of the  
17 closest traffic lane of a freeway or other busy traffic corridor, the governing board  
18 of the school district determines, through analysis pursuant to paragraph (2) of  
19 subdivision (b) of Section 44360 of the Health and Safety Code, based on  
20 appropriate air dispersion modeling, and after considering any potential mitigation  
21 measures, that the air quality at the proposed site is such that neither short-term nor  
22 long-term exposure poses significant health risks to pupils.

23 (D) The governing board finds that neither of the conditions set forth in  
24 subparagraph (B) or (C) can be met, and the school district is unable to locate an  
25 alternative site that is suitable due to a severe shortage of sites that meet the  
26 requirements in subdivision (a). If the governing board makes this finding, the  
27 governing board shall adopt a statement of overriding considerations pursuant to  
28 Section 15093 of Title 14 of the California Code of Regulations.

29 (d) As used in this section:

30 (1) “Hazardous air emissions” means emissions into the ambient air of air  
31 contaminants that have been identified as a toxic air contaminant by the State Air  
32 Resources Board or by the air pollution control officer for the jurisdiction in which  
33 the project is located. As determined by the air pollution control officer, hazardous  
34 air emissions also means emissions into the ambient air from any substance  
35 identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and  
36 Safety Code.

37 (2) “Hazardous substance” means any substance defined in ~~Section 25316~~  
38 subdivision (a) of Section 78075 of the Health and Safety Code.

39 (3) “Extremely hazardous substances” means any material defined pursuant to  
40 paragraph (2) of subdivision (i) of Section 25532 of the Health and Safety Code.

41 (4) “Hazardous waste” means any waste defined in Section 25117 of the Health  
42 and Safety Code.

1 (5) “Hazardous waste disposal site” means any site defined in Section 25114 of  
2 the Health and Safety Code.

3 (6) “Administering agency” means any agency designated pursuant to Section  
4 25502 of the Health and Safety Code.

5 (7) “Handle” means handle as defined in Article 1 (commencing with Section  
6 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

7 (8) “Facilities” means any source with a potential to use, generate, emit or  
8 discharge hazardous air pollutants, including, but not limited to, pollutants that meet  
9 the definition of a hazardous substance, and whose process or operation is identified  
10 as an emission source pursuant to the most recent list of source categories published  
11 by the State Air Resources Board.

12 (9) “Freeway or other busy traffic corridors” means those roadways that, on an  
13 average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in  
14 Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area,  
15 as defined in Section 50104.7 of the Health and Safety Code.

16 **Comment.** Section 17213(a)(2) and (d)(2) are amended to update cross-references in accordance  
17 with the nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of  
18 Division 20 of the Health and Safety Code.

19 GOVERNMENT CODE

20 **Gov’t Code § 6103.10 (amended). Application of Section 6103**

21 SEC. \_\_. Section 6103.10 of the Government Code, as added by Section 2 of  
22 Chapter 73 of the Statutes of 2021, is amended to read:

23 6103.10. (a) Section 6103 does not apply to any fee or charges required to be paid  
24 to the Director of Toxic Substances Control or to the California Department of Tax  
25 and Fee Administration pursuant to Chapter 6.5 (commencing with Section 25100)  
26 of, ~~and Chapter 6.8 (commencing with Section 25300) of~~, Division 20 of, ~~and Part~~  
27 2 (commencing with Section 78000) of Division 45 of, the Health and Safety Code,  
28 except as otherwise provided in subdivision (b) of Section 25205.1 of, and Section  
29 25205.7 of, the Health and Safety Code.

30 (b) This section shall become operative on January 1, 2022.

31 **Comment.** Section 6103.10 is amended to update cross-references in accordance with the  
32 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
33 the Health and Safety Code.

34 **Gov’t Code §§ 6276.24, 6276.44. [Provisions repealed by 2021 legislative changes]**

35 **Note.** Sections 6276.24 and 6276.44 are part of the series of sections in the California Public  
36 Records Act that list exemptions from disclosure. With the enactment of the Commission’s  
37 proposed recodification, the content of these sections has been moved. The needed conforming  
38 revisions will be made to the corresponding new sections, Sections 7930.155 and 7930.205.

1 **Gov't Code § 7930.155 (amended). Exemptions from disclosure, Hazardous substance tax**  
2 **information to housing authority tenant application**

3 SEC. \_\_. Section 7930.155 of the Government Code is amended to read:

4 7930.155. The following provisions may operate to exempt certain records, or  
5 portions thereof, from disclosure pursuant to this division:

6 Hazardous substance tax information, prohibition against disclosure, Section  
7 43651, Revenue and Taxation Code.

8 Hazardous waste control, business plans, public inspection, Section 25509, Health  
9 and Safety Code.

10 Hazardous waste control, notice of unlawful hazardous waste disposal, Section  
11 25180.5, Health and Safety Code.

12 Hazardous waste control, trade secrets, disclosure of information, Sections 25512,  
13 25512.1, and 25538, Health and Safety Code.

14 Hazardous waste control, trade secrets, procedures for release of information,  
15 ~~Section 25358.2, Sections 78480 to 78495, inclusive,~~ Health and Safety Code.

16 Hazardous waste generator report, protection of trade secrets, Sections 25244.21  
17 and 25244.23, Health and Safety Code.

18 Hazardous waste licenseholder disclosure statement, confidentiality of, Section  
19 25186.5, Health and Safety Code.

20 Hazardous waste recycling, information clearinghouse, confidentiality of trade  
21 secrets, Section 25170, Health and Safety Code.

22 Hazardous waste recycling, list of specified hazardous wastes, trade secrets,  
23 Section 25175, Health and Safety Code.

24 Hazardous waste recycling, trade secrets, confidential nature, Sections 25173 and  
25 25180.5, Health and Safety Code.

26 Healing arts licensees, central files, confidentiality, Section 800, Business and  
27 Professions Code.

28 Health authorities, special county, confidentiality of records, Sections 14087.35,  
29 14087.36, and 14087.38, Welfare and Institutions Code.

30 Health care provider disciplinary proceeding, confidentiality of documents,  
31 Section 805.1, Business and Professions Code.

32 Health care service plans, review of quality of care, privileged communications,  
33 Sections 1370 and 1380, Health and Safety Code.

34 Health commissions, special county, confidentiality of peer review proceedings,  
35 rates of payment, and trade secrets, Section 14087.31, Welfare and Institutions  
36 Code.

37 Health facilities, patient's rights of confidentiality, subdivision (c) of Section  
38 128745 and Sections 128735, 128736, 128737, 128755, and 128765, Health and  
39 Safety Code.

40 Health personnel, data collection by the Office of Statewide Health Planning and  
41 Development, confidentiality of information on individual licentiates, Section  
42 127780, Health and Safety Code.

1 Health plan governed by a county board of supervisors, exemption from  
2 disclosure for records relating to provider rates or payments for a three-year period  
3 after execution of the provider contract, Sections 7926.205 and 54956.87, this code.

4 Hereditary Disorders Act, legislative finding and declaration, confidential  
5 information, Sections 124975 and 124980, Health and Safety Code.

6 Hereditary Disorders Act, rules, regulations, and standards, breach of  
7 confidentiality, Section 124980, Health and Safety Code.

8 HIV, disclosures to blood banks by department or county health officers, Section  
9 1603.1, Health and Safety Code.

10 Home address of public employees and officers in Department of Motor Vehicles,  
11 records, confidentiality of, Sections 1808.2 and 1808.4, Vehicle Code.

12 Horse racing, horses, blood or urine test sample, confidentiality, Section 19577,  
13 Business and Professions Code.

14 Hospital district and municipal hospital records relating to contracts with insurers  
15 and service plans, Section 7926.210, this code.

16 Hospital final accreditation report, Section 7926.000, this code.

17 Housing authorities, confidentiality of rosters of tenants, Section 34283, Health  
18 and Safety Code.

19 Housing authorities, confidentiality of applications by prospective or current  
20 tenants, Section 34332, Health and Safety Code.

21 **Comment.** Section 7930.155 is amended to update cross-references in accordance with the  
22 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
23 the Health and Safety Code.

24 **Gov't Code § 7930.205 (amended). Exemptions from disclosure, Taxpayer information to**  
25 **trust company disclosure of confidential information of private trust**

26 SEC. \_\_. Section 7930.205 of the Government Code is amended to read:

27 7930.205. The following provisions may operate to exempt certain records, or  
28 portions thereof, from disclosure pursuant to this division:

29 Taxpayer information, confidentiality, local taxes, Section 7925.000, this code.

30 Tax preparer, disclosure of information obtained in business of preparing tax  
31 returns, Section 17530.5, Business and Professions Code.

32 Teacher, credential holder or applicant, information provided to Commission on  
33 Teacher Credentialing, confidentiality of, Section 44341, Education Code.

34 Teacher, certified school personnel examination results, confidentiality of,  
35 Section 44289, Education Code.

36 Telephone answering service customer list, trade secret, Section 16606, Business  
37 and Professions Code.

38 Timber yield tax, disclosure to county assessor, Section 38706, Revenue and  
39 Taxation Code.

40 Timber yield tax, disclosure of information, Section 38705, Revenue and Taxation  
41 Code.

1 Title insurers, confidentiality of notice of noncompliance, Section 12414.14,  
2 Insurance Code.

3 Tobacco products, exemption from disclosure for distribution information  
4 provided to the State Department of Public Health, Section 22954, Business and  
5 Professions Code.

6 Tow truck driver, information in records of the Department of the California  
7 Highway Patrol, Department of Motor Vehicles, or other agencies, confidentiality  
8 of, Sections 2431 and 2432.3, Vehicle Code.

9 Toxic Substances Control, Department of, inspection of records of, Section  
10 25152.5, Health and Safety Code.

11 Trade secrets, Section 1060, Evidence Code.

12 Trade secrets, confidentiality of, occupational safety and health inspections,  
13 Section 6322, Labor Code.

14 Trade secrets, disclosure of public records, Section 3426.7, Civil Code.

15 Trade secrets, food, drugs, cosmetics, nondisclosure, Sections 110165 and  
16 110370, Health and Safety Code.

17 Trade secrets, protection by Director of Pesticide Regulation, Sections 7924.300  
18 to 7924.335, inclusive, this code.

19 Trade secrets and proprietary information relating to pesticides, confidentiality of,  
20 Sections 14022 and 14023, Food and Agricultural Code.

21 Trade secrets, protection by Director of Industrial Relations, Section 6396, Labor  
22 Code.

23 Trade secrets relating to hazardous substances, disclosure of, ~~Sections 25358.2~~  
24 ~~and 25358.7,~~ Sections 78480 to 78495, inclusive, and Section 78930, Health and  
25 Safety Code.

26 Traffic violator school licensee records, confidentiality of, Section 11212, Vehicle  
27 Code.

28 Traffic offense, dismissed for participation in driving school or program, record  
29 of, confidentiality of, Section 1808.7, Vehicle Code.

30 Transit districts, questionnaire and financial statement information in bids,  
31 Section 99154, Public Utilities Code.

32 Tribal-state gaming compacts, exemption from disclosure for records of an Indian  
33 tribe relating to securitization of annual payments, Section 63048.63, this code.

34 Trust companies, disclosure of private trust confidential information, Section  
35 1602, Financial Code.

36 **Comment.** Section 7930.205 is amended to update cross-references in accordance with the  
37 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
38 the Health and Safety Code.

39 **Gov't Code § 65913.4 (amended). Streamlined approval process for multifamily housing**  
40 **development**

41 SEC. \_\_. Section 65913.4 of the Government Code is amended to read:

1 65913.4. (a) A development proponent may submit an application for a  
2 development that is subject to the streamlined, ministerial approval process  
3 provided by subdivision (c) and is not subject to a conditional use permit if the  
4 development complies with subdivision (b) and satisfies all of the following  
5 objective planning standards:

6 (1) The development is a multifamily housing development that contains two or  
7 more residential units.

8 (2) The development and the site on which it is located satisfy all of the following:

9 (A) It is a legal parcel or parcels located in a city if, and only if, the city boundaries  
10 include some portion of either an urbanized area or urban cluster, as designated by  
11 the United States Census Bureau, or, for unincorporated areas, a legal parcel or  
12 parcels wholly within the boundaries of an urbanized area or urban cluster, as  
13 designated by the United States Census Bureau.

14 (B) At least 75 percent of the perimeter of the site adjoins parcels that are  
15 developed with urban uses. For the purposes of this section, parcels that are only  
16 separated by a street or highway shall be considered to be adjoined.

17 (C) It is zoned for residential use or residential mixed-use development, or has a  
18 general plan designation that allows residential use or a mix of residential and  
19 nonresidential uses, and at least two-thirds of the square footage of the development  
20 is designated for residential use. Additional density, floor area, and units, and any  
21 other concession, incentive, or waiver of development standards granted pursuant  
22 to the Density Bonus Law in Section 65915 shall be included in the square footage  
23 calculation. The square footage of the development shall not include underground  
24 space, such as basements or underground parking garages.

25 (3)(A) The development proponent has committed to record, prior to the issuance  
26 of the first building permit, a land use restriction or covenant providing that any  
27 lower or moderate income housing units required pursuant to subparagraph (B) of  
28 paragraph (4) shall remain available at affordable housing costs or rent to persons  
29 and families of lower or moderate income for no less than the following periods of  
30 time:

31 (i) Fifty-five years for units that are rented.

32 (ii) Forty-five years for units that are owned.

33 (B) The city or county shall require the recording of covenants or restrictions  
34 implementing this paragraph for each parcel or unit of real property included in the  
35 development.

36 (4) The development satisfies subparagraphs (A) and (B) below:

37 (A) Is located in a locality that the department has determined is subject to this  
38 subparagraph on the basis that the number of units that have been issued building  
39 permits, as shown on the most recent production report received by the department,  
40 is less than the locality's share of the regional housing needs, by income category,  
41 for that reporting period. A locality shall remain eligible under this subparagraph  
42 until the department's determination for the next reporting period.

1 (B) The development is subject to a requirement mandating a minimum  
2 percentage of below market rate housing based on one of the following:

3 (i) The locality did not submit its latest production report to the department by the  
4 time period required by Section 65400, or that production report reflects that there  
5 were fewer units of above moderate-income housing issued building permits than  
6 were required for the regional housing needs assessment cycle for that reporting  
7 period. In addition, if the project contains more than 10 units of housing, the project  
8 does either of the following:

9 (I) The project dedicates a minimum of 10 percent of the total number of units to  
10 housing affordable to households making at or below 80 percent of the area median  
11 income. However, if the locality has adopted a local ordinance that requires that  
12 greater than 10 percent of the units be dedicated to housing affordable to households  
13 making below 80 percent of the area median income, that local ordinance applies.

14 (II)(ia) If the project is located within the San Francisco Bay area, the project, in  
15 lieu of complying with subclause (I), dedicates 20 percent of the total number of  
16 units to housing affordable to households making below 120 percent of the area  
17 median income with the average income of the units at or below 100 percent of the  
18 area median income. However, a local ordinance adopted by the locality applies if  
19 it requires greater than 20 percent of the units be dedicated to housing affordable to  
20 households making at or below 120 percent of the area median income, or requires  
21 that any of the units be dedicated at a level deeper than 120 percent. In order to  
22 comply with this subclause, the rent or sale price charged for units that are dedicated  
23 to housing affordable to households between 80 percent and 120 percent of the area  
24 median income shall not exceed 30 percent of the gross income of the household.

25 (ib) For purposes of this subclause, “San Francisco Bay area” means the entire  
26 area within the territorial boundaries of the Counties of Alameda, Contra Costa,  
27 Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County  
28 of San Francisco.

29 (ii) The locality’s latest production report reflects that there were fewer units of  
30 housing issued building permits affordable to either very low income or low-income  
31 households by income category than were required for the regional housing needs  
32 assessment cycle for that reporting period, and the project seeking approval  
33 dedicates 50 percent of the total number of units to housing affordable to households  
34 making at or below 80 percent of the area median income. However, if the locality  
35 has adopted a local ordinance that requires that greater than 50 percent of the units  
36 be dedicated to housing affordable to households making at or below 80 percent of  
37 the area median income, that local ordinance applies.

38 (iii) The locality did not submit its latest production report to the department by  
39 the time period required by Section 65400, or if the production report reflects that  
40 there were fewer units of housing affordable to both income levels described in  
41 clauses (i) and (ii) that were issued building permits than were required for the  
42 regional housing needs assessment cycle for that reporting period, the project  
43 seeking approval may choose between utilizing clause (i) or (ii).

1 (C)(i) A development proponent that uses a unit of affordable housing to satisfy  
2 the requirements of subparagraph (B) may also satisfy any other local or state  
3 requirement for affordable housing, including local ordinances or the Density Bonus  
4 Law in Section 65915, provided that the development proponent complies with the  
5 applicable requirements in the state or local law.

6 (ii) A development proponent that uses a unit of affordable housing to satisfy any  
7 other state or local affordability requirement may also satisfy the requirements of  
8 subparagraph (B), provided that the development proponent complies with  
9 applicable requirements of subparagraph (B).

10 (iii) A development proponent may satisfy the affordability requirements of  
11 subparagraph (B) with a unit that is restricted to households with incomes lower  
12 than the applicable income limits required in subparagraph (B).

13 (5) The development, excluding any additional density or any other concessions,  
14 incentives, or waivers of development standards granted pursuant to the Density  
15 Bonus Law in Section 65915, is consistent with objective zoning standards,  
16 objective subdivision standards, and objective design review standards in effect at  
17 the time that the development is submitted to the local government pursuant to this  
18 section, or at the time a notice of intent is submitted pursuant to subdivision (b),  
19 whichever occurs earlier. For purposes of this paragraph, “objective zoning  
20 standards,” “objective subdivision standards,” and “objective design review  
21 standards” mean standards that involve no personal or subjective judgment by a  
22 public official and are uniformly verifiable by reference to an external and uniform  
23 benchmark or criterion available and knowable by both the development applicant  
24 or proponent and the public official before submittal. These standards may be  
25 embodied in alternative objective land use specifications adopted by a city or  
26 county, and may include, but are not limited to, housing overlay zones, specific  
27 plans, inclusionary zoning ordinances, and density bonus ordinances, subject to the  
28 following:

29 (A) A development shall be deemed consistent with the objective zoning  
30 standards related to housing density, as applicable, if the density proposed is  
31 compliant with the maximum density allowed within that land use designation,  
32 notwithstanding any specified maximum unit allocation that may result in fewer  
33 units of housing being permitted.

34 (B) In the event that objective zoning, general plan, subdivision, or design review  
35 standards are mutually inconsistent, a development shall be deemed consistent with  
36 the objective zoning and subdivision standards pursuant to this subdivision if the  
37 development is consistent with the standards set forth in the general plan.

38 (C) It is the intent of the Legislature that the objective zoning standards, objective  
39 subdivision standards, and objective design review standards described in this  
40 paragraph be adopted or amended in compliance with the requirements of Chapter  
41 905 of the Statutes of 2004.

42 (D) The amendments to this subdivision made by the act adding this subparagraph  
43 do not constitute a change in, but are declaratory of, existing law.

- 1 (6) The development is not located on a site that is any of the following:
- 2 (A) A coastal zone, as defined in Division 20 (commencing with Section 30000)
- 3 of the Public Resources Code.
- 4 (B) Either prime farmland or farmland of statewide importance, as defined
- 5 pursuant to United States Department of Agriculture land inventory and monitoring
- 6 criteria, as modified for California, and designated on the maps prepared by the
- 7 Farmland Mapping and Monitoring Program of the Department of Conservation, or
- 8 land zoned or designated for agricultural protection or preservation by a local ballot
- 9 measure that was approved by the voters of that jurisdiction.
- 10 (C) Wetlands, as defined in the United States Fish and Wildlife Service Manual,
- 11 Part 660 FW 2 (June 21, 1993).
- 12 (D) Within a very high fire hazard severity zone, as determined by the Department
- 13 of Forestry and Fire Protection pursuant to Section 51178, or within a high or very
- 14 high fire hazard severity zone as indicated on maps adopted by the Department of
- 15 Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.
- 16 This subparagraph does not apply to sites excluded from the specified hazard zones
- 17 by a local agency, pursuant to subdivision (b) of Section 51179, or sites that have
- 18 adopted fire hazard mitigation measures pursuant to existing building standards or
- 19 state fire mitigation measures applicable to the development.
- 20 (E) A hazardous waste site that is listed pursuant to Section 65962.5 or a
- 21 hazardous waste site designated by the Department of Toxic Substances Control
- 22 pursuant to ~~Section 25356~~ Article 5 (commencing with Section 78760) of Chapter
- 23 4 of Part 2 of Division 45 of the Health and Safety Code, unless the State
- 24 Department of Public Health, State Water Resources Control Board, or Department
- 25 of Toxic Substances Control has cleared the site for residential use or residential
- 26 mixed uses.
- 27 (F) Within a delineated earthquake fault zone as determined by the State Geologist
- 28 in any official maps published by the State Geologist, unless the development
- 29 complies with applicable seismic protection building code standards adopted by the
- 30 California Building Standards Commission under the California Building Standards
- 31 Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and
- 32 Safety Code), and by any local building department under Chapter 12.2
- 33 (commencing with Section 8875) of Division 1 of Title 2.
- 34 (G) Within a special flood hazard area subject to inundation by the 1 percent
- 35 annual chance flood (100-year flood) as determined by the Federal Emergency
- 36 Management Agency in any official maps published by the Federal Emergency
- 37 Management Agency. If a development proponent is able to satisfy all applicable
- 38 federal qualifying criteria in order to provide that the site satisfies this subparagraph
- 39 and is otherwise eligible for streamlined approval under this section, a local
- 40 government shall not deny the application on the basis that the development
- 41 proponent did not comply with any additional permit requirement, standard, or
- 42 action adopted by that local government that is applicable to that site. A

1 development may be located on a site described in this subparagraph if either of the  
2 following are met:

3 (i) The site has been subject to a Letter of Map Revision prepared by the Federal  
4 Emergency Management Agency and issued to the local jurisdiction.

5 (ii) The site meets Federal Emergency Management Agency requirements  
6 necessary to meet minimum flood plain management criteria of the National Flood  
7 Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60  
8 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the  
9 Code of Federal Regulations.

10 (H) Within a regulatory floodway as determined by the Federal Emergency  
11 Management Agency in any official maps published by the Federal Emergency  
12 Management Agency, unless the development has received a no-rise certification in  
13 accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.  
14 If a development proponent is able to satisfy all applicable federal qualifying criteria  
15 in order to provide that the site satisfies this subparagraph and is otherwise eligible  
16 for streamlined approval under this section, a local government shall not deny the  
17 application on the basis that the development proponent did not comply with any  
18 additional permit requirement, standard, or action adopted by that local government  
19 that is applicable to that site.

20 (I) Lands identified for conservation in an adopted natural community  
21 conservation plan pursuant to the Natural Community Conservation Planning Act  
22 (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game  
23 Code), habitat conservation plan pursuant to the federal Endangered Species Act of  
24 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection  
25 plan.

26 (J) Habitat for protected species identified as candidate, sensitive, or species of  
27 special status by state or federal agencies, fully protected species, or species  
28 protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et  
29 seq.), the California Endangered Species Act (Chapter 1.5 (commencing with  
30 Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant  
31 Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the  
32 Fish and Game Code).

33 (K) Lands under conservation easement.

34 (7) The development is not located on a site where any of the following apply:

35 (A) The development would require the demolition of the following types of  
36 housing:

37 (i) Housing that is subject to a recorded covenant, ordinance, or law that restricts  
38 rents to levels affordable to persons and families of moderate, low, or very low  
39 income.

40 (ii) Housing that is subject to any form of rent or price control through a public  
41 entity's valid exercise of its police power.

42 (iii) Housing that has been occupied by tenants within the past 10 years.

1 (B) The site was previously used for housing that was occupied by tenants that  
2 was demolished within 10 years before the development proponent submits an  
3 application under this section.

4 (C) The development would require the demolition of a historic structure that was  
5 placed on a national, state, or local historic register.

6 (D) The property contains housing units that are occupied by tenants, and units at  
7 the property are, or were, subsequently offered for sale to the general public by the  
8 subdivider or subsequent owner of the property.

9 (8) The development proponent has done both of the following, as applicable:

10 (A) Certified to the locality that either of the following is true, as applicable:

11 (i) The entirety of the development is a public work for purposes of Chapter 1  
12 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

13 (ii) If the development is not in its entirety a public work, that all construction  
14 workers employed in the execution of the development will be paid at least the  
15 general prevailing rate of per diem wages for the type of work and geographic area,  
16 as determined by the Director of Industrial Relations pursuant to Sections 1773 and  
17 1773.9 of the Labor Code, except that apprentices registered in programs approved  
18 by the Chief of the Division of Apprenticeship Standards may be paid at least the  
19 applicable apprentice prevailing rate. If the development is subject to this  
20 subparagraph, then for those portions of the development that are not a public work  
21 all of the following shall apply:

22 (I) The development proponent shall ensure that the prevailing wage requirement  
23 is included in all contracts for the performance of the work.

24 (II) All contractors and subcontractors shall pay to all construction workers  
25 employed in the execution of the work at least the general prevailing rate of per  
26 diem wages, except that apprentices registered in programs approved by the Chief  
27 of the Division of Apprenticeship Standards may be paid at least the applicable  
28 apprentice prevailing rate.

29 (III) Except as provided in subclause (V), all contractors and subcontractors shall  
30 maintain and verify payroll records pursuant to Section 1776 of the Labor Code and  
31 make those records available for inspection and copying as provided therein.

32 (IV) Except as provided in subclause (V), the obligation of the contractors and  
33 subcontractors to pay prevailing wages may be enforced by the Labor  
34 Commissioner through the issuance of a civil wage and penalty assessment pursuant  
35 to Section 1741 of the Labor Code, which may be reviewed pursuant to Section  
36 1742 of the Labor Code, within 18 months after the completion of the development,  
37 by an underpaid worker through an administrative complaint or civil action, or by a  
38 joint labor-management committee through a civil action under Section 1771.2 of  
39 the Labor Code. If a civil wage and penalty assessment is issued, the contractor,  
40 subcontractor, and surety on a bond or bonds issued to secure the payment of wages  
41 covered by the assessment shall be liable for liquidated damages pursuant to Section  
42 1742.1 of the Labor Code.

1 (V) Subclauses (III) and (IV) shall not apply if all contractors and subcontractors  
2 performing work on the development are subject to a project labor agreement that  
3 requires the payment of prevailing wages to all construction workers employed in  
4 the execution of the development and provides for enforcement of that obligation  
5 through an arbitration procedure. For purposes of this clause, “project labor  
6 agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of  
7 Section 2500 of the Public Contract Code.

8 (VI) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the  
9 requirement that employer payments not reduce the obligation to pay the hourly  
10 straight time or overtime wages found to be prevailing shall not apply if otherwise  
11 provided in a bona fide collective bargaining agreement covering the worker. The  
12 requirement to pay at least the general prevailing rate of per diem wages does not  
13 preclude use of an alternative workweek schedule adopted pursuant to Section 511  
14 or 514 of the Labor Code.

15 (B)(i) For developments for which any of the following conditions apply, certified  
16 that a skilled and trained workforce shall be used to complete the development if  
17 the application is approved:

18 (I) On and after January 1, 2018, until December 31, 2021, the development  
19 consists of 75 or more units with a residential component that is not 100 percent  
20 subsidized affordable housing and will be located within a jurisdiction located in a  
21 coastal or bay county with a population of 225,000 or more.

22 (II) On and after January 1, 2022, until December 31, 2025, the development  
23 consists of 50 or more units with a residential component that is not 100 percent  
24 subsidized affordable housing and will be located within a jurisdiction located in a  
25 coastal or bay county with a population of 225,000 or more.

26 (III) On and after January 1, 2018, until December 31, 2019, the development  
27 consists of 75 or more units with a residential component that is not 100 percent  
28 subsidized affordable housing and will be located within a jurisdiction with a  
29 population of fewer than 550,000 and that is not located in a coastal or bay county.

30 (IV) On and after January 1, 2020, until December 31, 2021, the development  
31 consists of more than 50 units with a residential component that is not 100 percent  
32 subsidized affordable housing and will be located within a jurisdiction with a  
33 population of fewer than 550,000 and that is not located in a coastal or bay county.

34 (V) On and after January 1, 2022, until December 31, 2025, the development  
35 consists of more than 25 units with a residential component that is not 100 percent  
36 subsidized affordable housing and will be located within a jurisdiction with a  
37 population of fewer than 550,000 and that is not located in a coastal or bay county.

38 (ii) For purposes of this section, “skilled and trained workforce” has the same  
39 meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of  
40 Division 2 of the Public Contract Code.

41 (iii) If the development proponent has certified that a skilled and trained  
42 workforce will be used to complete the development and the application is  
43 approved, the following shall apply:

1 (I) The applicant shall require in all contracts for the performance of work that  
2 every contractor and subcontractor at every tier will individually use a skilled and  
3 trained workforce to complete the development.

4 (II) Every contractor and subcontractor shall use a skilled and trained workforce  
5 to complete the development.

6 (III) Except as provided in subclause (IV), the applicant shall provide to the  
7 locality, on a monthly basis while the development or contract is being performed,  
8 a report demonstrating compliance with Chapter 2.9 (commencing with Section  
9 2600) of Part 1 of Division 2 of the Public Contract Code. A monthly report  
10 provided to the locality pursuant to this subclause shall be a public record under the  
11 California Public Records Act (~~Chapter 3.5 (Division 10 (commencing with Section~~  
12 ~~6250) of Division 7 7920.000) of Title 1) and shall be open to public inspection. An~~  
13 applicant that fails to provide a monthly report demonstrating compliance with  
14 Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public  
15 Contract Code shall be subject to a civil penalty of ten thousand dollars (\$10,000)  
16 per month for each month for which the report has not been provided. Any  
17 contractor or subcontractor that fails to use a skilled and trained workforce shall be  
18 subject to a civil penalty of two hundred dollars (\$200) per day for each worker  
19 employed in contravention of the skilled and trained workforce requirement.  
20 Penalties may be assessed by the Labor Commissioner within 18 months of  
21 completion of the development using the same procedures for issuance of civil wage  
22 and penalty assessments pursuant to Section 1741 of the Labor Code, and may be  
23 reviewed pursuant to the same procedures in Section 1742 of the Labor Code.  
24 Penalties shall be paid to the State Public Works Enforcement Fund.

25 (IV) Subclause (III) shall not apply if all contractors and subcontractors  
26 performing work on the development are subject to a project labor agreement that  
27 requires compliance with the skilled and trained workforce requirement and  
28 provides for enforcement of that obligation through an arbitration procedure. For  
29 purposes of this subparagraph, “project labor agreement” has the same meaning as  
30 set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract  
31 Code.

32 (C) Notwithstanding subparagraphs (A) and (B), a development that is subject to  
33 approval pursuant to this section is exempt from any requirement to pay prevailing  
34 wages or use a skilled and trained workforce if it meets both of the following:

35 (i) The project includes 10 or fewer units.

36 (ii) The project is not a public work for purposes of Chapter 1 (commencing with  
37 Section 1720) of Part 7 of Division 2 of the Labor Code.

38 (9) The development did not or does not involve a subdivision of a parcel that is,  
39 or, notwithstanding this section, would otherwise be, subject to the Subdivision Map  
40 Act (Division 2 (commencing with Section 66410)) or any other applicable law  
41 authorizing the subdivision of land, unless the development is consistent with all  
42 objective subdivision standards in the local subdivision ordinance, and either of the  
43 following apply:

1 (A) The development has received or will receive financing or funding by means  
2 of a low-income housing tax credit and is subject to the requirement that prevailing  
3 wages be paid pursuant to subparagraph (A) of paragraph (8).

4 (B) The development is subject to the requirement that prevailing wages be paid,  
5 and a skilled and trained workforce used, pursuant to paragraph (8).

6 (10) The development shall not be upon an existing parcel of land or site that is  
7 governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with  
8 Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational  
9 Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of  
10 Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part  
11 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety  
12 Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section  
13 18860) of Division 13 of the Health and Safety Code).

14 (b)(1)(A)(i) Before submitting an application for a development subject to the  
15 streamlined, ministerial approval process described in subdivision (c), the  
16 development proponent shall submit to the local government a notice of its intent to  
17 submit an application. The notice of intent shall be in the form of a preliminary  
18 application that includes all of the information described in Section 65941.1, as that  
19 section read on January 1, 2020.

20 (ii) Upon receipt of a notice of intent to submit an application described in clause  
21 (i), the local government shall engage in a scoping consultation regarding the  
22 proposed development with any California Native American tribe that is  
23 traditionally and culturally affiliated with the geographic area, as described in  
24 Section 21080.3.1 of the Public Resources Code, of the proposed development. In  
25 order to expedite compliance with this subdivision, the local government shall  
26 contact the Native American Heritage Commission for assistance in identifying any  
27 California Native American tribe that is traditionally and culturally affiliated with  
28 the geographic area of the proposed development.

29 (iii) The timeline for noticing and commencing a scoping consultation in  
30 accordance with this subdivision shall be as follows:

31 (I) The local government shall provide a formal notice of a development  
32 proponent's notice of intent to submit an application described in clause (i) to each  
33 California Native American tribe that is traditionally and culturally affiliated with  
34 the geographic area of the proposed development within 30 days of receiving that  
35 notice of intent. The formal notice provided pursuant to this subclause shall include  
36 all of the following:

37 (ia) A description of the proposed development.

38 (ib) The location of the proposed development.

39 (ic) An invitation to engage in a scoping consultation in accordance with this  
40 subdivision.

41 (II) Each California Native American tribe that receives a formal notice pursuant  
42 to this clause shall have 30 days from the receipt of that notice to accept the  
43 invitation to engage in a scoping consultation.

1 (III) If the local government receives a response accepting an invitation to engage  
2 in a scoping consultation pursuant to this subdivision, the local government shall  
3 commence the scoping consultation within 30 days of receiving that response.

4 (B) The scoping consultation shall recognize that California Native American  
5 tribes traditionally and culturally affiliated with a geographic area have knowledge  
6 and expertise concerning the resources at issue and shall take into account the  
7 cultural significance of the resource to the culturally affiliated California Native  
8 American tribe.

9 (C) The parties to a scoping consultation conducted pursuant to this subdivision  
10 shall be the local government and any California Native American tribe traditionally  
11 and culturally affiliated with the geographic area of the proposed development.  
12 More than one California Native American tribe traditionally and culturally  
13 affiliated with the geographic area of the proposed development may participate in  
14 the scoping consultation. However, the local government, upon the request of any  
15 California Native American tribe traditionally and culturally affiliated with the  
16 geographic area of the proposed development, shall engage in a separate scoping  
17 consultation with that California Native American tribe. The development  
18 proponent and its consultants may participate in a scoping consultation process  
19 conducted pursuant to this subdivision if all of the following conditions are met:

20 (i) The development proponent and its consultants agree to respect the principles  
21 set forth in this subdivision.

22 (ii) The development proponent and its consultants engage in the scoping  
23 consultation in good faith.

24 (iii) The California Native American tribe participating in the scoping  
25 consultation approves the participation of the development proponent and its  
26 consultants. The California Native American tribe may rescind its approval at any  
27 time during the scoping consultation, either for the duration of the scoping  
28 consultation or with respect to any particular meeting or discussion held as part of  
29 the scoping consultation.

30 (D) The participants to a scoping consultation pursuant to this subdivision shall  
31 comply with all of the following confidentiality requirements:

32 (i) ~~Subdivision (r) of Section 6254. Section 7927.000.~~

33 (ii) ~~Section 6254.10. 7927.005.~~

34 (iii) Subdivision (c) of Section 21082.3 of the Public Resources Code.

35 (iv) Subdivision (d) of Section 15120 of Title 14 of the California Code of  
36 Regulations.

37 (v) Any additional confidentiality standards adopted by the California Native  
38 American tribe participating in the scoping consultation.

39 (E) The California Environmental Quality Act (Division 13 (commencing with  
40 Section 21000) of the Public Resources Code) shall not apply to a scoping  
41 consultation conducted pursuant to this subdivision.

42 (2)(A) If, after concluding the scoping consultation, the parties find that no  
43 potential tribal cultural resource would be affected by the proposed development,

1 the development proponent may submit an application for the proposed  
2 development that is subject to the streamlined, ministerial approval process  
3 described in subdivision (c).

4 (B) If, after concluding the scoping consultation, the parties find that a potential  
5 tribal cultural resource could be affected by the proposed development and an  
6 enforceable agreement is documented between the California Native American tribe  
7 and the local government on methods, measures, and conditions for tribal cultural  
8 resource treatment, the development proponent may submit the application for a  
9 development subject to the streamlined, ministerial approval process described in  
10 subdivision (c). The local government shall ensure that the enforceable agreement  
11 is included in the requirements and conditions for the proposed development.

12 (C) If, after concluding the scoping consultation, the parties find that a potential  
13 tribal cultural resource could be affected by the proposed development and an  
14 enforceable agreement is not documented between the California Native American  
15 tribe and the local government regarding methods, measures, and conditions for  
16 tribal cultural resource treatment, the development shall not be eligible for the  
17 streamlined, ministerial approval process described in subdivision (c).

18 (D) For purposes of this paragraph, a scoping consultation shall be deemed to be  
19 concluded if either of the following occur:

20 (i) The parties to the scoping consultation document an enforceable agreement  
21 concerning methods, measures, and conditions to avoid or address potential impacts  
22 to tribal cultural resources that are or may be present.

23 (ii) One or more parties to the scoping consultation, acting in good faith and after  
24 reasonable effort, conclude that a mutual agreement on methods, measures, and  
25 conditions to avoid or address impacts to tribal cultural resources that are or may be  
26 present cannot be reached.

27 (E) If the development or environmental setting substantially changes after the  
28 completion of the scoping consultation, the local government shall notify the  
29 California Native American tribe of the changes and engage in a subsequent scoping  
30 consultation if requested by the California Native American tribe.

31 (3) A local government may only accept an application for streamlined,  
32 ministerial approval pursuant to this section if one of the following applies:

33 (A) A California Native American tribe that received a formal notice of the  
34 development proponent's notice of intent to submit an application pursuant to  
35 subclause (I) of clause (iii) of subparagraph (A) of paragraph (1) did not accept the  
36 invitation to engage in a scoping consultation.

37 (B) The California Native American tribe accepted an invitation to engage in a  
38 scoping consultation pursuant to subclause (II) of clause (iii) of subparagraph (A)  
39 of paragraph (1) but substantially failed to engage in the scoping consultation after  
40 repeated documented attempts by the local government to engage the California  
41 Native American tribe.

1 (C) The parties to a scoping consultation pursuant to this subdivision find that no  
2 potential tribal cultural resource will be affected by the proposed development  
3 pursuant to subparagraph (A) of paragraph (2).

4 (D) A scoping consultation between a California Native American tribe and the  
5 local government has occurred in accordance with this subdivision and resulted in  
6 agreement pursuant to subparagraph (B) of paragraph (2).

7 (4) A project shall not be eligible for the streamlined, ministerial process  
8 described in subdivision (c) if any of the following apply:

9 (A) There is a tribal cultural resource that is on a national, state, tribal, or local  
10 historic register list located on the site of the project.

11 (B) There is a potential tribal cultural resource that could be affected by the  
12 proposed development and the parties to a scoping consultation conducted pursuant  
13 to this subdivision do not document an enforceable agreement on methods,  
14 measures, and conditions for tribal cultural resource treatment, as described in  
15 subparagraph (C) of paragraph (2).

16 (C) The parties to a scoping consultation conducted pursuant to this subdivision  
17 do not agree as to whether a potential tribal cultural resource will be affected by the  
18 proposed development.

19 (5)(A) If, after a scoping consultation conducted pursuant to this subdivision, a  
20 project is not eligible for the streamlined, ministerial process described in  
21 subdivision (c) for any or all of the following reasons, the local government shall  
22 provide written documentation of that fact, and an explanation of the reason for  
23 which the project is not eligible, to the development proponent and to any California  
24 Native American tribe that is a party to that scoping consultation:

25 (i) There is a tribal cultural resource that is on a national, state, tribal, or local  
26 historic register list located on the site of the project, as described in subparagraph  
27 (A) of paragraph (4).

28 (ii) The parties to the scoping consultation have not documented an enforceable  
29 agreement on methods, measures, and conditions for tribal cultural resource  
30 treatment, as described in subparagraph (C) of paragraph (2) and subparagraph (B)  
31 of paragraph (4).

32 (iii) The parties to the scoping consultation do not agree as to whether a potential  
33 tribal cultural resource will be affected by the proposed development, as described  
34 in subparagraph (C) of paragraph (4).

35 (B) The written documentation provided to a development proponent pursuant to  
36 this paragraph shall include information on how the development proponent may  
37 seek a conditional use permit or other discretionary approval of the development  
38 from the local government.

39 (6) This section is not intended, and shall not be construed, to limit consultation  
40 and discussion between a local government and a California Native American tribe  
41 pursuant to other applicable law, confidentiality provisions under other applicable  
42 law, the protection of religious exercise to the fullest extent permitted under state  
43 and federal law, or the ability of a California Native American tribe to submit

1 information to the local government or participate in any process of the local  
2 government.

3 (7) For purposes of this subdivision:

4 (A) “Consultation” means the meaningful and timely process of seeking,  
5 discussing, and considering carefully the views of others, in a manner that is  
6 cognizant of all parties’ cultural values and, where feasible, seeking agreement.  
7 Consultation between local governments and Native American tribes shall be  
8 conducted in a way that is mutually respectful of each party’s sovereignty.  
9 Consultation shall also recognize the tribes’ potential needs for confidentiality with  
10 respect to places that have traditional tribal cultural importance. A lead agency shall  
11 consult the tribal consultation best practices described in the “State of California  
12 Tribal Consultation Guidelines: Supplement to the General Plan Guidelines”  
13 prepared by the Office of Planning and Research.

14 (B) “Scoping” means the act of participating in early discussions or investigations  
15 between the local government and California Native American tribe, and the  
16 development proponent if authorized by the California Native American tribe,  
17 regarding the potential effects a proposed development could have on a potential  
18 tribal cultural resource, as defined in Section 21074 of the Public Resources Code,  
19 or California Native American tribe, as defined in Section 21073 of the Public  
20 Resources Code.

21 (8) This subdivision shall not apply to any project that has been approved under  
22 the streamlined, ministerial approval process provided under this section before the  
23 effective date of the act adding this subdivision.

24 (c)(1) If a local government determines that a development submitted pursuant to  
25 this section is in conflict with any of the objective planning standards specified in  
26 subdivision (a), it shall provide the development proponent written documentation  
27 of which standard or standards the development conflicts with, and an explanation  
28 for the reason or reasons the development conflicts with that standard or standards,  
29 as follows:

30 (A) Within 60 days of submittal of the development to the local government  
31 pursuant to this section if the development contains 150 or fewer housing units.

32 (B) Within 90 days of submittal of the development to the local government  
33 pursuant to this section if the development contains more than 150 housing units.

34 (2) If the local government fails to provide the required documentation pursuant  
35 to paragraph (1), the development shall be deemed to satisfy the objective planning  
36 standards specified in subdivision (a).

37 (3) For purposes of this section, a development is consistent with the objective  
38 planning standards specified in subdivision (a) if there is substantial evidence that  
39 would allow a reasonable person to conclude that the development is consistent with  
40 the objective planning standards.

41 (d)(1) Any design review or public oversight of the development may be  
42 conducted by the local government’s planning commission or any equivalent board  
43 or commission responsible for review and approval of development projects, or the

1 city council or board of supervisors, as appropriate. That design review or public  
2 oversight shall be objective and be strictly focused on assessing compliance with  
3 criteria required for streamlined projects, as well as any reasonable objective design  
4 standards published and adopted by ordinance or resolution by a local jurisdiction  
5 before submission of a development application, and shall be broadly applicable to  
6 development within the jurisdiction. That design review or public oversight shall be  
7 completed as follows and shall not in any way inhibit, chill, or preclude the  
8 ministerial approval provided by this section or its effect, as applicable:

9 (A) Within 90 days of submittal of the development to the local government  
10 pursuant to this section if the development contains 150 or fewer housing units.

11 (B) Within 180 days of submittal of the development to the local government  
12 pursuant to this section if the development contains more than 150 housing units.

13 (2) If the development is consistent with the requirements of subparagraph (A) or  
14 (B) of paragraph (9) of subdivision (a) and is consistent with all objective  
15 subdivision standards in the local subdivision ordinance, an application for a  
16 subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with  
17 Section 66410)) shall be exempt from the requirements of the California  
18 Environmental Quality Act (Division 13 (commencing with Section 21000)) of the  
19 Public Resources Code) and shall be subject to the public oversight timelines set  
20 forth in paragraph (1).

21 (e)(1) Notwithstanding any other law, a local government, whether or not it has  
22 adopted an ordinance governing automobile parking requirements in multifamily  
23 developments, shall not impose automobile parking standards for a streamlined  
24 development that was approved pursuant to this section in any of the following  
25 instances:

26 (A) The development is located within one-half mile of public transit.

27 (B) The development is located within an architecturally and historically  
28 significant historic district.

29 (C) When on-street parking permits are required but not offered to the occupants  
30 of the development.

31 (D) When there is a car share vehicle located within one block of the development.

32 (2) If the development does not fall within any of the categories described in  
33 paragraph (1), the local government shall not impose automobile parking  
34 requirements for streamlined developments approved pursuant to this section that  
35 exceed one parking space per unit.

36 (f)(1) If a local government approves a development pursuant to this section, then,  
37 notwithstanding any other law, that approval shall not expire if the project satisfies  
38 both of the following requirements:

39 (A) The project includes public investment in housing affordability, beyond tax  
40 credits.

41 (B) At least 50 percent of the units affordable to households making at or below  
42 80 percent of the area median income.

1 (2)(A) If a local government approves a development pursuant to this section, and  
2 the project does not satisfy the requirements of subparagraphs (A) and (B) of  
3 paragraph (1), that approval shall remain valid for three years from the date of the  
4 final action establishing that approval, or if litigation is filed challenging that  
5 approval, from the date of the final judgment upholding that approval. Approval  
6 shall remain valid for a project provided construction activity, including demolition  
7 and grading activity, on the development site has begun pursuant to a permit issued  
8 by the local jurisdiction and is in progress. For purposes of this subdivision, “in  
9 progress” means one of the following:

10 (i) The construction has begun and has not ceased for more than 180 days.

11 (ii) If the development requires multiple building permits, an initial phase has  
12 been completed, and the project proponent has applied for and is diligently pursuing  
13 a building permit for a subsequent phase, provided that once it has been issued, the  
14 building permit for the subsequent phase does not lapse.

15 (B) Notwithstanding subparagraph (A), a local government may grant a project a  
16 one-time, one-year extension if the project proponent can provide documentation  
17 that there has been significant progress toward getting the development construction  
18 ready, such as filing a building permit application.

19 (3) If the development proponent requests a modification pursuant to subdivision  
20 (g), then the time during which the approval shall remain valid shall be extended for  
21 the number of days between the submittal of a modification request and the date of  
22 its final approval, plus an additional 180 days to allow time to obtain a building  
23 permit. If litigation is filed relating to the modification request, the time shall be  
24 further extended during the pendency of the litigation. The extension required by  
25 this paragraph shall only apply to the first request for a modification submitted by  
26 the development proponent.

27 (4) The amendments made to this subdivision by the act that added this paragraph  
28 shall also be retroactively applied to developments approved prior to January 1,  
29 2022.

30 (g)(1)(A) A development proponent may request a modification to a development  
31 that has been approved under the streamlined, ministerial approval process provided  
32 in subdivision (c) if that request is submitted to the local government before the  
33 issuance of the final building permit required for construction of the development.

34 (B) Except as provided in paragraph (3), the local government shall approve a  
35 modification if it determines that the modification is consistent with the objective  
36 planning standards specified in subdivision (a) that were in effect when the original  
37 development application was first submitted.

38 (C) The local government shall evaluate any modifications requested pursuant to  
39 this subdivision for consistency with the objective planning standards using the  
40 same assumptions and analytical methodology that the local government originally  
41 used to assess consistency for the development that was approved for streamlined,  
42 ministerial approval pursuant to subdivision (c).

1 (D) A guideline that was adopted or amended by the department pursuant to  
2 subdivision (l) after a development was approved through the streamlined,  
3 ministerial approval process described in subdivision (c) shall not be used as a basis  
4 to deny proposed modifications.

5 (2) Upon receipt of the development proponent's application requesting a  
6 modification, the local government shall determine if the requested modification is  
7 consistent with the objective planning standard and either approve or deny the  
8 modification request within 60 days after submission of the modification, or within  
9 90 days if design review is required.

10 (3) Notwithstanding paragraph (1), the local government may apply objective  
11 planning standards adopted after the development application was first submitted to  
12 the requested modification in any of the following instances:

13 (A) The development is revised such that the total number of residential units or  
14 total square footage of construction changes by 15 percent or more. The calculation  
15 of the square footage of construction changes shall not include underground space.

16 (B) The development is revised such that the total number of residential units or  
17 total square footage of construction changes by 5 percent or more and it is necessary  
18 to subject the development to an objective standard beyond those in effect when the  
19 development application was submitted in order to mitigate or avoid a specific,  
20 adverse impact, as that term is defined in subparagraph (A) of paragraph (1) of  
21 subdivision (j) of Section 65589.5, upon the public health or safety and there is no  
22 feasible alternative method to satisfactorily mitigate or avoid the adverse impact.  
23 The calculation of the square footage of construction changes shall not include  
24 underground space.

25 (C)(i) Objective building standards contained in the California Building Standards  
26 Code (Title 24 of the California Code of Regulations), including, but not limited to,  
27 building plumbing, electrical, fire, and grading codes, may be applied to all  
28 modification applications that are submitted prior to the first building permit  
29 application. Those standards may be applied to modification applications submitted  
30 after the first building permit application if agreed to by the development proponent.

31 (ii) The amendments made to clause (i) by the act that added clause (i) shall also  
32 be retroactively applied to modification applications submitted prior to January 1,  
33 2022.

34 (4) The local government's review of a modification request pursuant to this  
35 subdivision shall be strictly limited to determining whether the modification,  
36 including any modification to previously approved density bonus concessions or  
37 waivers, modify the development's consistency with the objective planning  
38 standards and shall not reconsider prior determinations that are not affected by the  
39 modification.

40 (h)(1) A local government shall not adopt or impose any requirement, including,  
41 but not limited to, increased fees or inclusionary housing requirements, that applies  
42 to a project solely or partially on the basis that the project is eligible to receive  
43 ministerial or streamlined approval pursuant to this section.

1 (2)(A) A local government shall issue a subsequent permit required for a  
2 development approved under this section if the application substantially complies  
3 with the development as it was approved pursuant to subdivision (c). Upon receipt  
4 of an application for a subsequent permit, the local government shall process the  
5 permit without unreasonable delay and shall not impose any procedure or  
6 requirement that is not imposed on projects that are not approved pursuant to this  
7 section. The local government shall consider the application for subsequent permits  
8 based upon the objective standards specified in any state or local laws that were in  
9 effect when the original development application was submitted, unless the  
10 development proponent agrees to a change in objective standards. Issuance of  
11 subsequent permits shall implement the approved development, and review of the  
12 permit application shall not inhibit, chill, or preclude the development. For purposes  
13 of this paragraph, a “subsequent permit” means a permit required subsequent to  
14 receiving approval under subdivision (c), and includes, but is not limited to,  
15 demolition, grading, encroachment, and building permits and final maps, if  
16 necessary.

17 (B) The amendments made to subparagraph (A) by the act that added this  
18 subparagraph shall also be retroactively applied to subsequent permit applications  
19 submitted prior to January 1, 2022.

20 (3)(A) If a public improvement is necessary to implement a development that is  
21 subject to the streamlined, ministerial approval pursuant to this section, including,  
22 but not limited to, a bicycle lane, sidewalk or walkway, public transit stop,  
23 driveway, street paving or overlay, a curb or gutter, a modified intersection, a street  
24 sign or street light, landscape or hardscape, an above-ground or underground utility  
25 connection, a water line, fire hydrant, storm or sanitary sewer connection, retaining  
26 wall, and any related work, and that public improvement is located on land owned  
27 by the local government, to the extent that the public improvement requires approval  
28 from the local government, the local government shall not exercise its discretion  
29 over any approval relating to the public improvement in a manner that would inhibit,  
30 chill, or preclude the development.

31 (B) If an application for a public improvement described in subparagraph (A) is  
32 submitted to a local government, the local government shall do all of the following:

33 (i) Consider the application based upon any objective standards specified in any  
34 state or local laws that were in effect when the original development application was  
35 submitted.

36 (ii) Conduct its review and approval in the same manner as it would evaluate the  
37 public improvement if required by a project that is not eligible to receive ministerial  
38 or streamlined approval pursuant to this section.

39 (C) If an application for a public improvement described in subparagraph (A) is  
40 submitted to a local government, the local government shall not do either of the  
41 following:

1 (i) Adopt or impose any requirement that applies to a project solely or partially on  
2 the basis that the project is eligible to receive ministerial or streamlined approval  
3 pursuant to this section.

4 (ii) Unreasonably delay in its consideration, review, or approval of the  
5 application.

6 (i)(1) This section shall not affect a development proponent’s ability to use any  
7 alternative streamlined by right permit processing adopted by a local government,  
8 including the provisions of subdivision (i) of Section 65583.2.

9 (2) This section shall not prevent a development from also qualifying as a housing  
10 development project entitled to the protections of Section 65589.5. This paragraph  
11 does not constitute a change in, but is declaratory of, existing law.

12 (j) The California Environmental Quality Act (Division 13 (commencing with  
13 Section 21000) of the Public Resources Code) does not apply to actions taken by a  
14 state agency, local government, or the San Francisco Bay Area Rapid Transit  
15 District to:

16 (1) Lease, convey, or encumber land owned by the local government or the San  
17 Francisco Bay Area Rapid Transit District or to facilitate the lease, conveyance, or  
18 encumbrance of land owned by the local government, or for the lease of land owned  
19 by the San Francisco Bay Area Rapid Transit District in association with an eligible  
20 TOD project, as defined pursuant to Section 29010.1 of the Public Utilities Code,  
21 nor to any decisions associated with that lease, or to provide financial assistance to  
22 a development that receives streamlined approval pursuant to this section that is to  
23 be used for housing for persons and families of very low, low, or moderate income,  
24 as defined in Section 50093 of the Health and Safety Code.

25 (2) Approve improvements located on land owned by the local government or the  
26 San Francisco Bay Area Rapid Transit District that are necessary to implement a  
27 development that receives streamlined approval pursuant to this section that is to be  
28 used for housing for persons and families of very low, low, or moderate income, as  
29 defined in Section 50093 of the Health and Safety Code.

30 (k) For purposes of this section, the following terms have the following meanings:

31 (1) “Affordable housing cost” has the same meaning as set forth in Section  
32 50052.5 of the Health and Safety Code.

33 (2)(A) Subject to the qualification provided by subparagraph (B), “affordable  
34 rent” has the same meaning as set forth in Section 50053 of the Health and Safety  
35 Code.

36 (B) For a development for which an application pursuant to this section was  
37 submitted prior to January 1, 2019, that includes 500 units or more of housing, and  
38 that dedicates 50 percent of the total number of units to housing affordable to  
39 households making at, or below, 80 percent of the area median income, affordable  
40 rent for at least 30 percent of these units shall be set at an affordable rent as defined  
41 in subparagraph (A) and “affordable rent” for the remainder of these units shall  
42 mean a rent that is consistent with the maximum rent levels for a housing

1 development that receives an allocation of state or federal low-income housing tax  
2 credits from the California Tax Credit Allocation Committee.

3 (3) “Department” means the Department of Housing and Community  
4 Development.

5 (4) “Development proponent” means the developer who submits an application  
6 for streamlined approval pursuant to this section.

7 (5) “Completed entitlements” means a housing development that has received all  
8 the required land use approvals or entitlements necessary for the issuance of a  
9 building permit.

10 (6) “Locality” or “local government” means a city, including a charter city, a  
11 county, including a charter county, or a city and county, including a charter city and  
12 county.

13 (7) “Moderate income housing units” means housing units with an affordable  
14 housing cost or affordable rent for persons and families of moderate income, as that  
15 term is defined in Section 50093 of the Health and Safety Code.

16 (8) “Production report” means the information reported pursuant to subparagraph  
17 (H) of paragraph (2) of subdivision (a) of Section 65400.

18 (9) “State agency” includes every state office, officer, department, division,  
19 bureau, board, and commission, but does not include the California State University  
20 or the University of California.

21 (10) “Subsidized” means units that are price or rent restricted such that the units  
22 are affordable to households meeting the definitions of very low and lower income,  
23 as defined in Sections 50079.5 and 50105 of the Health and Safety Code.

24 (11) “Reporting period” means either of the following:

25 (A) The first half of the regional housing needs assessment cycle.

26 (B) The last half of the regional housing needs assessment cycle.

27 (12) “Urban uses” means any current or former residential, commercial, public  
28 institutional, transit or transportation passenger facility, or retail use, or any  
29 combination of those uses.

30 (l) The department may review, adopt, amend, and repeal guidelines to implement  
31 uniform standards or criteria that supplement or clarify the terms, references, or  
32 standards set forth in this section. Any guidelines or terms adopted pursuant to this  
33 subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340)  
34 of Part 1 of Division 3 of Title 2 of the Government Code.

35 (m) The determination of whether an application for a development is subject to  
36 the streamlined ministerial approval process provided by subdivision (c) is not a  
37 “project” as defined in Section 21065 of the Public Resources Code.

38 (n) It is the policy of the state that this section be interpreted and implemented in  
39 a manner to afford the fullest possible weight to the interest of, and the approval and  
40 provision of, increased housing supply.

41 (o) This section shall remain in effect only until January 1, 2026, and as of that  
42 date is repealed.

1 **Comment.** Section 65913.4(a)(6)(E) is amended to update cross-references in accordance with  
2 the nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20  
3 of the Health and Safety Code.

4 Subparagraphs (a)(8)(B) and (b)(1)(D) are amended to reflect nonsubstantive reorganization of  
5 the California Public Records Act. See 2021 Cal. Stat. ch. 614; *California Public Records Act*  
6 *Clean-Up*, 46 Cal. L. Revision Comm'n Reports 207 (2019).

7 **Gov't Code § 65941.1 (amended). Submission of preliminary application for housing**  
8 **development project**

9 SEC. \_\_. Section 65941.1 of the Government Code is amended to read:

10 65941.1. (a) An applicant for a housing development project, as defined in  
11 paragraph (3) of subdivision (b) of Section 65905.5, shall be deemed to have  
12 submitted a preliminary application upon providing all of the following information  
13 about the proposed project to the city, county, or city and county from which  
14 approval for the project is being sought and upon payment of the permit processing  
15 fee:

16 (1) The specific location, including parcel numbers, a legal description, and site  
17 address, if applicable.

18 (2) The existing uses on the project site and identification of major physical  
19 alterations to the property on which the project is to be located.

20 (3) A site plan showing the location on the property, elevations showing design,  
21 color, and material, and the massing, height, and approximate square footage, of  
22 each building that is to be occupied.

23 (4) The proposed land uses by number of units and square feet of residential and  
24 nonresidential development using the categories in the applicable zoning ordinance.

25 (5) The proposed number of parking spaces.

26 (6) Any proposed point sources of air or water pollutants.

27 (7) Any species of special concern known to occur on the property.

28 (8) Whether a portion of the property is located within any of the following:

29 (A) A very high fire hazard severity zone, as determined by the Department of  
30 Forestry and Fire Protection pursuant to Section 51178.

31 (B) Wetlands, as defined in the United States Fish and Wildlife Service Manual,  
32 Part 660 FW 2 (June 21, 1993).

33 (C) A hazardous waste site that is listed pursuant to Section 65962.5 or a  
34 hazardous waste site designated by the Department of Toxic Substances Control  
35 pursuant to ~~Section 25356~~ Article 5 (commencing with Section 78760) of Chapter  
36 4 of Part 2 of Division 45 of the Health and Safety Code.

37 (D) A special flood hazard area subject to inundation by the 1 percent annual  
38 chance flood (100-year flood) as determined by the Federal Emergency  
39 Management Agency in any official maps published by the Federal Emergency  
40 Management Agency.

41 (E) A delineated earthquake fault zone as determined by the State Geologist in  
42 any official maps published by the State Geologist, unless the development  
43 complies with applicable seismic protection building code standards adopted by the

1 California Building Standards Commission under the California Building Standards  
2 Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and  
3 Safety Code), and by any local building department under Chapter 12.2  
4 (commencing with Section 8875) of Division 1 of Title 2.

5 (F) A stream or other resource that may be subject to a streambed alteration  
6 agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of  
7 the Fish and Game Code.

8 (9) Any historic or cultural resources known to exist on the property.

9 (10) The number of proposed below market rate units and their affordability  
10 levels.

11 (11) The number of bonus units and any incentives, concessions, waivers, or  
12 parking reductions requested pursuant to Section 65915.

13 (12) Whether any approvals under the Subdivision Map Act, including, but not  
14 limited to, a parcel map, a tentative map, or a condominium map, are being  
15 requested.

16 (13) The applicant's contact information and, if the applicant does not own the  
17 property, consent from the property owner to submit the application.

18 (14) For a housing development project proposed to be located within the coastal  
19 zone, whether any portion of the property contains any of the following:

20 (A) Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the  
21 California Code of Regulations.

22 (B) Environmentally sensitive habitat areas, as defined in Section 30240 of the  
23 Public Resources Code.

24 (C) A tsunami run-up zone.

25 (D) Use of the site for public access to or along the coast.

26 (15) The number of existing residential units on the project site that will be  
27 demolished and whether each existing unit is occupied or unoccupied.

28 (16) A site map showing a stream or other resource that may be subject to a  
29 streambed alteration agreement pursuant to Chapter 6 (commencing with Section  
30 1600) of Division 2 of the Fish and Game Code and an aerial site photograph  
31 showing existing site conditions of environmental site features that would be subject  
32 to regulations by a public agency, including creeks and wetlands.

33 (17) The location of any recorded public easement, such as easements for storm  
34 drains, water lines, and other public rights of way.

35 (b)(1) Each local agency shall compile a checklist and application form that  
36 applicants for housing development projects may use for the purpose of satisfying  
37 the requirements for submittal of a preliminary application.

38 (2) The Department of Housing and Community Development shall adopt a  
39 standardized form that applicants for housing development projects may use for the  
40 purpose of satisfying the requirements for submittal of a preliminary application if  
41 a local agency has not developed its own application form pursuant to paragraph  
42 (1). Adoption of the standardized form shall not be subject to Chapter 3.5

1 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the  
2 Government Code.

3 (3) A checklist or form shall not require or request any information beyond that  
4 expressly identified in subdivision (a).

5 (c) After submittal of all of the information required by subdivision (a), if the  
6 development proponent revises the project such that the number of residential units  
7 or square footage of construction changes by 20 percent or more, exclusive of any  
8 increase resulting from the receipt of a density bonus, incentive, concession, waiver,  
9 or similar provision, the housing development project shall not be deemed to have  
10 submitted a preliminary application that satisfies this section until the development  
11 proponent resubmits the information required by subdivision (a) so that it reflects  
12 the revisions. For purposes of this subdivision, “square footage of construction”  
13 means the building area, as defined by the California Building Standards Code (Title  
14 24 of the California Code of Regulations).

15 (d)(1) Within 180 calendar days after submitting a preliminary application with  
16 all of the information required by subdivision (a) to a city, county, or city and  
17 county, the development proponent shall submit an application for a development  
18 project that includes all of the information required to process the development  
19 application consistent with Sections 65940, 65941, and 65941.5.

20 (2) If the public agency determines that the application for the development  
21 project is not complete pursuant to Section 65943, the development proponent shall  
22 submit the specific information needed to complete the application within 90 days  
23 of receiving the agency’s written identification of the necessary information. If the  
24 development proponent does not submit this information within the 90-day period,  
25 then the preliminary application shall expire and have no further force or effect.

26 (3) This section shall not require an affirmative determination by a city, county,  
27 or city and county regarding the completeness of a preliminary application or a  
28 development application for purposes of compliance with this section.

29 (e) Notwithstanding any other law, submission of a preliminary application in  
30 accordance with this section shall not preclude the listing of a tribal cultural resource  
31 on a national, state, tribal, or local historic register list on or after the date that the  
32 preliminary application is submitted. For purposes of Section 65589.5 or any other  
33 law, the listing of a tribal cultural site on a national, state, tribal, or local historic  
34 register on or after the date the preliminary application was submitted shall not be  
35 deemed to be a change to the ordinances, policies, and standards adopted and in  
36 effect at the time that the preliminary application was submitted.

37 (f) This section shall remain in effect only until January 1, 2030, and as of that  
38 date is repealed.

39 **Comment.** Section 65941.1(a)(8)(C) is amended to update cross-references in accordance with  
40 the nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20  
41 of the Health and Safety Code.

HEALTH AND SAFETY CODE

**Health & Safety Code § 25123.3 (amended). “Storage facility”**

SEC. \_\_. Section 25123.3 of the Health and Safety Code is amended to read:

25123.3. (a) For purposes of this section, the following terms have the following meanings:

(1) “Liquid hazardous waste” means a hazardous waste that meets the definition of free liquids, as specified in Section 66260.10 of Title 22 of the California Code of Regulations, as that section read on January 1, 1994.

(2) “Remediation waste staging” means the temporary accumulation of non-RCRA contaminated soil that is generated and held onsite, and that is accumulated for the purpose of onsite treatment pursuant to a certified, authorized, or permitted treatment method, such as a transportable treatment unit, if all of the following requirements are met:

(A) The hazardous waste being accumulated does not contain free liquids.

(B) The hazardous waste is accumulated on an impermeable surface, such as high density polyethylene (HDPE) of at least 20 mils that is supported by a foundation, or high density polyethylene of at least 60 mils that is not supported by a foundation.

(C) The generator provides controls for windblown dispersion and precipitation runoff and run-on and complies with any stormwater permit requirements issued by a regional water quality control board.

(D) The generator has the accumulation site inspected weekly and after storms to ensure that the controls for windblown dispersion and precipitation runoff and run-on are functioning properly.

(E) The staging area is certified by a registered engineer for compliance with the standards specified in subparagraphs (A) to (D), inclusive.

(3) “Transfer facility” means any offsite facility that is related to the transportation of hazardous waste, including, but not limited to, loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

(b) “Storage facility” means a hazardous waste facility at which the hazardous waste meets any of the following requirements:

(1) The hazardous waste is held for greater than 90 days at an onsite facility. The department may establish criteria and procedures to extend that 90-day period, consistent with the federal act, and to prescribe the manner in which the hazardous waste may be held if not otherwise prescribed by statute.

(2) The hazardous waste is held for any period of time at an offsite facility that is not a transfer facility.

(3)(A) Except as provided in subparagraph (B), the waste is held at a transfer facility and any one of the following apply:

(i) The transfer facility is located in an area zoned residential by the local planning authority.

1 (ii) The transfer facility commences initial operations on or after January 1, 2005,  
2 at a site located within 500 feet of a structure identified in paragraphs (1) to (5),  
3 inclusive, of subdivision (c) of Section 25227.

4 (iii) The hazardous waste is held for a period greater than six days at a transfer  
5 facility that is located in an area that is not zoned industrial or agricultural by the  
6 local planning authority.

7 (iv) The hazardous waste is held for a period greater than 10 days at a transfer  
8 facility that is located in an area that is zoned industrial or agricultural by the local  
9 planning authority.

10 (v) The hazardous waste is held for a period greater than six days at a transfer  
11 facility that commenced initial operations before January 1, 2005, is located in an  
12 area zoned agricultural by the local planning authority, and is located within 500  
13 feet of a structure identified in paragraphs (1) to (5), inclusive, of subdivision (c) of  
14 Section 25227.

15 (B)(i) Notwithstanding subparagraph (A), a transfer facility located in an area that  
16 is not zoned residential by the local planning authority is not a storage facility, if the  
17 only hazardous waste held at the transfer facility is hazardous waste that is generated  
18 as a result of an emergency release and that hazardous waste is collected and  
19 temporarily stored by emergency rescue personnel, as defined in Section 25501, or  
20 by a response action contractor upon the request of emergency rescue personnel or  
21 the response action contractor, and the holding of that hazardous waste is approved  
22 by the department.

23 (ii) For purposes of this subparagraph, “response action contractor” means any  
24 person who enters into a contract with the department to take removal or remedial  
25 action pursuant to ~~Chapter 6.8 (commencing with Section 25300)~~ Part 2  
26 (commencing with Section 78000) of Division 45 in response to a release or  
27 threatened release, including any subcontractors of the response action contractor.

28 (4)(A) Except as provided in subparagraph (B), the hazardous waste is held onsite  
29 for any period of time, unless the hazardous waste is held in a container, tank, drip  
30 pad, or containment building pursuant to regulations adopted by the department.

31 (B) Notwithstanding subparagraph (A), a generator that accumulates hazardous  
32 waste generated and held onsite for 90 days or less for offsite transportation is not a  
33 storage facility if all of the following requirements are met:

34 (i) The waste is non-RCRA contaminated soil.

35 (ii) The hazardous waste being accumulated does not contain free liquids.

36 (iii) The hazardous waste is accumulated on an impermeable surface, such as high  
37 density polyethylene (HDPE) of at least 20 mils that is supported by a foundation,  
38 or high density polyethylene of at least 60 mils that is not supported by a foundation.

39 (iv) The generator provides controls for windblown dispersion and precipitation  
40 runoff and run-on and complies with any stormwater permit requirements issued by  
41 a regional water quality control board.

1 (v) The generator has the accumulation site inspected weekly and after storms to  
2 ensure that the controls for windblown dispersion and precipitation runoff and run-  
3 on are functioning properly.

4 (vi) The generator, after final offsite transportation, inspects the accumulation site  
5 for contamination and remediates as necessary.

6 (vii) The site is certified by a registered engineer for compliance with the  
7 standards specified in clauses (i) to (vi), inclusive.

8 (5) The hazardous waste is held at a transfer facility at any location for any period  
9 of time in a manner other than in a container.

10 (6) The hazardous waste is held at a transfer facility at any location for any period  
11 of time and handling occurs. For purposes of this paragraph, “handling” does not  
12 include the transfer of packaged or containerized hazardous waste from one vehicle  
13 to another.

14 (c) The time period for calculating the 90-day period for purposes of paragraph  
15 (1) of subdivision (b), or the 180-day or 270-day period for purposes of subdivision  
16 (h), begins when the facility has accumulated 100 kilograms of hazardous waste or  
17 one kilogram of extremely hazardous waste or acutely hazardous waste. However,  
18 if the facility generates more than 100 kilograms of hazardous waste or one kilogram  
19 of extremely hazardous waste or acutely hazardous waste during any calendar  
20 month, the time period begins when any amount of hazardous waste first begins to  
21 accumulate in that month.

22 (d) Notwithstanding paragraph (1) of subdivision (b), a generator of hazardous  
23 waste that accumulates waste onsite is not a storage facility if all of the following  
24 requirements are met:

25 (1) The generator accumulates a maximum of 55 gallons of hazardous waste, one  
26 quart of acutely hazardous waste, or one quart of extremely hazardous waste at an  
27 initial accumulation point that is at or near the area where the waste is generated and  
28 that is under the control of the operator of the process generating the waste.

29 (2) The generator accumulates the waste in containers other than tanks.

30 (3) The generator does not hold the hazardous waste onsite without a hazardous  
31 waste facilities permit or other grant of authorization for a period of time longer  
32 than the shorter of the following time periods:

33 (A) One year from the initial date of accumulation.

34 (B) Ninety days, or if subdivision (h) is applicable, 180 or 270 days, from the date  
35 that the quantity limitation specified in paragraph (1) is reached.

36 (4) The generator labels any container used for the accumulation of hazardous  
37 waste with the initial date of accumulation and with the words “hazardous waste”  
38 or other words that identify the contents of the container.

39 (5) Within three days of reaching any applicable quantity limitation specified in  
40 paragraph (1), the generator labels the container holding the accumulated hazardous  
41 waste with the date the quantity limitation was reached and either transports the  
42 waste offsite or holds the waste onsite and complies with either the regulations  
43 adopted by the department establishing requirements for generators subject to the

1 time limit specified in paragraph (1) of subdivision (b) or the requirements specified  
2 in paragraph (1) of subdivision (h), whichever requirements are applicable.

3 (6) The generator complies with regulations adopted by the department pertaining  
4 to the use and management of containers and any other regulations adopted by the  
5 department to implement this subdivision.

6 (e)(1) Notwithstanding paragraphs (1) and (4) of subdivision (b), hazardous waste  
7 held for remediation waste staging shall not be considered to be held at a hazardous  
8 waste storage facility if the total accumulation period is one year or less from the  
9 date of the initial placing of hazardous waste by the generator at the staging site for  
10 onsite remediation, except that the department may grant one six-month extension,  
11 upon a showing of reasonable cause by the generator.

12 (2)(A) The generator shall submit a notification of plans to store and treat  
13 hazardous waste onsite pursuant to paragraph (2) of subdivision (a), in person or by  
14 certified mail, with return receipt requested, to the department and to one of the  
15 following:

16 (i) The CUPA, if the generator is under the jurisdiction of a CUPA.

17 (ii) If the generator is not under the jurisdiction of a CUPA, the notification shall  
18 be submitted to the agency authorized, pursuant to subdivision (f) of Section  
19 25404.3, to implement and enforce the requirements of this chapter listed in  
20 paragraph (1) of subdivision (c) of Section 25404.

21 (B) If, after the notification pursuant to subparagraph (A), or during the initial  
22 year or the six-month extension granted by the department, the generator determines  
23 that treatment cannot be accomplished for all, or part of, the hazardous waste  
24 accumulated in a remediation waste staging area, the generator shall immediately  
25 notify the department and the appropriate local agency, pursuant to subparagraph  
26 (A), that the treatment has been discontinued. The generator shall then handle and  
27 dispose of the hazardous waste in accordance with paragraph (4) of subdivision (b).

28 (C) A generator shall not hold hazardous waste for remediation waste staging  
29 unless the generator can show, through laboratory testing, bench scale testing, or  
30 other documentation, that soil held for remediation waste staging is potentially  
31 treatable. Any fines and penalties imposed for a violation of this subparagraph may  
32 be imposed beginning with the 91st day that the hazardous waste was initially  
33 accumulated.

34 (3) Once an onsite treatment operation is completed on hazardous waste held  
35 pursuant to paragraph (1), the generator shall inspect the staging area for  
36 contamination and remediate as necessary.

37 (f) Notwithstanding any other provision of this chapter, remediation waste staging  
38 and the holding of non-RCRA contaminated soil for offsite transportation in  
39 accordance with paragraph (4) of subdivision (b) shall not be considered to be  
40 disposal or land disposal of hazardous waste.

41 (g) A generator who holds hazardous waste for remediation waste staging  
42 pursuant to paragraph (2) of subdivision (a) or who holds hazardous waste onsite  
43 for offsite transportation pursuant to paragraph (4) of subdivision (b) shall maintain

1 records onsite that demonstrate compliance with this section related to storing  
2 hazardous waste for remediation waste staging or related to holding hazardous waste  
3 onsite for offsite transportation, as applicable. The records maintained pursuant to  
4 this subdivision shall be available for review by a public agency authorized pursuant  
5 to Section 25180 or 25185.

6 (h)(1) Notwithstanding paragraph (1) of subdivision (b), a generator of less than  
7 1,000 kilograms of hazardous waste in any calendar month who accumulates  
8 hazardous waste onsite for 180 days or less, or 270 days or less if the generator  
9 transports the generator's own waste, or offers the generator's waste for  
10 transportation, over a distance of 200 miles or more, for offsite treatment, storage,  
11 or disposal, is not a storage facility if all of the following apply:

12 (A) The quantity of hazardous waste accumulated onsite never exceeds 6,000  
13 kilograms.

14 (B) The generator complies with the requirements of Section 262.16 of Title 40  
15 of the Code of Federal Regulations.

16 (C) The generator does not hold acutely hazardous waste or extremely hazardous  
17 waste in an amount greater than one kilogram for a time period longer than that  
18 specified in paragraph (1) of subdivision (b).

19 (2) A generator meeting the requirements of paragraph (1) who does not receive  
20 a copy of the manifest with the signature of the owner or operator of the facility to  
21 which the generator's waste is submitted or is unable to verify through the e-  
22 Manifest system that the facility has received the waste and signed the manifest,  
23 within 60 days from the date that the hazardous waste was accepted by the initial  
24 transporter, shall submit a report to the department along with a legible copy of the  
25 manifest indicating that the generator cannot confirm the delivery or receipt of the  
26 generator's waste with the owner or operator of the facility.

27 (i) The department may adopt regulations that set forth additional restrictions and  
28 enforceable management standards that protect human health and the environment  
29 and that apply to persons holding hazardous waste at a transfer facility. A regulation  
30 adopted pursuant to this subdivision shall be considered by the Office of  
31 Administrative Law to be necessary for the immediate preservation of the public  
32 peace, health and safety, and general welfare, and may be adopted as an emergency  
33 regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part  
34 1 of Division 3 of Title 2 of the Government Code.

35 **Comment.** Section 25123.3(b)(3)(B)(ii) is amended to update cross-references in accordance  
36 with the nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of  
37 Division 20 of the Health and Safety Code.

38 **Health & Safety Code § 25125.2 (amended). Responsibilities of Board of Environmental**  
39 **Safety**

40 SEC. \_\_. Section 25125.2 of the Health and Safety Code is amended to read:

41 25125.2. (a) Beginning January 1, 2022, the board shall conduct no fewer than six  
42 public meetings per year, at least three of which shall be held outside the greater

1 Sacramento area. For those meetings held outside the greater Sacramento area, the  
2 board shall meet in different geographic areas within the state to facilitate the  
3 participation by the businesses and sites regulated by the department, as well as  
4 members of the communities impacted by the businesses and sites regulated by the  
5 department.

6 (b) The board shall do all of the following:

7 (1) Set fees pursuant to Sections 25205.2.1, 25205.5.01, and 25205.6.1.

8 (2) Hear and decide appeals of hazardous waste facility permit decisions.

9 (3) Provide opportunities for public hearings on individual permitted or  
10 remediation sites.

11 (4) Review and consider for approval the director's annual priorities for each  
12 program under the department and, after consulting with the director, adopt clear  
13 performance metrics for the department and each of the department's programs. The  
14 board's responsibilities under this paragraph shall be conducted at a public hearing.  
15 The director shall provide annual updates on progress toward meeting the priorities  
16 and performance metrics.

17 (5) Conduct an analysis of the fee structure supporting the department's activities  
18 funded by the Hazardous Waste Control Account, the Hazardous Waste Facilities  
19 Account, and the Toxic Substances Control Account and, to the extent necessary,  
20 develop recommendations for funding the department's activities that accomplish  
21 all of the following:

22 (A) Provides for protection for public health and safety and the environment.

23 (B) Provides adequate funding to ensure the timely remediation of contaminated  
24 sites, including the remediation of orphan sites.

25 (C) Provides adequate funding for the enforcement of this chapter and ~~Chapter~~  
26 ~~6.8 (commencing with Section 25300). Part 2 (commencing with Section 78000) of~~  
27 Division 45.

28 (D) Provides adequate funding for the programs and regulatory efforts that protect  
29 consumers from potentially harmful chemicals in products or workplaces.

30 (E) Provides for a reasonable distribution of costs among the businesses that  
31 contribute to the need for management of hazardous waste in the state.

32 (F) Provides a level of funding that will enable the department and the board to  
33 implement and carry out their duties and responsibilities, including the department's  
34 performance metrics approved by the board pursuant to this section.

35 (G) Considers increasing fee rates, decreasing fee rates, consolidating fees,  
36 eliminating fees, or creating new fees, as appropriate, as well as the option to  
37 identify any other funding sources that may be appropriate for use by the department  
38 in performing its duties and responsibilities. The board may consider where tiered  
39 rates may be appropriate to align the department's regulatory costs with different  
40 volumes or types of hazardous waste.

41 (H) Considers the creation of graduated fee rates that could be used to encourage  
42 or discourage waste generation or specific higher risk or hazard waste management  
43 activities.

1 (I) Considers additional funding amounts that may be needed for the department  
2 to implement the responsibilities identified in Article 11.8 (commencing with  
3 Section 25244) and Article 11.9 (commencing with Section 25244.12), in whole or  
4 in part.

5 (J) Considers additional funding amounts that may be needed for the department  
6 to implement programs that further support the collection and appropriate  
7 management of hazardous wastes that may pose a higher risk of being illegally  
8 disposed.

9 (6) Conduct an analysis of the department's programs, the relationship between  
10 those programs and related programs in other regulatory agencies, including, but  
11 not limited to, the State Water Resources Control Board, the California regional  
12 water quality control boards, and the Department of Resources Recycling and  
13 Recovery, and, to the extent necessary, develop recommendations to improve  
14 coordination between programs, and to reduce or eliminate duplication or overlap.

15 (7) Develop, in consultation with the director and with consideration of available  
16 resources, a multiyear schedule for the discussion of long-term goals for the  
17 following departmental activities:

18 (A) The department's processing of hazardous waste facility permits and  
19 proposals to improve the efficiency of the permitting process, the relationship  
20 between the efficiency of the process and the time needed to review permit  
21 applications and reach permit decisions, and the amount of reimbursement required  
22 of permit applicants in the course of the permitting process.

23 (B) The department's duties and responsibilities in law and proposals to improve  
24 the department's ability to meet those duties and responsibilities.

25 (C) The site mitigation program and proposals for the prioritization of the cleanup  
26 of contaminated properties.

27 (D) The department's implementation of its enforcement activities.

28 **Comment.** Section 25125.2(b)(5)(C) is amended to update cross-references in accordance with  
29 the nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20  
30 of the Health and Safety Code.

31 **Health & Safety Code § 25135 (amended). State hazardous waste management plan and**  
32 **report with analysis of available data related to hazardous waste**

33 SEC. \_\_. Section 25135 of the Health and Safety Code is amended to read:

34 25135. (a) The department shall, by March 1, 2025, and every three years  
35 thereafter, prepare a state hazardous waste management plan and present it to the  
36 board for approval. The state hazardous waste management plan shall be based on  
37 the report prepared pursuant to subdivision (b) and any other sources of information  
38 deemed relevant by the department. The state hazardous waste management plan  
39 shall serve as a comprehensive planning document for the management of hazardous  
40 waste in the state, as a useful informational source to guide state and local hazardous  
41 waste management efforts, and as a guide for the department's implementation of  
42 its hazardous waste management program.

1 (b) By March 1, 2023, and every three years thereafter, the department shall  
2 prepare, and post on its internet website, a report that includes an analysis of  
3 available data related to hazardous waste, including all of the following  
4 components:

5 (1) An analysis of the hazardous waste streams produced in the state, including  
6 the sources of the data and any limitations of that data. The report shall present  
7 hazardous waste stream information for the hazardous waste types currently being  
8 generated, historically generated, and expected to be generated in the state in the  
9 future. In addition to statewide data, the report shall also present the hazardous waste  
10 stream information in each of the following categories:

11 (A) The county in which each hazardous waste stream is generated.

12 (B) The destination to which each hazardous waste stream is shipped.

13 (C) The amount of hazardous waste disposed to land, both within the state and in  
14 other states.

15 (D) The amount of hazardous waste treated, both within the state and in other  
16 states.

17 (E) The amount of hazardous waste that is regulated under the federal act.

18 (F) The amount of hazardous waste that is regulated only in the state.

19 (G) An estimate of the types and volumes of hazardous waste that are generated,  
20 but are not required to be manifested, and therefore are not included in the  
21 department's Hazardous Waste Tracking System, including hazardous wastes that  
22 are:

23 (i) Treated onsite.

24 (ii) Recycled onsite.

25 (iii) Identified as universal wastes.

26 (iv) Eligible to be managed under a management standard that is an alternative to  
27 full hazardous waste regulation.

28 (2) Information regarding hazardous waste facilities that operate in the state,  
29 including all of the following:

30 (A) Information regarding each hazardous waste facility, including a description  
31 of the facility, the amount of hazardous waste the facility is permitted to receive  
32 annually, and the amount of hazardous waste managed by the facility that is received  
33 from in-state versus out-of-state generators. The information provided pursuant to  
34 this subparagraph shall include information on both of the following:

35 (i) Hazardous waste facilities that have been issued a permit to operate by the  
36 department.

37 (ii) Any other hazardous waste facilities that are receiving any type of hazardous  
38 wastes from offsite that do not require a hazardous waste facilities permit to operate,  
39 such as universal waste handlers or temporary transfer stations.

40 (B) An analysis of the location of each destination facility, including an  
41 assessment of the area in which the destination facility is located. For destination  
42 facilities located in the state, this analysis shall include zoning and other geographic  
43 information and the CalEnviroScreen score, and may include information from

1 national environmental health screening tools. For destination facilities located in  
2 other states, the analysis shall include a similar assessment of the environmental  
3 conditions or vulnerability to environmental pollutants of the population  
4 surrounding each destination facility, to the extent data are available.

5 (C) An analysis of the transportation of hazardous waste generated in the state,  
6 including information on the distance between the destination facilities and the  
7 generators that are sending hazardous waste to those destination facilities, the  
8 transportation options available to transport hazardous wastes to each destination  
9 facility, and the cost for transportation to each destination facility, including a  
10 calculated estimate of cost per mile traveled.

11 (3) An analysis of national and international pollution prevention programs to  
12 inform recommendations to be proposed by the department for changes to the  
13 implementation of Article 11.8 (commencing with Section 25244) and Article 11.9  
14 (commencing with Section 25244.12).

15 (4) An analysis of the use of fees and their ability to influence or encourage the  
16 reduction in the generation of hazardous wastes.

17 (5) An analysis of the criteria used to identify wastes as hazardous waste under  
18 state law. The analysis shall include all of the following:

19 (A) An assessment of the extent to which the criteria that result in wastes being  
20 regulated as hazardous waste in California, as opposed to under the federal act,  
21 provide additional safeguards that are necessary to protect public health and the  
22 environment in the state.

23 (B) An assessment of the existing hazardous waste identification criteria and the  
24 extent to which they reflect current science, technology, or analytical methods.

25 (C) An assessment of additional contaminants, chemical constituents, or hazard  
26 characteristics or traits that are not currently included in the hazardous waste  
27 identification criteria, and the additional public health or environmental protections  
28 that could be achieved if those additional contaminants, chemical constituents, or  
29 hazard characteristics or traits were to be added to the hazardous waste identification  
30 criteria in the state.

31 (c) Before publishing the final report required by subdivision (b), the department  
32 shall conduct workshops to present the draft report to the public and receive  
33 comments from the public on the draft report. The department shall, in finalizing  
34 the report required by subdivision (b), consider the public comments and revise the  
35 draft report as the department deems appropriate.

36 (d) The state hazardous waste management plan prepared pursuant to subdivision  
37 (a) shall include, but is not limited to, all of the following:

38 (1) A baseline of the amount and types of hazardous waste generated and disposed  
39 of in the state, and disposed of in other states, from which recommendations can be  
40 drawn and changes made to hazardous waste management practices, including the  
41 reduction in the amount of hazardous waste generated or disposed, can be measured.

42 (2) Recommended goals to reduce the amount of hazardous waste generated or  
43 disposed of, including, but not limited to, goals based on all of the following:

1 (A) Statewide total amounts of hazardous waste.

2 (B) Total amounts of particular hazardous waste streams or hazardous waste  
3 types.

4 (C) Total amounts of particular hazardous waste streams or hazardous waste types  
5 generated or disposed of by specific industry types or sectors.

6 (3)(A) Recommendations for achieving the recommended goals identified  
7 pursuant to paragraph (2), including, but not limited to, recommendations for both  
8 of the following:

9 (i) Techniques to measure hazardous waste being generated to account for  
10 variability in manufacturing production or other economic factors.

11 (ii) Additional steps to be taken to accomplish all of the following:

12 (I) Reducing the use of hazardous materials and increasing the use of less  
13 hazardous or nonhazardous alternatives to the maximum extent feasible.

14 (II) Reducing the amount of hazardous waste disposed.

15 (III) Reducing the amount of hazardous waste generated.

16 (IV) Reducing the risk of exposure to communities threatened by releases of  
17 hazardous substances, as defined in ~~Chapter 6.8 (commencing with Section 25300),~~  
18 Part 2 (commencing with Section 78000) of Division 45, and releases of hazardous  
19 wastes.

20 (V) Reducing the risk of exposure to communities near sites contaminated by  
21 hazardous substances, as defined in ~~Chapter 6.8 (commencing with Section 25300),~~  
22 Part 2 (commencing with Section 78000) of Division 45, and hazardous wastes.

23 (B) Any recommendations for achieving the goals identified pursuant to  
24 paragraph (2) related to the generation and disposal of contaminated soils that are  
25 identified as hazardous waste shall ensure that subclauses (IV) and (V) of clause (ii)  
26 of subparagraph (A) are also accomplished. In addition, the recommendations shall  
27 not propose to reduce the amount of contaminated soils being generated or disposed  
28 solely by reducing the removal of contaminated soils from sites contaminated by  
29 hazardous substances or sites where releases of hazardous substances are threatened.

30 (C) Any recommendations for achieving the goals identified pursuant to  
31 paragraph (2) related to the generation and disposal of household hazardous waste  
32 shall not propose to reduce the collection of household hazardous waste as a method  
33 to achieve the goal.

34 (4) Recommendations for modifications to hazardous waste-related fees or  
35 financial incentives to encourage additional reductions in hazardous waste  
36 generation.

37 (5) Recommendations for incorporating external or long-term costs into  
38 hazardous waste management decisionmaking.

39 (6) Recommendations for allowing for public comment on and input into source  
40 reduction evaluation review and plans prepared by generators pursuant to Section  
41 25244.19 and hazardous waste management performance reports prepared by  
42 generators pursuant to Section 25244.20.

1 (7) Recommendations for changes to the department’s implementation of Article  
2 11.8 (commencing with Section 25244) and Article 11.9 (commencing with Section  
3 25244.12).

4 (8) Recommendations for appropriate roles and responsibilities for the  
5 department, other agencies, local unified program agencies, and green business  
6 programs in achieving the goals of the state hazardous waste management plan.

7 (9) Recommendations for changes to statutes and regulations that may create  
8 impediments to waste reduction and achieving the recommended goals identified  
9 pursuant to paragraph (2).

10 (10) Recommendations for changes to statutes and regulations that enhance or  
11 facilitate accomplishment of the recommended goals identified pursuant to  
12 paragraph (2).

13 (11) Recommendations regarding the criteria used to identify wastes as hazardous  
14 waste in California. The recommendations shall include all of the following:

15 (A) Whether any wastes currently identified as hazardous waste in California, to  
16 the extent consistent with the federal act, may be managed under management  
17 standards that are different from the hazardous waste management requirements and  
18 still be protective of public health and the environment.

19 (B) Whether the California hazardous waste identification criteria should be  
20 updated to reflect advances in science, technology, or analytical methods.

21 (C) Whether additional contaminants, chemical constituents, or hazard  
22 characteristics or traits should be included in the hazardous waste identification  
23 criteria to be protective of public health and the environment, and whether additional  
24 wastes that are not currently required to be managed as hazardous waste under state  
25 law should be required to be managed in accordance with hazardous waste  
26 management requirements to protect public health and the environment.

27 (12) Any other recommendations that would further the department’s  
28 implementation of its hazardous waste management program and the goals of this  
29 section.

30 (e) Before approving the final state hazardous waste management plan prepared  
31 pursuant to subdivision (a), the board shall hold at least three public hearings in  
32 various parts of the state to receive comments from the public on the draft hazardous  
33 waste management plan. The board and the department, in finalizing the state  
34 hazardous waste management plan prepared pursuant to subdivision (a), shall  
35 consider the public comments and revise the draft state hazardous waste  
36 management plan as they deem appropriate.

37 (f)(1) For purposes of implementing this section, using the funds appropriated for  
38 the 2021–22 fiscal year, the department may enter into necessary contracts to  
39 procure subject matter expertise or other technical assistance. The contracts are  
40 exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3  
41 of Title 2 of the Government Code, and Section 10295 of, and Article 4  
42 (commencing with Section 10335) of Chapter 2 of, and Chapter 3 (commencing

1 with Section 12100) of, Part 2 of Division 2 of the Public Contract Code, and any  
2 policies, procedures, and regulations authorized by those laws.

3 (2) The department shall obtain approval from the Department of Finance before  
4 entering into a contract under this section.

5 **Comment.** Section 25135(d)(3)(A)(ii)(IV) and (V) are amended to update cross-references in  
6 accordance with the nonsubstantive recodification of Chapter 6.8 (commencing with Section  
7 25300) of Division 20 of the Health and Safety Code.

8 **Health & Safety Code § 25152.5 (amended). Public records**

9 SEC. \_\_. Section 25152.5 of the Health and Safety Code is amended to read:

10 25152.5. (a) For purposes of this section, the following definitions apply:

11 (1) “Unusual circumstances” means only the following:

12 (A) The need to search for and collect the requested records from field facilities  
13 or other establishments that are separate from the office processing the request.

14 (B) The need to search for, collect, and appropriately examine a voluminous  
15 amount of separate and distinct records that are demanded in a single request.

16 (C) The need to consult with another agency having a substantial interest in the  
17 determination of whether to respond to the request.

18 (2) “Public records” means any public record, as defined in Section 7920.530 of  
19 the Government Code, of the department relating to this chapter, Chapter 6.7  
20 (commencing with Section 25280), or ~~Chapter 6.8 (commencing with Section~~  
21 ~~25300). Part 2 (commencing with Section 78000) of Division 45.~~ “Public records”  
22 includes unprinted information relating to this chapter, Chapter 6.7 (commencing  
23 with Section 25280), or ~~Chapter 6.8 (commencing with Section 25300)~~ Part 2  
24 (commencing with Section 78000) of Division 45 that is stored in data or word  
25 processing equipment either owned by an employee and located on premises under  
26 control of the department or owned by the department.

27 (b) Notwithstanding any other provision of law, the department shall not limit the  
28 hours during the normal working day or limit the number of working days during  
29 which public records are open for inspection.

30 (c)(1) Notwithstanding any other provision of law, the department shall make  
31 public records that are not exempt from disclosure by law, including Division 10  
32 (commencing with Section 7920.000) of Title 1 of the Government Code, promptly  
33 available to any person, within the time limits specified in subdivision (a) of Section  
34 7922.535 of the Government Code, upon payment of a fee established by the  
35 department to cover the direct costs of duplication, as specified in subdivision (f).  
36 In addition, a person requesting copies by mail may be required to pay the mailing  
37 costs.

38 (2) If any portion of a record is exempt from disclosure, the part that is not exempt  
39 shall be provided as prescribed in this section.

40 (d) Any person may request access to, or copies of, public records of the  
41 department in person or by mail. A request shall reasonably describe an identifiable  
42 record or information to be produced therefrom.

1 (e) If the department determines that an unusual circumstance exists, the  
2 department shall comply with the notification procedures and the time limits  
3 specified in subdivisions (b) and (c) of Section 7922.535 of the Government Code.

4 (f) The department shall, upon request, provide any person with the facts upon  
5 which it bases its determination of the direct costs of copying for each page that is  
6 requested. The department shall not impose a minimum fee for a copy of a public  
7 record that is greater than its direct per page copying costs and the department shall  
8 not impose limits on the types or amounts of public records that the department will  
9 provide to persons requesting these records, upon payment of any fees covering the  
10 direct costs of duplication by the department.

11 (g) This section does not authorize the department, or any employee of the  
12 department, to delay access for purposes of inspecting or obtaining copies of public  
13 records, unless there are unusual circumstances.

14 (h) Any denial of a request for records shall set forth in writing the reasons for the  
15 denial and the names and titles or positions of each person responsible for the denial.  
16 This written response shall be provided to the requester within five working days of  
17 the denial.

18 **Comment.** Section 25152.5(a)(2) is amended to update cross-references in accordance with the  
19 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
20 the Health and Safety Code.

21 **Health & Safety Code § 25173.6 (amended). Toxic Substances Control Account**

22 SEC. \_\_. Section 25173.6 of the Health and Safety Code, as added by Section 23  
23 of Chapter 73 of the Statutes of 2021, is amended to read:

24 25173.6. (a) There is in the General Fund the Toxic Substances Control Account,  
25 which shall be administered by the director. In addition to any other money that may  
26 be appropriated by the Legislature to the Toxic Substances Control Account, all of  
27 the following shall be deposited in the account:

28 (1) The fees collected pursuant to Section 25205.6.

29 (2) The fees collected pursuant to Section 25187.2, to the extent that those fees  
30 are for oversight of a removal or remedial action taken under ~~Chapter 6.8~~  
31 ~~(commencing with Section 25300)~~ or Chapter 6.86 (commencing with Section  
32 ~~25396~~; 25396) or Part 2 (commencing with Section 78000) of Division 45.

33 (3) Fines or penalties collected pursuant to this chapter, ~~Chapter 6.8 (commencing~~  
34 ~~with Section 25300)~~, or Chapter 6.86 (commencing with Section 25396), or Part 2  
35 (commencing with Section 78000) of Division 45, except as directed otherwise by  
36 Section 25192.

37 (4) Interest earned upon money deposited in the Toxic Substances Control  
38 Account.

39 (5) All money recovered pursuant to Section ~~25360~~, 79650, except any amount  
40 recovered on or before June 30, 2006, that was paid from the Hazardous Substance  
41 Cleanup Fund.

1 (6) All money recovered pursuant to ~~Section 25380~~. Article 7 (commencing with  
2 Section 81030) of Chapter 12 of Part 2 of Division 45.

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

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

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

9 (10) Reimbursements for funds expended from the Toxic Substances Control  
10 Account for services provided by the department, including, but not limited to,  
11 reimbursements required pursuant to Sections 25201.9 and ~~25343~~. 79105.

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

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

17 (b) The funds deposited in the Toxic Substances Control Account may be  
18 appropriated to the department for the following purposes:

19 (1) The administration and implementation of the following:

20 (A) ~~Chapter 6.8 (commencing with Section 25300)~~, Part 2 (commencing with  
21 Section 78000) of Division 45, except that funds shall not be expended from the  
22 Toxic Substances Control Account for purposes of ~~Section 25354.5~~. Article 16  
23 (commencing with Section 79350) of Chapter 5 of Part 2 of Division 45.

24 (B) Chapter 6.86 (commencing with Section 25396).

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

28 (D) Article 10 (commencing with Section 25210), Article 10.01 (commencing  
29 with Section 25210.5), Article 10.02 (commencing with Section 25210.9), Article  
30 10.1.1 (commencing with Section 25214.1), Article 10.1.2 (commencing with  
31 Section 25214.4.3), Article 10.2.1 (commencing with Section 25214.8.1), Article  
32 10.4 (commencing with Section 25214.11), Article 10.5 (commencing with Section  
33 25215), Article 10.5.1 (commencing with Section 25215.8), Article 13.5  
34 (commencing with Section 25250.50), Article 14 (commencing with Section  
35 25251), and Section 25214.10.

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

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

40 (A) The Human and Ecological Risk Office.

41 (B) The Environmental Chemistry Laboratory.

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

43 (D) The Safer Consumer Products Program.

1 (3) For allocation to the Office of Environmental Health Hazard Assessment,  
2 pursuant to an interagency agreement, to assist the department as needed in  
3 administering the programs described in subparagraphs (A) and (B) of paragraph  
4 (1).

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

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

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

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

22 (8) For payment of all costs of actions taken pursuant to ~~subdivision (b) of Section~~  
23 ~~25358.3, Section 78650~~, to the extent that these costs are not paid by the federal  
24 Comprehensive Environmental Response, Compensation, and Liability Act of  
25 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

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

34 (10) For repayment of the principal of, and interest on, bonds sold pursuant to  
35 ~~Article 7.5 (commencing with Section 25385) of Chapter 6.8. Article 5~~  
36 ~~(commencing with Section 78280) of Chapter 2 of Part 2 of Division 45.~~

37 (11) Direct site remediation costs.

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

40 (13) For the administration and collection of the fees imposed pursuant to Section  
41 25205.6.

42 (14) For allocation to the office of the Attorney General, pursuant to an  
43 interagency agreement or similar mechanism, for the support of the Toxic Substance

1 Enforcement Program in the office of the Attorney General, in carrying out the  
2 purposes of ~~Chapter 6.8 (commencing with Section 25300), Part 2 (commencing~~  
3 ~~with Section 78000) of Division 45~~, Chapter 6.86 (commencing with Section  
4 25396), Article 10 (commencing with Section 25210), Article 10.01 (commencing  
5 with Section 25210.5), Article 10.02 (commencing with Section 25210.9), Article  
6 10.1.1 (commencing with Section 25214.1), Article 10.1.2 (commencing with  
7 Section 25214.4.3), Article 10.2.1 (commencing with Section 25214.8.1), Article  
8 10.4 (commencing with Section 25214.11), Article 10.5 (commencing with Section  
9 25215), Article 10.5.1 (commencing with Section 25215.8), Article 13.5  
10 (commencing with Section 25250.50), Article 14 (commencing with Section  
11 25251), and Section 25214.10.

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

15 (16) As provided in Sections 25214.3 and 25215.7 and, with regard to penalties  
16 recovered pursuant to Section 25214.22.1, to implement and enforce Article 10.4  
17 (commencing with Section 25214.11).

18 (17) For the costs of performance or review of analyses of past, present, or  
19 potential environmental public health effects related to extremely hazardous waste,  
20 as defined in Section 25115, and hazardous waste, as defined in Section 25117.

21 (18) For costs incurred by the Board of Environmental Safety in the  
22 administration and implementation of its duties and responsibilities established in  
23 Article 2.1 (commencing with Section 25125).

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

29 (d) The director shall expend federal funds in the Toxic Substances Control  
30 Account consistent with the requirements specified in Section 114 of the federal  
31 Comprehensive Environmental Response, Compensation, and Liability Act of  
32 1980, as amended (42 U.S.C. Sec. 9614), upon appropriation by the Legislature, for  
33 the purposes for which they were provided to the state.

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

37 (f) The Director of Finance, upon request of the director, may make a loan from  
38 the General Fund to the Toxic Substances Control Account to meet cash needs. The  
39 loan shall be subject to the repayment provisions of Section 16351 of the  
40 Government Code and the interest provisions of Section 16314 of the Government  
41 Code.

42 (g) The Toxic Substances Control Account established pursuant to subdivision (a)  
43 is the successor fund of all of the following:

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

3 (2) The Hazardous Substance Clearing Account established pursuant to Section  
4 25334, as that section read on June 30, 2006.

5 (3) The Hazardous Substance Cleanup Fund established pursuant to Section  
6 25385.3, as that section read on June 30, 2006.

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

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

15 (i) This section shall become operative on January 1, 2022.

16 **Comment.** Section 25173.6 is amended throughout to update cross-references in accordance  
17 with the nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of  
18 Division 20 of the Health and Safety Code.

19 **Health & Safety Code § 25174. [Conforming revision no longer required due to 2021**  
20 **legislative changes]**

21 **Note.** Senate Bill 158 (2021 Cal. Stat. ch. 73) amended the existing version of Section 25174 and  
22 added a new version of the section to take effect January 1, 2022. The new version of Section 25174  
23 (2021 Cal. Stat. ch. 73, § 25) does not include any cross-references to Chapter 6.8 or its contents.  
24 Thus, Section 25174 does not require any conforming revisions.

25 **Health & Safety Code § 25174.02 (amended). Collection and administration of fees,**  
26 **surcharges, fines, penalties, and funds**

27 SEC. \_\_. Section 25174.02 of the Health and Safety Code is amended to read:

28 25174.02. (a) Notwithstanding this chapter, or Part 22 (commencing with Section  
29 43001) of Division 2 of the Revenue and Taxation Code, for any fees, surcharges,  
30 fines, penalties, and funds that are required to be deposited into the Hazardous  
31 Waste Control Account, the Hazardous Waste Facilities Account, or the Toxic  
32 Substances Control Account, the department, with the approval of the secretary,  
33 may take either of the following actions:

34 (1) Assume responsibility for, or enter into a contract with a private party or with  
35 another public agency, other than the California Department of Tax and Fee  
36 Administration, for the collection of any fees, surcharges, fines, penalties and funds  
37 described in ~~Chapter 6.8 (commencing with Section 25300)~~, Part 2 (commencing  
38 with Section 78000) of Division 45, for deposit into the Toxic Substances Control  
39 Account.

40 (2) Administer, or by mutual agreement, contract with a private party or another  
41 public agency, for the making of those determinations and the performance of  
42 functions that would otherwise be the responsibility of the California Department

1 of Tax and Fee Administration pursuant to ~~Chapter 6.8 (commencing with Section~~  
2 ~~25300)~~, Part 2 (commencing with Section 78000) of Division 45, or Part 22  
3 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code,  
4 if those activities and functions for which the California Department of Tax and Fee  
5 Administration would otherwise be responsible become the responsibility of the  
6 department or, by mutual agreement, the contractor selected by the department.

7 (b) If, pursuant to subdivision (a), the department, or a private party or another  
8 public agency, pursuant to a contract with the department, performs the  
9 determinations and functions that would otherwise be the responsibility of the  
10 California Department of Tax and Fee Administration, the department shall be  
11 responsible for ensuring that persons who are subject to the fees specified in  
12 subdivision (a) have equivalent rights to public notice and comment, and procedural  
13 and substantive rights of appeal, as afforded by the procedures of the California  
14 Department of Tax and Fee Administration pursuant to Part 22 (commencing with  
15 Section 43001) of Division 2 of the Revenue and Taxation Code. Final  
16 responsibility for the administrative adjustment of fee rates and the administrative  
17 appeal of any fees or penalty assessments made pursuant to this section may only  
18 be assigned by the department to a public agency.

19 (c) If, pursuant to subdivision (a), the department, or a private party or another  
20 public agency, pursuant to a contract with the department, performs the  
21 determinations and functions that would otherwise be the responsibility of the  
22 California Department of Tax and Fee Administration, the department shall have  
23 equivalent authority to make collections and enforce judgments as provided to the  
24 California Department of Tax and Fee Administration pursuant to Part 22  
25 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.  
26 Unpaid amounts, including penalties and interest, shall be a perfected and  
27 enforceable state tax lien in accordance with Section 43413 of the Revenue and  
28 Taxation Code.

29 (d) The department, with the concurrence of the secretary, shall determine which  
30 administrative functions should be retained by the California Department of Tax  
31 and Fee Administration, administered by the department, or assigned to another  
32 public agency or private party pursuant to subdivisions (a), (b), and (c).

33 (e) The department may adopt regulations to implement this section.

34 (f) This section shall become operative on January 1, 2022.

35 **Comment.** Section 25174.02 is amended to update cross-references in accordance with the  
36 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
37 the Health and Safety Code.

38 **Health & Safety Code § 25174.6. [Conforming revision no longer required due to 2021**  
39 **legislative changes]**

40 **Note.** Senate Bill 158 (2021 Cal. Stat. ch. 73) amended Section 25174.6 to make the section  
41 inoperative as of July 1, 2022 and repealed as of January 1, 2023. With these changes, Section  
42 25174.6 will not be operative when the conforming revisions legislation would take effect. For this  
43 reason, it will not be included in the legislation.

1 **Health & Safety Code § 25174.7. [Technical revision no longer required due to 2021**  
2 **legislative changes]**

3 **Note.** The Commission’s recommendation would amend Section 25174.7 to remove an obsolete  
4 cross-reference to 25342. Section 25342 was formerly in Chapter 6.8, but was repealed. See 1997  
5 Cal. Stat. ch. 870, § 42 (repealing Section 25345).

6 Senate Bill 158 (2021 Cal. Stat. ch. 73) amended Section 25174.7 to remove the obsolete cross-  
7 reference.

8 Section 25174.7 does not require any further changes related to the recodification of Chapter 6.8.

9 **Health & Safety Code § 25187.3 (amended). Corrective action cost estimate and financial**  
10 **assurances**

11 SEC. \_\_. Section 25187.3 of the Health and Safety Code is amended to read:

12 25187.3. (a) An owner or operator of a facility for which corrective action under  
13 department oversight is required shall include a corrective action cost estimate in  
14 any corrective measures study submitted to the department pursuant to an order  
15 issued or agreement entered into pursuant to Section 25187 for a release, as defined  
16 in ~~Chapter 6.8 (commencing with Section 25300), Part 2 (commencing with Section~~  
17 78000) of Division 45, of hazardous waste, hazardous waste constituents, or  
18 hazardous substances, as defined in ~~Chapter 6.8 (commencing with Section 25300),~~  
19 Part 2 (commencing with Section 78000) of Division 45, into the environment from  
20 the facility.

21 (b) An owner or operator of a facility for which corrective action under  
22 department oversight is required shall demonstrate financial assurances within 90  
23 days of the department’s approval of a corrective action cost estimate as required  
24 by subdivision (a), or by Section 25246.1, and shall maintain financial assurances  
25 until the department determines that all required corrective actions are complete.

26 (c)(1) For purposes of subdivision (b), an owner or operator of a facility for which  
27 corrective action under department oversight is required shall demonstrate and  
28 maintain one or more of the financial assurance mechanisms set forth in  
29 subdivisions (a) to (e), inclusive, of Section 66265.143 of Title 22 of the California  
30 Code of Regulations.

31 (2)(A) As an alternative to the financial assurance requirement of paragraph (1),  
32 an owner or operator of a facility for which corrective action under department  
33 oversight is required may demonstrate and maintain financial assurances by means  
34 of a financial assurance mechanism other than those described in paragraph (1), if  
35 the alternative financial assurance mechanism has been submitted to, and approved  
36 by, the department as being at least equivalent to the financial assurance  
37 mechanisms described in paragraph (1).

38 (B) The department shall evaluate the equivalency of the proposed alternative  
39 financial assurance mechanism principally in terms of the certainty of the  
40 availability of funds for required corrective action activities and the amount of funds  
41 that will be made available. The department shall require the owner or operator of  
42 the facility to submit any information deemed necessary by the department to make

1 a determination regarding the equivalency of the proposed alternative financial  
2 assurance mechanism.

3 (d) The department shall waive the financial assurances required by subdivision  
4 (b) if the owner or operator of the facility is a federal or state governmental entity.

5 (e) An owner or operator may satisfy the requirements of this section by  
6 demonstrating to the department that it has provided financial assurance for  
7 corrective action to the State Water Resources Control Board or a California  
8 regional water quality control board for the same release identified by the  
9 department.

10 (f) For facilities for which sole jurisdiction has been granted pursuant to  
11 subdivision (b) of Section 25204.6, the department shall not require additional  
12 financial assurances unless it is the lead agency or is directed by the lead agency  
13 that has sole jurisdiction pursuant to subdivision (b) of Section 25204.6. This section  
14 does not alter the State Water Resources Control Board's rules and regulations  
15 regarding financial assurances.

16 **Comment.** Section 25187.3 is amended to update cross-references in accordance with the  
17 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
18 the Health and Safety Code.

19 **Health & Safety Code § 25205.2 (amended). Facility fees**

20 SEC. \_\_. Section 25205.2 of the Health and Safety Code is amended to read:

21 25205.2. (a)(1) Except as provided in subdivisions (h) and (k), and in accordance  
22 with Section 43152.6 of the Revenue and Taxation Code, the operator of a facility  
23 shall pay a facility fee for each reporting period, or any portion of a reporting period,  
24 to the California Department of Tax and Fee Administration based on the size and  
25 type of the facility, as specified in this section. The fee rate shall be the rate  
26 established for the fiscal year in which the payment is due. On or before October 1  
27 of each calendar year, the department shall notify the California Department of Tax  
28 and Fee Administration of all known facility operators by facility type and size. The  
29 department shall also notify the California Department of Tax and Fee  
30 Administration of any operator who is issued a permit or grant of interim status  
31 within 30 days from the date that a permit or grant of interim status is issued to the  
32 operator.

33 (2) For the 2022–23 fiscal year, the fee rates established in this section shall apply.  
34 Commencing July 1, 2023, the fee rates established pursuant to Section 25205.2.1  
35 shall apply.

36 (b)(1) The base rate for the fee imposed by this section is ninety-four thousand  
37 nine hundred ten dollars (\$94,910).

38 (2) Except as provided in subdivision (c), in computing the facility fees, all of the  
39 following shall apply:

40 (A) The fee to be paid by a ministorage facility shall equal 25 percent of the base  
41 facility rate.

42 (B) The fee to be paid by a small storage facility shall equal the base facility rate.

1 (C) The fee to be paid by a large storage facility shall equal twice the base facility  
2 rate.

3 (D) The fee to be paid by a minitreatment facility shall equal 50 percent of the  
4 base facility rate.

5 (E) The fee to be paid by a small treatment facility shall equal twice the base  
6 facility rate.

7 (F) The fee to be paid by a large onsite treatment facility shall equal three times  
8 the base facility rate.

9 (G) The fee to be paid by a large offsite treatment facility shall be three times the  
10 base facility rate.

11 (H) The fee to be paid by a disposal facility shall equal 10 times the base facility  
12 rate.

13 (c) The fee to be paid by a facility with a postclosure permit during the first five  
14 years of the postclosure period shall be:

15 (1) Twenty-six thousand nine hundred eighty dollars (\$26,980) annually for a  
16 small facility.

17 (2) Fifty-three thousand nine hundred sixty dollars (\$53,960) annually for a  
18 medium facility.

19 (3) Eighty thousand nine hundred forty dollars (\$80,940) annually for a large  
20 facility.

21 (d) The fee to be paid by a facility with a postclosure permit after the first five  
22 years of the postclosure care period shall be:

23 (1) Fourteen thousand three hundred seventy-five dollars (\$14,375) annually for  
24 a small facility.

25 (2) Twenty-eight thousand seven hundred fifty dollars (\$28,750) annually for a  
26 medium facility.

27 (3) Forty-eight thousand five hundred fifty dollars (\$48,550) annually for a large  
28 facility.

29 (e) If a facility falls into more than one category listed in either subdivision (b) or  
30 (d), or any combination of categories, or if multiple operations under a single  
31 hazardous waste facilities permit or grant of interim status fall into more than one  
32 category listed in subdivision (b) or (d), or any combination of categories, the  
33 facility operator shall pay only the rate for the facility category that is the highest  
34 rate.

35 (f) Notwithstanding subdivision (b), the fee for a facility that has been issued a  
36 standardized permit shall be as follows:

37 (1) The fee to be paid for a facility that has been issued a Series A standardized  
38 permit shall be fifty-five thousand two hundred eighty dollars (\$55,280).

39 (2) The fee to be paid for a facility that has been issued a Series B standardized  
40 permit shall be twenty-five thousand nine hundred ten dollars (\$25,910).

41 (3) Except as specified in paragraph (4), the fee to be paid for a facility that has  
42 been issued a Series C standardized permit shall be twenty-one thousand seven  
43 hundred sixty dollars (\$21,760).

1 (4) The fee for a facility that has been issued a Series C standardized permit is ten  
2 thousand eight hundred eighty dollars (\$10,880) if the facility meets all of the  
3 following conditions:

4 (A) The facility treats not more than 1,500 gallons of liquid hazardous waste and  
5 not more than 3,000 pounds of solid hazardous waste in any calendar month.

6 (B) The total facility storage capacity does not exceed 15,000 gallons of liquid  
7 hazardous waste and 30,000 pounds of solid hazardous waste.

8 (C) If the facility both treats and stores hazardous waste, the facility does not  
9 exceed the volume limitations specified in subparagraphs (A) and (B) for each  
10 individual activity.

11 (g) The California Department of Tax and Fee Administration shall deposit all  
12 fees collected pursuant to this section into the Hazardous Waste Facilities Account  
13 in the Hazardous Waste Control Account. The fees so deposited may be expended  
14 by the department, upon appropriation by the Legislature, for the purposes specified  
15 in Section 25174.01.

16 (h) Notwithstanding subdivision (a), a person who is issued a variance by the  
17 department from the requirement of obtaining a hazardous waste facilities permit or  
18 grant of interim status is not subject to the fee, for any reporting period following  
19 the reporting period in which the variance was granted by the department.

20 (i) Operators subject to facility fee liability pursuant to this section shall pay the  
21 following amounts:

22 (1) The operator shall pay the applicable facility fee for each reporting period in  
23 which the facility actually engaged in the treatment, storage, or disposal of  
24 hazardous waste.

25 (2) The operator shall pay the applicable facility fee for one additional reporting  
26 period immediately following the final reporting period in which the facility actually  
27 engaged in that treatment or storage. The facility's size for that additional reporting  
28 period shall be deemed to be the largest size at which the facility has ever been  
29 subject to the fee. If the department previously approved a unit or portion of the  
30 facility for a variance, closure, or permit-by-rule, the facility's size for that reporting  
31 period shall be deemed to be its largest size since the department granted the  
32 approval.

33 (3) The operator of a disposal facility shall pay twice the applicable facility fee  
34 for one additional reporting period immediately following the final reporting period  
35 in which the facility actually engaged in disposal of hazardous waste.

36 (4) A facility shall not be deemed to have stopped treating, storing, or disposing  
37 of hazardous waste unless it has actually ceased that activity and has notified the  
38 department of its intent to close.

39 (j)(1) Except as provided in Section 25404.5, the owner or operator of a facility  
40 or transportable treatment unit operating pursuant to a permit-by-rule shall pay a fee  
41 to the California Department of Tax and Fee Administration per facility or  
42 transportable treatment unit for each reporting period, or portion of a reporting  
43 period. The fee for the 2022 reporting period shall be four thousand six hundred

1 dollars (\$4,600). The reporting period shall begin January 1 of each calendar year.  
2 On or before January 31 of each calendar year, the department shall notify the  
3 California Department of Tax and Fee Administration of all known owners or  
4 operators operating pursuant to a permit-by-rule who are not exempted from this fee  
5 pursuant to Section 25404.5. The department shall also notify the California  
6 Department of Tax and Fee Administration of any owner or operator authorized to  
7 operate pursuant to a permit-by-rule, who is not exempted from this fee pursuant to  
8 Section 25404.5, within 60 days after the owner or operator is authorized.

9 (2) Except as provided in Section 25404.5, a generator operating under a grant of  
10 conditional authorization pursuant to Section 25200.3 shall pay a fee to the  
11 California Department of Tax and Fee Administration per facility for each reporting  
12 period, or portion of a reporting period, unless the generator is subject to a fee under  
13 a permit-by-rule. The fee for the 2022 reporting period shall be four thousand six  
14 hundred dollars (\$4,600). The reporting period shall begin January 1 of each  
15 calendar year. On or before January 31 of each calendar year, the department shall  
16 notify the California Department of Tax and Fee Administration of all known  
17 generators operating pursuant to a grant of conditional authorization under Section  
18 25200.3 who are not exempted from this fee pursuant to Section 25404.5. The  
19 department shall also notify the California Department of Tax and Fee  
20 Administration of any generator authorized to operate under a grant of conditional  
21 authorization, who is not exempted from this fee pursuant to Section 25404.5, within  
22 60 days of the receipt of notification.

23 (3) Except as provided in Section 25404.5, the fee for a generator performing  
24 treatment conditionally exempted pursuant to Section 25144.6 or subdivision (a) or  
25 (c) of Section 25201.5 for the 2022 reporting period shall be one hundred eighty  
26 dollars (\$180) paid to the California Department of Tax and Fee Administration per  
27 facility for each reporting period, unless that generator is subject to a fee under a  
28 permit-by-rule or a conditional authorization pursuant to Section 25200.3. The  
29 reporting period shall begin January 1 of each calendar year. On or before January  
30 31 of each calendar year, the department shall notify the California Department of  
31 Tax and Fee Administration of all known facilities performing treatment  
32 conditionally exempted by Section 25144.6 or subdivision (a) or (c) of Section  
33 25201.5 who are not exempted from this fee pursuant to Section 25404.5. The  
34 department shall also notify the California Department of Tax and Fee  
35 Administration of any generator who notifies the department that the generator is  
36 conducting a conditionally exempt treatment operation, and who is not exempted  
37 from this fee pursuant to Section 25404.5, within 60 days of the receipt of the  
38 notification.

39 (k) A treatment facility is not subject to the facility fee established pursuant to this  
40 section, if the facility engages in treatment exclusively to accomplish a removal or  
41 remedial action or a corrective action in accordance with an order issued by the  
42 United States Environmental Protection Agency pursuant to the federal act or in  
43 accordance with an order issued by the department pursuant to Section 25187, or if

1 the removal or remedial action is carried out pursuant to a removal action work plan  
2 or a remedial action plan prepared pursuant to ~~Section 25356.1~~ Article 12  
3 (commencing with Section 79195) of Chapter 5 of Part 2 of Division 45 and is  
4 authorized to operate pursuant to ~~Section 25358.9~~, Article 14 (commencing with  
5 Section 79290) of Chapter 5 of Part 2 of Division 45, if the facility was put in  
6 operation solely for purposes of complying with that order. The department shall  
7 instead assess a fee for that facility for the actual time spent by the department for  
8 the inspection and oversight of that facility. The department shall base the fee on  
9 the department's work standards and shall assess the fee on an hourly basis.

10 (l) The fee imposed pursuant to this section shall be paid in accordance with Part  
11 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation  
12 Code.

13 (m) This section shall become operative on July 1, 2022, and shall apply to the  
14 annual facility fees due for the 2022–23 fiscal year, and each fiscal year thereafter.

15 **Comment.** Section 25205.2(k) is amended to update cross-references in accordance with the  
16 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
17 the Health and Safety Code.

18 This section is also amended to make a technical correction.

19 **Health & Safety Code § 25207.12 (amended). Collection of banned, unregistered, or**  
20 **outdated agricultural wastes**

21 SEC. \_\_. Section 25207.12 of the Health and Safety Code, as added by Section  
22 73 of Chapter 73 of the Statutes of 2021, is amended to read:

23 25207.12. (a) Any eligible participant who submits banned, unregistered, or  
24 outdated agricultural wastes for collection in a program established pursuant to this  
25 article is exempt from the fees and reimbursements required by Sections 25205.2,  
26 25205.5, and 25205.7, with regard to the wastes submitted for collection.

27 (b) An eligible participant who submits banned, unregistered, or outdated  
28 agricultural wastes for collection is exempt from the hazardous waste facilities  
29 permit requirements of Section 25201 with regard to the management of the wastes  
30 submitted for collection.

31 (c) A county operating a collection program in compliance with this article shall  
32 not be held liable in any cost recovery action brought pursuant to Section ~~25360~~  
33 79650 for any hazardous waste that has been properly handled and transported to an  
34 authorized hazardous waste treatment or disposal facility, in compliance with this  
35 chapter, at a location other than that of the collection program.

36 (d) This section shall become operative on January 1, 2022, and shall apply to the  
37 fees due for the 2022 reporting period and thereafter, including the prepayments due  
38 during the reporting period and the fee due and payable following the reporting  
39 period.

40 **Comment.** Section 25207.12 is amended to update cross-references in accordance with the  
41 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
42 the Health and Safety Code.

1 **Health & Safety Code § 25214.8.11.2 (amended). Required manufacturer payments and**  
2 **rules for Mercury Thermostat Program Collection Fund**

3 SEC. \_\_. Section 25214.8.11.2 of the Health and Safety Code is amended to read:  
4 25214.8.11.2. (a)(1)(A) On or before March 30, 2022, and on or before March 30  
5 of each year thereafter until March 30, 2028, each manufacturer shall, in accordance  
6 with this section, individually, or collectively with a group of manufacturers, do  
7 both of the following:

8 (i) Pay to the department an aggregate total of four hundred thousand dollars  
9 (\$400,000).

10 (ii) Pay to the qualified third party the amount required pursuant to the annual  
11 payment schedule outlined in paragraph (1) of subdivision (e) and provide to the  
12 department written notice of each payment.

13 (B) If March 30 falls on a Saturday or Sunday, a payment required pursuant to  
14 subparagraph (A) shall be due on the following Monday.

15 (C) A late payment shall be subject to interest beginning April 1 at a rate of 10  
16 percent per annum pursuant to subdivision (a) of Section ~~25360.4~~ 79655.

17 (2)(A) The total aggregate amount required to be paid to the department pursuant  
18 to clause (i) of subparagraph (A) of paragraph (1) shall not exceed the department's  
19 actual and reasonable regulatory costs to administer, implement, and enforce this  
20 act.

21 (B) If the department's actual and reasonable costs to administer, implement, and  
22 enforce this act exceed the amount specified in clause (i) of subparagraph (A) of  
23 paragraph (1), the department may submit a report to the Legislature regarding the  
24 insufficiency of the funds and seeking additional funds.

25 (3)(A) The department shall deposit all moneys paid by a manufacturer, or group  
26 of manufacturers, to the department pursuant to clause (i) of subparagraph (A) of  
27 paragraph (1) into the Mercury Thermostat Collection Program Fund, which is  
28 hereby established.

29 (B) Upon appropriation by the Legislature, moneys in the Mercury Thermostat  
30 Collection Program Fund shall be used only for the following purposes:

31 (i) The department's actual and reasonable regulatory costs in administering,  
32 implementing, and enforcing this act.

33 (ii) Reimbursement of any loans made to the Mercury Thermostat Collection  
34 Program Fund to finance the department's initial costs incurred to implement this  
35 act.

36 (iii) The actual and reasonable regulatory costs incurred by any other agency  
37 assisting the department in administering, implementing, and enforcing this act.

38 (C) Notwithstanding any other law, moneys in the Mercury Thermostat Collection  
39 Program Fund shall not be loaned to, or borrowed by, any other special fund or the  
40 General Fund.

41 (D) Moneys in the Mercury Thermostat Collection Program Fund shall not be  
42 expended for any purpose not enumerated in this act.

1 (b)(1) A manufacturer may individually remit a payment required pursuant to  
2 subparagraph (A) of paragraph (1) of subdivision (a), or a group of manufacturers  
3 may remit a payment on behalf of a group of manufacturers. Manufacturers shall  
4 apportion a payment or payments required pursuant to subparagraph (A) of  
5 paragraph (1) of subdivision (a) among themselves in a fair and reasonable manner.

6 (2) If a payment required pursuant to subparagraph (A) of paragraph (1) of  
7 subdivision (a) is made on behalf of a group of manufacturers, the names of the  
8 manufacturers shall be included with the payment and in the written notice to the  
9 department required pursuant to clause (ii) of subparagraph (A) of paragraph (1) of  
10 subdivision (a) so the department can determine each manufacturer's compliance  
11 with this act. If a manufacturer that is part of a group of manufacturers making a  
12 payment required pursuant to subparagraph (A) of paragraph (1) of subdivision (a)  
13 fails to make a payment, the group of manufacturers shall provide to the department  
14 a written notice of the nonpaying manufacturer's identity and the apportioned  
15 payment amount for which the nonpaying manufacturer is responsible.

16 (c) If a manufacturer fails to make a payment pursuant to subparagraph (A) of  
17 paragraph (1) of subdivision (a) in accordance with this section, or pursuant to  
18 subdivision (f), the manufacturer's thermostats shall be subject to a sales ban  
19 pursuant to subdivision (b) of Section 25214.8.12.

20 (d)(1) The Legislature intends that, by making all payments required pursuant to  
21 subparagraph (A) of paragraph (1) of subdivision (a) on or before March 30, 2022,  
22 and on or before March 30 of each year thereafter until March 30, 2028, and all  
23 payments required pursuant to subdivision (f) on or before January 1, 2023, and on  
24 or before January 1 of each year thereafter until January 1, 2029, a manufacturer  
25 shall be deemed to have satisfied, and will have discharged or be released from, any  
26 liability, obligation, or violation established or alleged pursuant to this article,  
27 including the regulations adopted by the department pursuant to former Section  
28 25214.8.17, as it existed before January 1, 2022.

29 (2) If a manufacturer makes all payments required pursuant to subparagraph (A)  
30 of paragraph (1) of subdivision (a) on or before March 30, 2022, and on or before  
31 March 30 of each year thereafter until March 30, 2028, and all payments required  
32 pursuant to subdivision (f) on or before January 1, 2023, and on or before January  
33 1 of each year thereafter until January 1, 2029, any consent order, summary of  
34 violation or violations, or other instrument or document, including, but not limited  
35 to, the February 10, 2016, Consent Order entered into between the department and  
36 25 mercury-added thermostat manufacturers pursuant to Section 25187 and former  
37 Section 25214.8.17, establishing or alleging liability, obligations, or violations of  
38 that manufacturer pursuant to this article, including the regulations adopted by the  
39 department pursuant to former Section 25214.8.17, as it existed before January 1,  
40 2022, shall be deemed stayed prior to the expiration of this act and deemed satisfied,  
41 discharged, released, or terminated upon the expiration of this act.

42 (e)(1) A manufacturer, or group of manufacturers, shall do all of the following:

1 (A) Provide to the qualified third party two million dollars (\$2,000,000) in the  
2 first program year to effectively and efficiently develop and implement the  
3 education and outreach campaign required pursuant to subdivisions (c) to (f),  
4 inclusive, of Section 25214.8.11.5.

5 (B) Provide to the qualified third party one million two hundred thousand dollars  
6 (\$1,200,000) annually in each of the subsequent five program years to carry out the  
7 education and outreach campaign required pursuant to subdivisions (c) to (f),  
8 inclusive, of Section 25214.8.11.5.

9 (C) Provide to the qualified third party one million one hundred thousand dollars  
10 (\$1,100,000) in the seventh program year to carry out the education and outreach  
11 campaign required pursuant to subdivisions (c) to (f), inclusive, of Section  
12 25214.8.11.5.

13 (D) Provide to the qualified third party an amount equal to the annual costs  
14 estimated by the qualified third party to develop and implement the program  
15 pursuant to this act.

16 (2) Any funds provided to the qualified third party pursuant to paragraph (1) that  
17 are not expended by the qualified third party in the program year in which the funds  
18 were received may be used by the qualified third party the following program year  
19 for the education and outreach campaign required pursuant to subdivisions (c) to (f),  
20 inclusive, of Section 25214.8.11.5.

21 (f) A manufacturer, or group of manufacturers, on or before January 1, 2023, and  
22 on or before January 1 of each year thereafter until January 1, 2029, shall provide  
23 to the qualified third party an amount equal to the actual costs incurred by the  
24 qualified third party that exceed the amount provided to the qualified third party  
25 pursuant to subparagraph (D) of paragraph (1) of subdivision (e).

26 **Comment.** Section 25214.8.11.2 is amended to update cross-references in accordance with the  
27 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
28 the Health and Safety Code.

29 **Health & Safety Code § 25246.1 (amended). Conditions requiring written cost estimate for**  
30 **corrective action**

31 SEC. \_\_. Section 25246.1 of the Health and Safety Code is amended to read:

32 25246.1. (a)(1) The department shall request, and an owner or operator of a  
33 facility shall submit to the department for review and approval, a written cost  
34 estimate for corrective action if all of the following are met:

35 (A) The department has identified a release or releases of a hazardous waste or  
36 hazardous waste constituent into the environment from the facility.

37 (B) The source of the release or releases of a hazardous waste or hazardous waste  
38 constituent is a hazardous waste facility, hazardous waste management unit, or an  
39 activity regulated by the department under this chapter.

40 (C) The department determines that corrective action is necessary at the facility,  
41 either during the active life of the facility or pursuant to an order or agreement for  
42 corrective action.

1 (2) The written cost estimate for corrective action required by paragraph (1) shall  
2 be based on available data, the history of releases, and facility activities.

3 (b)(1) Other than for an obligation for corrective action described in subdivision  
4 (a), the department shall request, and an owner or operator of a facility or a  
5 respondent or proponent required to conduct corrective action at a facility from  
6 which releases that necessitate corrective action have occurred shall submit to the  
7 department for review and approval, a written cost estimate to cover activities  
8 associated with necessary corrective action if the department determines that  
9 corrective action is necessary at any site undergoing a response action, as defined  
10 in ~~Chapter 6.8 (commencing with Section 25300), Part 2 (commencing with Section~~  
11 78000) of Division 45, overseen by the department pursuant to its authority in any  
12 of the following circumstances:

13 (A) The department has issued an order, entered into an agreement, or otherwise  
14 initiated action with respect to a release at the site, as defined in ~~Chapter 6.8~~  
15 ~~(commencing with Section 25300), Part 2 (commencing with Section 78000) of~~  
16 Division 45, pursuant to ~~Section 25355, 25355.5, or 25358.3. Article 1~~  
17 (commencing with Section 78650) of Chapter 4 of, or Article 10 (commencing with  
18 Section 79130) of Chapter 5 of, Part 2 of Division 45 or Section 78870, 79005,  
19 79055, 79060, or 79065.

20 (B) The source of the release or releases, as defined in ~~Chapter 6.8 (commencing~~  
21 ~~with Section 25300), Part 2 (commencing with Section 78000) of Division 45~~, is a  
22 hazardous waste facility, hazardous waste management unit, or an activity regulated  
23 by the department under this chapter.

24 (C) The department is conducting, or has conducted, oversight of the site  
25 investigation and response action at the site at the request of the responsible party,  
26 as defined in ~~Chapter 6.8 (commencing with Section 25300), Part 2 (commencing~~  
27 with Section 78000) of Division 45.

28 (2) The written cost estimate required pursuant to paragraph (1) shall be based on  
29 available data, the history of releases, and activities at the site, as defined in ~~Chapter~~  
30 ~~6.8 (commencing with Section 25300), Part 2 (commencing with Section 78000) of~~  
31 Division 45.

32 (c) An owner or operator may satisfy the requirements of this section by  
33 demonstrating to the department that it has provided financial assurance for  
34 corrective action to the State Water Resources Control Board or a California  
35 regional water quality control board for the same release identified by the  
36 department.

37 (d) For facilities for which sole jurisdiction has been granted pursuant to  
38 subdivision (b) of Section 25204.6, the department shall not require additional  
39 financial assurances unless it is the lead agency or is directed by the lead agency  
40 that has sole jurisdiction pursuant to subdivision (b) of Section 25204.6. This section  
41 does not alter the State Water Resources Control Board's rules and regulations  
42 regarding financial assurances.

1 **Comment.** Section 25246.1 is amended to update cross-references in accordance with the  
2 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
3 the Health and Safety Code.

4 **Notes. (1)** Section 25246.1(b)(1)(A) cross-refers to an order, agreement, or initiation of action  
5 pursuant to Section 25355. Section 25355 has been proposed for recodification as multiple  
6 provisions (proposed Sections 78850, 79005, 79130(a), and 79135; Sections 79130 and 79135 are,  
7 collectively, proposed Article 10 of Chapter 5). See Note #3, below.

8 In updating this cross-reference, it appeared that proposed Section 78850 recodifies part of  
9 Section 25355 that is not relevant to this cross-reference (section addresses Governor's role in  
10 coordinating response actions for the state). For this reason, the proposed cross-reference update  
11 does not include a reference to this section.

12 **(2)** Section 25246.1(b)(1)(A) also cross-refers to an order, agreement, or initiation of action  
13 pursuant to Section 25358.3. Section 25358.3 has been proposed for recodification as a section  
14 (proposed Section 78870) and, along with a penalty provision, an article (proposed Article 1 of  
15 Chapter 4). The inclusion of the penalty provision (proposed Section 78665) in the cross-reference  
16 would not appear to have a substantive effect. For this reason, the proposed cross-reference update  
17 would refer to the article as a whole (proposed Article 1 of Chapter 4 of Part 2 of Division 45), as  
18 well as proposed Section 78870.

19 **(3)** Section 25246.1(b)(1)(A) also cross-refers to an order, agreement, or initiation of action  
20 pursuant to Section 25355.5. Section 25355.5 has been proposed for recodification as multiple  
21 provisions (proposed Sections 79055, 79060, 79065, and 79130(b)). Proposed Section 79130(b) is  
22 contained within proposed Article 10 of Chapter 5 (see Note #1 above). The proposed cross-  
23 reference update would refer to all of the proposed provisions that would recodify Section 25355.5  
24 (proposed Sections 79055, 79060, 79065, and proposed Article 10 of Chapter 5, which contains  
25 proposed Section 79130(b)).

26 **Health & Safety Code § 25246.2 (amended). Requirements for written cost estimate for**  
27 **corrective action**

28 SEC. \_\_. Section 25246.2 of the Health and Safety Code is amended to read:

29 25246.2. (a) All of the following requirements apply if a written cost estimate for  
30 corrective action is required pursuant to Section 25246.1:

31 (1) A corrective action cost estimate shall be based on, and be no less stringent  
32 than, the ASTM International Standard E2150.

33 (2)(A) An owner or operator of a facility requiring corrective action under  
34 department oversight shall submit the corrective action cost estimate to the  
35 department within 60 days of the department's request.

36 (B) If the department determines that the corrective action cost estimate is  
37 substantially incomplete or includes substantially unsatisfactory information, the  
38 department shall provide a written notice of deficiency to the owner or operator of  
39 the hazardous waste facility or a respondent or proponent required to conduct  
40 corrective action under department oversight at a facility within 60 days of receipt  
41 of the corrective action cost estimate.

42 (C) The owner or operator of the hazardous waste facility or a respondent or  
43 proponent required to conduct corrective action under department oversight at a  
44 facility shall submit a revised corrective action cost estimate based on the  
45 information provided in the written notice of deficiency within 30 days.

1 (D) The department shall approve or deny the revised corrective action cost  
2 estimate within 30 days of receipt of the revised corrective action cost estimate.

3 (E) If the corrective action cost estimate does not address the information  
4 provided in the written notice of deficiency, as determined by the department, the  
5 department shall deny the revised corrective action cost estimate and shall, within  
6 60 days of denial of the corrective action cost estimate, develop its own corrective  
7 action cost estimate that will be the approved corrective action cost estimate for the  
8 facility.

9 (3) Within 90 days of approval by the department of a corrective action cost  
10 estimate, the owner or operator of a hazardous waste facility or a respondent or  
11 proponent required to conduct corrective action under department oversight at a  
12 facility shall fund the approved corrective action cost estimate or enter into a  
13 schedule of compliance for assurances of financial responsibility for completing the  
14 corrective action.

15 (4) If the owner or operator of a hazardous waste facility or a respondent or  
16 proponent required to conduct corrective action under department oversight at a  
17 facility is required to submit a financial assurance mechanism for corrective action,  
18 the financial assurances shall be in the form of a trust fund, surety bond, letter or  
19 credit, insurance, or any other mechanism authorized under the federal act and the  
20 regulations adopted by the department for financial assurance mechanisms.

21 (5) The financial assurances for an owner or operator of a hazardous waste facility  
22 or a respondent or proponent required to conduct corrective action under department  
23 oversight at a facility that is required to submit a financial assurance mechanism for  
24 corrective action shall be governed by ~~Section 25355.3.~~ Article 11 (commencing  
25 with Section 79180) of Chapter 5 of Part 2 of Division 45.

26 (b) The department may adopt, and revise, when appropriate, standards and  
27 regulations to implement this section. Additionally, the department may adopt  
28 emergency regulations in accordance with Chapter 3.5 (commencing with Section  
29 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to implement this  
30 section. The adoption of these regulations shall be declared an emergency and  
31 necessary for the immediate preservation of the public peace, health and safety, or  
32 general welfare for purposes of Sections 11346.1 and 11349.6 of the Government  
33 Code.

34 **Comment.** Section 25246.2(a)(5) is amended to update cross-references in accordance with the  
35 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
36 the Health and Safety Code.

37 **Health & Safety Code § 25299.50.6 (amended). Site Cleanup Subaccount**

38 SEC. \_\_. Section 25299.50.6 of the Health and Safety Code is amended to read:  
39 25299.50.6. (a) The Site Cleanup Subaccount is hereby established in the State  
40 Treasury. Moneys shall be deposited in the subaccount pursuant to subdivision (m)  
41 of Section 25299.51.

1 (b) The board may expend the funds in the Site Cleanup Subaccount, upon  
2 appropriation by the Legislature, for the following purposes:

3 (1) To pay for reasonable and necessary expenditures that the board, the  
4 department, a regional board, a local agency, or a water replenishment district incurs  
5 to investigate the source of surface or groundwater contamination.

6 (2)(A) To pay for reasonable and necessary expenditures to remediate the harm  
7 or threat of harm to human health, safety, and the environment caused by existing  
8 or threatened surface or groundwater contamination incurred by any of the  
9 following:

10 (i) The board.

11 (ii) The department.

12 (iii) A regional board.

13 (iv) A local agency.

14 (v) A water replenishment district, under the direction of the board, a regional  
15 board, a local agency, or another appropriate regulatory agency with authority over  
16 surface or groundwater cleanup oversight.

17 (B) The board shall consider the following factors when approving expenditures  
18 for specific locations:

19 (i) The degree to which human health, safety, and the environment are threatened  
20 by contamination at the location.

21 (ii) Whether the location is located in a small or financially disadvantaged  
22 community.

23 (iii) The cost and potential environmental benefit of the investigation or cleanup.

24 (iv) Whether there are other potential sources of funding for the investigation or  
25 cleanup.

26 (v) Any other information the board identifies as necessary for consideration.

27 (3) To issue grants pursuant to this section for the reasonable and necessary costs  
28 of actions to remediate the harm or threat of harm to human health, safety, and the  
29 environment caused by existing or threatened surface or groundwater contamination  
30 at a location if both of the following conditions are met:

31 (A) The board, the department, a regional board, local agency, unified program  
32 agency, or a local officer requires the responsible parties to undertake or contract  
33 for investigation or cleanup pursuant to an oral or written order, directive,  
34 notification, or approval issued pursuant to Section 25187, 25187.1, 25296.10,  
35 ~~25355.5, 25358.3, 78870, 79055~~, or 101480, or any section of the Water Code. The  
36 board may waive this requirement if the board finds that it is infeasible for an order  
37 to be issued before initiation of remediation.

38 (B) No responsible party has sufficient financial resources to pay for the required  
39 response actions.

40 (4) For payments to the Attorney General by the board pursuant to subdivision  
41 (g).

42 (c) At least annually, the board shall review grant applications and adopt a list of  
43 applicants to be awarded grants pursuant to paragraph (3) of subdivision (b). In

1 addition to the conditions specified in paragraph (3) of subdivision (b), the board  
2 shall consider all of the following factors when awarding grants:

3 (1) The degree to which human health, safety, and the environment are threatened  
4 by surface water or groundwater contamination at the location.

5 (2) Whether the location is located in a small or financially disadvantaged  
6 community.

7 (3) The cost and potential environmental benefit of the investigation or cleanup.

8 (4) Whether there are other potential sources of funding for the investigation or  
9 cleanup.

10 (5) Any other information the board identifies as necessary for consideration.

11 (d)(1) The board shall specify the information that shall be included in a grant  
12 application, consistent with this section, including, but not limited to, a provision  
13 requiring the applicant to make a sworn verification of the information in the  
14 application to the best of the applicant's knowledge.

15 (2) The board may adopt procedures to implement this section.

16 (3) The board shall post any procedures or information requirements adopted  
17 pursuant to this section on its internet website.

18 (e)(1) The recipient of grant moneys shall expend those funds only for the  
19 reasonable costs necessary to protect human health, safety, and the environment,  
20 incurred on or after September 25, 2014.

21 (2) The board shall not issue a grant for any costs for which the applicant has  
22 been, or will be, paid by another source.

23 (3) The board may terminate a grant and may bar the applicant from receiving any  
24 future grants from the Site Cleanup Subaccount if the board finds that the applicant  
25 has made a misrepresentation or false claim.

26 (f)(1) Any funds in the Site Cleanup Subaccount that are not expended in a fiscal  
27 year shall remain in the subaccount until they are encumbered.

28 (2) Notwithstanding Section 16304.1 of the Government Code, the board shall  
29 encumber the funds appropriated pursuant to this section within three years of the  
30 appropriation and the board may make a disbursement in liquidation of an  
31 encumbrance before or during the three years following the last day the  
32 appropriation is available for encumbrance.

33 (3) Notwithstanding Section 16475 of the Government Code, any interest earned  
34 upon the money in the Site Cleanup Subaccount shall be deposited in the Site  
35 Cleanup Subaccount.

36 (g) The Attorney General may recover the actual, reasonable costs of investigation  
37 or cleanup undertaken pursuant to this section in a civil action, upon request from  
38 the board, from any responsible party. All money recovered by the Attorney General  
39 pursuant to this section shall be deposited in the Site Cleanup Subaccount.

40 (h) For purposes of this section, the following definitions apply:

41 (1) "Local officer" has the meaning provided for in Section 101480.

42 (2) "Unified program agency" has the meaning provided for in Section 25404.

1 (3) “Water replenishment district” has the meaning provided for in Section 60012  
2 of the Water Code.

3 **Comment.** Section 25299.50.6(b)(3)(A) is amended to update cross-references in accordance  
4 with the nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of  
5 Division 20 of the Health and Safety Code.

6 **Health & Safety Code § 25501 (amended). Definitions**

7 SEC. \_\_. Section 25501 of the Health and Safety Code is amended to read:

8 25501. Unless the context indicates otherwise, the following definitions govern  
9 the construction of this article:

10 (a) “Agricultural handler” means a business operating a farm that is subject to the  
11 exemption specified in Section 25507.1.

12 (b) “Area plan” means a plan established pursuant to Section 25503 by a unified  
13 program agency for emergency response to a release or threatened release of a  
14 hazardous material within a city or county.

15 (c) “Business” means all of the following:

16 (1) An employer, self-employed individual, trust, firm, joint stock company,  
17 corporation, partnership, limited liability partnership or company, or other business  
18 entity.

19 (2) A business organized for profit and a nonprofit business.

20 (3) The federal government, to the extent authorized by law.

21 (4) An agency, department, office, board, commission, or bureau of state  
22 government, including, but not limited to, the campuses of the California  
23 Community Colleges, the California State University, and the University of  
24 California.

25 (5) An agency, department, office, board, commission, or bureau of a city, county,  
26 or district.

27 (6) A handler that operates or owns a unified program facility.

28 (d) “Business plan” means a separate plan for each unified program facility, site,  
29 or branch of a business that meets the requirements of Section 25505.

30 (e)(1) “Certified unified program agency” or “CUPA” means the agency certified  
31 by the secretary to implement the unified program specified in Chapter 6.11  
32 (commencing with Section 25404) within a jurisdiction.

33 (2) “Participating agency” or “PA” means an agency that has a written agreement  
34 with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by  
35 the secretary, to implement or enforce one or more of the unified program elements  
36 specified in paragraphs (4) and (5) of subdivision (c) of Section 25404, in  
37 accordance with Sections 25404.1 and 25404.2.

38 (3) “Unified program agency” or “UPA” means the CUPA, or its participating  
39 agencies to the extent each PA has been designated by the CUPA, pursuant to a  
40 written agreement, to implement or enforce a particular unified program element  
41 specified in paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes  
42 of this article and Article 2 (commencing with Section 25531), the UPAs have the

1 responsibility and authority, to the extent provided by this article and Article 2  
2 (commencing with Section 25531) and Sections 25404.1 and 25404.2, to implement  
3 and enforce only those requirements of this article and Article 2 (commencing with  
4 Section 25531) listed in paragraphs (4) and (5) of subdivision (c) of Section 25404.

5 (4) The UPAs also have the responsibility and authority, to the extent provided by  
6 this article and Article 2 (commencing with Section 25531) and Sections 25404.1  
7 and 25404.2, to implement and enforce the regulations adopted to implement the  
8 requirements of this article and Article 2 (commencing with Section 25531) listed  
9 in paragraphs (4) and (5) of subdivision (c) of Section 25404. After a CUPA has  
10 been certified by the secretary, the unified program agencies shall be the only local  
11 agencies authorized to enforce the requirements of this article and Article 2  
12 (commencing with Section 25531) listed in paragraphs (4) and (5) of subdivision  
13 (c) of Section 25404 within the jurisdiction of the CUPA.

14 (f) “City” includes any city and county.

15 (g) “Chemical name” means the scientific designation of a substance in  
16 accordance with the nomenclature system developed by the International Union of  
17 Pure and Applied Chemistry or the system developed by the Chemical Abstracts  
18 Service.

19 (h) “Common name” means any designation or identification, such as a code  
20 name, code number, trade name, or brand name, used to identify a substance by  
21 other than its chemical name.

22 (i) “Compressed gas” means a material, or mixture of materials, that meets either  
23 of the following:

24 (1) The definition of compressed gas or cryogenic fluid found in the California  
25 Fire Code.

26 (2) Compressed gas that is regulated pursuant to Part 1 (commencing with Section  
27 6300) of Division 5 of the Labor Code.

28 (j) “Consumer product” means a commodity used for personal, family, or  
29 household purposes, or is present in the same form, concentration, and quantity as  
30 a product prepackaged for distribution to and use by the general public.

31 (k) “Emergency response personnel” means a public employee, including, but not  
32 limited to, a firefighter or emergency rescue personnel, as defined in Section 245.1  
33 of the Penal Code, or personnel of a local emergency medical services (EMS)  
34 agency, as designated pursuant to Section 1797.200, who is responsible for  
35 response, mitigation, or recovery activities in a medical, fire, or hazardous material  
36 incident, or natural disaster where public health, public safety, or the environment  
37 may be impacted.

38 (l) “Handle” means all of the following:

39 (1)(A) To use, generate, process, produce, package, treat, store, emit, discharge,  
40 or dispose of a hazardous material in any fashion.

41 (B) For purposes of subparagraph (A), “store” does not include the storage of  
42 hazardous materials incidental to transportation, as defined in Title 49 of the Code  
43 of Federal Regulations, with regard to the inventory requirements of Section 25506.

1 (2)(A) The use or potential use of a quantity of hazardous material by the  
2 connection of a marine vessel, tank vehicle, tank car, or container to a system or  
3 process for any purpose.

4 (B) For purposes of subparagraph (A), the use or potential use does not include  
5 the immediate transfer to or from an approved atmospheric tank or approved  
6 portable tank that is regulated as loading or unloading incidental to transportation  
7 by Title 49 of the Code of Federal Regulations.

8 (m) “Handler” means a business that handles a hazardous material.

9 (n)(1) “Hazardous material” means a material listed in paragraph (2) that, because  
10 of its quantity, concentration, or physical or chemical characteristics, poses a  
11 significant present or potential hazard to human health and safety or to the  
12 environment if released into the workplace or the environment, or a material  
13 specified in an ordinance adopted pursuant to paragraph (3).

14 (2) Hazardous materials include all of the following:

15 (A) A substance or product for which the manufacturer or producer is required to  
16 prepare a material safety data sheet pursuant to the Hazardous Substances  
17 Information and Training Act (Chapter 2.5 (commencing with Section 6360) of Part  
18 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or  
19 regulation.

20 (B) A substance listed as a radioactive material in Appendix B of Part 30  
21 (commencing with Section 30.1) of Title 10 of the Code of Federal Regulations, as  
22 maintained and updated by the United States Nuclear Regulatory Commission.

23 (C) A substance listed pursuant to Title 49 of the Code of Federal Regulations.

24 (D) A substance listed in Section 339 of Title 8 of the California Code of  
25 Regulations.

26 (E) A material listed as a hazardous waste, as defined by Sections 25115, 25117,  
27 and ~~25316~~. subdivision (a) of Section 78075.

28 (3) The governing body of a unified program agency may adopt an ordinance that  
29 provides that, within the jurisdiction of the unified program agency, a material not  
30 listed in paragraph (2) is a hazardous material for purposes of this article if a handler  
31 has a reasonable basis for believing that the material would be injurious to the health  
32 and safety of persons or harmful to the environment if released into the workplace  
33 or the environment, and requests the governing body of the unified program agency  
34 to adopt that ordinance, or if the governing body of the unified program agency has  
35 a reasonable basis for believing that the material would be injurious to the health  
36 and safety of persons or harmful to the environment if released into the workplace  
37 or the environment. The handler or the unified program agency shall notify the  
38 secretary no later than 30 days after the date an ordinance is adopted pursuant to this  
39 paragraph.

40 (o) “Release” means any spilling, leaking, pumping, pouring, emitting, emptying,  
41 discharging, injecting, escaping, leaching, dumping, or disposing into the  
42 environment, unless permitted or authorized by a regulatory agency.

1 (p) “Retail establishment” means a business that sells consumer products  
2 prepackaged for distribution to, and intended for use by, the general public. A retail  
3 establishment may include storage areas or storerooms in establishments that are  
4 separated from shelves for display areas but maintained within the physical confines  
5 of the retail establishments. A retail establishment does not include a pest control  
6 dealer, as defined in Section 11407 of the Food and Agricultural Code.

7 (q) “Secretary” means the Secretary for Environmental Protection.

8 (r) “Statewide information management system” means the statewide information  
9 management system established pursuant to subdivision (e) of Section 25404 that  
10 provides for the combination of state and local information management systems  
11 for the purposes of managing unified program data.

12 (s) “Threatened release” means a condition, circumstance, or incident making it  
13 necessary to take immediate action to prevent, reduce, or mitigate a release with the  
14 potential to cause damage or harm to persons, property, or the environment.

15 (t) “Trade secret” means trade secrets as defined in either subdivision ~~(d)~~ (f) of  
16 Section ~~6254.7~~ 7924.510 of the Government Code or Section 1061 of the Evidence  
17 Code.

18 (u) “Unified program facility” means all contiguous land and structures, other  
19 appurtenances, and improvements on the land that are subject to the requirements  
20 of paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes of this  
21 article, “facility” has the same meaning as unified program facility.

22 **Comment.** Section 25501(n)(2)(E) is amended to update cross-references in accordance with  
23 the nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20  
24 of the Health and Safety Code.

25 Subdivision (t) is amended to reflect nonsubstantive recodification of the California Public  
26 Records Act. See 2021 Cal. Stat. ch. 614; *California Public Records Act Clean-Up*, 46 Cal. L.  
27 Revision Comm’n Reports 207 (2019).

28 **Health & Safety Code § 25510 (amended). Reporting and access obligations related to**  
29 **hazardous material, waste, or substance release or threatened release**

30 SEC. \_\_. Section 25510 of the Health and Safety Code is amended to read:

31 25510. (a)(1) Except as provided in subdivision (b), a hazardous material,  
32 hazardous waste, or hazardous substance release or threatened release shall be  
33 reported by the handler, or an employee, authorized representative, agent, or  
34 designee of the handler, to the UPA and to the Office of Emergency Services in  
35 accordance with the regulations adopted pursuant to this section, as follows:

36 (A) For facilities subject to this chapter, the reporting shall be made immediately  
37 upon the discovery of a release or threatened release.

38 (B)(i) For facilities not subject to this chapter, the reporting shall be made upon  
39 the discovery of an actual release that results in an emergency response.

40 (ii) For purposes of this subparagraph, “emergency response” means the  
41 activation of any public emergency response personnel, as defined in Section 25501,  
42 who are responsible for response, mitigation, or recovery activities in a hazardous

1 material incident where public health, public safety, or the environment may be  
2 affected.

3 (2) Except as provided in subdivision (b), the handler, or an employee, authorized  
4 representative, agent, or designee of those entities, shall provide state, city, or  
5 county fire or public health or safety personnel and emergency response personnel  
6 with access to the handler's facility if there is a release or threatened release of a  
7 hazardous material, hazardous waste, or hazardous substance.

8 (b) Subdivision (a) does not apply to a person engaged in the transportation of a  
9 hazardous material on a highway that is subject to Sections 2453 and 23112.5 of the  
10 Vehicle Code.

11 (c) On or before January 1, 2022, the Office of Emergency Services shall adopt  
12 regulations to implement this section. In developing these regulations, the Office of  
13 Emergency Services shall closely consult with representatives from regulated  
14 entities, appropriate trade associations, fire service organizations, federal, state, and  
15 local organizations, including UPAs, and other interested parties. The Office of  
16 Emergency Services shall define what releases and threatened releases are required  
17 to be reported pursuant to this section and consider the existing federal reporting  
18 requirements in determining a definition of reporting releases.

19 (d) A UPA shall maintain one or more nonemergency contact numbers for release  
20 reports that do not require immediate agency response. The UPA shall promptly  
21 communicate changes to this information to regulated facilities, to the secretary, and  
22 to the Office of Emergency Services.

23 (e)(1) Notwithstanding any other law, and except as provided in paragraph (2), if  
24 a release, spill, escape, or entry, as described in paragraph (2) of subdivision (b) of  
25 Section 101075, of a hazardous material, hazardous waste, as defined in Section  
26 101075, or hazardous substance, as defined in ~~Section 25316~~, subdivision (a) of  
27 Section 78075, occurs and a UPA, in consultation with the local health officer,  
28 reasonably determines that the release, spill, escape, or entry poses an imminent and  
29 substantial endangerment to public health due to factors, including, but not limited  
30 to, carcinogenicity, acute toxicity, chronic toxicity, bioaccumulative properties, or  
31 persistence in the air or environment, the UPA may take either or both of the  
32 following actions to protect the health and safety of the public:

33 (A) Issue an order to the responsible party to immediately suspend or discontinue  
34 the activity causing or contributing to the release, spill, escape, or entry of the  
35 hazardous material, hazardous waste, or hazardous substance. The order shall  
36 remain in effect until the UPA determines that the imminent and substantial  
37 endangerment to public health has been abated or the order is overturned pursuant  
38 to the appeal procedures described in subdivision (g).

39 (B) Coordinate with other appropriate regulatory agencies that may take any other  
40 action necessary to protect the public health, including, but not limited to,  
41 environmental investigations and temporary relief to, or relocation of, affected  
42 individuals.

1 (2)(A) The UPA shall not issue an order pursuant to paragraph (1) if the release,  
2 spill, escape, or entry of the hazardous material, hazardous waste, or hazardous  
3 substance falls below a reporting threshold established by the Office of Emergency  
4 Services in any regulation.

5 (B) If the Office of Emergency Services has not established a reporting threshold  
6 in any regulation, the UPA shall be guided by Section 5192, and the appendices to  
7 that section, of Title 8 of the California Code of Regulations.

8 (f) An order issued by the UPA pursuant to subparagraph (A) of paragraph (1) of  
9 subdivision (e) shall be supported by written findings, including evidence of local  
10 health officer consultation, and be consistent with criteria developed by UPAs to  
11 determine whether an imminent and substantial endangerment to public health has  
12 occurred.

13 (g)(1) Any order issued by a UPA pursuant to subparagraph (A) of paragraph (1)  
14 of subdivision (e) shall be served by personal service or certified mail and shall  
15 inform the person served of the right to a hearing. The order shall state whether the  
16 hearing procedure specified in subparagraph (B) of paragraph (3) may be requested  
17 by the person receiving the order.

18 (2) A person served with an order issued by a UPA pursuant to subparagraph (A)  
19 of paragraph (1) of subdivision (e) who has been unable to resolve any violation  
20 with the UPA, may, within 15 days after service of the order, request a hearing  
21 pursuant to this subdivision by filing with the UPA a notice of defense. The notice  
22 shall be filed with the UPA office that issued the order. A notice of defense shall be  
23 deemed filed within the 15-day period provided by this paragraph if it is postmarked  
24 within that 15-day period. If no notice of defense is filed within the time limits  
25 provided by this paragraph, the order shall become final.

26 (3) Except as provided in clause (ii) of subparagraph (B), a person requesting a  
27 hearing on an order issued pursuant to subparagraph (A) of paragraph (1) of  
28 subdivision (e) may select the hearing officer specified in either subparagraph (A)  
29 or (B) in the notice of defense filed with the UPA pursuant to this subdivision. If a  
30 notice of defense is filed, but no hearing officer is selected, the UPA may select the  
31 hearing officer. Within 90 days of receipt of the notice of defense by the UPA, the  
32 hearing shall be scheduled using one of the following:

33 (A) An administrative law judge of the Office of Administrative Hearings of the  
34 Department of General Services, who shall conduct the hearing in accordance with  
35 Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of  
36 the Government Code, and the UPA shall have all the authority granted to an agency  
37 by those provisions.

38 (B)(i) A hearing officer designated by the UPA, who shall conduct the hearing in  
39 accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of  
40 Division 3 of Title 2 of the Government Code, and the UPA shall have all the  
41 authority granted to an agency by those provisions. When a hearing is conducted by  
42 a UPA hearing officer pursuant to this clause, the UPA shall issue a decision within  
43 60 days after the hearing is conducted. Each hearing officer designated by a UPA

1 shall meet the requirements of Section 11425.30 of the Government Code and any  
2 other applicable restriction.

3 (ii) A UPA, or a person requesting a hearing on an order issued by a UPA, may  
4 select the hearing process specified in this subparagraph in a notice of defense filed  
5 pursuant to this subdivision only if the UPA has, as of the date the order is issued  
6 pursuant to subparagraph (A) of paragraph (1) of subdivision (e), selected a  
7 designated hearing officer and established a program for conducting a hearing in  
8 accordance with this subparagraph.

9 (4) The hearing decision issued pursuant to subparagraph (B) of paragraph (3)  
10 shall be effective and final upon issuance by the UPA. A copy of the decision shall  
11 be served by personal service or by certified mail upon the party served with the  
12 order, or their representative, if any.

13 (5) The order issued pursuant to subparagraph (A) of paragraph (1) of subdivision  
14 (e), or a provision of the order, shall take effect upon issuance by the UPA if the  
15 UPA finds that the violation or violations of law associated with the order, or a  
16 provision of the order, may pose an imminent and substantial endangerment to the  
17 public health or safety or the environment. A request for a hearing shall not stay the  
18 effect of the order or that provision of the order pending a hearing decision.  
19 However, if the UPA determines that any or all provisions of the order are so related  
20 that the public health or safety or the environment can be protected only by  
21 immediate compliance with the order as a whole, the order as a whole shall take  
22 effect upon issuance by the UPA. A request for a hearing shall not stay the effect of  
23 the order as a whole pending a hearing decision.

24 (6) A decision issued pursuant to subparagraph (B) of paragraph (3) may be  
25 reviewed by a court pursuant to Section 11523 of the Government Code. In all  
26 proceedings pursuant to this subdivision, the court shall uphold the decision of the  
27 UPA if the decision is based upon substantial evidence in the record as a whole. The  
28 filing of a petition for writ of mandate shall not stay any action required pursuant to  
29 this section. This subdivision does not prohibit the court from granting any  
30 appropriate relief within its jurisdiction.

31 **Comment.** Section 25510(e)(1) is amended to update cross-references in accordance with the  
32 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
33 the Health and Safety Code.

34 **Health & Safety Code § 101480 (amended). Supervision of remedial action by local officer**

35 SEC. \_\_. Section 101480 of the Health and Safety Code is amended to read:

36 101480. (a) For purposes of this article, the following definitions apply:

37 (1) “Department” means the Department of Toxic Substances Control.

38 (2) “Local officer” means a county health officer, city health officer, or county  
39 director of environmental health who has been granted authority by the city's or  
40 county's governing body to enter into a remedial action agreement and oversee a  
41 remedial investigation or remedial action, or both, at a waste release site.

1 (3) “Operation and maintenance” means those activities initiated or continued at  
2 a waste release site following completion of a remedial action deemed necessary to  
3 protect public health, safety, or the environment, to maintain the effectiveness of the  
4 remedial action at the waste release site, or to achieve or maintain the cleanup goals  
5 established in a remedial action agreement pursuant to paragraph (1) of subdivision  
6 (c).

7 (4) “Person” has the same meaning as set forth in Section 25118.

8 (5) “Regional water quality control board” means an entity formed pursuant to  
9 Section 13201 of the Water Code.

10 (6) “Release” has the same meaning as set forth in ~~Section 25320~~. subdivision (a)  
11 of Section 78105.

12 (7) “Remedial action” or “remediation” means any action taken by a responsible  
13 party to clean up a released waste, to abate the effects of a released waste, or to  
14 prevent, minimize, or mitigate damages that may result from the release of a waste.  
15 “Remedial action” includes the restoration, rehabilitation, or replacement of any  
16 natural resource damaged or lost as a result of the release of a waste.

17 (8) “Remedial action agreement” means an agreement between a local officer and  
18 a responsible party pursuant to which the local officer oversees the investigation,  
19 remediation, or operation and maintenance of a waste release site that includes the  
20 information set forth in paragraph (1) of subdivision (c).

21 (9) “Remedial investigation” or “investigation” means those actions deemed  
22 necessary to determine the full extent of a waste release at a site, identify the public  
23 health and environmental threat posed by the waste release, collect data on possible  
24 remedies, and otherwise evaluate the waste release site for purposes of developing  
25 a remedial action.

26 (10) “Responsible party” means a person who, pursuant to this section, requests a  
27 local officer to oversee a remedial investigation or remedial action, or both, with  
28 respect to a released waste.

29 (11) “State board” means the State Water Resources Control Board.

30 (12) “Waste” has the same meaning as set forth in subdivision (b) of Section  
31 101075.

32 (b) Whenever a release of waste occurs and remedial action is required, and that  
33 waste release site is not being overseen by the department or the regional water  
34 quality control board, a responsible party may request the local officer to oversee  
35 the remedial investigation or remedial action, or both. A local officer may agree to  
36 oversee the remedial investigation or remedial action, or both, if the local officer  
37 determines, based on available information, that staff resources and the requisite  
38 technical expertise and capabilities are available to the local officer to adequately  
39 oversee the remedial investigation or remedial action, or both, and if the local officer  
40 has met both of the following requirements:

41 (1) The local officer has complied with the notification requirements in Section  
42 101487.

1 (2) The local officer has, within the past 12 months, submitted to the department  
2 and the regional water quality control board all of the following information:

3 (A) A description of the technical expertise and staff resources available to the  
4 local officer to oversee the investigation or remediation, or both, of waste release  
5 sites, including the résumés of appropriately licensed professionals, licensed  
6 pursuant to Chapter 7 (commencing with Section 6700) of, or Chapter 12.5  
7 (commencing with Section 7800) of, Division 3 of the Business and Professions  
8 Code. The local officer shall submit to the department and the regional water quality  
9 control board information on any substantial changes to staff resources described in  
10 this subparagraph within 30 days of those changes.

11 (B) Certification that all applicable requirements of this code and Division 7  
12 (commencing with Section 13000) of the Water Code will be adhered to and that, if  
13 enforcement action is necessary, the appropriate enforcement action will be  
14 conducted. If the local officer lacks the necessary enforcement authority, the local  
15 officer shall notify the department and the regional water quality control board  
16 regarding the status of the case and the need for enforcement assistance.

17 (C) Attestation that accurate records will be maintained and kept up to date,  
18 including through the use of the state board's GeoTracker electronic data  
19 management system, and kept in compliance with the electronic reporting  
20 requirements in Chapter 30 (commencing with Section 3890) of Division 3 of Title  
21 23 of, and Subdivision 2 of Division 3 of Title 27 of, the California Code of  
22 Regulations, or any successor regulations.

23 (c)(1) Oversight of a remedial investigation or remedial action, or operation and  
24 maintenance of a waste release site, carried out under this section shall be conducted  
25 only pursuant to a remedial action agreement entered into by a local officer and a  
26 responsible party. The remedial action agreement shall specify all of the following  
27 information:

28 (A) The scope of the proposed remedial investigation the responsible party will  
29 carry out to determine the type and extent of contamination caused by the released  
30 waste that is the subject of the remedial investigation or remedial action.

31 (B) Proposed remedial actions.

32 (C) Reporting and public notification requirements.

33 (D) Actions that may be taken in the event of the responsible party's  
34 noncompliance with state or local agency directives.

35 (E) The cleanup goals that the local officer determines are necessary to comply  
36 with applicable provisions of this code and the Water Code, and all associated  
37 regulations, in order to protect human health, safety, or the environment, and that,  
38 if met, constitute a permanent remedy to the release of the waste.

39 (2) The local officer and the responsible party may amend the remedial action  
40 agreement to update the information outlined in paragraph (1) as additional  
41 information about the waste release site becomes available.

42 (d) A local officer who enters into a remedial action agreement, as described in  
43 paragraph (1) of subdivision (c), may, after giving a responsible party at least 30

1 datys' notice, withdraw from the agreement at any time for one or more of the  
2 following reasons:

3 (1) The responsible party is not in compliance with the remedial action agreement.

4 (2) Staff resources, technical expertise, or technical capabilities are not available  
5 to the local officer to adequately oversee the remedial investigation or remedial  
6 action, or both.

7 (3) The release of the waste that is the subject of the remedial investigation or  
8 remedial action, or both, is of a sufficiently complex nature or may present such a  
9 significant potential hazard to human health, safety, or the environment that it  
10 should be referred to the department or the regional water quality control board.

11 (e)(1) Within 30 days of receiving a notification from a local officer pursuant to  
12 Section 101487, the department or the regional water quality control board shall  
13 inform the local officer in writing if the department or the regional water quality  
14 control board will retain oversight authority for the waste release site.

15 (2) If the department or the regional water quality control board informs a local  
16 officer that they will retain oversight authority for the waste release site, the  
17 response described in paragraph (1) shall include all of the following:

18 (A) A brief description of the department's or the regional water quality control  
19 board's reasons for retaining oversight authority.

20 (B) The name, phone number, and email address of the technical staff at the  
21 department or the regional water quality control board who made the determination.

22 (C) The internet website address of the electronic data management system where  
23 public records will be posted regarding the waste release site.

24 (f)(1) If the department or the regional water quality control board informs a local  
25 officer that they will retain oversight authority for the waste release site pursuant to  
26 this section, the local officer shall not enter into a remedial action agreement for that  
27 site.

28 (2) If the department and the regional water quality control board notify a local  
29 officer that they will not retain oversight authority for the waste release site pursuant  
30 to this section, through either a written statement or by not responding within 30  
31 days from the date of the notification from a local officer pursuant to Section  
32 101487, the local officer may enter a remedial action agreement for the site and,  
33 upon doing so, shall establish a global identification number and public record for  
34 the site in the state board's GeoTracker electronic data management system and shall  
35 upload a copy of the agreement under that global identification number.

36 (g) The department or a regional water quality control board shall not assume  
37 regulatory oversight authority over a waste release site for which they have received  
38 a notification from a local officer pursuant to Section 101487 or after a remedial  
39 action agreement has been entered into unless the department or the regional water  
40 quality control board makes one or more of the following determinations:

41 (1) The remedial action being proposed for the waste release site will be  
42 insufficient to address the contamination caused by the released waste that is the  
43 subject of the remedial action.

1 (2) The staff resources, technical expertise, or technical capabilities described in  
2 subparagraph (A) of paragraph (2) of subdivision (b) are no longer available to the  
3 local officer.

4 (3) The responsible party is not in compliance with the remedial action agreement  
5 and the local officer lacks the necessary enforcement authority to ensure compliance  
6 with the remedial action agreement.

7 (4) The release of the waste that is the subject of the remedial investigation or  
8 remedial action, or both, is of a sufficiently complex nature or may present such a  
9 significant potential hazard to human health, safety, or the environment that it  
10 should be handled by the department or the regional water quality control board.

11 (h)(1) After a remedial action agreement has been entered into by a local officer,  
12 the department or a regional water quality control board shall notify the local officer  
13 in writing if the department or the regional water quality control board will assume  
14 oversight authority over the waste release site pursuant to the authority referenced  
15 in Section 101485.

16 (2) The notification described in paragraph (1) shall occur with a minimum 30  
17 days' notice, after which the remedial action agreement shall no longer be valid.

18 (3) Nothing in the notification described in paragraph (1) shall preclude a local  
19 officer from recovering any costs from the responsible party that the local officer  
20 incurred under the terms of the remedial action agreement before its termination.

21 (i) A local officer shall ensure compliance with the electronic reporting  
22 requirements of Chapter 30 (commencing with Section 3890) of Division 3 of Title  
23 23 of, and Subdivision 2 of Division 3 of Title 27 of, the California Code of  
24 Regulations, or any successor regulations. The electronic reporting requirements  
25 shall be included as a provision of a remedial action agreement.

26 (j)(1) At least 30 days before certifying that the cleanup goals identified in the  
27 remedial action agreement were accomplished pursuant to paragraph (2), a local  
28 officer shall conduct a public notification process that shall include, at a minimum,  
29 both of the following:

30 (A) Notifying the department, the regional water quality control board, agencies  
31 with authority to issue building permits for land affected by the waste release,  
32 owners and occupants of the property impacted by the waste release, and the owners  
33 and occupants of all parcels adjacent to the waste release site.

34 (B) Posting the public notice on the state board's GeoTracker electronic data  
35 management system under the global identification number established for the  
36 waste release site.

37 (2) After determining that a responsible party has completed the actions required  
38 by the remedial action agreement and that a permanent remedy for the release of  
39 waste has been achieved, the local officer shall provide the responsible party with a  
40 document that describes the release of waste that occurred and the remedial action  
41 taken, and certifies that the cleanup goals embodied in the remedial action  
42 agreement were accomplished. The local officer shall post the document on the state

1 board's GeoTracker electronic data management system under the global  
2 identification number established for the waste release site.

3 (3)(A) Paragraphs (1) and (2) apply to a remedial action agreement entered into  
4 on or after January 1, 2022, and an open remedial action agreement entered into  
5 before January 1, 2022.

6 (B) A local officer shall ensure that a global identification number and public  
7 record is established in the state board's GeoTracker electronic data management  
8 system for a waste release site for which the local agency is overseeing a remedial  
9 action or remedial investigation, or both, pursuant to an open remedial action  
10 agreement entered into before January 1, 2022. Commencing on January 1, 2022,  
11 the local agency shall maintain all documents related to that waste release site in  
12 compliance with the electronic reporting requirements in Chapter 30 (commencing  
13 with Section 3890) of Division 3 of Title 23 of, and Subdivision 2 of Division 3 of  
14 Title 27 of, the California Code of Regulations, or any successor regulations.

15 (C) For purposes of this paragraph, “open remedial action agreement” means a  
16 remedial action agreement entered into by a local agency and a responsible party  
17 before January 1, 2022, for a waste release site for which the local agency, as of  
18 January 1, 2022, has not certified that the cleanup goals embodied in the remedial  
19 action agreement were accomplished pursuant to paragraph (2).

20 (k) Except as provided in paragraph (3) of subdivision (j), the amendments made  
21 to this section by Assembly Bill 304 of the 2021–22 Regular Session apply to a  
22 remedial action agreement entered into on or after January 1, 2022, and this section  
23 applies as it read on December 31, 2021, with regard to a remedial action agreement  
24 entered into before January 1, 2022.

25 **Comment.** Section 101480 is amended to update cross-references in accordance with the  
26 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
27 the Health and Safety Code.

28 **Health & Safety Code § 101483 (amended). Sites not subject to article**

29 SEC. \_\_. Section 101483 of the Health and Safety Code is amended to read:

30 101483. This article shall not apply to any of the following:

31 (a) A hazardous substance release site listed pursuant to ~~Section 25356~~, Article 5  
32 (commencing with Section 78760) of Chapter 4 of Part 2 of Division 45, a site  
33 subject to an order or enforceable agreement issued pursuant to Article 1  
34 (commencing with Section 78650) of Chapter 4 of Part 2 of Division 45 or Section  
35 ~~25355.5 or 25358.3~~, 78870 or 79055, or a site where the department has initiated  
36 action pursuant to Section ~~25355~~. Article 10 (commencing with Section 79130) of  
37 Chapter 5 of Part 2 of Division 45.

38 (b) A site subject to a corrective action order or agreement issued pursuant to  
39 Section 25187.

40 (c) A site subject to a cleanup and abatement order issued pursuant to Section  
41 13304 of the Water Code.

42 (d) A facility that is subject to the requirements of Section 25200.10 or 25200.14.

1 **Comment.** Section 101483 is amended to update cross-references in accordance with the  
2 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
3 the Health and Safety Code.

4 **Health & Safety Code § 101485 (amended). Construction of article**

5 SEC. \_\_. Section 101485 of the Health and Safety Code is amended to read:

6 101485. This article does not prohibit the department from assuming jurisdiction  
7 over a waste release site pursuant to ~~Chapter 6.8 (commencing with Section 25300)~~  
8 ~~of Division 20, Part 2 (commencing with Section 78000) of Division 45~~, or the  
9 regional water quality control board or the state board from assuming jurisdiction  
10 over a waste release site or from taking enforcement action against a waste release  
11 site pursuant to Division 7 (commencing with Section 13000) of the Water Code.

12 **Comment.** Section 101485 is amended to update cross-references in accordance with the  
13 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
14 the Health and Safety Code.

15 PENAL CODE

16 **Penal Code § 803 (amended). Tolling or extension of limitation of time**

17 SEC. \_\_. Section 803 of the Penal Code is amended to read:

18 803. (a) Except as provided in this section, a limitation of time prescribed in this  
19 chapter is not tolled or extended for any reason.

20 (b) The time during which prosecution of the same person for the same conduct  
21 is pending in a court of this state is not a part of a limitation of time prescribed in  
22 this chapter.

23 (c) A limitation of time prescribed in this chapter does not commence to run until  
24 the discovery of an offense described in this subdivision. This subdivision applies  
25 to an offense punishable by imprisonment in the state prison or imprisonment  
26 pursuant to subdivision (h) of Section 1170, a material element of which is fraud or  
27 breach of a fiduciary obligation, the commission of the crimes of theft or  
28 embezzlement upon an elder or dependent adult, or the basis of which is misconduct  
29 in office by a public officer, employee, or appointee, including, but not limited to,  
30 the following offenses:

31 (1) Grand theft of any type, forgery, falsification of public records, or acceptance  
32 of, or asking, receiving, or agreeing to receive, a bribe, by a public official or a  
33 public employee, including, but not limited to, a violation of Section 68, 86, or 93.

34 (2) A violation of Section 72, 118, 118a, 132, 134, or 186.10.

35 (3) A violation of Section 25540, of any type, or Section 25541 of the  
36 Corporations Code.

37 (4) A violation of Section 1090 or 27443 of the Government Code.

38 (5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107  
39 of the Welfare and Institutions Code.

40 (6) Felony insurance fraud in violation of Section 548 or 550 of this code or  
41 former Section 1871.1, or Section 1871.4, of the Insurance Code.

1 (7) A violation of Section 580, 581, 582, 583, or 584 of the Business and  
2 Professions Code.

3 (8) A violation of Section 22430 of the Business and Professions Code.

4 (9) A violation of Section 103800 of the Health and Safety Code.

5 (10) A violation of Section 529a.

6 (11) A violation of subdivision (d) or (e) of Section 368.

7 (d) If the defendant is out of the state when or after the offense is committed, the  
8 prosecution may be commenced as provided in Section 804 within the limitations  
9 of time prescribed by this chapter, and no time up to a maximum of three years  
10 during which the defendant is not within the state shall be a part of those limitations.

11 (e) A limitation of time prescribed in this chapter does not commence to run until  
12 the offense has been discovered, or could have reasonably been discovered, with  
13 regard to offenses under Division 7 (commencing with Section 13000) of the Water  
14 Code, under Chapter 6.5 (commencing with Section 25100) ~~of, or~~ Chapter 6.7  
15 (commencing with Section 25280) ~~of, or Chapter 6.8 (commencing with Section~~  
16 ~~25300) of, or~~ Division 20 of, or Part 4 (commencing with Section 41500) of Division  
17 26 of, or Part 2 (commencing with Section 78000) of Division 45 of, the Health and  
18 Safety Code, or under Section 386, or offenses under Chapter 5 (commencing with  
19 Section 2000) of Division 2 of, Chapter 9 (commencing with Section 4000) of  
20 Division 2 of, Section 6126 of, Chapter 10 (commencing with Section 7301) of  
21 Division 3 of, or Chapter 19.5 (commencing with Section 22440) of Division 8 of,  
22 the Business and Professions Code.

23 (f)(1) Notwithstanding any other limitation of time described in this chapter, if  
24 subdivision (b) of Section 799 does not apply, a criminal complaint may be filed  
25 within one year of the date of a report to a California law enforcement agency by a  
26 person of any age alleging that the person, while under 18 years of age, was the  
27 victim of a crime described in Section 261, 286, 287, 288, 288.5, or 289, former  
28 Section 288a, or Section 289.5, as enacted by Chapter 293 of the Statutes of 1991  
29 relating to penetration by an unknown object.

30 (2) This subdivision applies only if all of the following occur:

31 (A) The limitation period specified in Section 800, 801, or 801.1, whichever is  
32 later, has expired.

33 (B) The crime involved substantial sexual conduct, as described in subdivision (b)  
34 of Section 1203.066, excluding masturbation that is not mutual.

35 (C) There is independent evidence that corroborates the victim's allegation. If the  
36 victim was 21 years of age or older at the time of the report, the independent  
37 evidence shall clearly and convincingly corroborate the victim's allegation.

38 (3) Evidence shall not be used to corroborate the victim's allegation if that  
39 evidence would otherwise be inadmissible during trial. Independent evidence  
40 excludes the opinions of mental health professionals.

41 (4)(A) In a criminal investigation involving any of the crimes listed in paragraph  
42 (1) committed against a child, if the applicable limitations period has not expired,  
43 that period shall be tolled from the time a party initiates litigation challenging a

1 grand jury subpoena until the end of the litigation, including any associated writ or  
2 appellate proceeding, or until the final disclosure of evidence to the investigating or  
3 prosecuting agency, if that disclosure is ordered pursuant to the subpoena after the  
4 litigation.

5 (B) This subdivision does not affect the definition or applicability of any  
6 evidentiary privilege.

7 (C) This subdivision shall not apply if a court finds that the grand jury subpoena  
8 was issued or caused to be issued in bad faith.

9 (g)(1) Notwithstanding any other limitation of time described in this chapter, a  
10 criminal complaint may be filed within one year of the date on which the identity of  
11 the suspect is conclusively established by DNA testing, if both of the following  
12 conditions are met:

13 (A) The crime is one that is described in subdivision (c) of Section 290.

14 (B) The offense was committed before January 1, 2001, and biological evidence  
15 collected in connection with the offense is analyzed for DNA type no later than  
16 January 1, 2004, or the offense was committed on or after January 1, 2001, and  
17 biological evidence collected in connection with the offense is analyzed for DNA  
18 type no later than two years from the date of the offense.

19 (2) For purposes of this section, “DNA” means deoxyribonucleic acid.

20 (h) For any crime, the proof of which depends substantially upon evidence that  
21 was seized under a warrant, but which is unavailable to the prosecuting authority  
22 under the procedures described in *People v. Superior Court (Laff)* (2001) 25 Cal.4th  
23 703, *People v. Superior Court (Bauman & Rose)* (1995) 37 Cal.App.4th 1757, or  
24 subdivision (c) of Section 1524, relating to claims of evidentiary privilege or  
25 attorney work product, the limitation of time prescribed in this chapter shall be  
26 tolled from the time of the seizure until final disclosure of the evidence to the  
27 prosecuting authority. This section does not otherwise affect the definition or  
28 applicability of any evidentiary privilege or attorney work product.

29 (i)(1) Notwithstanding any other limitation of time described in this chapter, a  
30 criminal complaint may be filed within one year of the date on which a hidden  
31 recording is discovered related to a violation of paragraph (2) or (3) of subdivision  
32 (j) of Section 647.

33 (2) Notwithstanding any other limitation of time described in this chapter, a  
34 criminal complaint may be filed within one year of the date on which it is discovered  
35 that, but not more than four years after, an image was intentionally distributed in  
36 violation of paragraph (4) of subdivision (j) of Section 647.

37 (j) Notwithstanding any other limitation of time described in this chapter, if a  
38 person flees the scene of an accident that caused death or permanent, serious injury,  
39 as defined in subdivision (d) of Section 20001 of the Vehicle Code, a criminal  
40 complaint brought pursuant to paragraph (2) of subdivision (b) of Section 20001 of  
41 the Vehicle Code may be filed within the applicable time period described in Section  
42 801 or 802 or one year after the person is initially identified by law enforcement as

1 a suspect in the commission of the offense, whichever is later, but in no case later  
2 than six years after the commission of the offense.

3 (k) Notwithstanding any other limitation of time described in this chapter, if a  
4 person flees the scene of an accident, a criminal complaint brought pursuant to  
5 paragraph (1) or (2) of subdivision (c) of Section 192 may be filed within the  
6 applicable time period described in Section 801 or 802, or one year after the person  
7 is initially identified by law enforcement as a suspect in the commission of that  
8 offense, whichever is later, but in no case later than six years after the commission  
9 of the offense.

10 (l) A limitation of time prescribed in this chapter does not commence to run until  
11 the discovery of an offense involving the offering or giving of a bribe to a public  
12 official or public employee, including, but not limited to, a violation of Section 67,  
13 67.5, 85, 92, or 165, or Section 35230 or 72530 of the Education Code.

14 (m) Notwithstanding any other limitation of time prescribed in this chapter, if a  
15 person actively conceals or attempts to conceal an accidental death in violation of  
16 Section 152, a criminal complaint may be filed within one year after the person is  
17 initially identified by law enforcement as a suspect in the commission of that  
18 offense, provided, however, that in any case a complaint may not be filed more than  
19 four years after the commission of the offense.

20 (n)(1) Notwithstanding any other limitation of time described in this chapter, a  
21 criminal complaint brought pursuant to a violation of Section 367g may be filed  
22 within one year of the discovery of the offense or within one year after the offense  
23 could have reasonably been discovered.

24 (2) This subdivision applies to crimes that were committed on or after January 1,  
25 2021, and to crimes for which the statute of limitations that was in effect before  
26 January 1, 2021, has not run as of January 1, 2021.

27 **Comment.** Section 803(e) is amended to update cross-references in accordance with the  
28 nonsubstantive recodification of Chapter 6.8 (commencing with Section 25300) of Division 20 of  
29 the Health and Safety Code.

## 30 PUBLIC RESOURCES CODE

### 31 **Pub. Res. Code § 21151.8 (amended). Environmental review for schoolsite purchase or** 32 **school construction**

33 SEC. \_\_. Section 21151.8 of the Public Resources Code is amended to read:

34 21151.8. (a) An environmental impact report shall not be certified or a negative  
35 declaration shall not be approved for a project involving the purchase of a schoolsite  
36 or the construction of a new elementary or secondary school by a school district  
37 unless all of the following occur:

38 (1) The environmental impact report or negative declaration includes information  
39 that is needed to determine if the property proposed to be purchased, or to be  
40 constructed upon, is any of the following:

1 (A) The site of a current or former hazardous waste disposal site or solid waste  
2 disposal site and, if so, whether the wastes have been removed.

3 (B) A hazardous substance release site identified by the Department of Toxic  
4 Substances Control in a current list adopted pursuant to ~~Section 25356~~ Article 5  
5 (commencing with Section 78760) of Chapter 4 of Part 2 of Division 45 of the  
6 Health and Safety Code for removal or remedial action pursuant to ~~Chapter 6.8~~  
7 (commencing with Section 25300) of Division 20 Part 2 (commencing with Section  
8 78000) of Division 45 of the Health and Safety Code.

9 (C) A site that contains one or more pipelines, situated underground or  
10 aboveground, that carries hazardous substances, extremely hazardous substances,  
11 or hazardous wastes, unless the pipeline is a natural gas line that is used only to  
12 supply natural gas to that school or neighborhood, or other nearby schools.

13 (D) A site that is within 500 feet of the edge of the closest traffic lane of a freeway  
14 or other busy traffic corridor.

15 (2)(A) The school district, as the lead agency, in preparing the environmental  
16 impact report or negative declaration has notified in writing and consulted with the  
17 administering agency in which the proposed schoolsite is located, pursuant to  
18 Section 2735.3 of Title 19 of the California Code of Regulations, and with any air  
19 pollution control district or air quality management district having jurisdiction in  
20 the area, to identify both permitted and nonpermitted facilities within that district's  
21 authority, including, but not limited to, freeways and busy traffic corridors, large  
22 agricultural operations, and railyards, within one-fourth of a mile of the proposed  
23 schoolsite, that might reasonably be anticipated to emit hazardous emissions or  
24 handle hazardous or extremely hazardous substances or waste. The notification by  
25 the school district, as the lead agency, shall include a list of the locations for which  
26 information is sought.

27 (B) Each administering agency, air pollution control district, or air quality  
28 management district receiving written notification from a lead agency to identify  
29 facilities pursuant to subparagraph (A) shall provide the requested information and  
30 provide a written response to the lead agency within 30 days of receiving the  
31 notification. The environmental impact report or negative declaration shall be  
32 conclusively presumed to comply with subparagraph (A) as to the area of  
33 responsibility of an agency that does not respond within 30 days.

34 (C) If the school district, as a lead agency, has carried out the consultation required  
35 by subparagraph (A), the environmental impact report or the negative declaration  
36 shall be conclusively presumed to comply with subparagraph (A), notwithstanding  
37 any failure of the consultation to identify an existing facility or other pollution  
38 source specified in subparagraph (A).

39 (3) The governing board of the school district makes one of the following written  
40 findings:

41 (A) Consultation identified no facilities of this type or other significant pollution  
42 sources specified in paragraph (2).

1 (B) The facilities or other pollution sources specified in paragraph (2) exist, but  
2 one of the following conditions applies:

3 (i) The health risks from the facilities or other pollution sources do not and will  
4 not constitute an actual or potential endangerment of public health to persons who  
5 would attend or be employed at the proposed school.

6 (ii) Corrective measures required under an existing order by another agency  
7 having jurisdiction over the facilities or other pollution sources will, before the  
8 school is occupied, result in the mitigation of all chronic or accidental hazardous air  
9 emissions to levels that do not constitute an actual or potential endangerment of  
10 public health to persons who would attend or be employed at the proposed school.  
11 If the governing board makes a finding pursuant to this clause, it shall also make a  
12 subsequent finding, prior to occupancy of the school, that the emissions have been  
13 so mitigated.

14 (iii) For a schoolsite with a boundary that is within 500 feet of the edge of the  
15 closest traffic lane of a freeway or other busy traffic corridor, the governing board  
16 of the school district determines, through analysis pursuant to paragraph (2) of  
17 subdivision (b) of Section 44360 of the Health and Safety Code, based on  
18 appropriate air dispersion modeling, and after considering any potential mitigation  
19 measures, that the air quality at the proposed site is such that neither short-term nor  
20 long-term exposure poses significant health risks to pupils.

21 (C) The facilities or other pollution sources specified in paragraph (2) exist, but  
22 conditions in clause (i), (ii), or (iii) of subparagraph (B) cannot be met, and the  
23 school district is unable to locate an alternative site that is suitable due to a severe  
24 shortage of sites that meet the requirements in subdivision (a) of Section 17213 of  
25 the Education Code. If the governing board makes this finding, the governing board  
26 shall adopt a statement of overriding considerations pursuant to Section 15093 of  
27 Title 14 of the California Code of Regulations.

28 (b) As used in this section, the following definitions shall apply:

29 (1) “Hazardous substance” means any substance defined in ~~Section 25316~~  
30 subdivision (a) of Section 78075 of the Health and Safety Code.

31 (2) “Extremely hazardous substances” means an extremely hazardous substance  
32 as defined pursuant to paragraph (2) of subdivision (i) of Section 25532 of the  
33 Health and Safety Code.

34 (3) “Hazardous waste” means any waste defined in Section 25117 of the Health  
35 and Safety Code.

36 (4) “Hazardous waste disposal site” means any site defined in Section 25114 of  
37 the Health and Safety Code.

38 (5) “Hazardous air emissions” means emissions into the ambient air of air  
39 contaminants that have been identified as a toxic air contaminant by the State Air  
40 Resources Board or by the air pollution control officer for the jurisdiction in which  
41 the project is located. As determined by the air pollution control officer, hazardous  
42 air emissions also means emissions into the ambient air from any substances

1 identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and  
2 Safety Code.

3 (6) “Administering agency” means an agency authorized pursuant to Section  
4 25502 of the Health and Safety Code to implement and enforce Chapter 6.95  
5 (commencing with Section 25500) of Division 20 of the Health and Safety Code.

6 (7) “Handle” means handle as defined in Article 1 (commencing with Section  
7 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

8 (8) “Facilities” means any source with a potential to use, generate, emit, or  
9 discharge hazardous air pollutants, including, but not limited to, pollutants that meet  
10 the definition of a hazardous substance, and whose process or operation is identified  
11 as an emission source pursuant to the most recent list of source categories published  
12 by the California Air Resources Board.

13 (9) “Freeway or other busy traffic corridors” means those roadways that, on an  
14 average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in  
15 Section 50101 of the Health and Safety Code, and 100,000 vehicles in an urban area,  
16 as defined in Section 50104.7 of the Health and Safety Code.

17 **Comment.** Section 21151.8(a)(1)(B) and (b)(1) are amended to update cross-references in  
18 accordance with the nonsubstantive recodification of Chapter 6.8 (commencing with Section  
19 25300) of Division 20 of the Health and Safety Code.