

## Memorandum 98-20

### **Environmental Law Consolidation: Draft of Division 2 (General)**

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Attached to this memorandum is a staff draft of Division 2 of the proposed Environment Code, relating to general administrative matters. A staff draft of conforming revisions and a disposition table showing the relationship between existing code sections and their corresponding proposed Environment Code sections are also attached. Noteworthy aspects of the staff draft are discussed below.

#### GOVERNOR'S REORGANIZATION PLAN

Section 6 of Article V of the California Constitution authorizes the Legislature to delegate authority to the Governor, by statute, to "assign and reorganize functions among executive officers and agencies and their employees, other than elective officers and agencies administered by elective officers." Such a delegation has been made and is implemented through Government Code Sections 12080-12081.2. In general, these sections provide that the Governor may propose an executive reorganization plan to the Legislature and that the plan will automatically take effect unless a majority in either house votes to oppose the plan within sixty days of submission. Once effective, a reorganization plan suspends the operation of inconsistent prior acts of the Legislature. The Legislative Counsel is then required to prepare a bill for introduction to the Legislature, to codify the effect of the reorganization plan. Failure to enact the bill does not affect the validity of the plan.

Many of the sections that are included in Part 1 of the attached draft were created or partially suspended by the Governor's Reorganization Plan No. 1, of 1991, effective July 17, 1991. However, it does not appear that conforming legislation was ever enacted. Reenactment of these sections in the Environmental Code corrects this oversight by codifying the effect of the reorganization plan. This codification is noted in the Comments for the relevant sections. See, e.g., proposed Sections 1100 & 3000 & Comments.

## OBSOLETE PROVISIONS

The staff has identified a number of provisions that appear to be obsolete. In some cases, obsolescence is clear and the provision has not been continued. In these cases, the failure to continue the obsolete provision is noted in the Comment to the relevant section. In other cases, obsolescence is less clear. Staff notes to these sections raise the issue of obsolescence and request public input on the continued usefulness of the apparently obsolete provision.

### **Succession Provisions**

In 1991, the Department of Toxic Substances Control and the Office of Environmental Health Hazard Assessment were created. These entities succeeded to certain duties, powers, and resources of the Department of Health Services (DHS). See proposed Sections 3200 & 4200 (succession to duties and powers of DHS); 3201 & 4201 (succession to unexpended funds); 3202 & 4202 (status of former employees); 3203 & 4203 (succession to certain records and property).

While the provisions governing succession to the duties and powers of DHS may have continuing relevance, the other provisions govern transactions that should have been completed years ago and are therefore probably obsolete. Staff notes to these sections raise this issue and solicit input on the question.

### **Succession to Powers of Office of Nuclear Energy**

Government Code Section 12807 provides for the succession of the Resources Agency to certain duties and powers of the Office of Atomic Energy Development and Radiation Protection (renamed the Office of Nuclear Energy). This provision appears to be obsolete. Instead, Chapter 7.5 (commencing with Section 25700) of Division 20 of the Health and Safety Code governs the Resource Agency's responsibilities relating to nuclear energy development and radiation protection. A staff note following proposed Section 2000 raises this issue and recommends that Government Code Section 12807 be repealed.

### **Environmental Quality Study Council**

The proposed outline of the Environment Code includes provisions creating and governing the Environmental Quality Study Council. See Gov't Code §§ 16000-16081. This council was created in 1968, to study and report on environmental issues facing the state. It appears that the council was abolished in 1972, by operation of Government Code Section 16055, which provides: "The

council shall cease to exist upon the adjournment sine die of the 1972 Regular Session of Legislature.” The staff recommends that Government Code Sections 16000 to 16081 be repealed as obsolete. This is the approach taken in the attached draft.

### **Start Dates**

A number of sections impose duties on state agencies, or change their procedures, beginning on a specified date. These dates have historical relevance, but appear to have no continuing legal effect. These apparently obsolete dates are not continued in the attached draft, but are noted in the corresponding comments. See proposed Sections 1501(a), 3004, 4004, 4306(a), 8505, 15400(b), and Comments.

### **Deadlines**

A number of sections specify deadlines by which state agencies were to complete some task. These provisions appear to be obsolete, but may have some continuing relevance if an agency has not yet complied with the requirement. Staff notes to the following sections raise this issue and request input on the continued relevance of the deadline provisions: proposed Sections 1401(a), 1501(c), 1700(a), 11101(a), 12000(a), 14200, 15400(c).

### **Sanitarian Registration**

Health and Safety Code Section 106600 provides that a valid sanitarian registration became a valid environmental health specialist registration on January 1, 1989. This apparently obsolete transitional provision governed the switch from the registration of sanitarians to the registration of environmental health specialists. This transitional provision is not continued. See proposed Section 8000 and Comment.

## **SECTIONS BETTER LOCATED ELSEWHERE IN CODE**

### **Resources Agency**

Government Code Sections 12807.5 and 12807.6, relating to responsibilities of the Resources Agency, were identified for inclusion in Division 2 of the Environment Code. As it turns out, those sections relate to very specific subjects and would be better located in other divisions of the Environment Code. See the third and fourth staff notes following proposed Section 2000.

## **Certification Programs**

Part 2 of Division 2 of the Environment Code governs the certification of environmental professionals. In reviewing the provisions proposed for inclusion in this part, the staff concluded that those certification programs that are closely related to a substantive area of environmental law should not be included in Division 2, but should instead be included in the division governing that substantive area. Consequently, certification requirements governing radon specialists, radiological technologies, nuclear medicine technologists, and water treatment plant operators are not included in Division 2. Certification programs governing environmental assessors and environmental health specialists, which are more generalist environmental professions, are included in Division 2.

## **MISCELLANEOUS TECHNICAL ISSUES**

A range of technical drafting issues are discussed in staff notes in the attached draft. They are briefly summarized below.

### **CEQA References**

Some sections of this draft contain cross-references to the California Environmental Quality Act (CEQA). These cross references are to existing sections of the Public Resources Code.

A draft is currently being prepared to move CEQA into a separate division of the Environment Code. Once that draft is complete, cross-references in the Division 2 draft will be updated to reflect CEQA's new location.

### **“Sanitarian”**

Health and Safety Code Section 106600 provides that the terms “sanitarian” and “registered sanitarian” mean “registered environmental health specialist” when used in statutes or regulations. See proposed Section 8000(c). There are only a handful of statutory references to sanitarians. The staff is proposing conforming revisions to replace these references to “sanitarians” with references to “registered environmental health specialists.”

### **Application of definitions**

In their existing form, three sections that are included in Division 2 provide definitions but do not state the application of those definitions. In each case, the intended application is relatively clear from the context. The attached draft

includes provisions stating the application of these definitions. See proposed Sections 8100, 14100, 15100.

Respectfully submitted,

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# ENVIRONMENT CODE

## DIVISION 2. GENERAL

### PART 1. ENVIRONMENTAL AGENCIES

#### CHAPTER 1. ENVIRONMENTAL REPORT OF GOVERNOR

##### **§1000. Environmental report of Governor**

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1000. (a) The Governor, utilizing the staff and resources of state agencies, shall transmit to the Legislature, not later than March 15 of each year, an environmental report designated as the “Environmental Report of the Governor” setting forth all of the following:

(1) A review of environmental developments during the preceding calendar year, including trends in air quality, water quality, solid waste, the generation and disposal of hazardous waste, population growth, the growth in number of vehicles, depletion of natural resources, and other indicators of environmental quality and pollution.

(2) Forecasts of trends in major indicators of environmental quality, resource depletion, and pollution.

(3) Insofar as possible within existing resources, an evaluation of the economic and human health costs of resource depletion, pollution, and changes in environmental quality.

(4) Additional material on the California environment that is pertinent and of interest, with historical analysis and future projections whenever possible.

(5) Summaries of state policies and actions that relate to environmental developments and trends.

(6) A status update on the California Environmental Technology Program established pursuant to Section 1700.

(b) In conjunction with the environmental report, the Governor shall present an environmental message reviewing significant environmental achievements of the past year, outlining problem areas, and defining environmental policy, and shall make recommendations as may be appropriate for programs to decrease pollution, improve environmental quality, and protect natural resources.

**Comment.** Section 1000 continues former Government Code Section 12805.5 without substantive change.

#### CHAPTER 2. CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

##### Article 1. General Provisions

##### **§ 1100. California Environmental Protection Agency**

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1100. The California Environmental Protection Agency consists of the State Air Resources Board, the Office of Environmental Health Hazard Assessment, the California Integrated Waste Management Board, the State Water Resources Control Board, and each California regional water quality control board, and the following departments: Pesticide Regulation and Toxic Substances Control.

**Comment.** Section 1100 continues former Government Code Section 12812 without change. Enactment of this section codifies Section 80 of the Governor’s Reorganization Plan No. 1 of 1991, effective July 17, 1991.

1   **§ 1101. Deputy secretaries**

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2   1101. The Governor may, with respect to the agency, appoint not more than three  
3   deputies to the secretary. Each deputy secretary shall hold office at the pleasure of the  
4   secretary, and shall receive a salary fixed by the secretary with the approval of the  
5   Department of Personnel Administration.

6   **Comment.** Section 1101 continues former Government Code Section 12812.1 without  
7   substantive change. Enactment of this section codifies Section 81 of the Governor's  
8   Reorganization Plan No. 1 of 1991, effective July 17, 1991.

9                                   Article 2. Definitions

10   **§ 1200. Application of definitions**

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11   1200. Unless the provision or context otherwise requires, the definitions in this article  
12   govern the construction of this chapter.

13   **Comment.** Section 1200 generalizes the introductory clause of subdivision (a) of former  
14   Health and Safety Code Section 57000.

15   ☞ **Staff Note.** The definitions in Health and Safety Code Section 57000 apply to Division  
16   37 of the Health and Safety Code. These definitions can usefully be applied to this entire  
17   chapter and have been generalized to that effect.

18   **§ 1205. "Agency"**

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19   1205. "Agency" means the California Environmental Protection Agency.

20   **Comment.** Section 1205 continues paragraph (1) of subdivision (a) of Health and Safety  
21   Code Section 57000(a) without substantive change.

22   **§ 1210. "Quality government program"**

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23   1210. "Quality government program" means all of the following:

24   (a) A process for obtaining the views of employees, the regulated community, the public,  
25   environmental organizations, and governmental officials with regard to the performance,  
26   vision, and needs of the agency implementing the quality government program.

27   (b) A process for developing measurable performance objectives using the views of the  
28   persons and organizations specified in paragraph (1).

29   (c) Processes for continually improving quality and for training agency personnel, using  
30   the information obtained from implementing paragraphs (1) and (2).

31   **Comment.** Section 1210 continues subdivision (e) of former Health and Safety Code  
32   Section 57000 without substantive change.

33   **§ 1215. "Secretary"**

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34   1215. "Secretary" means the Secretary for Environmental Protection.

35   **Comment.** Section 1215 continues paragraph (2) of subdivision (a) of Health and Safety  
36   Code Section 57000(a) without substantive change.

37                                   Article 3. Quality Government Programs

38   **§ 1300. Quality government programs**

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39   1300. (a) On or before December 31, 1997, the agency, and the offices, boards, and  
40   departments within the agency, shall institute quality government programs to achieve  
41   increased levels of environmental protection and the public's satisfaction through  
42   improving the quality, efficiency, and cost-effectiveness of the state programs which

1 implement and enforce state and federal environmental protection statutes. These programs  
2 shall be designed to increase the level of environmental protection while expediting  
3 decision-making and producing cost savings. The secretary shall create an advisory group  
4 comprised of state and local government, business, environmental, and consumer  
5 representatives experienced in quality management to provide guidance in that effort. The  
6 secretary shall develop a model quality management program that local agencies charged  
7 with implementing air quality, water quality, toxics, solid waste, and hazardous waste laws  
8 and regulations may use at their discretion.

9 (b) On and after December 31, 1998, the agency, and each board, department, and office  
10 within the agency, shall submit a yearly report to the Governor and Legislature, as part of  
11 the budget process, reporting on the extent to which they have attained their performance  
12 objectives, and on their continuous quality improvement efforts.

13 (c) Nothing in this article shall be interpreted to abrogate any collective bargaining  
14 agreement or interfere with any established employee rights.

15 **Comment.** Section 1300 continues subdivisions (b)-(d) of former Health and Safety Code  
16 Section 57000 without substantive change.

## 17 Article 4. Management of Revenues

### 18 § 1400. Study of revenues

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19 1400. The agency shall conduct a study by surveying state, regional, and local agencies  
20 charged with implementing air quality, water quality, toxics, solid waste, and hazardous  
21 waste laws and regulations to determine how much revenue is derived from fines and  
22 penalties and to what purposes that revenue is directed. The study should include a review  
23 of the extent to which those funds are used to support state, regional, and local agency  
24 operations.

25 **Comment.** Section 1400 continues former Health and Safety Code Section 57002 without  
26 change.

### 27 § 1401. Fee accountability

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28 1401. (a) Except as provided in Section 1402, each office, board, and department within  
29 the agency shall, on or before December 31, 1995, implement a fee accountability program  
30 for the fees specified in Section 1403. The fee accountability program shall be designed to  
31 encourage more efficient and cost-effective operation of the programs for which the fees are  
32 assessed, and shall be designed to ensure that the amount of each fee is not more than is  
33 reasonably necessary to fund the efficient operation of the activities or programs for which  
34 the fee is assessed.

35 (b) Before implementing the fee accountability program required by this Section, each  
36 board, department, and office within the agency shall conduct a review of the fees  
37 identified in Section 1403 which it assesses. The purpose of this review shall be to  
38 determine what changes, if any, should be made to all of the following, in order to  
39 implement a fee system which accomplishes the purposes set forth in subdivision (a):

40 (1) The amount of the fee.

41 (2) The manner in which the fee is assessed.


42 (3) The management and workload standards of the program or activity for which the fee  
43 is assessed.

44 (c) The fee accountability program of each board, department, or office within the agency  
45 shall include those elements of the requirements of Section 25206 of the Health and Safety  
46 Code that the secretary determines are appropriate in order to accomplish the purposes set  
47 forth in subdivision (a).

48 (d) If a board, department, or office within the agency determines that the amount of a fee  
49 that is fixed in statute should be increased in order to implement a fee accountability system

1 which accomplishes the purposes of subdivision (a), it shall notify the Legislature, and  
2 make recommendations concerning appropriate increases in the statutorily fixed fee  
3 amount. For fees whose amount is not fixed in statute, the board, department, or office  
4 may increase the fee only if it makes written findings in the record that it has implemented a  
5 fee accountability program which complies with this Section.

6 **Comment.** Section 1401 continues subdivisions (a), (b), (c), and (e) of former Health and  
7 Safety Code Section 57001 without substantive change.

8  **Staff Note.** Subdivision (a) specifies a deadline for implementation of a fee  
9 accountability program. This provision may be obsolete. The staff would like to receive input  
10 on two questions: (1) Have the duties required in subdivision (a) been completed? (2) Does  
11 the requirement stated in subdivision (a) still serve a useful purpose?

#### 12 **§ 1402. Exception to fee accountability requirement**

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13 1402. The Department of Toxic Substances Control shall be deemed to be in compliance  
14 with Section 1401 if it complies with Section 25206 of the Health and Safety code.

15 **Comment.** Section 1402 continues subdivisions (f) of former Health and Safety Code  
16 Section 57001 without substantive change.

#### 17 **§ 1403. Fees subject to fee accountability requirement**

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18 1403. Section 1401 applies to the following fees:

19 (a) The fee assessed pursuant to subdivision (d) of Section 13146 of the Food and  
20 Agricultural Code to develop data concerning the environmental fate of a pesticide when the  
21 registrant fails to provide the required information.

22 (b) The surface impoundment fees assessed pursuant to Section 25208.3 of the Health  
23 and Safety Code.

24 (c) The fee assessed pursuant to Section 43203 of the Health and Safety Code to recover  
25 the costs of the State Air Resources Board in verifying manufacturer compliance on  
26 emissions from new vehicles prior to retail sale.

27 (d) The fee assessed pursuant to Section 44380 of the Health and Safety Code to recover  
28 the costs of the State Air Resources Board and the Office of Environmental Health Hazard  
29 Assessment in implementing and administering the Air Toxics “Hot Spots” Information and  
30 Assessment Act of 1987 (Part 6 (commencing with Section 44300) of Division 26 of the  
31 Health and Safety Code).

32 (e) The fee assessed pursuant to Section 43212 of the Public Resources Code to recover  
33 the costs of the California Integrated Waste Management Board when it assumes the  
34 responsibilities of the local enforcement agency.

35 (f) The fee assessed pursuant to Section 43508 of the Public Resources Code to recover  
36 the costs of the California Integrated Waste Management Board in reviewing closure plans.

37 (g) The water rights permit fees assessed pursuant to Chapter 8 (commencing with  
38 Section 1525) of Part 2 of Division 2 of the Water Code.

39 (h) The fee assessed pursuant to subdivision (c) of Section 13260 of the Water Code for  
40 waste discharge requirements, including, but not limited to, requirements for storm water  
41 discharges, and the fee assessed pursuant to subdivision (i) of Section 12360 of the Water  
42 Code for National Pollution Discharge Elimination System permits.

43 (i) The costs assessed pursuant to Section 13304 of the Water Code to recover the costs  
44 of the State Water Resources Control Board or the California regional water quality control  
45 boards in implementing and enforcing cleanup and abatement orders.

46 **Comment.** Section 1403 continues subdivision (d) of former Health and Safety Code  
47 Section 57001 without substantive change.

Article 5. Rulemaking and Regulations

**§ 1500. Proposed risk assessment guidelines and policies**

1500. (a) Before a board, department or office within the agency adopts chemical risk assessment guidelines or policies for evaluating the toxicity of chemicals or prepares a health evaluation of a chemical that will be used in the regulatory process of another board, department, or office, the board, department, or office shall first convene a public workshop at which the guidelines, policies, or health evaluation may be discussed. The public workshop shall be designed to encourage a constructive dialogue between the scientists employed by the board, department, or office that prepared the proposed guidelines or policies or health evaluation and scientists not employed by that board, department, or office and to evaluate the degree to which the proposed guidelines or policies or health evaluation are based on sound scientific methods, knowledge, and practice. Following the workshop, the agency shall revise the guidelines, policies, or health evaluation, as appropriate, and circulate it for public comment for a period of at least 30 days.

(b) In any case where the guidelines, policies, or health evaluations described in subdivision (a) are proposed, or are being prepared, pursuant to a statutory requirement that specifies a procedure or a time period for carrying out the requirement, the requirements of subdivision (a) do not authorize a delay or a postponement in carrying out the statutory requirement.

**Comment.** Section 1500 continues former Health and Safety Code Section 57003 without change.

**§ 1501. Major regulations**

1501. (a) Each board, department, and office within the agency, before adopting any major regulation, shall evaluate the alternatives to the requirements of the proposed regulation that are submitted to the board, department, or office pursuant to paragraph (7) of subdivision (a) of Section 11346.5 of the Government Code and consider whether there is a less costly alternative or combination of alternatives which would be equally as effective in achieving increments of environmental protection in a manner that ensures full compliance with statutory mandates within the same amount of time as the proposed regulatory requirements.

(b) For purposes of this Section, “major regulation” means any regulation that will have an economic impact on the state’s business enterprises in an amount exceeding ten million dollars (\$10,000,000), as estimated by the board, department, or office within the agency proposing to adopt the regulation in the assessment required by subdivision (a) of Section 11346.3 of the Government Code.

(c) On or before December 31, 1994, after consulting with the Secretary of Trade and Commerce, the director or executive officer of each board, department, and office within the agency, and after receiving public comment, the secretary shall adopt guidelines to be followed by the boards, departments, and offices within the agency concerning the methods and procedures to be used in conducting the evaluation required by this Section.

**Comment.** Section 1501 continues former Health and Safety Code Section 57005 without change. The reference, in subdivision (a), to the date on which the requirements of subdivision (a) took effect (January 1, 1994) is obsolete and has been omitted.

☞ **Staff Note.** Subdivision (c) specifies a deadline for the adoption of guidelines. This deadline provision may be obsolete. The staff would like to receive input on two questions: (1) Have the guidelines been adopted as required? (2) Does the requirement stated in subdivision (c) still serve a useful purpose?

Article 6. External Scientific Peer Review

**§ 1600. Definitions**

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1600. As used in this article, the following terms have the following meanings:

(a) “Rule” means either of the following:

(1) A regulation, as defined in subdivision (g) of Section 11342 of the Government Code.

(2) A policy adopted by the State Water Resources Control Board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) that has the effect of a regulation and that is adopted in order to implement or make effective a statute.

(b) “Scientific basis” and “scientific portions” means those foundations of a rule that are premised upon, or derived from, empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment.

**Comment.** Section 1600 continues subdivision (a) of former Health and Safety Code Section 57004 without substantive change.

**§ 1601. External scientific peer reviewers**

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1601. (a) The agency, or a board, department, or office within the agency, shall enter into an agreement with the National Academy of Sciences, the University of California, the California State University, or any similar scientific institution of higher learning, any combination of those entities, or with a scientist or group of scientists of comparable stature and qualifications that is recommended by the President of the University of California, to conduct an external scientific peer review of the scientific basis for any rule proposed for adoption by any board, department, or office within the agency. The scientific basis or scientific portion of a rule adopted pursuant to Chapter 6.6 (commencing with Section 25249.5) of Division 20 of the Health and Safety Code or Chapter 3.5 (commencing with Section 39650) of Division 26 of the Health and Safety Code shall be deemed to have complied with this Section if it complies with the peer review processes established pursuant to these statutes.

(b) No person may serve as an external scientific peer reviewer for the scientific portion of a rule if that person participated in the development of the scientific basis or scientific portion of the rule.

**Comment.** Section 1601 continues subdivisions (b) and (c) of former Health and Safety Code Section 57004 without change.

**§ 1602. Required review**

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1602. (a) No board, department, or office within the agency shall take any action to adopt the final version of a rule unless all of the following conditions are met:

(1) The board, department, or office submits the scientific portions of the proposed rule, along with a statement of the scientific findings, conclusions, and assumptions on which the scientific portions of the proposed rule are based and the supporting scientific data, studies, and other appropriate materials, to the external scientific peer review entity for its evaluation.

(2) The external scientific peer review entity, within the timeframe agreed upon by the board, department, or office and the external scientific peer review entity, prepares a written report that contains an evaluation of the scientific basis of the proposed rule. If the external scientific peer review entity finds that the board, department, or office has failed to demonstrate that the scientific portion of the proposed rule is based upon sound scientific knowledge, methods, and practices, the report shall state that finding, and the reasons explaining the finding, within the agreed-upon timeframe. The board, department, or office may accept the finding of the external scientific peer review entity, in whole, or in part, and

1 may revise the scientific portions of the proposed rule accordingly. If the board,  
2 department, or office disagrees with any aspect of the finding of the external scientific peer  
3 review entity, it shall explain, and include as part of the rulemaking record, its basis for  
4 arriving at such a determination in the adoption of the final rule, including the reasons why  
5 it has determined that the scientific portions of the proposed rule are based on sound  
6 scientific knowledge, methods, and practices.

7 (b) The requirements of this Section do not apply to an emergency regulation adopted  
8 pursuant to subdivision (b) of Section 11346.1 of the Government Code.

9 (c) Nothing in this Section shall be interpreted to, in any way, limit the authority of a  
10 board, department, or office within the agency to adopt a rule pursuant to the requirements  
11 of the statute that authorizes or requires the adoption of the rule.

12 **Comment.** Section 1602 continues subdivisions (d)-(f) of former Health and Safety Code  
13 Section 57004 without change.

## 14 Article 7. Environmental Technology Program

### 15 **§ 1700. Environmental technology program**

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16 1700. (a) On or before March 1, 1994, the agency, using existing resources and in  
17 consultation with other relevant agencies in state and local government, shall do all of the  
18 following:

19 (1) Establish an environmental technologies clearinghouse, which shall include, but not  
20 be limited to, maintaining information on California-based environmental technology  
21 companies and information on funding sources for environmental technology endeavors  
22 and making this information available to interested parties.

23 (2) Make available technical assistance within the agency to assist California-based  
24 environmental technology companies to improve export opportunities, and to enhance  
25 foreign buyers' awareness of, and access to, environmental technologies and services  
26 offered by California-based companies. The technical assistance may include, but is not  
27 limited to, organizing and leading trade missions, receiving reverse trade missions, referral  
28 services, reviewing project opportunities, and notifying California-based companies of  
29 export opportunities and trade shows.


30 (3) Perform research studies and solicit technical advice to identify international market  
31 opportunities for California-based environmental technology companies.

32 (4) Participate in federally and other non-state funded technical exchange programs,  
33 when appropriate, to increase foreign buyers' interest in California's environmental  
34 technologies.

35 (5) Coordinate activities in state government, and with the federal government and other  
36 countries' governments, to take advantage of trade promotion and financial assistance  
37 opportunities available to California-based environmental technology companies.

38 (b) The agency shall report annually to the Legislature the status of the California  
39 Environmental Technology Program established pursuant to this Section through the  
40 Environmental Report of the Governor as provided in Section 1000.

41 **Comment.** Section 1700 continues former Government Code Section 12812.5 without  
42 substantive change.

43  **Staff Note.** Subdivision (a) specifies a deadline for completion of certain duties. This  
44 provision may be obsolete. The staff would like to receive input on two questions: (1) Have  
45 the duties required in subdivision (a) been completed? (2) Does subdivision (a) still serve a  
46 useful purpose?


## CHAPTER 3. RESOURCES AGENCY


### § 2000. Resources Agency


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2000. The Resources Agency consists of the Colorado River Board, the State Energy Resources Conservation and Development Commission, the State Lands Commission, the Division of State Lands, the San Joaquin River Conservancy, and the following departments: Conservation, Fish and Game, Forestry and Fire Protection, Navigation and Ocean Development, Parks and Recreation, and Water Resources.

**Comment.** Section 2000 continues the substance of former Government Code Section 12805, as supplemented by Section 79 of the Governor's Reorganization Plan No. 1 of 1991, effective July 17, 1991.

 **Staff Note.** Section 2000 harmonizes Section 79 of the Governor's Reorganization Plan No. 1 of 1991 and the 1996 amendment of Government Code Section 12805 (adding the San Joaquin River Conservancy). See 1996 Cal. Stat. ch. 124, § 38. A technical reading of the 1996 amendment could construe it to have superseded the effect of the Governor's Reorganization Plan.

 **Staff Note.** Government Code Section 12807, identified for inclusion in this division in the Draft Outline, appears to be obsolete. It provides for the succession of the Resources Agency to certain powers and responsibilities of the Health and Welfare agency relating to the Office of Atomic Energy Development and Radiation Protection (renamed the Office of Nuclear Energy). The Office of Nuclear Energy no longer exists. Chapter 7.5 (commencing with Section 25700) of Division 20 of the Health and Safety Code now governs the Resource Agency's responsibilities relating to nuclear energy development and radiation protection. The staff recommends that this section be repealed.

 **Staff Note.** Government Code Section 12807.5, identified for inclusion in this division in the Draft Outline, provides direction to the Resources Agency relating to the acquisition of a particular park. The section is probably obsolete and is definitely too narrow in scope for inclusion in this division. It should be examined more carefully for possible inclusion in the Parks, Wilderness, and Public Lands division.

 **Staff Note.** Government Code Section 12807.6, identified for inclusion in this division in the Draft Outline, creates a loan program, administered by the Resources Agency, to benefit commercial fishermen. The staff believes that this section is too narrow in scope for inclusion in this division. It should be examined more carefully for possible inclusion in the Commercial Fishing part of the Wildlife division.

## CHAPTER 4. DEPARTMENT OF TOXIC SUBSTANCES CONTROL

### Article 1. General Provisions

### § 3000. Department of Toxic Substances Control

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3000. There is, in the California Environmental Protection Agency, the Department of Toxic Substances Control.

**Comment.** Section 3000 continues former Health and Safety Code Section 58000 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 146, effective July 17, 1991.

### § 3001. Director

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3001. (a) The Department of Toxic Substances Control is under the control of an executive officer known as the Director of Toxic Substances Control, who shall be

1 appointed by the Governor, subject to confirmation by the Senate, and hold office at the  
2 pleasure of the Governor.

3 (b) The director shall receive the annual salary provided by Chapter 6 (commencing with  
4 Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

5 **Comment.** Section 3001 continues former Health and Safety Code Section 58002 without  
6 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
7 of 1991, § 146, effective July 17, 1991.

#### 8 **§ 3002. Deputy director**

---

9 3002. The Governor may appoint a deputy to the director. The deputy director shall hold  
10 office at the pleasure of the director, and shall receive a salary fixed by the director with the  
11 approval of the Department of Personnel Administration.

12 **Comment.** Section 3002 continues former Health and Safety Code Section 58002.5  
13 without change. Enactment of this section codifies part of the Governor's Reorganization  
14 Plan No. 1 of 1991, § 146, effective July 17, 1991.

#### 15 **§ 3003. Powers of director**

---

16 3003. The director shall have the powers of a head of a department pursuant to Chapter 2  
17 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government  
18 Code.

19 **Comment.** Section 3003 continues former Health and Safety Code Section 58003 without  
20 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
21 of 1991, § 146, effective July 17, 1991.

#### 22 **§ 3004. Appointment of employees**

---

23 3004. All officers or employees of the department shall be appointed by the director.

24 **Comment.** Section 3004 continues former Health and Safety Code Section 58008 without  
25 substantive change. Reference to the date on which this provision took effect (the effective  
26 date of former Section 58008) is obsolete and has been omitted.

27 Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of  
28 1991, § 146, effective July 17, 1991.

#### 29 **§ 3005. Grants and gifts to further work of department**

---

30 3005. With the approval of the Department of Finance, and for use in the furtherance of  
31 the work of the department, the director may accept the following:

- 32 (a) Grants of interest in real property.  
33 (b) Gifts of money from public agencies or from organizations or associations organized  
34 for scientific, educational, or charitable purposes.

35 **Comment.** Section 3005 continues former Health and Safety Code Section 58016 without  
36 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
37 of 1991, § 146, effective July 17, 1991.

### 38 **Article 2. Definitions**

#### 39 **§ 3100. Application of definitions**

---

40 3100. Unless the provision or context otherwise requires, the definitions in this article  
41 govern the construction of this chapter.

42 **Comment.** Section 3100 restates the introductory clause of former Health and Safety Code  
43 Section 58001. Enactment of this section codifies part of the Governor's Reorganization Plan  
44 No. 1 of 1991, § 146, effective July 17, 1991.

1 **§ 3105. “Department”**

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2 3105. “Department” means the Department of Toxic Substances Control.

3 **Comment.** Section 3105 continues subdivision (a) of former Health and Safety Code  
4 Section 58001 without change. Enactment of this section codifies part of the Governor’s  
5 Reorganization Plan No. 1 of 1991, § 146, effective July 17, 1991.

6 **§ 3110. “Director”**

---

7 3110. “Director” means the Director of Toxic Substances Control.

8 **Comment.** Section 3110 continues subdivision (b) of former Health and Safety Code  
9 Section 58001 without change. Enactment of this section codifies part of the Governor’s  
10 Reorganization Plan No. 1 of 1991, § 146, effective July 17, 1991.

11 **Article 3. Succession**

12 **§ 3200. Succession to duties and powers**

---

13 3200. The department succeeds to, and is vested with, all the duties, powers, purposes,  
14 responsibilities, and jurisdiction of the Toxic Substances Control Program of the State  
15 Department of Health Services, including, but not limited to, those powers and duties  
16 provided in Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing  
17 with Section 25280), Chapter 6.75 (commencing with Section 25299.10), Chapter 6.8  
18 (commencing with Section 25300), Chapter 6.91 (commencing with Section 25410),  
19 Chapter 6.92 (commencing with Section 25420), Chapter 6.95 (commencing with Section  
20 25500), and Chapter 6.97 (commencing with Section 25550) of Division 20 of the Health  
21 and Safety Code.

22 **Comment.** Section 3200 continues former Health and Safety Code Section 58004 without  
23 substantive change. Enactment of this section codifies part of the Governor’s Reorganization  
24 Plan No. 1 of 1991, § 146, effective July 17, 1991.

25 **§ 3201. Succession to unexpended funds**

---

26 3201. The department may use the unexpended balance of funds available for use in  
27 connection with the performance of the functions of the State Department of Health  
28 Services to which the department succeeds pursuant to Section 3200.

29 **Comment.** Section 3201 continues former Health and Safety Code Section 58005 without  
30 change. Enactment of this section codifies part of the Governor’s Reorganization Plan No. 1  
31 of 1991, § 146, effective July 17, 1991.

32 ☞ **Staff Note.** This provision may be obsolete. The staff would like to receive input on  
33 whether this section has continued usefulness.

34 **§ 3202. Officers and employees of State Department of Health Services**

---

35 3202. All officers and employees of the State Department of Health Services who, on  
36 July 17, 1991, are performing any duty, power, purpose, responsibility, or jurisdiction to  
37 which the department succeeds, who are serving in the state civil service, other than as  
38 temporary employees, and engaged in the performance of a function vested in the  
39 department by Section 3200 shall be transferred to the department. The status, positions,  
40 and rights of those persons shall not be affected by the transfer and shall be retained by  
41 those persons as officers and employees of the department, pursuant to the State Civil  
42 Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the  
43 Government Code), except as to positions exempted from civil service.

1       **Comment.** Section 3202 continues former Health and Safety Code Section 58006 without  
2 substantive change. Enactment of this section codifies part of the Governor's Reorganization  
3 Plan No. 1 of 1991, § 146, effective July 17, 1991.

4       ☞ **Staff Note.** This provision may be obsolete. The staff would like to receive input on  
5 whether this section has continued usefulness.

#### 6   **§ 3203. Succession to records, papers, equipment and property**

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7       3203. The department shall have possession and control of all records, papers, offices,  
8 equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements,  
9 contracts, claims, judgments, land, and other property, real or personal, connected with the  
10 administration of, or held for the benefit or use of, the State Department of Health Services  
11 for the performance of the functions transferred to the department by Section 3200.

12       **Comment.** Section 3203 continues former Health and Safety Code Section 58007 without  
13 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
14 of 1991, § 146, effective July 17, 1991.

15       ☞ **Staff Note.** This provision may be obsolete. The staff would like to receive input on  
16 whether this section has continued usefulness.

### 17                                   Article 4. Powers and Responsibilities

#### 18   **§ 3300. Actions and proceedings**

---

19       3300. (a) The department may commence and maintain all proper and necessary actions  
20 and proceedings for any or all of the following purposes:

- 21       (1) To enforce its rules and regulations.  
22       (2) To enjoin and abate nuisances related to matters within its jurisdiction which are  
23 dangerous to health.  
24       (3) To compel the performance of any act specifically enjoined upon any person, officer,  
25 or board, by any law of this state relating to matters within its jurisdiction.  
26       (4) On matters within its jurisdiction, to protect and preserve the public health.  
27       (b) The department may defend all actions and proceedings involving its powers and  
28 duties. In all actions and proceedings, the department shall sue and be sued under the name  
29 of the Department of Toxic Substances Control.

30       **Comment.** Section 3300 continues former Health and Safety Code Section 58009 without  
31 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
32 of 1991, § 146, effective July 17, 1991.

#### 33   **§ 3301. Public nuisances**

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34       3301. The department may abate public nuisances related to matters within its  
35 jurisdiction.

36       **Comment.** Section 3301 continues former Health and Safety Code Section 58010 without  
37 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
38 of 1991, § 146, effective July 17, 1991.

#### 39   **§ 3302. Local health authorities**

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40       3302. The department may advise all local health authorities, and, when in its judgment  
41 the public health is menaced by matters within its jurisdiction, the department shall control  
42 and regulate their actions.

1     **Comment.** Section 3302 continues former Health and Safety Code Section 58011 without  
2 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
3 of 1991, § 146, effective July 17, 1991.

#### 4     **§ 3303. Compilation and publication of hazardous material laws**

---

5     3303. (a) The department shall annually compile and publish the laws relating to the use,  
6 handling, transportation, storage, and disposal of hazardous materials, including, but not  
7 limited to, hazardous wastes, flammable materials, corrosives, explosives, pesticides, and  
8 radioactive materials together with laws relating to administration, enforcement, and  
9 emergency response. The compilation shall reflect the amendments, additions, and  
10 deletions enacted each year.

11     (b) The department may contract with the Legislative Counsel to prepare the compilation  
12 of laws required by subdivision (a) and with the Department of General Services to print  
13 and distribute the compilation. Copies of the compilation shall be distributed at cost.

14     (c) It is the intent of the Legislature to appropriate revenues received from the distribution  
15 of the compilation to the department for carrying out the purposes of this Section.

16     **Comment.** Section 3303 continues former Health and Safety Code Section 58015 without  
17 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
18 of 1991, § 146, effective July 17, 1991.

#### 19     **§ 3304. Activities of department**

---

20     3304. (a) The department may perform any of the following activities relating to the  
21 protection, preservation, and advancement of public health:

- 22         (1) Studies.
- 23         (2) Demonstrations of innovative methods.
- 24         (3) Evaluations of existing projects.
- 25         (4) Provision of training programs.
- 26         (5) Dissemination of information.

27     (b) In performing an activity specified in subdivision (a), the department may do any of  
28 the following:

- 29         (1) Perform the activity directly.
- 30         (2) Enter into contracts, cooperative agreements, or other agreements for the performance  
31 of the activity.
- 32         (3) Apply for and receive grants for the performance of the activity.
- 33         (4) Award grants for the performance of the activity.

34     **Comment.** Section 3304 continues former Health and Safety Code Section 58017 without  
35 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
36 of 1991, § 146, effective July 17, 1991.

#### 37     **§ 3305. Licensing**

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38     3305. (a) Notwithstanding any other provision of law, the department, by rule or  
39 regulation, may provide for the issuance and renewal on a two-year basis of licenses,  
40 certificates of registration, or other indicia of authority issued pursuant to Division 20  
41 (commencing with Section 25000) of the Health and Safety Code or pursuant to Chapter 1  
42 (commencing with Section 7000) of Part 2, by the department or any agency in the  
43 department.

44     (b) The department may, by rule or regulation, set the fee for the two-year license,  
45 certificate of registration, or other indicia, not to exceed twice the annual fee for issuance or  
46 renewal set by statute.

47     **Comment.** Section 3305 continues former Health and Safety Code Section 58018 without  
48 substantive change. Enactment of this section codifies part of the Governor's Reorganization  
49 Plan No. 1 of 1991, § 146, effective July 17, 1991.

Article 5. Rulemaking and Regulations

**§ 3400. Regulations**

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3400. (a) The department may adopt and enforce rules and regulations for the execution of its duties.

(b) All regulations previously adopted by the State Department of Health Services or its predecessors relating to functions performed by the Toxic Substances Control Program of the State Department of Health Services, and in effect immediately preceding July 17, 1991, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

**Comment.** Section 3400 continues former Health and Safety Code Section 58012 without substantive change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 146, effective July 17, 1991.

**§ 3401. Regulations relating to local health departments**

---

3401. Notwithstanding any other provision of law, the department shall submit all of its rules and regulations on matters related to statutory responsibilities delegated to or enforced by local health departments, except emergency rules and regulations, to the California Conference of Local Health Officers for review and comment prior to adoption. If the department determines it to be appropriate to implement the proposed rules and regulations or parts thereof, contrary to the recommendations of the conference, the department shall make a public finding summarizing the reasons for acting contrary to those recommendations.

**Comment.** Section 3401 continues former Health and Safety Code Section 58013 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 146, effective July 17, 1991.

**§ 3402. Interpretation of regulation affecting local agency**

---

3402. (a) When a dispute arises as to the interpretation or enforcement of the adopted rules and regulations of the department which are being enforced by a city, county, or district, a request for clarification or interpretation may be submitted to the department. The department shall make a determination of the proper interpretation and required enforcement thereof when so requested by a party to the dispute.

(b) In making its determination, the department may conduct a hearing, at which time all interested parties may present comments or arguments relative to the dispute.

(c) Determinations of the department made pursuant to this Section shall be transmitted to the concerned local agency and the involved party within 60 days after the receipt of the request. The determination of the department shall be binding upon the local agency and the party subject to the rules and regulations of the department, except insofar as the matter may be subject to judicial review.

**Comment.** Section 3402 continues former Health and Safety Code Section 58014 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 146, effective July 17, 1991.

CHAPTER 5. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Article 1. General Provisions

**§ 4000. Office of Environmental Health Hazard Assessment**

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4000. There is, in the California Environmental Protection Agency, the Office of Environmental Health Hazard Assessment.

**Comment.** Section 4000 continues former Health and Safety Code Section 59000 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

**§ 4001. Director**

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4001. (a) The Office of Environmental Health Hazard Assessment is under the control of an executive officer known as the Director of Environmental Health Hazard Assessment, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor.

(b) The director shall have broad-based scientific expertise as evidenced by a doctoral degree and work experience in a biological or medical science.

(c) The director shall receive the annual salary provided in Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

**Comment.** Section 4001 continues former Health and Safety Code Section 59002 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

**§ 4002. Deputy director; appointment; salary**

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4002. The Governor may appoint a deputy to the director. The deputy director shall hold office at the pleasure of the director, and shall receive a salary fixed by the director with the approval of the Department of Personnel Administration.

**Comment.** Section 4002 continues former Health and Safety Code Section 59002.5 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

**§ 4003. Powers of director**

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4003. The director shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

**Comment.** Section 4003 continues former Health and Safety Code Section 59003 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

**§ 4004. Appointment of employees**

---

4004. All officers and employees of the office shall be appointed by the director.

**Comment.** Section 4004 continues former Health and Safety Code Section 59008 without substantive change. Reference to the date after which employees shall be appointed by the director (the effective date of former Section 58008) is obsolete and has been omitted.

Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

1   **§ 4005. Grants and gifts to further work of office**

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2   4005. With the approval of the Department of Finance, and for use in furtherance of the  
3 work of the office, the director may accept the following:

- 4   (a) Grants of interest in real property.  
5   (b) Gifts of money from public agencies or from organizations or associations organized  
6 for scientific, educational, or charitable purposes.

7   **Comment.** Section 4005 continues former Health and Safety Code Section 59014 without  
8 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
9 of 1991, § 147, effective July 17, 1991.

10                                   Article 2. Definitions

11   **§ 4100. Application of definitions**

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12   4100. Unless the provision or context otherwise requires, the definitions in this article  
13 govern the construction of this chapter.

14   **Comment.** Section 4100 restates the introductory clause of former Health and Safety Code  
15 Section 59001. Enactment of this section codifies part of the Governor's Reorganization Plan  
16 No. 1 of 1991, § 147, effective July 17, 1991.

17   **§ 4105. "Director"**

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18   4105. "Director" means the Director of Environmental Health Hazard Assessment.

19   **Comment.** Section 4105 continues subdivision (b) of former Health and Safety Code  
20 Section 59001 without substantive change. Enactment of this section codifies part of the  
21 Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

22   **§ 4110. "Office"**

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23   4110. "Office" means the Office of Environmental Health Hazard Assessment.

24   **Comment.** Section 4110 continues subdivision (a) of former Health and Safety Code  
25 Section 59001 without substantive change. Enactment of this section codifies part of the  
26 Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

27                                   Article 3. Succession

28   **§ 4200. Succession to duties and powers**

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29   4200. The office succeeds to, and is vested with, all the duties, powers, purposes,  
30 responsibilities, and jurisdiction of the Health Hazard Assessment Division of the State  
31 Department of Health Services relating to assessment of human health risks of chemicals  
32 and to toxicologic and scientific consultation to programs in the State Department of Health  
33 Services and in other state agencies. The functions and responsibilities of the office shall  
34 include, but not be limited to, those performed pursuant to the following provisions of law:

35   (a) Article 6 (commencing with Section 32060) of Chapter 1 of Part 19 of Division 1 of  
36 Title 1 of the Education Code.

37   (b) Sections 217.6 and 7715 of the Fish and Game Code.


38   (c) Article 10.5 (commencing with Section 12980), Article 14 (commencing with Section  
39 13121), and Article 15 (commencing with Section 13141) of Chapter 2 of Division 7 of,  
40 Sections 13060 and 13061 of, and Article 1.5 (commencing with Section 14021) of  
41 Chapter 3 of Division 7 of, the Food and Agricultural Code.

42   (d) Section 425 of, Chapter 9 (commencing with Section 2950) of Division 3 of,  
43 Sections 25416, 25886.5 and 39606 of, Article 3 (commencing with Section 39660) of

Chapter 3.5 of Part 2 of Division 26 of, Sections 41982 and 42315 of, and Chapter 4 (commencing with Section 44360) of Part 6 of Division 26 of the Health and Safety code.

(e) Section 21151.1 of the Public Resources Code.

**Comment.** Section 4200 continues former Health and Safety Code Section 59004 without substantive change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.


 **Staff Note.** This section includes a reference Public Resources Code Section 2115.1., a provision of the California Environmental Quality Act (CEQA). In this draft, references to CEQA are to existing sections of the Public Resources Code. These references will be corrected after the draft of the CEQA portion of the new Environment Code is complete.

#### **§ 4201. Succession to funds**

---

4201. The office may use the unexpended balance of funds available for use in connection with the performance of the functions of the State Department of Health Services to which it succeeds pursuant to Section 4200.

**Comment.** Section 4201 continues former Health and Safety Code Section 59005 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.


 **Staff Note.** This provision may be obsolete. The staff would like to receive input on whether this section has continued usefulness.

#### **§ 4202. Officers and employees of State Department of Health Services**

---

4202. All officers and employees of the State Department of Health Services who, on July 17, 1991, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the office by Section 4200 shall be transferred to the office. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the office, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempted from civil service.

**Comment.** Section 4202 continues former Health and Safety Code Section 59006 without substantive change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.


 **Staff Note.** This provision may be obsolete. The staff would like to receive input on whether this section has continued usefulness.

#### **§ 4203. Succession of records, papers, equipment and property**

---

4203. The office shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the State Department of Health Services for the performance of functions transferred to the office by Section 4200.

**Comment.** Section 4203 continues former Health and Safety Code Section 59007 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

 **Staff Note.** This provision may be obsolete. The staff would like to receive input on whether this section has continued usefulness.

Article 4. Powers and Responsibilities

**§ 4300. Actions and proceedings; powers of department**

---

4300. (a) The office may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

(1) To enforce its rules and regulations.

(2) To enjoin and abate nuisances related to matters within its jurisdiction which are dangerous to health.

(3) To compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to matters within its jurisdiction.

(4) On matters within its jurisdiction, to protect and preserve the public health.

(b) The office may defend all actions and proceedings involving its powers and duties. In all actions and proceedings, the office shall sue and be sued under the name of the Office of Environmental Health Hazard Assessment.

**Comment.** Section 4300 continues former Health and Safety Code Section 59009 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

**§ 4301. Public nuisances**

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4301. The office may abate public nuisances related to matters within its jurisdiction.

**Comment.** Section 4301 continues former Health and Safety Code Section 59010 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

**§ 4302. Local health authorities**

---

4302. The office may advise all local health authorities, and, when in its judgment the public health is menaced by matters within its jurisdiction, the office shall control and regulate their actions.

**Comment.** Section 4302 continues former Health and Safety Code Section 59011 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

**§ 4303. Morbidity and mortality studies**

---

4303. The office shall cause special investigations of environmental sources of morbidity and mortality and the effects of localities, employments, conditions, and circumstances on the public health, and it shall perform any other duties which may be required in procuring information for state and federal agencies regarding the effects of these conditions on the public health.

**Comment.** Section 4303 continues former Health and Safety Code Section 59015 without change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

**§ 4304. Confidentiality of morbidity and mortality information.**

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4304. (a) All records of interviews, written reports, and statements procured by the office or by any other person, agency, or organization acting jointly with the office, in connection with special morbidity and mortality studies shall be confidential insofar as the identity of the individual patient is concerned and shall be used solely for the purpose of the study. The furnishing of that information to the office or its authorized representative, or to any other cooperating individual, agency, or organization in any such special study, shall

1 not subject any person, hospital, sanitarium, rest home, nursing home, or other  
2 organization furnishing the information to any action for damages.

3 (b) This Section shall not apply to general morbidity and mortality studies customarily  
4 and continuously conducted by the office and which do not involve patient identification.

5 (c) Nothing in this Section prohibits the publishing by the office of statistical  
6 compilations relating to morbidity and mortality studies which do not identify cases and  
7 sources of information or religious affiliations.

8 **Comment.** Section 4304 continues former Health and Safety Code Section 59016 without  
9 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
10 of 1991, § 147, effective July 17, 1991.

#### 11 **§ 4305. Activities of office**

---

12 4305. (a) The office may perform any of the following activities relating to assessment of  
13 human health risks of chemicals, toxicologic, or scientific consultation:

14 (1) Studies.

15 (2) Demonstrations of innovative methods.

16 (3) Evaluations of existing projects.

17 (4) Provision of training programs.

18 (5) Dissemination of information.

19 (b) In performing any activity specified in subdivision (a), the office may do any of the  
20 following:

21 (1) Perform the activity directly.

22 (2) Enter into contracts, cooperative agreements, or other agreements for the performance  
23 of the activity.

24 (3) Apply for and receive grants for the performance of the activity.

25 (4) Award grants for the performance of the activity.

26 **Comment.** Section 4305 continues former Health and Safety Code Section 59017 without  
27 change. Enactment of this section codifies part of the Governor's Reorganization Plan No. 1  
28 of 1991, § 147, effective July 17, 1991.

#### 29 **§ 4306. Rail transport hazards**

---

30 4306. (a) Annually, on or before July 1, the Office of Environmental Health Hazard  
31 Assessment shall provide to the Legislature and the Public Utilities Commission, for the  
32 purpose of Section 7672 of the Public Utilities Code, a list of commodities, set forth by  
33 category, that pose potential threats to the public, property, and the environment when  
34 transported on railroad lines in the state. The office shall develop the categories in  
35 consultation with the Office of Emergency Services.

36 (b) The office, in determining which commodities pose potential threats, shall consider  
37 both the toxicity of the commodity itself and the toxicity of any potential breakdown  
38 elements of the commodity when exposed to air, water, or other chemical agents that the  
39 commodity or its byproducts might contact under normal circumstances or in the event of  
40 mishandling, accident, or other possible event associated with, transporting the commodity  
41 on railroad lines in the state. In developing the list pursuant to this Section, the office shall  
42 consider excluding those consumer products that are shipped in finished packages which,  
43 due to their packaging or quantity, are not likely to pose a hazard to the public or  
44 environment in the event of a train derailment or other surface accident. The list shall be  
45 used exclusively for the purposes specified in Sections 7711 and 7712 of the Public  
46 Utilities Code.

47 (c) The Public Utilities Commission shall provide the office with all information about  
48 railroad operations which the office needs to make the determination required by this  
49 Section.

**Comment.** Section 4306 continues former Health and Safety Code Section 59019 without change. The reference, in subdivision (a), to the date on which the reporting requirement began (July 1, 1992), is deleted as obsolete.

For a statement of relevant legislative intent, see 1991 Cal. Stat. ch. 766, § 8 (“Nothing in this act changes or is intended to change existing law governing strict liability of transporters, owners, or consignors of hazardous or potentially hazardous materials.”)

## Article 5. Rulemaking and Regulations

### **§ 4400. Rules and regulations**

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4400. The office may adopt and enforce rules and regulations for the execution of its duties.

**Comment.** Section 4400 continues former Health and Safety Code Section 59012 without change. Enactment of this section codifies part of the Governor’s Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

### **§ 4401. Regulations relating to local health departments**

---

4401. Notwithstanding any other provision of law, the office shall submit all of its rules and regulations on matters related to the statutory responsibilities delegated to or enforced by local health departments, except emergency rules and regulations, to the California Conference of Local Health Officers for review and comment prior to adoption. If the office determines it to be appropriate to implement the proposed rules and regulations or parts thereof, contrary to the recommendations of the conference, the office shall make a public finding summarizing the reasons for acting contrary to those recommendations.

**Comment.** Section 4401 continues former Health and Safety Code Section 59013 without change. Enactment of this section codifies part of the Governor’s Reorganization Plan No. 1 of 1991, § 147, effective July 17, 1991.

## PART 2. CERTIFICATION OF ENVIRONMENTAL PROFESSIONALS

### CHAPTER 1. ENVIRONMENTAL ASSESSORS

#### Article 1. General Provisions

### **§ 7000 Short title**

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7000. This chapter shall be known and cited as the “Environmental Quality Assessment Act of 1986.”

**Comment.** Section 7000 continues former Health and Safety Code Section 25570.1 without change.

### **§ 7001. Legislative findings and declarations**

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7001. (a) The Legislature hereby finds and declares all of the following:

(1) The public has a low level of confidence in the ability of government or the private sector to ensure that manufacturers, users and disposers of hazardous substances comply fully with legal requirements for the management of these substances.

(2) Recent federal studies by Congress and executive agencies document that voluntary compliance with environmental regulations nationwide is at an all time low of 25 percent. Such factors as inadequate enforcement and inadequate understanding of complex

requirements result in a level of compliance with environmental requirements which is lower than in the early 1970's.

(3) Another report documents that private sector investment in pollution control equipment has dropped 38 percent nationwide since 1980. Investment levels have dropped at the same time that legal requirements for hazardous substance management are taking effect.

(4) Small businesses which are faced with complex regulations often do not know how to most effectively manage chemicals, or how to comply with these regulations at the least cost to the business.

(b) The Legislature further declares all of the following:

(1) An Environmental Protection Agency policy statement issued in November of 1985 endorses the use of environmental quality assessments, which are also called environmental audits, and recommends that state and local governments initiate programs to encourage the broader use of the assessment process, and while the state should take steps to actively encourage the private sector use of environmental assessments, it is not the intention of the Legislature to require that any person or business utilize environmental assessors.

(2) Environmental assessments can encourage voluntary compliance with both the letter and the spirit of the law as well as encourage cost-effective process improvements. By reducing potential liability, assessments can reduce the long-term costs of hazardous substance management. In addition, the use of assessments can help to build public confidence that hazardous substances are being managed in an increasingly safe manner. The use of independent environmental assessments is an important emerging feature of specific state hazardous substance management programs.

(3) Many of California's major businesses have internal environmental assessment programs. Larger firms often maintain in-house staffs.

(4) The state should provide a list of registered independent third-party assessors for use by small-and medium-sized firms seeking technical assistance to achieve and maintain regulatory compliance.

**Comment.** Section 7001 continues former Health and Safety Code Section 25570 without change.

## Article 2. Definitions

### **§ 7100. Application of definitions**

---

7100. Unless the provision or context otherwise requires, the definitions in this article govern the construction of this chapter.

**Comment.** Section 7100 restates the introductory clause of former Health and Safety Code Section 25570.2 without substantive change.

### **§ 7105. "Air board"**

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7105. "Air board" means the State Air Resources Board.

**Comment.** Section 7105 continues subdivision (a) of former Health and Safety Code Section 25570.2 without change.

### **§ 7107. "Assessor"**

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7107. "Assessor" means an environmental assessor.

**Comment.** Section 7107 is new. It is consistent with subdivision (g) of former Health and Safety Code Section 25570.2. See Section 7120 ("environmental assessor").

1   **§ 7108. “Assessment”**

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2       7018. “Assessment” means environmental quality assessment.

3       **Comment.** Section 7108 is new. It is consistent with subdivision (f) of former Health and  
4       Safety Code Section 25570.2. See Section 7125 (“environmental quality assessment”).

5   **§ 7110. “Cal-OSHA”**

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6       7110. “Cal-OSHA” means the Division of Occupational Safety and Health in the  
7       Department of Industrial Relations.

8       **Comment.** Section 7110 continues subdivision (b) of former Health and Safety Code  
9       Section 25570.2 without change.

10   **§ 7115. “Director”**

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11       7115. “Director” means the Director of Environmental Health Hazard Assessment.

12       **Comment.** Section 7115 continues subdivision (d) of former Health and Safety Code  
13       Section 25570.2 without change.

14   **§ 7120. “Environmental assessor”**

---

15       7120. “Environmental assessor” means an individual who, through academic training,  
16       occupational experience, and reputation, is qualified to objectively conduct one or more  
17       aspects of an environmental assessment. Environmental assessors may include, but shall  
18       not be limited to, specialists trained as analytical chemists, professional engineers,  
19       epidemiologists, hydrologists, attorneys with expertise in hazardous substance law,  
20       physicians, industrial hygienists, toxicologists, registered environmental health specialists,  
21       and environmental program managers.

22       **Comment.** Section 7120 continues subdivision (g) of former Health and Safety Code  
23       Section 25570.2 without change.

24   **§ 7125. “Environmental quality assessment”**

---

25       7125. “Environmental quality assessment” or “assessment” means a systematic,  
26       documented, periodic, and objective review of the operations and practices, used by any  
27       commercial or industrial business or individual whose activities are regulated under Chapter  
28       6.5 (commencing with Section 25100) or Chapter 6.95 (commencing with Section 25500)  
29       of the Health and Safety Code, to achieve, monitor, maintain, and where feasible exceed,  
30       compliance with state environmental, worker health and safety, and public health  
31       requirements for the manufacture and use of hazardous substances and the generation and  
32       disposal of hazardous wastes. A complete environmental assessment includes a number of  
33       different components related to hazardous substance and hazardous waste management and  
34       requires the expertise of a variety of assessors. An environmental assessment includes  
35       technical or managerial recommendations or actions, of a general or specific nature, in one  
36       or more of the following areas:

37       (a) Recommendations or specific actions for complying with, and where feasible,  
38       exceeding legal requirements in areas related to hazardous substance and hazardous waste  
39       management, including, but not limited to, air quality, water quality, emergency  
40       preparedness and response, hazard communications, and occupational safety and health.

41       (b) A qualitative review, or where feasible, a quantitative review, of the risks resulting  
42       from occupational, public or environmental exposure to hazardous substances.

43       (c) Recommendations or actions for anticipating and minimizing the risks specified in  
44       subdivision (b), including any potential liability, associated with regulated and unregulated  
45       hazardous substances, and any suggested management procedures or practices.

**Comment.** Section 7125 continues subdivision (f) of former Health and Safety Code Section 25570.2 without substantive change.

**§ 7130. “Hazardous substance”**

---

7130. “Hazardous substance” shall have the same meaning as found in Chapter 6.8 (commencing with Section 25300) of the Health and Safety Code.

**Comment.** Section 7130 continues part of the substance of subdivision (h) of former Health and Safety Code Section 25570.2 without change.

**§ 7135. “Hazardous waste”**

---

7135. “Hazardous waste” shall have the same meaning as found in Chapter 6.5 (commencing with Section 25100) of the Health and Safety Code.

**Comment.** Section 7135 continues part of the substance of subdivision (h) of former Health and Safety Code Section 25570.2 without change.

**§ 7140. “Office”**

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7140. “Office” means the Office of Environmental Health Hazard Assessment.

**Comment.** Section 7140 continues subdivision (c) of former Health and Safety Code Section 25570.2 without change.

**§ 7145. “Water board”**

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7145. “Water board” means the State Water Resource Control Board.

**Comment.** Section 7145 continues subdivision (e) of former Health and Safety Code Section 25570.2 without change.

Article 3. Registration

**§ 7200. Criteria for voluntary registration of environmental assessors**

---

7200. The director, in consultation with the Department of Toxic Substances Control, the State Water Resources Control Board, the State Air Resources Board, the Division of Occupational Safety and Health in the Department of Industrial Relations, and the Department of Consumer Affairs shall develop, adopt by regulation, and publicize criteria for, the voluntary registration of environmental assessors who have the experience or qualifications sufficient to conduct environmental assessments. The director shall determine criteria for the establishment of two classes of environmental assessors.

**Comment.** Section 7200 continues subdivision (a) of former Health and Safety Code Section 25570.3 without change.

**§ 7201. Criteria for class I**

---

7201. In establishing criteria for the registration of class I environmental assessors the director shall consider all of the following:

(a) The level of experience, including a minimum of two years of experience in successfully assisting businesses, government agencies, or labor organizations in the assessor’s general field of expertise.

(b) Recommendations from clients, colleagues, and professional associations.

(c) Skills or expertise that represent an area of specialty within a field, such as professional engineering or engineering geology, for which the state now offers a certification, licensing, or registration process.

(d) Pertinent specialized certification, licensing, or registration programs offered by professional associations or other private sector organizations.

(e) Specific areas of expertise, including, but not limited to, underground tank checks or removal, small generator waste reduction, recycling, treatment, and disposal, prevention and control of air emissions and water releases, assessment of soil or groundwater contamination, risk assessment and risk reduction recommendations, or occupational safety and health reviews.

**Comment.** Section 7201 continues subdivision (b) of former Health and Safety Code Section 25570.3 without change.

## **§ 7202. Criteria for class II**

7202. In addition to registration as a class I environmental assessor, an applicant for registration as a class II environmental assessor shall, in addition to any requirements specified by regulation, meet both of the following requirements:

(a) Possess a bachelor of science degree from an accredited college or university in a physical or biological science, engineering, or a related field.

(b) Have a minimum of eight years of professional-level environmental experience, acquired within the last 10 years, of which four years shall be professional-level site mitigation experience acquired within the last six years.

**Comment.** Section 7202 continues subdivision (c) of former Health and Safety Code Section 25570.3 without change.

## **§ 7203. Advisory committee**

7203. The director may appoint an ad hoc advisory committee to assist in developing the requirements for the registration of class I and class II environmental assessors. The members of the ad hoc committee shall represent the range of professional skills that may be possessed by class I and class II environmental assessors, and shall be registered or certified in their respective professions by the State of California.

**Comment.** Section 7203 continues subdivision (d) of former Health and Safety Code Section 25570.3 without change.

## **§ 7204. Registration fees**

7204. The director shall require each applicant for registration as a class I or class II environmental assessor to pay the following fees:

(a) For a class I environmental assessor:

(1) A nonrefundable application fee of up to fifty dollars (\$50) for each applicant seeking registration as a class I environmental assessor.

(2) An annual fee of up to one hundred dollars (\$100) for registration as a class I environmental assessor.

(b) For a class II environmental assessor:

(1) A nonrefundable application fee of up to one hundred twenty-five dollars (\$125) for each applicant seeking registration as a class II environmental assessor.

(2) An annual fee of up to five hundred dollars (\$500) for registration as a class II environmental assessor.

**Comment.** Section 7204 continues subdivision (e) of former Health and Safety Code Section 25570.3 without change.

## **§ 7205. Cost recovery**

7205. The director shall assess the fees specified in subdivisions (a) and (b) of Section 7204 at a level sufficient to meet the costs of application processing, registration, listing and publication, audits, complaints, investigations, disciplinary proceedings, and such

1 other activities that are reasonably necessary to administer and implement the environmental  
2 assessor registration program.

3 **Comment.** Section 7205 continues subdivision (f) of former Health and Safety Code  
4 Section 25570.3 without change.

#### 5 **§ 7206. Denial**

---

6 7206. Any applicant who is denied registration shall be notified in writing by a letter  
7 signed by the director stating the reasons for the denial. The applicant may respond to the  
8 registration denial by providing additional information for the purpose of clarifying the  
9 application, and may request reconsideration of the denial.

10 **Comment.** Section 7206 continues subdivision (g) of former Health and Safety Code  
11 Section 25570.3 without change.

#### 12 **§ 7207. Registration list**

---

13 7207. (a) On or before March of each year, the director shall, in collaboration with  
14 associations representing small and medium-sized businesses, publish, prepare, and  
15 disseminate a list of registered environmental assessors that are listed by class.

16 (b) The list prepared pursuant to subdivision (a) shall be arranged in accordance with the  
17 types of tasks performed by the registered environmental assessor, and, at a minimum,  
18 shall specify the professional and employment affiliations and the specific area of expertise  
19 of the assessor, and shall indicate whether the assessor is a sales representative, owner, or  
20 part owner of a business that manufactures or distributes technology for hazardous  
21 substances or hazardous waste management. In addition, the list shall provide an  
22 alphabetical listing of firms that provide environmental assessment services and that employ  
23 registered assessors. The registered assessors employed by each firm shall be listed with  
24 the firm's name by class. The director shall include a written disclaimer of liability as part  
25 of the published list of registered assessors.

26 **Comment.** Section 7207 continues subdivision (h) of former Health and Safety Code  
27 Section 25570.3 without substantive change.

#### 28 **§ 7208. Renewal**

---

29 7208. Each environmental assessor shall obtain a renewal of registration every five years  
30 following the date of the initial registration or renewal of registration. The director shall  
31 determine a renewal fee that is sufficient to cover the reasonable costs incurred in  
32 reassessing the qualifications of the applicant for renewal. In considering whether to renew  
33 a registration, the director shall also consider any factual complaints regarding the work of  
34 that assessor.

35 **Comment.** Section 7208 continues subdivision (i) of former Health and Safety Code  
36 Section 25570.3 without change.

#### 37 **§ 7209. Immunity**

---

38 7209. Notwithstanding any other provision of law, no state agency or employee of a  
39 state agency shall be held liable for any injury or damages resulting from the services  
40 provided by a registered environmental assessor listed pursuant to Section 7207. In any  
41 litigation regarding the registration process or the list of assessors, the Attorney General  
42 shall defend a state employee or state agency involved with the development or  
43 implementation of the program specified in this chapter.

44 **Comment.** Section 7209 continues subdivision (j) of former Health and Safety Code  
45 Section 25570.3 without substantive change.

1    **§ 7210. Audit**

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2       7210. The director may perform periodic audits of work performed and certified by class  
3    II environmental assessors, as necessary, to ensure the desired standard of performance. A  
4    registered class II environmental assessor shall provide an authorized representative of the  
5    director with complete access, at any reasonable hour of the day, to all technical data,  
6    reports, records, environmental samples, photographs, maps, and files used in the  
7    preparation of certified reports, with the exception of proprietary or other confidential  
8    information.

9       **Comment.** Section 7210 continues subdivision (k) of former Health and Safety Code  
10    Section 25570.3 without change.

11   **§ 7211. Rescission**

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12       7211. The director shall rescind a class II environmental assessor's registration when an  
13    assessor's performance falls below the minimum required standards of performance  
14    adopted pursuant to Section 25395.15 of the Health and Safety Code, as determined by an  
15    audit conducted by an authorized representative of the director pursuant to subdivision (k)  
16    or by the department pursuant to Section 25395.12 of the Health and Safety Code. In  
17    addition to a failure to meet the minimum standards of performance adopted pursuant to  
18    Section 25395.15 of the Health and Safety Code, any one of the following findings shall  
19    be sufficient grounds for the rescission of a registration:

- 20       (a) Gross negligence.
- 21       (b) Inexcusable neglect of duty.
- 22       (c) Intentional misrepresentation of laboratory data or other intentional fraud.
- 23       (d) Charging for services not rendered, or for performing services that are not reasonably  
24       necessary.
- 25       (e) Abandonment of any client, except for instances involving the nonpayment of fees for  
26       services rendered.
- 27       (f) Conviction of a felony or misdemeanor involving the regulation of hazardous wastes,  
28       hazardous substances, or hazardous materials, including, but not limited to, a conviction of  
29       a felony or misdemeanor under Section 25395.13 of the Health and Safety Code.
- 30       (g) Conviction of a felony or misdemeanor involving moral turpitude.
- 31       (h) Knowingly making a false statement regarding a material fact or knowingly fail to  
32       disclose a material fact in connection with an application for registration.

33       **Comment.** Section 7211 continues subdivision (l) of former Health and Safety Code  
34    Section 25570.3 without substantive change.

35   **§ 7212. Appeal of rescission**

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36       7212. The director shall adopt, by regulation, a procedure for the appeal of a rescission  
37    of registration, which shall be adopted on the same date that regulations which implement  
38    this article are adopted.

39       **Comment.** Section 7212 continues subdivision (m) of former Health and Safety Code  
40    Section 25570.3 without change.

41   **§ 7213. Civil, electrical, or mechanical engineering**

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42       7213. Nothing in this chapter shall be construed to authorize a person registered as an  
43    environmental assessor pursuant to this chapter to practice civil, electrical, or mechanical  
44    engineering, or to exempt a registered civil, electrical, or mechanical engineer who is also a  
45    registered environmental assessor from Chapter 7 (commencing with Section 6700) of  
46    Division 3 of the Business and Professions Code.

47       **Comment.** Section 7213 continues former Health and Safety Code Section 25570.4  
48    without substantive change.

## CHAPTER 2. ENVIRONMENTAL HEALTH SPECIALISTS

### Article 1. General Provisions


#### **§ 8000. Legislative intent**

8000. (a) It is the intent of the Legislature in adopting this article to safeguard the health, safety, and general welfare of the public by the registration of those environmental health professionals practicing as environmental health specialists who have completed an approved environmental health or science curriculum and who are qualified to work, or are working, within the scope of the field of environmental health as defined by this article.

(b) In adopting this article, it is recognized that the field of environmental health is a dynamic field that is continually evolving into new and complex areas of concern. This article recognizes the existence of overlapping functions with other professions carrying out specific activities that may include some aspects of the field of environmental health.

(c) The title of a person registered under this article shall be environmental health specialist. Use of the term “sanitarian” or “registered sanitarian” in regulations shall mean “registered environmental health specialists.”

**Comment.** Section 8000 continues former Health and Safety Code Section 106600 without substantive change. Former Health and Safety Code Section 106600 provided that a valid sanitarian registration became a valid environmental health specialist registration on January 1, 1989. This provision is obsolete and has been omitted.

 **Staff Note.** Former Section 106600 provided that the term “sanitarian” or “registered sanitarian,” as used in statutes and regulations, means “registered environmental health specialist.” The staff has made conforming revisions to eliminate statutory references to the obsolete terms “sanitarian” and “registered sanitarian.” This renders the statutory construction element of the preceding provision unnecessary, and it has not been continued.

#### **§ 8001. Application of article**

8001. This article does not require registration of individuals, such as industrial hygienists, health physicists, safety engineers, civil engineers, land surveyors, other registered professional engineers, or others with overlapping functions. This article does not require registration of individuals performing duties described in Section 8145, unless those individuals represent themselves as registered environmental health specialists. It is not the intent of this article to require local health departments to employ only registered environmental health specialists, environmental health specialist trainees, or those qualified for registration in jobs involving those overlapping functions. It is the sole purpose of this article to safeguard the health, safety, and general welfare of the public from adverse environmental factors, to register those environmental health professionals practicing as environmental health specialists who have completed an approved environmental health or science curriculum, and are qualified to work, or are working, in the public or private sector in the field of environmental health within the scope of practice as defined in this article, and to protect the public from individuals performing as environmental health specialists without proper qualifications.

**Comment.** Section 8001 continues former Health and Safety Code Section 106605 without substantive change.

#### **§ 8002. Relation to other law**

8002. This article does not affect or replace any other requirements or qualifications imposed pursuant to state or federal law on persons involved in activities Section 8145.

1     **Comment.** Section 8002 continues former Health and Safety Code Section 106730 without  
2 substantive change.

3     **§ 8003. Design of fixed works**

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4     8003. Except for the design of onsite septic systems, nothing in this article shall  
5 authorize registered environmental health specialists to design any of the fixed works  
6 defined in Section 6731 of the Business and Professions Code.

7     **Comment.** Section 8003 continues former Health and Safety Code Section 106620 without  
8 change.

9                                   Article 2. Definitions

10    **§ 8100. Application of definitions**

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11    8100. Unless the provision or context otherwise requires, the definitions in this article  
12 govern the construction of this chapter.

13    **Comment.** Section 8100 is a new section. It clarifies the meaning of the introductory clause  
14 of former Health and Safety Code Section 106615 by stating the application of the  
15 definitions provided in that section.

16    ☞ **Staff Note.** Health & Safety Code Section 106615 provides definitions, but does not  
17 state their application. The context implies that the definitions were intended to apply to  
18 Article 1 (commencing with Section 106500) of Chapter 4 of Part 1 of Division 104 of the  
19 Health & Safety Code, added here as Chapter 1 (commencing with Section 8000) of Part 2 of  
20 Division 2 of the Environment Code.

21    **§ 8105. “Approved environmental health training plan”**

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22    8105. “Approved environmental health training plan” means a training program in an  
23 organization that plans to utilize environmental health specialist trainees and has on file with  
24 the department a copy of its training plan that conforms with the requirements of Section  
25 8601 to 8604, inclusive, and that has been approved by the committee.

26    **Comment.** Section 8105 continues subdivision (h) of former Health and Safety Code  
27 Section 106615 without change.

28    **§ 8110. “Certificate of registration”**

---

29    8110. “Certificate of registration” means a signed document issued by the department as  
30 evidence of registration and qualification to practice as a registered environmental health  
31 specialist under this article. The certificate shall bear the designation “registered  
32 environmental health specialist” and shall show the name of the person, date of issue,  
33 registration number, and seal.

34    **Comment.** Section 8110 continues subdivision (f) of former Health and Safety Code  
35 Section 106615 without change.

36    **§ 8115. “Committee”**

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37    8115. “Committee” means the Environmental Health Specialist Registration Committee.

38    **Comment.** Section 8115 continues subdivision (b) of former Health and Safety Code  
39 Section 106615 without change.

40    **§ 8120. “Department”**

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41    8120. “Department” means the State Department of Health Services.

1     **Comment.** Section 8120 continues subdivision (a) of former Health and Safety Code  
2     Section 106615 without change.

3     **§ 8125. “Director”**

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4     8125. “Director” means the State Director of Health Services.

5     **Comment.** Section 8125 corrects an error in subdivision (i) of former Health & Safety  
6     Code Section 106615, which read “‘Director’ means the director.” Section 8125 restores the  
7     language used in former Health & Safety Code Section 517(i), which was the predecessor to  
8     former Health & Safety Code Section 106615(i). See 1988 Cal. Stat. Ch. 773, § 5 (last  
9     amended version of former Health & Safety Code § 517); 1995 Cal. Stat. Ch. 415, §§ 6 & 87  
10    (adding Health & Safety Code § 106615 and repealing Health & Safety Code § 517).

11    **§ 8130. “Environmental health specialist trainee”**

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12    8130. “Environmental health specialist trainee” means a person who possesses (1) a  
13    minimum of a bachelor’s degree, including 30 semester units of basic sciences, from a  
14    department approved educational institution or an educational institution of collegiate grade  
15    listed in the directory of accredited institutions of postsecondary education compiled by the  
16    American Council on Education, but who has not completed the specific coursework and  
17    experience requirements in the field of environmental health as required by Section 8600  
18    for registration, and (2) who is engaged in an approved environmental health training plan.

19    **Comment.** Section 8130 continues subdivision (d) of former Health and Safety Code  
20    Section 106615 without change.

21    **§ 8135. “Experience requirement”**

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22    8135. “Experience requirement” means on-the-job training and experience, as stated in  
23    this article, that all environmental health specialist trainees shall complete prior to obtaining  
24    eligibility for the environmental health specialist examination.

25    **Comment.** Section 8135 continues subdivision (g) of former Health and Safety Code  
26    Section 106615 without change.

27    **§ 8140. “Registered environmental health specialist”**

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28    8140. “Registered environmental health specialist” means an environmental health  
29    professional educated and trained within the field of environmental health who is registered  
30    in accordance with the provisions of this article. A registered environmental health  
31    specialist registered under this article also meets the requirements for registration as an  
32    environmental assessor pursuant to Chapter 1.

33    **Comment.** Section 8140 continues subdivision (c) of former Health and Safety Code  
34    Section 106615 without change.

35    **§ 8145. “Scope of practice in environmental health”**

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36    8145. “Scope of practice in environmental health” means the practice of environmental  
37    health by registered environmental health specialists in the public and private sector within  
38    the meaning of this article and includes, but is not limited to, organization, management,  
39    education, enforcement, consultation, and emergency response for the purpose of  
40    prevention of environmental health hazards and the promotion and protection of the public  
41    health and the environment in the following areas: food protection; housing; institutional  
42    environmental health; land use; community noise control; recreational swimming areas and  
43    waters; electromagnetic radiation control; solid, liquid, and hazardous materials  
44    management; underground storage tank control; onsite septic systems; vector control;  
45    drinking water quality; water sanitation; emergency preparedness; and milk and dairy

1 sanitation pursuant to Section 33113 of the Food and Agricultural Code. Activities of  
2 registered environmental health specialists shall be regulated by the department upon the  
3 recommendation of the committee.

4 **Comment.** Section 8145 continues subdivision (e) of former Health and Safety Code  
5 Section 106615 without change.

### 6 Article 3. Effect of Registration

#### 7 **§ 8200. Use of title**

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8 8200. (a) Only a person who has qualified as a registered environmental health specialist  
9 and who holds a valid registration certificate issued in conformance with Section 8400 for  
10 use in this state shall have the right and privilege of using the title “registered environmental  
11 health specialist” and to use the abbreviation “R.E.H.S.” after the person’s name. Only a  
12 person who has qualified as a registered environmental health specialist trainee and has a  
13 letter of acceptance issued by the department shall have the right and privilege of using the  
14 title “registered environmental health specialist trainee.”

15 (b) Except as permitted in Section 8000 any use of the words “registered sanitarian” or  
16 other use of the words “registered environmental health specialist” to denote a working title  
17 is prohibited.

18 (c) A person who violates any provision of this Section is guilty of a misdemeanor and  
19 may be fined a sum not to exceed one thousand dollars (\$1,000) or imprisoned for not  
20 more than 180 days, or both.

21 **Comment.** Section 8200 continues former Health and Safety Code Section 106735 without  
22 substantive change.

#### 23 **§ 8201. Employment of registered specialists and trainees**

---

24 8201. The governing body of a local health department may employ on a full-time basis  
25 one or more registered environmental health specialists, each of whom shall be a registered  
26 environmental health specialist as provided for in this article for the purpose of the  
27 enforcement of statutes related to public health, and the regulations of the department, and  
28 any local ordinances of a local health department that relate to activities under Section 8145.  
29 However, any person who is known as an environmental health specialist trainee may be  
30 employed to work under the supervision of a registered environmental health specialist,  
31 until he or she is qualified by examination as provided under Section 8505, for a period  
32 which shall not exceed three years. Prior to employment, the trainee shall have a current  
33 evaluation letter from the department stating that the education qualifications specified in  
34 Section 8600 have been met.

35 **Comment.** Section 8201 continues former Health and Safety Code Section 106625 without  
36 substantive change.

### 37 Article 4. Application for Registration

#### 38 **§ 8300. Application for registration**

---

39 8300. Any person may make an application to the department to be registered as an  
40 environmental health specialist. The department shall accept complete applications if  
41 accompanied by the required fees.

42 **Comment.** Section 8300 continues the first paragraph of former Health and Safety Code  
43 Section 106630 without change.

1   **§ 8301. Application submission**

---

2       8301. (a) Receipt of an application for a certificate of registration as an environmental  
3 health specialist shall be deemed to be the date the application is date stamped by the  
4 department.

5       (b) An application for a certificate of registration as an environmental health specialist is  
6 considered complete when a completed application form supplied by the department, proof  
7 of successful passage of the registered environmental health specialist examination, as  
8 specified in Section 8505, and the initial biennial registration fee are received by the  
9 department.

10      **Comment.** Section 8301 continues paragraphs (1) and (2) of subdivision (a) of former  
11 Health and Safety Code Section 106630 without change.

12      ☞ **Staff Note.** Health & Safety Code § 106630 contains headings as subdivisions within  
13 the section. In breaking up this section, the staff has removed these headings from the  
14 substantive law and used them as leadlines to introduce the component sections. This should  
15 not affect the substance of the law.

16   **§ 8302. Application review period**

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17       8302. (a) The department shall notify the applicant in writing within 15 working days of  
18 receipt of an application for a certificate of registration as an environmental health specialist  
19 that the application is completed and accepted for filing, or that the application is deficient  
20 and what specific information, documentation, or fee, is required to complete the  
21 application.

22       (b) Written notification by the department to applicants shall be deemed to occur on the  
23 date the notifications are postmarked.

24      **Comment.** Section 8302(a) continues subdivision (b) of former Health and Safety Code  
25 Section 106630 without substantive change.

26      Subdivision (b) continues paragraph (3) of subdivision (a) of former Health and Safety  
27 Code Section 106630 without change.

28      ☞ **Staff Note.** Subdivision (b) provides a timing rule for notification. Only subdivision (a)  
29 of this section provides for notification. For that reason, subdivision (b) was moved to this  
30 section from Section 8301.

31   **§ 8303. Decision**

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32       8303. The department, within three calendar days of filing of a completed application,  
33 shall reach a decision regarding the application for a certificate of registration as an  
34 environmental health specialist.

35      **Comment.** Section 8303 continues subdivision (c) of former Health and Safety Code  
36 Section 106630 without change.

37                                   Article 5. Issuance of Registration

38   **§ 8400. Issuance of registration**

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39       8400. A valid registration as an environmental health specialist under this article shall  
40 only be issued to a person who has:

- 41       (a) Met the applicable education and experience requirements.  
42       (b) Successfully passed the examination for registration.  
43       (c) Submitted a complete application in accordance with Sections 8300 to 8303,  
44 inclusive.  
45       (d) Paid the fees required in Section 8508.  
46       (e) Not committed acts specified in Section 8800.

**Comment.** Section 8400 continues former Health and Safety Code Section 106710 without substantive change.

**§ 8401. Certificate of registration**

8401. (a) The department shall issue certificates of registration to qualified applicants.  
(b) Duplicate certificate/card of registration shall be issued to individuals who hold valid registration as an environmental health specialist upon payment of ten dollars (\$10) for a duplicate certificate and five dollars (\$5) for a duplicate registration card.

**Comment.** Section 8401 continues subdivisions (d) and (e) of former Health and Safety Code Section 106630 without change.

**§ 8402. Out of state certificate holders**

8402. The department shall, upon application therefor and upon payment of the current application and biennial renewal fees, as determined by the department upon the recommendation of the committee by a two-thirds vote, not to exceed one hundred dollars (\$100), issue a certificate of registration as an environmental health specialist to any person who holds a certificate of registration as a sanitarian or an environmental health specialist issued by the proper authority of any state or territory, or possession of the United States, if the requirements for the registration of sanitarians or environmental health specialists under which the certificate was issued are consistent with the provisions of this article and at the time the certificate was granted were at least as stringent as those specified in Section 8500.

**Comment.** Section 8402 continues former Health and Safety Code Section 106725 without change.

Article 6. Registration Requirements

**§ 8500. Education requirements**

8500. (a) The requirements for registration of environmental health specialists shall be a minimum of a bachelor's degree from a department approved educational institution or an educational institution of collegiate grade listed in the directory of accredited institutions of postsecondary education compiled by the American Council on Education, with coursework prescribed as follows:

Basic Requirements		Experience:	Training:
I.	30 semester or 45 quarter basic science units including each of the following: General Chemistry Lecture and Laboratory General Physics Lecture and Laboratory or Organic Chemistry Lecture and Laboratory General Microbiology Lecture and Laboratory General Biological Science Lecture and Laboratory Calculus or College Algebra	18 months	600 hrs.
II.	45 semester or 68 quarter basic science units including the following: Three of the required science courses shall include a laboratory: General Chemistry	one year	450 hrs.

- Organic Chemistry  
General Physics  
General Microbiology  
General Biological Science  
Calculus or College Algebra
- III. 30 semester or 45 quarter basic science units including 9 months 300 hrs.  
each of the following:  
General Chemistry Lecture and Laboratory  
General Physics Lecture and Laboratory or  
Organic Chemistry Lecture and Laboratory  
General Microbiology Lecture and Laboratory  
General Biological Science Lecture and  
Laboratory  
Calculus or College Algebra  
plus  
Three semester or four quarter unit courses in each of the  
following:  
Epidemiology  
Statistics  
Public Administration or Environmental Health  
Administration and;  
10 semester or 15 quarter units in environmental  
health  
science, including one or more of the following:  
water quality, waste management, food and consumer  
protection, housing and institution sanitation, vector  
control, recreational health, air quality, milk and dairy  
products, occupational health, electromagnetic radiation,  
noise control, toxicology, soil science, or land use  
development.
- IV. 45 semester or 68 quarter basic science 6 months 200 hrs.  
units including the following:  
Three of the following required science courses shall  
include a laboratory:  
General Chemistry  
Organic Chemistry  
General Physics  
General Microbiology  
General Biological Science  
Calculus or College Algebra  
plus  
Three semester or four quarter unit courses in each of the  
following:  
Epidemiology  
Statistics  
Public Administration or Environmental Health  
Administration and;  
10 semester or 15 quarter units in  
Environmental Health Science, including one or  
more of the following:

water quality, waste management, food and consumer protection, housing and institution sanitation, vector control, recreational health, air quality, milk and dairy products, occupational health, electromagnetic radiation, noise control, toxicology, soil science, or land use development.

- V. Possess a minimum of a bachelor's degree in environmental health from an institution approved by the committee, which includes:  
One year of lecture and laboratory coursework in each of the following:  
General Chemistry  
General Physics  
General Biological Science, and  
One semester course in:  
Calculus or College Algebra  
Organic Chemistry  
General Microbiology with Laboratory  
Public Administration or Environmental Health Administration  
Epidemiology  
Statistics  
Field Orientation Course in Environmental Health  
Fifteen semester units of environmental health science courses selected from:  
water quality, waste management, food and consumer protection, housing and institution sanitation, vector control, recreational health, air quality, milk and dairy products, occupational health, electromagnetic radiation, noise control, toxicology, soil science, or land use development.
- |  |               |               |
|--|---------------|---------------|
|  | None required | None required |
|--|---------------|---------------|

(b) All basic science coursework including mathematics shall be equal to that acceptable in an approved environmental health degree program.

**Comment.** Section 8400 continues former Health and Safety Code Section 106635 without change.

#### **§ 8501. Environmental health degree programs**

8501. Educational institutions requesting approval of their environmental health degree program shall first submit their program to the committee for review. If the program meets the prescribed curricula in Section 8500 it shall be submitted to the department for approval.

**Comment.** Section 8501 continues former Health and Safety Code Section 106640 without change.

#### **§ 8502. Continuing education**

8502. The department upon recommendation of the committee, may, by regulation, establish the requirement and standards for continuing education for registered environmental health specialists. The standards shall be established in a manner to assure that a variety of forms of continuing education are available to registered environmental health specialists.

1     **Comment.** Section 8502 continues former Health and Safety Code Section 106705 without  
2 change.

3     **§ 8503. Eligibility for examination**

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4     8503. Those persons who meet the educational, experience, and training requirements of  
5 Section 8500 shall be eligible for admission to the examination for registration as an  
6 environmental health specialist.

7     **Comment.** Section 8503 continues former Health and Safety Code Section 106645 without  
8 substantive change.

9     **§ 8504. Admission to examination on basis of former requirements**

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10    8504. Any person who has applied for environmental health specialist registration, or  
11 who is enrolled in an approved environmental health science curriculum, or who is certified  
12 by his or her employer as serving as an environmental health specialist trainee in an  
13 approved environmental health program on or before December 31, 1988, shall be admitted  
14 to the written examination on the basis of the requirements existing on December 31, 1988.

15    **Comment.** Section 8504 continues former Health and Safety Code Section 106650 without  
16 change.

17    ☞ **Staff Note.** This provision appears to be obsolete. The staff would like to receive input  
18 on whether this section has any continued usefulness.

19    **§ 8505. Admission to examination**

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20    8505. (a) Only persons who meet the educational and experience requirements as  
21 established under Section 8500 shall be eligible for admission to examination for  
22 registration as an environmental health specialist.

23    (b) The professional examination shall be prescribed by the department with the  
24 concurrence of the committee, and a passing score on the examination shall be required  
25 prior to registration.

26    (c) An applicant who twice fails to pass the written examination shall not be eligible to be  
27 reexamined a third time until at least one year has elapsed from the date of the second  
28 examination. An applicant who fails the third examination shall not be eligible to take the  
29 examination a fourth time until two years have elapsed from the date of the third  
30 examination. Thereafter, the examination may not be taken more frequently than once in  
31 two years. Reapplication shall be made by submitting a new application with the required  
32 fee.

33    **Comment.** Section 8505 continues former Health and Safety Code Section 106670 without  
34 substantive change. In subdivision (a), the reference to the effective date of the education and  
35 experience requirement (January 1, 1989) is obsolete and has been omitted.

36    **§ 8506. Certified dairy inspectors**

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37    8506. A person who possesses a minimum of a bachelor's degree from a department-  
38 approved educational institution or an educational institution of collegiate grade listed in the  
39 directory of accredited institutions of postsecondary education compiled by the American  
40 Council on Education and has been employed as a certified dairy inspector in the State of  
41 California for at least 24 months immediately prior to applying for admission to the  
42 environmental health specialist registration examination, shall be eligible for admission to  
43 the examination for registration as an environmental health specialist.

44    **Comment.** Section 8506 continues former Health and Safety Code Section 106655 without  
45 change.

1   **§ 8507. Retired biennial registration**

2   8507. A registered environmental health specialist may maintain registration under a  
3 retired biennial registration provided the following requirements are met:

4   (a) Has been a working registered environmental health specialist in California for at least  
5 10 years in an area covered in Section 8145, unless receiving an on-the-job disability  
6 before the 10 years of service as a registered environmental health specialist has elapsed.

7   (b) Is at least 50 years old or collecting retirement benefits, or both.

8   (c) Not working in a job requiring registration as an environmental health specialist. A  
9 person who pays a retired biennial fee shall be registered only as an inactive retired  
10 registered environmental health specialist.

11   **Comment.** Section 8507 continues former Health and Safety Code Section 106695 without  
12 substantive change.

13   **§ 8508. Fees**

14   8508. (a) A nonreturnable fee, shall be paid by a person for each application for  
15 registration, application for examination, and biennial renewal.

16   (b) Fees shall not exceed the actual administrative costs of the program. Fees, except  
17 retired and penalty fees, shall be subject to Section 100425 of the Health and Safety Code.  
18 The actual dollar figure charged shall be rounded to the nearest whole dollar amount. The  
19 biennial renewal fee-retired shall be twenty-five dollars (\$25).

20   (c) The nonreturnable biennial renewal fee, shall be paid by each registered  
21 environmental health specialist on or before the first day of January of every second year,  
22 or on any other date that is determined by the department. Each registered environmental  
23 health specialist registered pursuant to this article, shall first pay the biennial fee at the time  
24 of initial registration to cover the calendar year in which registration is acquired and the  
25 following calendar year. Registrations not maintained as required by this subdivision are  
26 suspended and remain invalid during the period of suspension. Suspended registrations  
27 become revoked three years after the date of suspension. Notwithstanding the provisions of  
28 the Government Code, the executive officer shall revoke suspended registrations after three  
29 years from the date of suspension for nonpayment of fees.

30   (d) An additional penalty fee equal to 50 percent of the biennial renewal fee for each year  
31 of delinquency or portion thereof shall be paid by each person who fails to pay the fee  
32 required by subdivision (c) within 30 days of the established due date. All accumulated  
33 penalty fees shall be paid prior to any revalidation of registration.

34   (e) The department shall receive and account for all money received pursuant to this  
35 article and shall deposit it with the Treasurer who shall keep the money in a separate fund to  
36 be known as the "Registered Environmental Health Specialist Fund," that fund is hereby  
37 created.

38   (f) Notwithstanding Section 13340 of the Government Code, funds collected pursuant to  
39 the provisions of this article are continuously appropriated without regard to fiscal year to  
40 pay expenses of the department to administer the provisions of this article.

41   (g) The following fees are hereby established and shall be annually adjusted as required  
42 by subdivision (b):

43   (1) Application fee — sixty-nine dollars (\$69).

44   (2) Examination fee — sixty dollars (\$60).

45   (3) Biennial renewal fee — active eighty-seven dollars (\$87).

46   **Comment.** Section 8508 continues former Health and Safety Code Section 106700 without  
47 change.

Article 7. Trainee Program

**§ 8600. Application as trainee**

8600. Any person meeting the educational qualifications pursuant to Section 8500, but who does not meet the experience requirement of that Section, may make application to the department on a form prescribed by the department for acceptance as an environmental health specialist trainee. The department shall accept complete applications if accompanied by the required fees.

**Comment.** Section 8600 continues former Health and Safety Code Section 106660 without change.

**§ 8601. Elements of training plan**

8601. An approved environmental health training plan shall include the following program elements:

(a) All environmental health specialist trainees, shall complete a basic training period in an approved program. The training period shall include training in at least six elements, with three of the elements selected from the following basic elements:

- (1) Food protection.
- (2) Solid or liquid waste management, or both.
- (3) Water supply.
- (4) Housing and institutions.
- (5) Bathing places.
- (6) Vector control.
- (7) Hazardous materials management or underground tank program, or both.

(b) The remaining three elements may include any other basic element or any of the following elements: air sanitation, safety and accident prevention, land development and use, disaster sanitation, electromagnetic radiation, milk and dairy products, noise control, occupational health, and rabies and animal disease control.

(c) Training in each of three basic elements shall be not less than 20 percent of the total required training hours. Time spent in the remaining three elements shall be not less than 40 percent of the total required training hours. The employer shall designate the methods, elements, and types of training or experience for the remaining part of the time required for entrance to the registered environmental health specialist examination as specified in Section 8505. The specified training may be cumulative and scheduled at the discretion of the employing agency over this period.

(d) The training may be accomplished by assignments chosen by the employing agency and under the supervision of a registered environmental health specialist.

(e) For those environmental health specialist trainees requiring more than one year of experience, the additional experience will be in one or more elements of environmental health listed in this Section and may be outside of a local environmental health program.

(f) Training and experience gained working for governmental or a nonprofit entity, or both, may be counted toward the first-year training experience requirement if the training and experience is determined by the department to be equivalent to what would be gained in a local environmental health jurisdiction.

**Comment.** Section 8601 continues subdivision (a) of former Health and Safety Code Section 106665 without substantive change.

**§ 8602. Training types**

8602. The training program shall be integrated into the environmental health specialist trainee's job assignment and shall include items (a) and (b) and may include items (c), (d), and (e):

(a) A minimum of 20 hours per month of field instruction with direct supervision by a registered environmental health specialist for the first six months of employment. (The total minimum requirement in this area shall be 150 hours.)

(b) Independent time with adequate supervision and guidance.

(c) Office training with pretesting and posttesting.

(d) Lectures.

(e) Adequate office time to review and study.

**Comment.** Section 8602 continues subdivision (b) of former Health and Safety Code Section 106665 without substantive change.

#### **§ 8603. Certification of training**

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8603. Requirements for certification of training:

(a) Environmental health specialist trainees shall receive their training from the department or agency that has a training plan approved by the committee.

(b) A daily log for the certification of the environmental health specialist trainee shall be maintained by the Director of Environmental Health.

(1) A daily log covering elements and hours spent of all training shall be kept by the environmental health specialist trainees, and verified by the trainer or supervisor on a weekly basis.

(2) Short narrative reports or copies of the monthly schedule of the environmental health specialist trainee's training and progress shall be submitted by the training coordinator to the director every month throughout the traineeship.

(3) The Director of Environmental Health shall review the trainee's records on a monthly basis and shall certify on a quarterly basis that the records of training are accurate.

(4) The Director of Environmental Health shall notify the department within 30 days of the date an environmental health specialist trainee is hired or terminated.

(5) Copies of the environmental health specialist trainee's log, as well as the narrative reports or copies of monthly schedules shall be retained in the personnel file of the environmental health specialist trainee for at least one year after the environmental health specialist trainee successfully completes the registered environmental health specialist examination.

(c) When an environmental health specialist trainee completes the training program, the Director of Environmental Health shall forward certification to the department. This certification shall include the program areas, length of time, dates for the areas of training and a statement that the environmental health specialist trainee followed the approved training plan.

**Comment.** Section 8603 continues subdivision (c) of former Health and Safety Code Section 106665 without substantive change.

#### **§ 8604. Training exchanges**

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8604. Those jurisdictions that cannot provide the required training elements within their jurisdictions shall initiate a program of training exchange with another jurisdiction having an approved training program.

**Comment.** Section 8604 continues subdivision (d) of former Health and Safety Code Section 106665 without change.

### **Article 8. Registration Committee**

#### **§ 8700. Registration committee**

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8700. (a) An Environmental Health Specialist Registration Committee shall be appointed to advise and to make recommendations to the department with respect to, and to take other

actions as described in this article for the establishment of rules and regulations necessary to ensure, the proper administration and enforcement of the registration of environmental health specialists whose duties in public health and environmental health require knowledge and skills in the physical, biological, and environmental health sciences and whose performance of professional duties is necessary for the promotion of life, health, and well being of the public.

(b) The members of the former Sanitarian Registration Certification Committee shall serve as members of the new committee until the expiration of their terms.

**Comment.** Section 8700 continues subdivision (a) of former Health and Safety Code Section 106675 without change.

#### **§ 8701. Composition of committee**

8701. (a) The committee shall consist of the Chief of the Environmental Planning and Local Health Services Branch, department, or the designee of the chief, who shall serve as executive officer but who shall not vote, and the following 10 members who are residents of the state:

(a) Two members appointed by the director from the California Conference of Directors of Environmental Health who shall be environmental health specialists with at least two years' experience as directors of environmental health in this state.

(b) Three members appointed by the director, each of whom shall be a qualified, practicing environmental health specialist registered in California for a period of five or more years. For purposes of this subdivision:

(1) One member shall be employed in the public sector at the time of appointment.

(2) One member shall be employed in the private sector at the time of appointment.

(3) One member shall be from the California Environmental Health Association.

(c) One member appointed by the director from the California Conference of Local Health Officers.

(d) Two members appointed by the director from the environmental health faculty of those California universities and colleges with approved curricula leading to a degree in environmental health.

(e) Two public members who have not been engaged at any time within five years immediately preceding their appointment in pursuits that lie within the field of environmental health or the profession regulated by the committee of which they are members. The Senate Rules Committee shall appoint one public member and the Speaker of the Assembly shall appoint one public member.

**Comment.** Section 8701 continues subdivision (b) of former Health and Safety Code Section 106675 without change.

#### **§ 8702. Term of service**

8702. The terms of the members of the committee first appointed shall be determined by lot and shall expire as follows: two members on January 1, 1985; two members on January 1, 1986; three members on January 1, 1987; and three members on January 1, 1988. Thereafter, appointments shall be for a four-year term. Committee members may serve no more than two successive terms. Each member shall serve on the committee until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever occurs first. Vacancies occurring prior to the expiration of the terms shall be filled by appointment for the unexpired term. The director, upon the recommendation of the committee by a two-thirds vote, may remove an appointee member for misconduct in office, incompetency, neglect of duty, or other sufficient cause after due notice and hearing.

**Comment.** Section 8702 continues former Health and Safety Code Section 106680 without change.

1     ☞ **Staff Note.** This provisions governing the dates of the first terms of committee members  
2 may be obsolete. The staff would like to receive input on whether these starting date  
3 provisions have continued usefulness.

#### 4     **§ 8703. Administration**

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5     8703. (a) The members of the committee shall, annually, in the month of April, elect  
6 from their number a chairperson and a secretary.

7     (b) The committee shall meet at least twice annually and at other times as it may determine  
8 to evaluate applications for registration as environmental health specialists, to review and  
9 update examinations, to prepare and recommend reports relative to the administration of  
10 this article, and to transact all other business as may be necessary to carry out the  
11 provisions of this article.

12     (c) The committee may hold informal hearings for denial, suspension, refusal to renew,  
13 and revocation of registrations for environmental health specialists as provided in Sections  
14 8800 to 8803, inclusive.

15     (d) The committee may hold informal hearings for the purpose of administrative items,  
16 make the necessary determinations in conjunction therewith, and issue recommendations to  
17 the department consistent with the findings. The department may designate the committee to  
18 appoint one or more of its members to serve as a hearing agent. The agent or  
19 representatives shall conduct hearings in the manner provided by law.

20     (e) Six members of the committee shall constitute a quorum and special meetings of the  
21 committee shall be called by the executive officer upon written request by two members of  
22 the committee.

23     (f) The members of the committee shall serve without compensation, but shall receive  
24 their actual and necessary expenses incurred in the performance of their duties on the  
25 committee. However, no funds shall be disbursed for those purposes without the prior  
26 approval of the department.

27     **Comment.** Section 8703 continues former Health and Safety Code Section 106685 without  
28 substantive change.

#### 29     **§ 8704. Records**

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30     8704. (a) The committee shall keep a record of its proceedings.

31     (b) The department shall maintain a register of all applications for registration and retain  
32 examination papers and records pertaining thereto for a length of time to be determined by  
33 the department.

34     (c) The department shall maintain a current registry of all registered environmental health  
35 specialists and all environmental health specialist trainees in the state.

36     (d) Individuals registered under this article are responsible for assuring that the  
37 department has a current mailing address for them.

38     **Comment.** Section 8704 continues former Health and Safety Code Section 106690 without  
39 change.

#### 40     **§ 8705. Regulations**

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41     8705. The department may, upon recommendation of the committee, adopt any  
42 regulations necessary to accomplish the purposes of this article.

43     **Comment.** Section 8705 continues former Health and Safety Code Section 106610 without  
44 substantive change.

## Article 9. Sanctions

### § 8800. Sanctions

8800. Notwithstanding any other provisions of this article, the department upon the recommendation of the committee may suspend, deny, refuse to renew, or revoke a registration certificate issued under this article after sufficient notice and an opportunity for a hearing and upon findings that the registered environmental health specialist has done any of the following:

(a) Knowingly made a false statement of fact required to be revealed in the application for registration.

(b) Been convicted of a crime, if the crime is related to the qualifications, functions, and duties of an environmental health specialist.

(c) Knowingly made a false statement of fact required to be revealed in an application for, or renewal of, registration.

(d) Committed an act of deceit, misrepresentation, violation of contract, fraud, negligence, professional incompetence, or unethical practice.

**Comment.** Section 8800 continues subdivision (a) of former Health and Safety Code Section 106715 without change.

### § 8801. Sanction procedure

8801. The procedure to deny, suspend, refuse to renew, or revoke an environmental health specialist registration certificate pursuant to this article shall be as follows:

(a) All cases, complaints, or allegations charging a violation of this subdivision shall be made in writing and submitted to the department.

(b) The department shall make a preliminary investigation by:

(1) Obtaining copies of all pertinent written documents (laws, reports, contacts, and correspondence).

(2) Interviewing, in person or by telephone, of all individuals involved with the issue.

(c) The department shall compile the information into a confidential case document that includes the following:

(1) A description of the complaint.

(2) A chronology of events.

(3) Results of the interviews.

(4) Copies of the written documents.

(d) The case document shall be submitted to each member of the committee requesting their recommendation whether or not the information warrants further investigation and an informal hearing.

(e) The department shall review committee recommendations and the preliminary investigation findings and then decide whether to dismiss the complaint or proceed to an informal committee hearing. Dismissal of the charges shall be followed by a letter to both complainant and the registered environmental health specialist involved explaining the department's action.

(f) If the decision is made to proceed with an informal hearing, the department shall request the committee to appoint one or more hearing officers to hear the case.

(1) All parties shall be notified of the time and place of the hearing.

(2) An investigation of the issue may be made by an independent professional investigator if it is felt warranted by the department and the committee. The investigation results shall be submitted to the department, committee hearing officers, complainant, and respondent prior to the hearing.

(3) The informal hearing shall permit the right to be heard (with an attorney, if desired) and the proceedings recorded. Such a hearing shall be considered an informal level of

review and shall be governed by subdivision (g) of Section 100171 of the Health and Safety Code.

(g) A copy of the recommendation made to the department by the committee shall be transmitted to the respondent within 10 calendar days of its receipt by the department.

**Comment.** Subdivisions (a) through (e) of Section 8801 continue paragraphs (1) through (5) of subdivision (b) of former Health and Safety Code Section 106715 without substantive change.

Subdivision (f) continues paragraph (6) of subdivision (b) of former Health and Safety Code Section 106715 former Health and Safety Code Section 106715, except for subparagraph (D) which is continued in Section 8802.

Subdivision (g) continues subdivision (c) of former Health and Safety Code Section 106715 without change.

### **§ 8802. Penalty ranges**

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8802. Upon finding that a violation of Sections 8800 to 8803, inclusive, occurred, the following disciplinary ranges may be recommended to the department by the committee and may be adopted by the department if the respondent does not timely request further review as specified in Section 8803:

(a) Knowingly made a false statement of fact required to be revealed in the application for registration.

(1) Maximum: Revocation.

(2) Minimum: Fifteen-day suspension. Range depends on whether or not the registration was falsely approved.

(b) Been convicted of a crime, if the crime is related to the qualifications, functions, and duties of a registered environmental health specialist.

(1) Maximum: Deny, refuse to renew, or revocation of registration.

(2) Minimum: Ninety-day actual suspension.

(c) Knowingly made a false statement of fact required to be revealed in an application for, or renewal of, registration.

(1) Maximum: Revocation.

(2) Minimum: Seven-day actual suspension.

(d) Committed an act of deceit, misrepresentation, violation of contract, fraud, negligence, professional incompetence, or unethical practice.

(1) Maximum: Revocation.

(2) Minimum: Ninety-day suspension stayed for three years on the following conditions of probation: Forty-five-day actual suspension. Obey all laws and regulations related to the practice of environmental health.

**Comment.** Section 8802 continues subparagraph (D) of paragraph (6) of subdivision (b) of former Health and Safety Code Section 106715 without substantive change.

### **§ 8803. Further review**

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8803. The respondent may request further review of the recommendation resulting from the informal level of review by sending a letter so stating to the address specified in the letter transmitting the recommendation. To be timely, the request shall be postmarked no later than 15 calendar days after receipt by the respondent of the recommendation at issue. Upon receiving a timely request for review, the department shall set the matter for hearing pursuant to Section 100171.

**Comment.** Section 8803 continues subdivision (d) of former Health and Safety Code Section 106715 without change.

1   **§ 8804. Rehabilitation**

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2       8804. The department and the committee may use the following criteria to evaluate the  
3       potential for rehabilitation or actual rehabilitation of a person prior to denying, suspending,  
4       or revoking registration.

5       (a) The nature and severity of the act, crime, or violation under consideration as grounds  
6       for denial, suspension, or revocation.

7       (b) The time that has elapsed since commission of the act, crime, or violation.

8       (c) The extent to which the applicant has complied with any terms of parole, probation,  
9       restitution, or other sanctions imposed upon the applicant.

10      (d) Evidence of rehabilitation or lack of rehabilitation of the applicant.

11      **Comment.** Section 8804 continues former Health and Safety Code Section 106720 without  
12      change.

13                           **PART 3. ENVIRONMENTAL PERMITS**

14                                   **CHAPTER 1. GENERAL PROVISIONS**

15   **§ 10000. Short title**

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16       10000. This part shall be known, and may be cited, as the Environmental Protection  
17       Permit Reform Act of 1993.

18      **Comment.** Section 10000 continues former Public Resources Code Section 71000 without  
19      change.

20   **§ 10001. Purpose of division**

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21       10001. The Legislature hereby finds and declares all of the following:

22       (a) California's environmental protection programs have established strict standards to  
23       reduce pollution and protect the public health and safety and the environment. The single  
24       purpose programs instituted to achieve these standards have been among the most  
25       successful efforts in the world, and have produced significant gains in protecting  
26       California's environment in the face of substantial population growth.

27       (b) Continued progress to achieve the environmental standards in face of continued  
28       population growth will require greater coordination between the single purpose  
29       environmental programs and more efficient operation of these programs overall. Pollution  
30       must be prevented and controlled and not simply transferred to another media or another  
31       place. This goal can only be achieved by maintaining the current environmental protection  
32       standards and by greater integration of the existing programs.

33       (c) As the number of environmental laws and regulations have grown in California, so  
34       have the number of permits required of business and government. This regulatory burden  
35       has significantly added to the cost and time needed to obtain essential operating permits in  
36       California. The increasing number of individual permits and permit authorities has  
37       generated the continuing potential for conflict, overlap, and duplication between the various  
38       state, local, and federal environmental permits.

39       (d) To ensure that local needs and environmental conditions receive the proper attention,  
40       the issuance of environmental permits should continue to be made, to the extent feasible, at  
41       the regional and local levels of the environmental programs. To establish the framework for  
42       coordination among the regional offices of the environmental protection programs,  
43       consistency in regional boundaries should be achieved to the maximum extent practicable.

44       (e) The purpose of this division is to require the Secretary for Environmental Protection  
45       to institute new, efficient procedures which will assist businesses and public agencies in  
46       complying with the environmental quality laws in an expedited fashion, without reducing  
47       protection of public health and safety and the environment.

(f) Those procedures need to provide a permit process that promotes effective dialogue and ensures ease in the transfer and clarification of technical information, while preventing duplication. It is necessary that the procedures establish a process for preliminary and ongoing meetings between the applicant, the consolidated permit agency, and the participating permit agencies, but do not preclude the applicant or participating permit agencies from individually coordinating with each other.

(g) It is necessary, to the maximum extent practicable, that the procedures established in this division ensure that the consolidated permit agency process and applicable permit requirements and criteria are integrated and run concurrently, rather than consecutively.

**Comment.** Section 10001 continues former Public Resources Code Section 71001 without change.

## CHAPTER 2. DEFINITIONS

### **§ 10100. Application of definitions**

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10100. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this part.

**Comment.** Section 10100 is new.

### **§ 10105. “Consolidated permit”**

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10105. “Consolidated permit” means a permit incorporating the environmental permits granted by environmental agencies for a project and issued in a single permit document by the consolidated permit agency.

**Comment.** Section 10105 continues former Public Resources Code Section 71014 without change.

### **§ 10110. “Consolidated permit agency”**

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10110. “Consolidated permit agency” means the environmental agency that has the greatest overall jurisdiction over a project, as determined pursuant to Section 11101.

**Comment.** Section 10110 continues former Public Resources Code Section 71015 without change.

### **§ 10115. “Council”**

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10115. (a) “Council” means the California Environmental Policy Council.

(b) The council is hereby created and consists of the following members or their designees:

(1) The Secretary for Environmental Protection.

(2) The Director of Pesticide Regulation.

(3) The Director of Toxic Substances Control.

(4) The Chairperson of the State Air Resources Board.

(5) The Chairperson of the State Water Resources Control Board.

(6) The Director of the Office of Environmental Health Hazard Assessment.

(7) The Chairperson of the California Integrated Waste Management Board.

**Comment.** Section 10115 continues former Public Resources Code Section 71017 without change.

### **§ 10120. “Environmental agency”**

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10120. “Environmental agency” means any of the following:

(a) The Department of Toxic Substances Control, the Department of Pesticide Regulation, the State Air Resources Board, the State Water Resources Control Board, the

1 California Integrated Waste Management Board, and the Office of Environmental Health  
2 Hazard Assessment.

3 (b) A California regional water quality control board.

4 (c) A district, as defined in Section 39025 of the Health and Safety Code.

5 (d) An enforcement agency, as defined in Section 40130 of the Public Resources Code.

6 (e) A county agricultural commissioner with respect to his or her administration of  
7 Divisions 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of  
8 the Food and Agricultural Code.

9 (f) The local agency responsible for administering Chapter 6.7 (commencing with  
10 Section 25280) of the Health and Safety Code concerning underground storage tanks and  
11 any underground storage tank ordinance adopted by a city or county.

12 (g) The local agency responsible for the administration of the requirements imposed  
13 pursuant to Section 13370.5 of the Water Code.

14 (h) A certified unified program agency as provided in Chapter 6.11 (commencing with  
15 Section 25404) of Division 20 of the Health and Safety Code.

16 (i) Any other state, regional, or local permit agency for the project that participates at the  
17 request of the permit applicant upon the permit agency's agreement to be subject to this  
18 division.

19 **Comment.** Section 10120 continues former Public Resources Code Section 71011 without  
20 change.

#### 21 **§ 10125. "Environmental permit"**

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22 10125. "Environmental permit" means any license, certificate, registration, permit, or  
23 other form of authorization required by an environmental agency to engage in a particular  
24 activity. "Environmental permit" includes, but is not limited to, activities subject to Chapter  
25 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, if  
26 the activities are under the jurisdiction of an environmental agency. "Environmental permit"  
27 does not include any certification or decision pursuant to Division 13 (commencing with  
28 Section 21000) of the Public Resources Code.

29 **Comment.** Section 10125 continues former Public Resources Code Section 71012 without  
30 substantive change.

31 ☞ **Staff Note.** This section includes a reference to the California Environmental Quality  
32 Act (CEQA). In this draft, references to CEQA are to existing sections of the Public Resources  
33 Code. These references will be corrected after the draft of the CEQA portion of the new  
34 Environment Code is complete.

#### 35 **§ 10130. "Participating permit agency"**

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36 10130. "Participating permit agency" means an environmental agency, other than the  
37 consolidated permit agency, that is responsible for the issuance of an environmental permit  
38 for a project.

39 **Comment.** Section 10130 continues former Public Resources Code Section 71016 without  
40 change.

#### 41 **§ 10135. "Project"**

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42 10135. "Project" means an activity, the conduct of which requires an environmental  
43 permit from two or more environmental agencies.

44 **Comment.** Section 10135 continues former Public Resources Code Section 71013 without  
45 change.

1 **§ 10140. “Secretary”**

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2 10140. “Secretary” means the Secretary for Environmental Protection.

3 **Comment.** Section 10140 continues former Public Resources Code Section 71010 without  
4 change.

5 CHAPTER 3. CONSOLIDATED PERMITS

6 Article 1. General Provisions

7 **§ 11000. Construction of division**

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8 11000. This division shall not be construed to limit or abridge the powers and duties  
9 granted to a participating permit agency pursuant to the law that authorizes or requires the  
10 agency to issue an environmental permit for a project. Each participating permit agency  
11 shall retain its authority to make all decisions on all nonprocedural matters with regard to  
12 the respective component environmental permit that is within its scope of its responsibility,  
13 including, but not limited to, the determination of environmental permit application  
14 completeness, environmental permit approval or approval with conditions, or  
15 environmental permit denial. The consolidated permit agency may not substitute its  
16 judgment for that of a participating permit agency on any such nonprocedural matters.

17 **Comment.** Section 11000 continues subdivision (d) of former Public Resources Code  
18 Section 71021 without change.

19 Article 2. Designation of Consolidated Permit Agency


20 **§ 11100. Request for designation**

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21 11100. (a) A permit applicant for a project may request the secretary to designate a  
22 consolidated permit agency to administer the processing and issuance of a consolidated  
23 permit for the project pursuant to this part. The secretary, in accordance with the guidelines  
24 and procedures adopted pursuant to Sections 11101 and 11102, shall, within 30 days of  
25 the date that the request is received, either designate a consolidated permit agency for the  
26 project or refer the designation to the council.

27 (b) A permit applicant who requests the designation of a consolidated permit agency shall  
28 provide the secretary with a description of the project, a preliminary list of the  
29 environmental permits that the project may require, the identity of any public agency that  
30 has been designated the lead agency for the project pursuant to Chapter 4.5 (commencing  
31 with Section 65920) of Division 1 of Title 7 of the Government Code or Division 13  
32 (commencing with Section 21000) of the Public Resources Code, and the identity of the  
33 participating permit agencies. The secretary may request any information from the permit  
34 applicant that is necessary to make the designation under subdivision (a), and may convene  
35 a scoping meeting of the likely consolidated permit agency and participating permit agencies  
36 in order to make that designation.

37 **Comment.** Section 11100 continues subdivisions (a) and (b) of former Public Resources  
38 Code Section 71021 without substantive change.

39  **Staff Note.** This section includes a reference to the California Environmental Quality  
40 Act (CEQA). In this draft, references to CEQA are to existing sections of the Public Resources  
41 Code. These references will be corrected after the draft of the CEQA portion of the new  
42 Environment Code is complete.

1   **§ 11101. Designation guidelines**

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2   11101. (a) On or before January 1, 1995, the secretary shall establish an administrative  
3 process which may be used, at the request of a permit applicant for a project pursuant to  
4 Section 11100, for the designation of a consolidated permit agency for the project.

5   (b) That administrative process shall consist of the establishment of guidelines for  
6 designating the consolidated permit agency for the project. The guidelines shall be adopted  
7 as regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Division 3 of  
8 Title 2 of the Government Code. In those cases where an environmental agency is the lead  
9 agency for purposes of Chapter 4.5 (commencing with Section 65920) of Division 1 of  
10 Title 7 of the Government Code, or Division 13 (commencing with Section 21000) of the  
11 Public Resources Code, that environmental agency shall be the consolidated permit agency.  
12 In other cases, the guidelines shall require that at least the following factors be considered  
13 in determining which environmental agency has the greatest overall jurisdiction over the  
14 project:

15   (1) The types of facilities or activities that make up the project.

16   (2) The types of public health and safety and environmental concerns that should be  
17 considered in issuing environmental permits for the project.

18   (3) The environmental medium that may be affected by the project, the extent of those  
19 potential effects, and the environmental protection measures that may be taken to prevent  
20 the occurrence of, or to mitigate, those potential effects.

21   (4) The regulatory activity that is of greatest importance in preventing or mitigating the  
22 effects that the project may have on public health and safety or the environment.

23   (5) The statutory and regulatory requirements that apply to the project and the complexity  
24 of those requirements.

25   **Comment.** Section 11101 continues subdivisions (a) and (b) of former Public Resources  
26 Code Section 71020 without change.

27   ☞ **Staff Note. (1)** Subdivision (a) specifies a deadline for establishment of the designation  
28 procedure. This provision may be obsolete. The staff would like to receive input on two  
29 questions: (1) Has the procedure required in subdivision (a) been established? (2) Does the  
30 deadline stated in subdivision (a) still serve a useful purpose?

31   **(2)** The reference in subdivision (a) of Public Resources Code Section 71020 is to Public  
32 Resources Code Section 71021. However, in reorganizing this material, the staff has split  
33 Public Resources Code Section 71021 up into three sections. See proposed Sections 11000  
34 (application of division), 11100 (request for designation), 11200 (responsibilities of  
35 consolidated permit agency). Only proposed Section 11100 is relevant to the purpose of the  
36 cross-reference in subdivision (a), so only that section is included in the cross-reference.

37   **(3)** This section includes a reference to the California Environmental Quality Act (CEQA).  
38 In this draft, references to CEQA are to existing sections of the Public Resources Code. These  
39 references will be corrected after the draft of the CEQA portion of the new Environment  
40 Code is complete.

41   **§ 11102. Referral to council**

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42   11102. The secretary shall establish a procedure for referring projects to the council for  
43 the designation of a consolidated permit agency in any of the following circumstances:

44   (a) Because of the nature of the project, the guidelines adopted pursuant to Section 11101  
45 do not provide clear guidance concerning which environmental agency should be  
46 designated the consolidated permit agency.

47   (b) The consolidated permit agency or a participating permit agency disagrees with the  
48 designation of the consolidated permit agency.

49   (c) The environmental agency designated as the consolidated permit agency under the  
50 guidelines declines the designation and participating permit agencies are not willing to  
51 accept designation as the consolidated permit agency.

**Comment.** Section 11102 continues subdivision (c) of former Public Resources Code Section 71020 without substantive change.

### Article 3. Permit Procedures

#### **§ 11200. Consolidated permit agency**

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11200. The consolidated permit agency shall serve as the main point of contact for the permit applicant with regard to the processing of the consolidated permit for the project and shall manage the procedural aspects of that processing consistent with existing laws governing the consolidated permit agency and participating permit agencies, and with the procedures agreed to by those agencies in accordance with Sections 11201 and 11202. In carrying out these responsibilities, the consolidated permit agency shall ensure that the permit applicant has all the information needed to apply for all the component environmental permits that are incorporated in the consolidated permit for the project, coordinate the review of those environmental permits by the respective participating permit agencies, ensure that timely environmental permit decisions are made by the participating permit agencies, and assist in resolving any conflict or inconsistency among the environmental permit requirements and conditions that are to be imposed by the participating permit agencies with regard to the project.

**Comment.** Section 11200 continues subdivision (c) of former Public Resources Code Section 71021 without substantive change.

#### **§ 11201. Meeting between consolidated permit agency and applicant**

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11201. (a) Within 15 working days of the date that the consolidated permit agency is designated, the consolidated permit agency shall convene a meeting with the permit applicant for the project and the participating permit agencies.

(b) The consolidated permit agency may request any information from the applicant that is necessary to comply with its obligations under this Section and Section 11202, consistent with the timelines set pursuant to this Section and Section 11202.

(d) A summary of the decisions made pursuant to this Section and Section 11202 shall be made available for public review upon the filing of the consolidated environmental permit application or environmental permit applications.

**Comment.** Section 11201 continues former Public Resources Code Section 71022 without substantive change, except that the substance of paragraphs (1) to (6) of subdivision (a) of former Section 71022 are continued in Section 11202.

#### **§ 11202. Meeting agenda**

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11202. The agenda for a meeting pursuant to Section 11201 shall include at least all of the following matters:

(a) A determination of the environmental permits that are required for the project.

(b) A review of the environmental permit application forms and other application requirements of the agencies that are participating in the consolidated permit.

(c) A discussion of the option available to the permit applicant to use the consolidated permit application form that is authorized by subdivision (e) or (f) of Section 15399.56 of the Government Code in lieu of the separate application forms for each component environmental permit that would be provided by the consolidated permit agency and the participating permit agencies.

(d) A determination of the time lines that will be used by the consolidated permit agency and each participating permit agency to make environmental permit decisions, including the time periods required to determine if the environmental permit applications are complete or the consolidated permit application is complete, to review the application or applications,

1 and to process the component environmental permits, and the timelines that will be used by  
2 the consolidated permit agency to aggregate the component environmental permits into, and  
3 to issue, the consolidated permit. Notwithstanding Chapter 3 (commencing with Section  
4 15374) of Part 6.7 of Division 3 of Title 2 of the Government Code, and Chapter 4.5  
5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, the  
6 timelines established pursuant to this paragraph may, with the assent of the consolidated  
7 permit agency and each participating permit agency, commit the consolidated permit agency  
8 and each participating permit agency to act on the component environmental permit within  
9 time periods that are different than those required by Sections 65950 and 65952 of the  
10 Government Code, subdivisions (a) and (b) of Section 15376 of the Government Code, or  
11 other applicable provisions of law. However, no accelerated time period for the  
12 consideration of an environmental permit application may be set if that accelerated time  
13 period would be inconsistent with, or in conflict with, any time period or series of time  
14 periods set by statute for that consideration, or with any statute, rule, or regulation, or  
15 adopted state policy, standard, or guideline, which require any of the following:

16 (1) Other agencies, interested persons, or the public to be given adequate notice of the  
17 application.

18 (2) Other agencies to be given a role in, or be allowed to participate in, the decision to  
19 approve or disapprove the application.

20 (3) Interested persons or the public to be provided the opportunity to challenge, comment  
21 on, or otherwise voice their concerns regarding the application.

22 (e) The scheduling of any public hearings that are required to issue environmental permits  
23 for the project and a determination of the feasibility of coordinating or consolidating any of  
24 those required public hearings.

25 (f) A discussion of fee arrangements for the consolidated permit process, including an  
26 estimate of the fee required under Section 11204 and the billing schedule.

27 **Comment.** Section 11202 continues paragraphs (1) to (6) of subdivision (a) of former  
28 Public Resources Code Section 71022 without substantive change.

### 29 **§ 11203. Coordinate permit decisions**

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30 11203. The consolidated permit agency shall ensure that the participating permit agencies  
31 make all the environmental permit decisions that are necessary for the incorporation of the  
32 environmental permits into the consolidated permit and act on the component environmental  
33 permits within the time periods established pursuant to subdivision (d) of Section 11202.

34 **Comment.** Section 11203 continues former Public Resources Code Section 71024 without  
35 substantive change.

### 36 **§ 11204. Fees**

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37 11204. (a) A consolidated permit agency may charge and collect a reasonable fee from  
38 any person seeking a consolidated permit to recover the estimated costs incurred by the  
39 consolidated permit agency in carrying out the requirements of this division.

40 (b) The fees charged shall recover only the costs of performing those consolidated permit  
41 services and shall be either negotiated with the permit applicant in the meeting required  
42 pursuant to Section 11201, or shall be set by the environmental agency in advance of its  
43 designation as a consolidated permit agency for the project in a fee schedule adopted by the  
44 environmental agency for use in the event that the environmental agency is so designated.  
45 In addition, the billing process shall provide for accurate time and cost accounting and a  
46 billing cycle that provides for progress payments.

47 **Comment.** Section 11204 continues former Public Resources Code Section 71026 without  
48 substantive change.

1   **§ 11205. Incorporated environmental permits**

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2   11305. Each environmental permit incorporated in the consolidated permit shall have the  
3   legal status and the regulatory effect that is specified in the statute and regulations under  
4   which the environmental permit would be separately issued and shall be administered and  
5   enforced by the environmental agency that would have separately issued it.

6   **Comment.** Section 11305 continues former Public Resources Code Section 71025 without  
7   change.

8   **§ 11206. Tolling of time requirements**

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9   11206. If an applicant fails to provide information required for the processing of the  
10   component environmental permit applications for a consolidated permit or for the  
11   designation of a consolidated permit agency, the time requirements of this division shall be  
12   tolled until such time as the information is provided.

13   **Comment.** Section 11206 continues former Public Resources Code Section 71029 without  
14   change.

15                   Article 6. Review and Modification of Process

16   **§ 11300. Withdrawal from consolidated permit process**

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17   11300. (a) The permit applicant may withdraw from the consolidated permit process by  
18   submitting to the consolidated permit agency a written request that the process be  
19   terminated. Upon receipt of the request, the consolidated permit agency shall notify the  
20   secretary and each participating permit agency that a consolidated permit is no longer  
21   applicable to the project.

22   (b) The permit applicant may submit a written request to the consolidated permit agency  
23   that the permit applicant wishes a participating permit agency to withdraw from  
24   participation on the basis of a reasonable belief that the issuance of the consolidated permit  
25   would be accelerated if the participating permit agency withdraws. In that event, the  
26   participating permit agency shall withdraw from participation if the consolidated permit  
27   agency approves the request.

28   **Comment.** Section 11300 continues former Public Resources Code Section 71023 without  
29   change.

30   **§ 11301. Petition for review of permit process**

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31   11301. A petition by the permit applicant for review of an environmental agency action in  
32   issuing, denying, or amending an environmental permit, or any portion of a consolidated  
33   permit agency permit, shall be submitted by the permit applicant to the consolidated permit  
34   agency or the participating permit agency having jurisdiction over that portion of the  
35   consolidated permit and shall be processed in accordance with the procedures of that  
36   environmental agency. The environmental agency receiving the petition shall, within 30  
37   days, notify the other environmental agencies participating in the original consolidated  
38   permit.

39   **Comment.** Section 11301 continues former Public Resources Code Section 71027 without  
40   change.

41   **§ 11302. Meeting to consider petition**

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42   11302. If an applicant petitions for a significant amendment or modification to a  
43   consolidated permit application or any of its component environmental permit applications,  
44   the consolidated permit agency shall reconvene a meeting of the participating permit  
45   agencies, conducted in accordance with Sections 11201 and 11202.

**Comment.** Section 11302 continues former Public Resources Code Section 71028 without substantive change.

## CHAPTER 4. TIME LIMIT APPEALS

### **§ 12000. Appeal of agency delay**

12000. (a) On or before December 31, 1994, the secretary shall adopt regulations establishing an expedited appeals process by which a petitioner or applicant may appeal any failure by an environmental agency to take timely action on the issuance or denial of an environmental permit in accordance with the time limits established pursuant to Sections 11201 and 11202 or Section 25199.6 of the Health and Safety Code.

(b) If the secretary finds that the time limits under appeal have been violated without good cause, the secretary shall establish a date certain by which the environmental agency shall act on the permit application with adequate provision for the requirements of paragraphs (1) to (3), inclusive, of subdivision (d) of Section 11202, and provide for the full reimbursement of any filing or permit processing fees paid by the applicant to the environmental agency for the permit application under appeal.


(c) The determination of the secretary on an appeal shall be based only on procedural violations, including, but not limited to, the exceeding of time limits, not on any nonprocedural matter with regard to the environmental permit application or the environmental permit.

(d) In cases of a violation of time limits set pursuant to Sections 11201 and 11202, the determination of the secretary to order a reimbursement of any application filing fee pursuant to the regulations adopted pursuant to paragraph (2) of subdivision (b) shall only be applicable to the consolidated permit agency or to the participating permit agencies that are in violation of the time limits without showing good cause.

(e) Notwithstanding any other provision of this Section, an appeal pursuant to subdivision (a) shall be only for violations of the time limits established pursuant to Sections 11201 and 11202 for those environmental agencies described in subdivisions (c) and (h) of Section 10120.

(f) For purposes of this Section, “good cause” shall have the same meaning as defined in subdivision (h) of Section 15376 of the Government Code.

**Comment.** Section 12000 continues former Public Resources Code Section 71030 without substantive change.

 **Staff Note.** (1) Subdivision (a) specifies a deadline for adoption of regulations. This provision may be obsolete. The staff would like to receive input on two questions: (1) Have the regulations been adopted as required? (2) Does the requirement stated in subdivision (a) still serve a useful purpose?

(2) Subdivision (d) of Public Resources Code Section 71030 refers to “regulations adopted pursuant to paragraph (2) of subdivision (b).” It is not clear what this means. If the staff can determine the intended meaning the language will be altered to reflect that meaning. Until then, the subdivision continues the language without substantive change.

## CHAPTER 5. STANDARDIZED PERMITS

### **§ 13000. Precertification of equipment and processes**

13000. (a) Each state environmental agency, as defined in subdivisions (a) and (b) of Section 10120, in consultation and coordination with all interested parties, may adopt a process to precertify equipment and processes as being in compliance with any laws and regulations applicable to the state environmental agency. The secretary shall ensure that, to the extent one or more state environmental agencies adopt regulations pursuant to this

1 Section, the regulations are standardized and coordinated in the most efficient and effective  
2 manner feasible.

3 (b) If a state environmental agency adopts regulations pursuant to subdivision (a), it  
4 shall, to the extent feasible and appropriate, adopt standardized permits to incorporate  
5 equipment and processes precertified pursuant to subdivision (a). Where applicable, the  
6 state environmental agencies shall include, as part of their precertification, a model  
7 standardized permit ordinance that local environmental agencies may adopt.

8 (c) Local environmental agencies, as defined in subdivisions (c) to (h), inclusive, of  
9 Section 10120, may adopt standardized permits to incorporate equipment and processes  
10 precertified pursuant to subdivision (a). Nothing in this Section shall limit the ability of a  
11 local environmental agency to adopt additional requirements as part of the standardized  
12 permit to meet local health and safety concerns.

13 (d) For purposes of this Section, a “standardized permit” means a permit for pollution  
14 sources or activities that are the same or similar in their nature, and which require the  
15 submission of the same or similar information for purposes of issuing, monitoring, and  
16 enforcing permit requirements.

17 (e) Nothing in this Section shall result in the reduction or elimination of environmental or  
18 public health protection or public participation, as provided under all applicable laws, in the  
19 issuance of any permit authorized by this Section.

20 (f) Any environmental agency may charge a reasonable fee for costs incurred pursuant to  
21 this Section, not to exceed estimated reasonable costs. Any fee shall be subject to Sections  
22 1401 to 1403, inclusive.

23 **Comment.** Section 13000 continues former Public Resources Code Section 71031 without  
24 substantive change.

## 25 CHAPTER 6. PERMIT CONSOLIDATION ZONE PILOT PROGRAM

### 26 Article 1. General Provisions

#### 27 **§ 14000. Implementation of chapter**

28 14000. This chapter shall be implemented by the secretary only to the extent consistent  
29 with federal law and any delegation agreements with federal agencies.

30 **Comment.** Section 14000 continues former Public Resources Code Section 71035.9  
31 without change.

#### 32 **§ 14001. Duration of chapter**

33 14001. This chapter shall remain in effect until January 1, 2002, and as of that date is  
34 repealed, unless a later enacted statute, which becomes effective on or before January 1,  
35 2002, deletes or extends that date.

36 **Comment.** Section 14001 continues former Public Resources Code Section 71035.11  
37 without change.

### 38 Article 2. Definitions

#### 39 **§ 14100. Application of definitions**

40 14100. Unless the provision or context otherwise requires, the definitions in this article  
41 govern the construction of this chapter.

42 **Comment.** Section 14100 restates the introductory clause of former Public Resources Code  
43 Section 71035 without substantive change.

14105. “Certified unified program agency” means a certified unified program agency as designated under Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code.

14110. “Environmental agency” means an environmental agency as defined in subdivisions (a) to (g), inclusive, of Section 10120.

14115. "Environmental permit" means any environmental permit issued by an environmental agency or a certified unified program agency.

(1) Contains information and data for all emissions and discharges from the facility and the management of solid waste and hazardous waste, including all information relevant to individual environmental permits that would otherwise be required for the facility.

(2) Specifies measures, including, but not limited to, monitoring, reporting, emissions limits, materials handling, and throughputs, to be taken by the project applicant to ensure compliance with all environmental permits that would otherwise be required.

(3) Meets the requirements of all individual environmental permits that would otherwise be required.

(4) Ensures compliance with all applicable environmental rules, regulations, laws, and ordinances.

**Comment.** Section 14120 continues subdivision (d) of former Public Resources Code Section 71035 without change.

14200. On or before January 1, 1997, the secretary shall adopt regulations establishing the permit consolidation zone pilot program consisting of all of the following:

(a) An application process whereby cities and counties may request that all or part of their jurisdiction be designated a permit consolidation zone.

(b) An administrative process which may be used for new or expanded facilities within a designated permit consolidation zone, at the option of the permit applicant, to substitute a facility compliance plan for any environmental permit. The application process shall contain

1 a means to determine that new or expanded facilities are in compliance with all applicable  
2 laws and requirements.

3 (c) A process to coordinate inspection and enforcement activities among the agencies that  
4 would otherwise have issued individual permits for facilities choosing to be permitted  
5 through a facility compliance plan.

6 (d) Procedures pursuant to which applicant cities and counties may amend or terminate  
7 the designation.

8 **Comment.** Section 14200 continues former Public Resources Code Section 71035.1  
9 without change.

10 ☞ **Staff Note.** This section specifies a deadline for adoption of regulations. This provision  
11 may be obsolete. The staff would like to receive input on two questions: (1) Have the  
12 regulations been adopted as required? (2) Does the deadline provision still serve a useful  
13 purpose?

#### 14 **§ 14201. Regulations**

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15 14201. The regulations required by Section 14200 shall be developed by the secretary in  
16 coordination with the Secretary for Trade and Commerce, the Secretary of the Resources  
17 Agency, and the Secretary for Business, Transportation and Housing, and in consultation  
18 with representatives of cities, counties, local environmental agencies, and certified unified  
19 program agencies.

20 **Comment.** Section 14201 continues former Public Resources Code Section 71035.2  
21 without substantive change.

#### 22 **§ 14202. Application for designation**

---

23 14202. The application process required by subdivision (a) of Section 14200 shall  
24 provide for all of the following:

25 (a) A competitive application process which designates not more than 20 cities and  
26 counties with a population greater than 5,000 as determined in the 1990 census, or parts  
27 thereof, as a permit consolidation zone.

28 (b) The award of designations by a review panel composed of the secretary and the  
29 Secretary for Trade and Commerce.

30 (c) The award of designations based on the applications submitted. In awarding  
31 designations, the review panel shall consider the extent to which the applicant has instituted  
32 permit streamlining measures for permits under its authority, whether there is a single  
33 certified unified program agency within the boundaries of the area proposed in the  
34 application, whether provisions are included to ensure adequate public participation in the  
35 final permit decisions on facilities subject to a facility compliance plan, and the extent of  
36 existing or proposed agreements between the applicant and other local, state, and regional  
37 permitting agencies with jurisdiction within the boundaries of the area proposed in the  
38 application.

39 (d) A requirement that all cities, counties, and local environmental agencies with permit  
40 authority over the projects subject to a facility compliance plan within the proposed permit  
41 consolidation zone agree to the designation.

42 (e) In awarding designations, ensure a diverse range of permit consolidation zones,  
43 including, but not limited to, urban and rural counties, large and small cities, and  
44 communities encompassing military base or reservations reuse.

45 **Comment.** Section 14202 continues former Public Resources Code Section 71035.3  
46 without change.

1   **§ 14203. Termination or amendment of designation**

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2   14203. (a)(1) A designated city or county may terminate its involvement in the pilot  
3 program established pursuant to this chapter following 180 days' written notice to the  
4 secretary. The permit consolidation zone shall be deemed terminated at the end of the 180-  
5 day notice period.

6   (2) Notwithstanding any other provision of law, any facility within the terminated permit  
7 consolidation zone permitted through a facility compliance plan pursuant to Section 14300  
8 shall be deemed to hold valid environmental permits until individual environmental permits  
9 are issued or denied for the facility by the applicable environmental agencies.

10   (b) An application for amendment to a permit consolidation zone designation shall be  
11 submitted by the applicable city or county to the review panel under Section 14202. Any  
12 amendment shall become effective within 90 days after the date of receipt by the review  
13 panel.

14   (c) The procedure for replacing a facility compliance plan in whole or in part with  
15 individual environmental permits, as a result of an amendment or termination of a permit  
16 consolidation zone designation, shall be specified in the applications submitted pursuant to  
17 Section 14202.

18   **Comment.** Section 14203 continues former Public Resources Code Section 71035.4  
19 without substantive change.

20   **§ 14204. Reports**

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21   14204. The secretary and the Secretary for Trade and Commerce shall prepare and  
22 submit an annual report to the Governor and the Legislature by January 31 of each year,  
23 containing the following:

24   (a) A description and location of facilities permitted through a facility compliance plan,  
25 including the number of individual environmental permits that otherwise would have been  
26 required, an estimate of cost savings to the participating facilities and the involved  
27 environmental agencies as a result of the pilot program, and the degree to which compliance  
28 with the applicable environmental laws and regulations has been maintained or increased  
29 through the pilot program.

30   (b) As appropriate, recommendations for modification, expansion, or elimination of the  
31 pilot program established by this chapter.

32   (c) Recommendations for how the pilot program could be expanded to complex facilities  
33 including, but not limited to, whether the 45-day review of facility plan completeness and  
34 adequacy should be expanded.

35   **Comment.** Section 14204 continues former Public Resources Code Section 71035.10  
36 without change.

37                                   Article 4. Facility Compliance Plan

38   **§ 14300. Facility compliance plan**

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39   14300. The facility compliance plan substituted pursuant to subdivision (b) of Section  
40 14200 shall provide for all of the following:

41   (a) Substitution of the plan for all individual state agency and local environmental permits  
42 that would otherwise be required for the proposed project, unless otherwise specified in the  
43 designation application submitted by the applicant city or county.

44   (b) Measures to be taken by the project applicant to ensure compliance with all applicable  
45 rules, regulations, ordinances, and statutes and to ensure that the facility compliance plan is  
46 as enforceable as individual permits.

47   (c) The equivalent opportunity for public notice, hearing, comment, participation,  
48 administrative appeal, and judicial review as provided in the environmental permit process  
49 that would otherwise be applicable.

(d) All applicable individual environmental permits for the project to be deemed to have been issued upon receipt of a complete and adequate facility compliance plan by the secretary.

(e) A filing fee to reflect the reasonable costs of all agencies that would otherwise issue individual permits for the project covered by the facility compliance plan, and that also reflects the reduced costs of the applicable agencies through reduced staff review of individual permits. Any fee shall be subject to Section 1401 to 1403, inclusive. The project applicant shall not be liable for any application fees for any individual permit that is otherwise addressed in the facility compliance plan. Local agencies shall identify and quantify any local fees in the application submitted pursuant to Section 14202.

**Comment.** Section 14300 continues former Public Resources Code Section 71035.5 without substantive change.

#### **§ 14301. Adequacy of compliance plan**

14301. (a) Environmental agencies with jurisdiction over portions of the compliance plan shall determine if a compliance plan is complete and adequate, in accordance with Sections 14301 to 14303, inclusive, as it relates to their particular area of jurisdiction.

(b) A determination of completeness and adequacy shall be based solely upon whether there is compliance with the rules, regulations, ordinances, and statutes governing the environmental agency. As part of the determination of adequacy, an environmental agency may require additional conditions necessary, in its judgment, to make the facility compliance plan consistent with its rules, regulations, ordinances, and statutes.

(c) If an environmental agency possessed discretionary authority over a facility prior to the enactment of this chapter, then the determination of completeness and adequacy shall be a discretionary action for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If, subsequent to the enactment of this chapter, an environmental agency, by regulation, eliminates its discretionary authority over a facility, then the determination of completeness and adequacy shall not be a discretionary action for purposes of the California Environmental Quality Act.

(d) An environmental agency shall transmit its determination to the secretary within 45 days from the date of receipt of the facility compliance plan.

**Comment.** Section 14301 continues subdivisions (a) through (d) of former Public Resources Code Section 71035.6 without substantive change.

☞ **Staff Note.** This section includes a reference to the California Environmental Quality Act (CEQA). In this draft, references to CEQA are to existing sections of the Public Resources Code. These references will be corrected after the draft of the CEQA portion of the new Environment Code is complete.

#### **§ 14302. Determination of inadequacy**

14302. (a)(1) If an environmental agency determines that a facility compliance plan is not complete and adequate, the agency shall, within the 45-day period specified in subdivision (d), transmit that determination, in writing, to the project applicant. The agency's determination shall specify those parts of the plan that are incomplete or inadequate and shall indicate the manner in which they can be made complete and adequate, including a list and thorough description of the specific information needed to make the plan complete and adequate. The project applicant shall submit materials to the environmental agency in response to the list and description.

(2) Not later than 30 calendar days after receipt of the submitted materials, the environmental agency shall determine in writing whether they are complete and adequate and shall immediately transmit that determination to the applicant. If the written determination is not made within the 30-day period, the application together with the submitted materials shall be deemed complete and adequate for purposes of this chapter.

(3) If the plan together with the submitted materials are determined not to be complete and adequate pursuant to paragraph (2), the environmental agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. Notwithstanding a decision pursuant to paragraph (2) that the application and submitted materials are not complete and adequate, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete and adequate for the purposes of this chapter.

(4) Nothing in Sections 14301 to 14303, inclusive, precludes an applicant and an environmental agency from mutually agreeing to an extension of any time limit provided by Sections 14301 to 14303.

**Comment.** Section 14302 continues subdivision (e) of former Public Resources Code Section 71035.6 without substantive change.

#### **§ 14303. Effect of facility compliance plan**

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14303. All applicable individual environmental permits for the project shall be deemed to have been issued upon receipt of a complete and adequate facility compliance plan, as determined by the secretary, after receiving the determinations of completeness and adequacy from environmental agencies pursuant to subdivision (a) of Section 14301. In determining completeness and adequacy, the secretary shall not substitute his or her judgment for that of the applicable environmental agencies.

**Comment.** Section 14303 continues subdivision (f) of former Public Resources Code Section 71035.6 without change.

#### **§ 14304. Secretary; regulatory assistance**

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14304. The secretary shall provide regulatory assistance with regard to projects permitted through a facility compliance plan.

**Comment.** Section 14304 continues former Public Resources Code Section 71035.7 without change.

#### **§ 14305. Prohibited projects**

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14305. Facility compliance plans may not be applied to projects involving any of the following:

- (a) The incineration of wastes.
- (b) The storage, treatment, transportation, or disposal of radioactive materials.
- (c) Other activities that the secretary determines, based on risks to the environment and the public health and safety, to be appropriately regulated through individual permits.
- (d) Other activities within a specific permit consolidation zone as requested by the city or county in its application submitted pursuant to Section 14202.

**Comment.** Section 14305 continues former Public Resources Code Section 71035.8 without change.

## **PART 4. ENVIRONMENTAL DATA REPORTING**

### **CHAPTER 1. LEGISLATIVE FINDINGS AND DECLARATIONS**

#### **§ 15000. Findings and declarations**

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15000. The Legislature hereby finds and declares all of the following:

(a) Environmental data is currently required by, and submitted to, a variety of public agencies with jurisdiction at the state, regional, and local levels of government. The same information is often submitted by the regulated community to different public agencies, almost always on one or more paper forms. Since a different format is now required for each such report, data items are required to be reformatted one or more additional times at a cost of time and money that brings no accompanying environmental benefit.

(b) The blizzard of incoming paper reports often exceeds the capacity of a public agency to digest the information. In some cases, the public agency cannot look at or evaluate all of the data received on paper. That problem of data utility is aggravated further by the current wasteful and error-laden practice of retyping data from paper forms into the public agency's computer data base.

(c) In many cases, reported data originates in a computer data base maintained by the company submitting the report. The retyping of data by the public agency could be completely eliminated if business entities were permitted to submit the data in a single electronic format which every public agency could then use. That standard approach would permit both business entities and public agencies to save time and money that is now spent in reformatting, reentering, and reediting data. The data would also be available more quickly to any member of the public interested in using the data.

(d) Business entities already use common, standardized electronic data formats and protocols to exchange commercial and technical information on materials to be transported and used in manufacturing. That application of electronic data interchange is an important factor in determining the competitiveness of business entities in this state. The imposition by government of barriers to, or multiple incompatible data format requirements on, those existing electronic interchanges impairs the competitiveness of business entities without bringing any accompanying environmental benefit.

(e) It is the policy of the state, for environmental and hazardous materials reporting purposes, to employ nonproprietary electronic data formats and transmission protocols that already function effectively for ongoing commercial and industrial data exchanges between business entities and across different computer operating systems instead of expending public funds to develop public agency-specific formats and protocols.

**Comment.** Section 15000 continues former Public Resources Code Section 71050 without change.

### **§ 15001. Limitation**

15001. Nothing in this part limits any existing authority of a local agency to require the submission of environmental data.

**Comment.** Section 15001 generalizes subdivision (e) former Public Resources Code Section 71068.

☞ **Staff Note.** Public Resources Code Section 71068(e) provides that nothing in that section limits the existing authority of local agencies to require the submission of environmental data. The first four subdivisions of that section addressed four different substantive issues. Consequently, these subdivisions have been turned into separate sections in this draft, as follows:

- Subdivision (a) (adoption of electronic standards for use) — proposed section 15205.
- Subdivision (b) (local agency petition for addition to data standards) — proposed section 15203
- Subdivision (c) (effect of use of standards) — proposed section 15501
- Subdivision (d) (use of standards voluntary) — proposed section 15502

1 It isn't clear which of these subdivisions (now sections) might raise the implication that a  
2 local agency's authority is being limited, so it isn't clear how the limitation expressed in  
3 subdivision (e) was intended to apply. Rather than referring to each of these sections,  
4 proposed Section 15001 generalize the limitation, making clear that nothing in the part limits  
5 the authority of local agencies.


## 6 CHAPTER 2. DEFINITIONS

### 7 **§ 15100. Application of definitions**

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8 15100. Unless the provision or context otherwise requires, the definitions in this chapter  
9 govern the construction of this part.

10 **Comment.** Section 15100 is new.

11  **Staff Note.** Chapter 2 (commencing with Section 71053) of Part 2 of Division 34 of the  
12 Public Resources Code provides definitions, but does not state their application. The context  
13 implies that the definitions are intended to apply to the part. Section 15100 codifies this  
14 implication.

### 15 **§ 15105. "Advisory committee"**

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16 "Advisory committee" means the Environmental Data Management Advisory Committee  
17 established pursuant to Section 15400.

18 **Comment.** Section 15105 continues former Public Resources Code Section 71053 without  
19 substantive change.

### 20 **§ 15110. "Agency"**

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21 15110. "Agency" means the California Environmental Protection Agency.

22 **Comment.** Section 15110 continues former Public Resources Code Section 71054 without  
23 change.

### 24 **§ 15115. "Secretary"**

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25 15115. "Secretary" means the Secretary for Environmental Protection.

26 **Comment.** Section 15115 continues former Public Resources Code Section 71055 without  
27 change.

## 28 CHAPTER 3. DATA MANAGEMENT

### 29 Article 1. Standards

### 30 **§ 15200. Information technology standards**

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31 15200. The secretary shall develop and adopt information technology standards by which  
32 public agencies and regulated business entities and the other members of the regulated  
33 community may use computers and other information technology to specify, request,  
34 report, collect, communicate, process, display, disseminate, or otherwise utilize data for  
35 environmental data reporting requirements that are imposed in the course of granting  
36 permits or other authorizations to operate issued pursuant to specified provisions of state  
37 and federal law and regulations.

38 **Comment.** Section 15200 continues former Public Resources Code Section 71060 without  
39 change.

1    **§ 15201. Standardized format and protocol**

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2    15201. The secretary shall establish a standardized electronic format and protocol for the  
3    exchange of electronic data for the purpose of meeting environmental data reporting or  
4    other usage requirements that are imposed in the course of granting permits or other  
5    authorizations to operate pursuant to all of the following laws and regulations adopted  
6    pursuant to those laws:

7    (a) Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with  
8    Section 25280), and Chapter 6.95 (commencing with Section 25500) of Division 20 of the  
9    Health and Safety Code.

10   (b) Article 1 (commencing with Section 42300) of Chapter 4 of Part 4 of Division 26 of  
11   the Health and Safety Code.

12   (c) Division 7 (commencing with Section 13000) of the Water Code.

13   (d) The Solid Waste Disposal Act (42 U.S.C. Sec. 6901 et seq.).

14   (e) The Emergency Planning and Community Right-to-Know Act (42 U.S.C. Sec.  
15   11001 et seq.).

16   (f) Any other law relating to environmental protection, including, but not limited to,  
17   hazardous waste, substances, and materials, as determined by the secretary.

18    **Comment.** Section 15201 continues former Public Resources Code Section 71061 without  
19    change.

20   **§ 15202. Format and protocol elements**

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21   15202. The secretary shall identify the environmental data reporting or usage  
22   requirements imposed pursuant to the laws listed in Section 15201 and reflect those  
23   requirements in the elements of the standardized electronic format and protocol, develop a  
24   data dictionary that describes the characteristics of each format element and its relationship  
25   to each environmental data reporting or usage requirement, and develop evaluation criteria  
26   by which the successful use of the standardized electronic format and protocol may be  
27   measured.

28    **Comment.** Section 15202 continues former Public Resources Code Section 71062 without  
29    substantive change.

30   **§ 15203. Petition for inclusion of data element**

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31   15203. Any local agency requiring the submission of an element of environmental data  
32   not found in the data dictionary maintained by the secretary pursuant to Section 15202 may  
33   petition the secretary for inclusion of that data element. The secretary shall include an  
34   additional data item in the data dictionary only if the local agency demonstrates both of the  
35   following:

36    (a) One of the following applies:

37      (1) A specific requirement for that item in existing law or regulation.

38      (2) A principle of mathematics or science that requires the collection of that data item to  
39      meet another specific purpose under the applicable law.

40    (b) There is no other way to meet the local agency's needs using combinations of data  
41    elements already incorporated into the data dictionary.

42    **Comment.** Section 15203 continues subdivision (b) of former Public Resources Code  
43    Section 71068 without substantive change.

44   **§ 15204. Format and protocol criteria**

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45   15204. To the fullest extent practicable to public agencies and business entities, the  
46   secretary, in close consultation with the advisory committee, shall ensure that the  
47   standardized electronic format and protocol established pursuant to Section 15201 meets all  
48   of the following criteria:

(a) The format and protocol conforms with, or is compatible with, data interchange formats and protocols already in use in the regulated community for moving data from computer to computer, so that the format and pilot program may be implemented promptly, without the need for research and development into untried formats and protocols.

(b) The format and protocol works independently of the type of computer hardware, software, operating system, data storage device, and telecommunications equipment employed by prospective senders and receivers.

(c) The format and protocol accommodates the addition of new or revised data element specifications without requiring users to make costly modifications to the hardware or software that they employ to submit electronic data.

**Comment.** Section 15204 continues former Public Resources Code Section 71065 without substantive change.

#### **§ 15205. Adoption of standardized format and protocol**

15205. Upon the completion of a demonstration of any standardized electronic format and protocol and alternative signature technique pursuant to this part, to the satisfaction of the advisory committee, the secretary shall adopt that electronic format and protocol standard for use as an optional alternative to submitting environmental data on paper to any state or local agency.

**Comment.** Section 15205 continues subdivision (a) of former Public Resources Code Section 71068 without change.

#### **§ 15206. Electronic signatures**

15206. The secretary shall prescribe one or more techniques by which a report may be signed electronically by a person who would otherwise place a written signature on a paper version of the report. The prescribed electronic signature shall be binding on all persons and for all purposes under the law as if the signature had been made in ink on the equivalent paper document. The secretary may also prescribe a paper form for signature and certification of a report submitted in the prescribed file format on tangible magnetic media, including, but not limited to, floppy disks or magnetic tape.

**Comment.** Section 15206 continues former Public Resources Code Section 71066 without change.

### **Article 2. Pilot Project**

#### **§ 15300. Pilot project**

15300. (a) The proposed standardized electronic format and protocol required by Section 15201 and the alternative signature techniques required by Section 15206 shall be tested in the Counties of Santa Clara and San Mateo as a pilot program, for a period determined by the secretary, and at the initiative of business entity report submitters who have organized to implement electronic data interchange among themselves for other business purposes and who wish to employ the same technology for exchanging environmental data. Any of the participating business entities located within those counties who are required to comply with the environmental data reporting requirements imposed pursuant to the laws listed in Section 15201, may comply by submitting the data in the prescribed standardized electronic format.

(b) The secretary shall meet the requirements of Section 15300 using resources contributed exclusively by business participants. The secretary may accept and use computer hardware, software, and support services furnished by the industry or business participants at their own cost in order for the agency to participate in the pilot program. No public funds shall be encumbered in order to conduct, or pay for, any part of the pilot

1 program originally undertaken or provided by any business participant. The brands of  
2 products employed shall not be identified in public, nor shall their use be deemed an  
3 endorsement of any particular brand or proprietary approach to electronic data interchange.

4 **Comment.** Section 15300 continues former Public Resources Code Section 71063 without  
5 substantive change.

## 6 Article 3. Environmental Data Management Advisory Committee

### 7 **§ 15400. Advisory committee**

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8 15400. (a) There is in the agency the Environmental Data Management Advisory  
9 Committee. The advisory committee shall consist of not more than seven members  
10 appointed by the secretary. The secretary shall select members who represent business,  
11 government, and environmental groups, and who have proven expertise and current  
12 knowledge in the field of electronic data exchange.

13 (b) The advisory committee shall advise the secretary on the quickest, most effective, and  
14 least expensive alternative systems of electronic standards for formatting data.

15 (c) On or before July 1, 1996, the advisory committee shall submit a report to the  
16 secretary which describes the pilot program conducted pursuant to Section 15300. This  
17 report shall include, but is not limited to, an analysis of the costs and benefits of the format,  
18 protocol, and signature techniques used in the pilot program, a discussion of the results  
19 obtained by using the evaluation criteria developed pursuant to Section 15202, and a  
20 discussion of the implications for statewide implementation of the program.

21 (d) The meetings of the advisory committee shall be open to the public and shall provide  
22 an opportunity for the public to be heard on matters considered by the advisory committee.

23 **Comment.** Section 15400 continues former Public Resources Code Section 71064 without  
24 substantive change. The reference, in subdivision (b), to the date on which the advisory  
25 committee was to begin its work (March 1, 1995) is obsolete and has been omitted.

26  **Staff Note.** Subdivision (c) specifies a deadline for submission of the advisory  
27 committee's report. This provision may be obsolete. The staff would like to receive input on  
28 two questions: (1) Has the advisory committee completed its report? (2) Does the report  
29 requirement continue to serve a useful purpose?

## 30 Article 4. Effect of Standards

### 31 **§ 15500. Data errors**

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32 15500. Public agencies shall continue their current data auditing practices, and shall work  
33 with data submitters to correct all kinds of data error encountered. The pilot program shall  
34 require that each participant maintain an audit trail as part of the evaluation criteria so that  
35 inspectors and other evaluators may ensure that the data submitted comport with the data  
36 received along the electronic link.

37 **Comment.** Section 15500 continues former Public Resources Code Section 71067 without  
38 change.

### 39 **§ 15501. Effect of electronic data transfer**

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40 15501. The electronic submission of environmental data to any state or local agency in  
41 accordance with the data standards adopted under this chapter constitutes compliance with  
42 the environmental data reporting or other usage requirements imposed pursuant to the laws  
43 specified in subdivisions (a) to (f), inclusive, of Section 15201, and has the same force and  
44 effect as if the data had been submitted in ink on paper.

1     **Comment.** Section 15501 continues subdivision (c) of former Public Resources Code  
2     Section 71068 without substantive change.

3     **§ 15502. Use of standards voluntary**

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4     15502. Notwithstanding any other provision of law, no person or state or local agency  
5     shall be required to submit or receive environmental data electronically, but every state or  
6     local agency that elects to engage in electronic data management with regard to  
7     environmental data shall employ the electronic reporting standards adopted by the secretary  
8     under this part.

9     **Comment.** Section 15502 continues subdivision (d) of former Public Resources Code  
10    Section 71068 without change.  
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## CONFORMING REVISIONS

### **Food and Agric. Code § 11454.1 (amended). Pesticide risk assessments; scientific peer review**

SEC. \_\_\_\_\_. Section 11454.1 of the Food and Agricultural Code is amended to read:

11454.1. The Department of Pesticide Regulation shall conduct pesticide risk assessments as appropriate to carry out its responsibilities set forth in Section 11454. The Office of Environmental Health Hazard Assessment shall provide scientific peer review of risk assessments conducted by the department as appropriate to carry out its responsibilities set forth in Section 59004 of the ~~Health and Safety Code~~ Environment Code 4200 of the Environment Code.

**Comment.** Section 11454.1 is amended to substitute reference to the Environment Code provisions that replaced former Health and Safety Code Section 59004.

### **Food & Agric. Code § 33112 (amended). Registered dairy inspector**

SEC. \_\_\_\_\_. Section 33112 of the Food and Agricultural Code is amended to read:

33112. The director shall examine any interested person qualified under Section 33113 for certification as a registered dairy inspector. Such an examination shall be both written and oral. A certificate as a registered dairy inspector shall be issued to any person who passes the examination.

No person shall be eligible for the examination given under Section 33111 or any employment as a dairy inspector by an approved milk inspection service, unless he is certificated pursuant to the provisions of this section. Such certification shall be valid for four years after a person discontinues his employment as a registered dairy inspector or a ~~registered sanitarian~~ registered environmental health specialist.

The director may adopt such regulations as are necessary to carry out the provisions of this article.

**Comment.** Section 33112 is amended to remove a reference to the obsolete term “registered sanitarian.” See Env’t Code § 8000(c) (“registered sanitarian” means “registered environmental health specialist”).

### **Food & Agric. Code § 33112.1 (amended). Limited milk inspection certificate;**

SEC. \_\_\_\_\_. Section 33112.1 of the Food and Agricultural Code is amended to read:

33112.1. Notwithstanding any other provision of this chapter, the director shall issue a limited milk inspection certificate to any ~~registered sanitarian~~ registered environmental health specialist employed by any city or county health department who will be employed in connection with an approved milk inspection service. A person holding the certificate shall have full authority to enforce all provisions of this code if this authority is restricted to the inspection and sampling of market milk products in retail outlets and in the inspection of retail establishments licensed pursuant to Section 33704 where an approved milk inspection service has entered into an agreement with the director pursuant to Section 33704.

The limited milk inspection certificate shall be issued following the completion of a certification course that has been approved by the director. This limited milk inspection certificate shall expire upon the termination of employment as a registered sanitarian by the individual or at any time an approved milk inspection service has been terminated.

**Comment.** Section 33112.1 is amended to remove a reference to the obsolete term “registered sanitarian.” See Env’t Code § 8000(c) (“registered sanitarian” means “registered environmental health specialist”).

**Food & Agric. Code § 33113 (amended). Eligibility to take examination**

SEC. \_\_\_\_\_. Section 33113 of the Food and Agricultural Code is amended to read:

33113. A person is not eligible to take the examination unless the person possesses one of the following qualifications:

(a) Graduation from a four-year college with specialization in studies which related to dairy farms, milk and milk products, the food sciences, or animal science.

(b) Graduation from a veterinary college of recognized standing at the time of graduation and at least one year of experience in the production, processing, or inspection of milk or milk products.

(c) Employed as a ~~registered sanitarian~~ registered environmental health specialist in the State of California for at least two years immediately prior to applying for the certification examination and possesses a bachelor's degree.

**Comment.** Section 33113 is amended to remove a reference to the obsolete term "registered sanitarian." See Env't Code § 8000(c) ("registered sanitarian" means "registered environmental health specialist").

**Gov't Code § 16.5 (amended). Digital signatures**

SEC. \_\_\_\_\_. Section 16.5 of the Government Code is amended to read:

16.5. (a) In any written communication with a public entity, as defined in Section 811.2, in which a signature is required or used, any party to the communication may affix a signature by use of a digital signature that complies with the requirements of this section. The use of a digital signature shall have the same force and effect as the use of a manual signature if and only if it embodies all of the following attributes:

(1) It is unique to the person using it.

(2) It is capable of verification.

(3) It is under the sole control of the person using it.

(4) It is linked to data in such a manner that if the data are changed, the digital signature is invalidated.

(5) It conforms to regulations adopted by the Secretary of State. Initial regulations shall be adopted no later than January 1, 1997. In developing these regulations, the secretary shall seek the advice of public and private entities, including, but not limited to, the Department of Information Technology, the California Environmental Protection Agency, and the Department of General Services. Before the secretary adopts the regulations, he or she shall hold at least one public hearing to receive comments.

(b) The use or acceptance of a digital signature shall be at the option of the parties. Nothing in this section shall require a public entity to use or permit the use of a digital signature.

(c) Digital signatures employed pursuant to Section ~~71066~~ 15206 of the ~~Public Resources Environment~~ Code are exempted from this section.

(d) "Digital signature" means an electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature.

**Comment.** Section 11454.1 is amended to substitute reference to the Environment Code provisions that replaced former Health and Safety Code Section 59004.

**Gov't Code § 7550.5 (amended). Preparation and submission to legislature or governor**

SEC. \_\_\_\_\_. Section 7550 of the Government Code is amended to read:

7550.5. (a) Notwithstanding any other provision of law, until October 1, 1999, no state or local agency shall be required to prepare or to submit any written report to the Legislature or the Governor unless the report is specified in subdivision (b) or any of the following circumstances exist:

(1) The report is required either in whole or in part by a court, federal law, or regulation.

- (2) The report is required in the Budget Act.
- (3) The Legislature expressly provides that, notwithstanding this section, a written report shall be prepared and submitted.
- (4) The report is necessary for preparation of the Budget Act or implementation of the Budget Act, as determined by the Department of Finance.
- (b) Pursuant to subdivision (a), the reports specified in the following provisions of law shall be prepared and submitted:
  - (1) Section 29 of the Business and Professions Code.
  - (1.5) Section 116 of the Business and Professions Code.
  - (2) Section 312 of the Business and Professions Code.
  - (3) Section 327 of the Business and Professions Code.
  - (4) Section 472.4 of the Business and Professions Code.
  - (4.5) Section 473.2 of the Business and Professions Code.
  - (5) Section 806 of the Business and Professions Code.
  - (6) Section 1620 of the Business and Professions Code.
  - (7) Section 1724 of the Business and Professions Code.
  - (8) Section 2075 of the Business and Professions Code.
  - (9) Section 2313 of the Business and Professions Code.
  - (10) Section 2392 of the Business and Professions Code.
  - (11) Section 2435 of the Business and Professions Code.
  - (11.5) Section 2688.5 of the Business and Professions Code.
  - (12) Section 2815.7 of the Business and Professions Code.
  - (13) Section 3151 of the Business and Professions Code.
  - (14) Section 3152 of the Business and Professions Code.
  - (15) Section 3521.5 of the Business and Professions Code.
  - (16) Section 4946 of the Business and Professions Code.
  - (16.1) Section 4980.54 of the Business and Professions Code.
  - (16.2) Section 4996.22 of the Business and Professions Code.
  - (16.3) Section 5025.1 of the Business and Professions Code.
  - (18) Section 5681 of the Business and Professions Code.
  - (18.5) Section 7011.8 of the Business and Professions Code.
  - (19) Section 7017 of the Business and Professions Code.
  - (20) Section 7139.7 of the Business and Professions Code.
  - (21) Section 7215.5 of the Business and Professions Code.
  - (21.5) Section 7215.6 of the Business and Professions Code.
  - (22) Section 10239.34 of the Business and Professions Code.
  - (23) Section 10264 of the Business and Professions Code.
  - (24) Section 12102 of the Business and Professions Code.
  - (25) Section 18618 of the Business and Professions Code.
  - (26) Section 1920 of the Civil Code.
  - (27) Section 8007 of the Education Code.
  - (28) Section 8179 of the Education Code.
  - (28.3) Section 8182 of the Education Code.
  - (28.5) Section 8280 of the Education Code.
  - (29) Section 12141 of the Education Code.
  - (30) Section 15750 of the Education Code.
  - (31) Section 16098 of the Education Code.
  - (32) Section 17330 of the Education Code.
  - (32.5) Section 32242 of the Education Code.
  - (33) Section 33053 of the Education Code.
  - (34) Section 42263 of the Education Code.
  - (35) Section 45355 of the Education Code.
  - (36) Section 45357 of the Education Code.
  - (39) Section 66742 of the Education Code.

(40) Section 66743 of the Education Code.  
(41) Section 66903 of the Education Code.  
(42) Section 69615.4 of the Education Code.  
(43) Section 69944 of the Education Code.  
(44) Section 99105 of the Education Code.  
(44.5) Section 99155 of the Education Code.  
(45) Section 99181 of the Education Code.  
(46) Section 99182 of the Education Code.  
(46.51) Section 1300 of the Environment Code.  
(46.52) Section 4306 of the Environment Code.  
(46.52) Section 14204 of the Environment Code.  
(47) Section 2079 of the Fish and Game Code.  
(48) Section 3409 of the Fish and Game Code.  
(48.1) Section 2281 of the Food and Agricultural Code.  
(48.2) Section 2282 of the Food and Agricultural Code.  
(49) Section 3333 of the Food and Agricultural Code.  
(49.1) Section 12794.5 of the Food and Agricultural Code.  
(49.2) Section 13127 of the Food and Agricultural Code.  
(49.3) Section 13127.93 of the Food and Agricultural Code.  
(49.4) Section 13135 of the Food and Agricultural Code.  
(50) Section 13144 of the Food and Agricultural Code.  
(51) Section 13152 of the Food and Agricultural Code.  
(52) Section 14104 of the Food and Agricultural Code.  
(52.1) Section 42814 of the Food and Agricultural Code.  
(52.2) Section 58591 of the Food and Agricultural Code.  
(53) Section 965.4 of the Government Code.  
(54) Section 965.65 of the Government Code.  
(55) Section 7078 of the Government Code.  
(56) Section 7086 of the Government Code.  
(57) Section 7563 of the Government Code.  
(58) Section 7585 of the Government Code.  
(59) Section 8523 of the Government Code.  
(60) Section 8574.8 of the Government Code.  
(62) Section 8878.97 of the Government Code.  
(62.1) Section 9148.4 of the Government Code.  
(62.2) Section 11371 of the Government Code.  
(63) Section 12010.6 of the Government Code.  
(64) Section 12017 of the Government Code.  
(65) Section 12020 of the Government Code.  
(66) Section 12021 of the Government Code.  
(67) Section 12080.2 of the Government Code.  
(68) Section 12170 of the Government Code.  
(69) Section 12329 of the Government Code.  
(70) Section 12439 of the Government Code.  
(71) Section 12460 of the Government Code.  
(72) Section 12461 of the Government Code.  
(73) Section 12522 of the Government Code.  
(74) Section 12805.5 of the Government Code.  
(74.5) Section 12812.5 of the Government Code.  
(75) Section 13305 of the Government Code.  
(76) Section 13308 of the Government Code.  
(77) Section 13332.04 of the Government Code.  
(78) Section 13332.10 of the Government Code.  
(79) Section 13336.5 of the Government Code.

(80) Section 13337 of the Government Code.  
(82) Section 14523 of the Government Code.  
(83) Section 14524.15 of the Government Code.  
(84) Section 14525.6 of the Government Code.  
(85) Section 14535 of the Government Code.  
(85.5) Section 14660.1 of the Government Code.  
(86) Section 14840 of the Government Code.  
(87) Section 15323.5 of the Government Code.  
(87.5) Section 15335.11 of the Government Code.  
(88) Section 15355.3 of the Government Code.  
(88.5) Section 15363.10 of the Government Code.  
(90) Section 15364.54 of the Government Code.  
(91) Section 15378 of the Government Code.  
(92) Section 15616 of the Government Code.  
(93) Section 15646 of the Government Code.  
(94) Section 15901 of the Government Code.  
(95) Section 16725 of the Government Code.  
(96) Section 16759 of the Government Code.  
(97) Section 16855 of the Government Code.  
(98) Section 17570 of the Government Code.  
(98.5) Section 19405 of the Government Code.  
(99) Subdivision (c) of Section 19702.5 of the Government Code.  
(100) Section 19705 of the Government Code.  
(101) Section 19792.5 of the Government Code.  
(102) Section 19793 of the Government Code.  
(103) Section 19826 of the Government Code.  
(104) Section 19827.2 of the Government Code.  
(105) Section 19994.20 of the Government Code.  
(106) Section 19996.21 of the Government Code.  
(107) Section 19996.40 of the Government Code.  
(109) Section 20138 of the Government Code.  
(110) Section 20139 of the Government Code.  
(113) Section 20233 of the Government Code.  
(114) Section 22840.1 of the Government Code.  
(115) Section 22840.3 of the Government Code.  
(115.1) Section 65044 of the Government Code.  
(115.2) Section 65048 of the Government Code.  
(115.3) Section 65073 of the Government Code.  
(115.5) Section 429.84 of the Health and Safety Code.  
(116) Section 1266.1 of the Health and Safety Code.  
(117) Section 1596.872b of the Health and Safety Code.  
(118) Section 11605 of the Health and Safety Code.  
(118.5) Section 25133.5 of the Health and Safety Code.  
(119) Section 25161 of the Health and Safety Code.  
(129) Section 25178 of the Health and Safety Code.  
(129.05) Section 25178.1 of the Health and Safety Code.  
(129.1) Section 25200.14.1 of the Health and Safety Code.  
(129.2) Section 25200.17 of the Health and Safety Code.  
(129.3) Section 25204.6 of the Health and Safety Code.  
(130) Section 25249.8 of the Health and Safety Code.  
(130.5) Section 25404.6 of the Health and Safety Code.  
(131) Section 39604 of the Health and Safety Code.  
(132) Section 41712 of the Health and Safety Code.  
(133) Section 41865 of the Health and Safety Code.

(134) Section 42311.1 of the Health and Safety Code.  
(135) Section 43101 of the Health and Safety Code.  
(136) Section 43101.5 of the Health and Safety Code.  
(137) Section 43206 of the Health and Safety Code.  
(138) Section 43701 of the Health and Safety Code.  
(139) Section 44011.6 of the Health and Safety Code.  
(140) Section 44021 of the Health and Safety Code.  
(140.1) Section 44361 of the Health and Safety Code.  
~~(140.2) Section 57000 of the Health and Safety Code.~~  
~~(140.3) Section 59019 of the Health and Safety Code.~~  
(140.4) Section 100340 of the Health and Safety Code.  
(140.5) Section 104375 of the Health and Safety Code.  
(140.6) Section 105195 of the Health and Safety Code.  
(140.7) Section 105335 of the Health and Safety Code.  
(140.8) Section 108875 of the Health and Safety Code.  
(140.9) Section 120475 of the Health and Safety Code.  
(141) Section 120910 of the Health and Safety Code.  
(141.05) Section 124105 of the Health and Safety Code.  
(141.1) Section 124160 of the Health and Safety Code.  
(141.2) Section 124485 of the Health and Safety Code.  
(141.3) Section 128195 of the Health and Safety Code.  
(141.4) Section 129455 of the Health and Safety Code.  
(141.5) Section 62.9 of the Labor Code.  
(141.6) Section 77 of the Labor Code.  
(141.7) Section 90.5 of the Labor Code.  
(142) Section 98.75 of the Labor Code.  
(143) Section 111 of the Labor Code.  
(144) Section 139.4 of the Labor Code.  
(145) Section 139.43 of the Labor Code.  
(146) Section 147.2 of the Labor Code.  
(147) Section 156 of the Labor Code.  
(148) Section 1143 of the Labor Code.  
(149) Section 3073.5 of the Labor Code.  
(150) Section 3201.5 of the Labor Code.  
(151) Section 3716.5 of the Labor Code.  
(152) Section 5502 of the Labor Code.  
(154) Section 6330 of the Labor Code.  
(155) Section 6511 of the Labor Code.  
(156) Section 6712 of the Labor Code.  
(157) Section 7316 of the Labor Code.  
(158) Section 7384 of the Labor Code.  
(159) Section 7722 of the Labor Code.  
(159.1) Section 989.7 of the Military and Veterans Code.  
(159.2) Section 996.979 of the Military and Veterans Code.  
(159.3) Section 996.993 of the Military and Veterans Code.  
(159.4) Section 997.009 of the Military and Veterans Code.  
(159.5) Section 998.009 of the Military and Veterans Code.  
(159.6) Section 998.029 of the Military and Veterans Code.  
(159.7) Section 998.049 of the Military and Veterans Code.  
(159.8) Section 998.060 of the Military and Veterans Code.  
(159.9) Section 998.071 of the Military and Veterans Code.  
(160) Section 998.082 of the Military and Veterans Code.  
(160.1) Section 998.094 of the Military and Veterans Code.  
(160.2) Section 998.107 of the Military and Veterans Code.

(160.3) Section 999.7 of the Military and Veterans Code.  
(160.4) Section 1011.5 of the Military and Veterans Code.  
(160.5) Section 1314.5 of the Military and Veterans Code.  
(160.6) Section 628.2 of the Penal Code.  
(161) Section 629.12 of the Penal Code.  
(162) Section 999y of the Penal Code.  
(163) Section 2057 of the Penal Code.  
(164) Section 2807 of the Penal Code.  
(165) Section 2808 of the Penal Code.  
(166) Section 4807 of the Penal Code.  
(166.5) Section 6242.6 of the Penal Code.  
(167) Section 7003.5 of the Penal Code.  
(168) Section 7012 of the Penal Code.  
(169) Section 7433 of the Penal Code.  
(169.5) Section 8061 of the Penal Code.  
(170) Section 11107.5 of the Penal Code.  
(171) Section 13730 of the Penal Code.  
(172) Section 13847 of the Penal Code.  
(173) Section 10359 of the Public Contract Code.  
(174) Section 10115.5 of the Public Contract Code.  
(175) Section 5005.6 of the Public Resources Code.  
(176) Section 14542 of the Public Resources Code.  
(177) Section 14592 of the Public Resources Code.  
(177.3) Section 25306 of the Public Resources Code.  
~~(177.5) Section 71035.10 of the Public Resources Code.~~  
(177.7) Section 316 of the Public Utilities Code.  
(177.8) Section 321.6 of the Public Utilities Code.  
(178) Section 322 of the Public Utilities Code.  
(178.1) Section 765.5 of the Public Utilities Code.  
(178.2) Section 873 of the Public Utilities Code.  
(178.3) Section 7711 of the Public Utilities Code.  
(178.4) Section 8283 of the Public Utilities Code.  
(178.5) Section 9502 of the Public Utilities Code.  
(179) Section 99243.5 of the Public Utilities Code.  
(181) Section 2246 of the Revenue and Taxation Code.  
(182) Section 6377 of the Revenue and Taxation Code.  
(183) Section 8352.6 of the Revenue and Taxation Code.  
(184) Section 8352.7 of the Revenue and Taxation Code.  
(185) Section 8352.8 of the Revenue and Taxation Code.  
(186) Section 17053.49 of the Revenue and Taxation Code.  
(187) Section 21006 of the Revenue and Taxation Code.  
(188) Section 23649 of the Revenue and Taxation Code.  
(188.5) Section 30461.6 of the Revenue and Taxation Code.  
(189) Section 165 of the Streets and Highways Code.  
(190) Section 199 of the Streets and Highways Code.  
(191) Section 2154 of the Streets and Highways Code.  
(192) Section 2602 of the Streets and Highways Code.  
(193) Section 329 of the Unemployment Insurance Code.  
(194) Section 832 of the Unemployment Insurance Code.  
(195) Section 995 of the Unemployment Insurance Code.  
(196) Section 1267.5 of the Unemployment Insurance Code.  
(197) Section 1562 of the Unemployment Insurance Code.  
(198) Section 2614 of the Unemployment Insurance Code.  
(199) Section 4901 of the Unemployment Insurance Code.

(200) Section 5007 of the Unemployment Insurance Code.  
(201) Section 5202 of the Unemployment Insurance Code.  
(202) Section 9600 of the Unemployment Insurance Code.  
(203) Section 9614 of the Unemployment Insurance Code.  
(204) Section 9616 of the Unemployment Insurance Code.  
(205) Section 10205 of the Unemployment Insurance Code.  
(206) Section 10522 of the Unemployment Insurance Code.  
(207) Section 10532 of the Unemployment Insurance Code.  
(208) Section 12141 of the Unemployment Insurance Code.  
(209) Section 15037 of the Unemployment Insurance Code.  
(210) Section 15064 of the Unemployment Insurance Code.  
(211) Section 15076.5 of the Unemployment Insurance Code.  
(212) Section 15076.7 of the Unemployment Insurance Code.  
(213) Section 15079 of the Unemployment Insurance Code.  
(214) Section 162 of the Water Code.  
(215) Section 229 of the Water Code.  
(216) Section 230 of the Water Code.  
(217) Section 232 of the Water Code.  
(218) Section 10004 of the Water Code.  
(219) Section 10010 of the Water Code.  
(220) Section 12875 of the Water Code.  
(221) Section 12879.5 of the Water Code.  
(222) Section 12890.4 of the Water Code.  
(223) Section 12928.5 of the Water Code.  
(224) Section 12929.47 of the Water Code.  
(225) Section 13467 of the Water Code.  
(225.5) Section 366.28 of the Welfare and Institutions Code.  
(226) Section 5613 of the Welfare and Institutions Code.  
(226.5) Section 5673 of the Welfare and Institutions Code.  
(227) Section 10612 of the Welfare and Institutions Code.  
(228) Section 10822 of the Welfare and Institutions Code.  
(228.1) Section 11215 of the Welfare and Institutions Code.  
(228.2) Section 11329 of the Welfare and Institutions Code.  
(228.3) Section 11462 of the Welfare and Institutions Code.  
(228.4) Section 11462.05 of the Welfare and Institutions Code.  
(228.5) Section 11465.5 of the Welfare and Institutions Code.  
(228.6) Section 11467 of the Welfare and Institutions Code.  
(228.8) Section 14094.3 of the Welfare and Institutions Code.  
(229) Section 14100.5 of the Welfare and Institutions Code.  
(230) Section 14105.42 of the Welfare and Institutions Code.  
(231) Section 14120 of the Welfare and Institutions Code.  
(232) Section 14161 of the Welfare and Institutions Code.  
(232.5) Section 16522.6 of the Welfare and Institutions Code.  
(233) Section 19106 of the Welfare and Institutions Code.  
(234) Section 2 of Chapter 1495 of the Statutes of 1988.  
(235) Section 9 of Chapter 803 of the Statutes of 1989.  
(236) Section 27.001.50 of Chapter 467 of the Statutes of 1990.  
(237) Section 2 of Chapter 469 of the Statutes of 1990.  
(238) Sections 11 and 12 of Chapter 1672 of the Statutes of 1990.  
(239) Section 16 of Chapter 747 of the Statutes of 1993.  
(240) Section 17 of Chapter 747 of the Statutes of 1993.  
(241) Section 24 of Chapter 1172 of the Statutes of 1991.  
(242) Section 5 of Chapter 1299 of the Statutes of 1992.  
(243) Section 6 of Chapter 419 of the Statutes of 1993.

(244) Section 1 of Chapter 510 of the Statutes of 1995.

(245) Section 24 of Chapter 638 of the Statutes of 1995.

(246) Resolution Chapter 3 of the Statutes of 1994.

(c) Notwithstanding any other provision of law, resolution, or supplemental language, the University of California, the California State University, and the California Community Colleges shall not be required until October 1, 1999, to prepare or submit any written report to the Legislature or the Governor unless any of the following circumstances exist:

(1) The report is required whether in whole or in part by a court, federal law, or regulation.

(2) The report is required in the Budget Act.

(3) The Legislature expressly provides that, notwithstanding this section, a written report shall be prepared and submitted.

(4) The report is necessary for preparation of the Budget Act or implementation of the Budget Act, as determined by the Department of Finance.

(d) It is the intent of the Legislature that the University of California continue to prepare and submit reports specified in the following provisions of law:

(1) Section 92724 of the Education Code.

(2) Section 554 of the Food and Agricultural Code.

(3) Section 597 of the Food and Agricultural Code.

(4) Section 424.70 of the Health and Safety Code.

(5) Section 10500.5 of the Public Contract Code.

(6) Section 10507.5 of the Public Contract Code.

(7) Section 9 of Chapter 661 of the Statutes of 1993.

(e) It is further the intent of the Legislature that the University of California, the California State University, and the California Community Colleges continue to provide reports requested through the following supplemental language or resolutions, as applicable:

(1) 1989-90 Supplemental Language regarding the report entitled "Five Year Capital Outlay Plan and Seismic Retrofit Schedule."

(2) 1985-86 Supplemental Language regarding the report entitled "Lottery Funds."

(3) 1985-86 Supplemental Language regarding the report entitled "Faculty Workload Policies."

(4) 1980-81 Supplemental Language regarding the report entitled "Post Audit Minor Capital Outlay."

(5) 1973-74 Supplemental Language regarding the report entitled "Summary of Instructional Research Space."

(6) 1970-71 and 1984-85 Supplemental Language regarding the report entitled "Deferred Maintenance."

(7) Senate Concurrent Resolution 51, 1965 and 1978-79 Supplemental Language regarding the report entitled "Faculty Salaries."

(8) 1990-91 Supplemental Language regarding the report entitled "Seismic Safety Sign Posting."

(9) 1990-91 Supplemental Language regarding the report entitled "Weapons Laboratory Regulations."

(10) 1978-79 Supplemental Language regarding the report entitled "Subject A: Report to School Boards."

(11) 1987-88 Supplemental Language regarding the report entitled "Projects Funded From Hospital Reserves."

(12) 1994-95 Supplemental Language regarding the report entitled "UC Medical Residents."

(13) 1994-95 Supplemental Language regarding the report entitled "Advancement to Tenure."

(14) 1994-95 Supplemental Language regarding the report entitled “Legal Expenses for Discrimination Defense.”

(15) 1994-95 Supplemental Language regarding the report entitled “Degrees Conferred and Work-Force Needs.”

(16) 1994-95 Supplemental Language regarding the report entitled “Four-Year Degree Pledge Program.”

(f) “Written report,” for purposes of this section, means a document, of which the preparation and distribution to the Legislature, or the Governor, or both is mandated in statute. Any mandate exemption, pursuant to this section, shall not relieve the affected agency of the responsibility to provide available information, either in writing or orally, to the Governor or the Legislature with regard to the status of the report and any findings, if applicable.

This section shall become inoperative on October 1, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

**Comment.** Section 7550.5 is amended to substitute reference to the Environment Code provisions that replaced former Health and Safety Code Sections 57000 and 59019.

#### **Gov’t Code § 11019.6 (amended). Principal state agencies**

SEC. \_\_\_\_\_. Section 11019.6 of the Government Code is amended to read:

11019.6. (a) Notwithstanding any other provision of state law, and to the extent not in conflict with federal law, if a principal agency is not designated by statute, a principal state agency shall be designated by the Governor for the coordination of procedures, forms, and deadlines in every area of regulatory activity under the state’s jurisdiction, as determined by the Governor. All other state agencies shall defer to the principal agency in the performance of their duties in a particular regulatory area, or upon a particular project, with respect to procedures, forms, and deadlines, but not with respect to any other area of authority.

(b) This section shall not apply to the processing of any permit pursuant to ~~Division 34 (commencing with Section 71000) of the Public Resources Code Part 3 (commencing with Section 10000) of Division 2 and Part 4 (commencing with Section 15000) of Division 2 of the Environment Code.~~

(c) No part of this section shall be construed to limit the authority of any agency to hold public hearings on any matter within the jurisdiction of that agency.

(d) No part of this section shall be construed to authorize any state agency to adopt or implement procedures, forms, or deadlines in conflict with those explicitly specified in statute or in conflict with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500)).

(e) Nothing in this section shall be construed to confer upon any state agency decisionmaking authority over substantive matters within another agency’s jurisdiction, including any informational and public hearing requirements needed to make regulatory and permitting decisions.

(f) As used in this section, “agency” and “principal agency” shall not mean a court or any office of the judicial branch of government.

**Comment.** Section 11019.6 is amended to substitute reference to the Environment Code provisions that replaced former Division 34 (commencing with Section 71000) of the Public Resources Code.

#### **Gov’t. Code § 12805 (repealed). Resources Agency**

SEC. \_\_\_\_\_. Section 12807 of the Government Code is repealed.

The Resources Agency consists of the State Air Resources Board, the Colorado River Board, the State Energy Resources Conservation and Development Commission, the State Water Resources Control Board and each California regional water quality control board, the State Lands Commission, the Division of State Lands, the San Joaquin River Conservancy, and the following departments: Conservation; Fish and Game; Forestry and Fire Protection; Navigation and Ocean Development; Parks and Recreation; and Water Resources.

**Gov't Code § 12805.5 (repealed). Environmental report of Governor**

(a) The Governor, utilizing the staff and resources of state agencies, shall transmit to the Legislature, not later than March 15 of each year, an environmental report designated as the "Environmental Report of the Governor" setting forth all of the following:

(1) A review of environmental developments during the preceding calendar year, including trends in air quality, water quality, solid waste, the generation and disposal of hazardous waste, population growth, the growth in number of vehicles, depletion of natural resources, and other indicators of environmental quality and pollution.

(2) Forecasts of trends in major indicators of environmental quality, resource depletion, and pollution.

(3) Insofar as possible within existing resources, an evaluation of the economic and human health costs of resource depletion, pollution, and changes in environmental quality.

(4) Additional material on the California environment that is pertinent and of interest, with historical analysis and future projections whenever possible.

(5) Summaries of state policies and actions that relate to environmental developments and trends.

(6) A status update on the California Environmental Technology Program established pursuant to Section 12812.5.

(b) In conjunction with the environmental report, the Governor shall present an environmental message reviewing significant environmental achievements of the past year, outlining problem areas, and defining environmental policy, and shall make recommendations as may be appropriate for programs to decrease pollution, improve environmental quality, and protect natural resources.

**Gov't. Code § 12807 (repealed). Nuclear energy**

SEC. \_\_\_\_\_. Section 12807 of the Government Code is repealed.

200.020. (a) The Resources Agency succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Health and Welfare Agency in respect to the Office of Atomic Energy Development and Radiation Protection, which, by Section 12803, is renamed the Office of Nuclear Energy and transferred to the Resources Agency.

The Secretary of the Resources Agency succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Administrator of the Health and Welfare Agency in respect to the Office of Atomic Energy Development and Radiation Protection.

(b) Any reference to the Health and Welfare Agency or to the administrator of that agency in any law pertaining to the Office of Atomic Energy Development and Radiation Protection or the Office of Nuclear Energy shall be considered a reference to the Resources Agency or to the Secretary of the Resources Agency, as the case may be, unless the context otherwise requires.

**Comment.** Former Section 12807 provided for the succession of the Resources Agency to certain powers and responsibilities of the Health and Welfare agency relating to the Office of Atomic Energy Development and Radiation Protection (renamed the Office of Nuclear Energy). This provision is obsolete. Chapter 7.5 (commencing with Section 25700) of Division 20 of the

Health and Safety Code governs the Resource Agency's responsibilities relating to nuclear energy development and radiation protection.

**Gov't Code § 12808 (amended). Succession to unexpended funds**

SEC. \_\_\_\_\_. Section 12808 of the Government Code is amended to read:

12808. The Health and Welfare Agency ~~and the Resources Agency~~ may use the unexpended balances of funds available for use by the Human Relations Agency in connection with the functions of the Human Relations Agency that are transferred to or vested in the Health and Welfare Agency ~~or the Resources Agency~~ by Section 12803, or 12806, ~~or 12807~~, as the case may be. Such funds shall be used by the Health and Welfare Agency and the Resources Agency only for the purposes for which they were originally appropriated or otherwise made available to the Human Relations Agency.

**Comment.** Section 12808 is amended to remove obsolete provisions relating to the succession of the Resources Agency to resources of the Health and Welfare Agency relating to the Office of Nuclear Energy. Chapter 7.5 (commencing with Section 25700) of Division 20 of the Health and Safety Code governs the Resource Agency's responsibilities relating to nuclear energy development and radiation protection.

**Gov't Code § 12809 (amended). Succession to officers and employees**

SEC. \_\_\_\_\_. Section 12809 of the Government Code is amended to read:

12809. All officers and employees of the Human Relations Agency who, on the effective date of the 1972 amendment of this section, are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function transferred to or vested in the Health and Welfare Agency ~~or the Resources Agency~~ by Section 12803, or 12806, ~~or 12807~~ shall be transferred to the Health and Welfare Agency ~~or the Resources Agency~~, as the case may be. The status, positions, and rights of such persons shall not be affected by the transfer, and shall be retained by them as officers and employees of the Health and Welfare Agency ~~or the Resources Agency~~ pursuant to the State Civil Service Act, except as to positions exempt from civil service in the Human Relations Agency.

**Comment.** Section 12809 is amended to remove the obsolete reference to the succession of the Resources Agency to resources of the Health and Welfare Agency in regard to the Office of Nuclear Energy. Chapter 7.5 (commencing with Section 25700) of Division 20 of the Health and Safety Code governs the Resource Agency's responsibilities relating to nuclear energy development and radiation protection.

**Gov't Code § 12810 (amended). Succession to records**

SEC. \_\_\_\_\_. Section 12810 of the Government Code is amended to read:

12810. The Health and Welfare Agency ~~and the Resources Agency~~ shall have the possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land and other property, real or personal, held for the benefit or use of the Human Relations Agency in the performance of the duties, powers, purposes, responsibilities, and jurisdiction of the Human Relations Agency that are transferred to or vested in the Health and Welfare Agency ~~or the Resources Agency~~ by Section 12803, or 12806, ~~or 12807~~.

**Comment.** Section 12810 is amended to remove the obsolete reference to the succession of the Resources Agency to resources of the Health and Welfare Agency in regard to the Office of Nuclear Energy. Chapter 7.5 (commencing with Section 25700) of Division 20 of the Health and Safety Code now governs the Resource Agency's responsibilities relating to nuclear energy development and radiation protection.

**Gov't Code § 12812 (repealed). California Environmental Protection Agency**

SEC. \_\_\_\_\_. Section 12812 of the Government Code is repealed.

~~The California Environmental Protection Agency consists of the State Air Resources Board, the Office of Environmental Health Hazard Assessment, the California Integrated Waste Management Board, the State Water Resources Control Board, and each California regional water quality control board, and the following departments: Pesticide Regulation and Toxic Substances Control.~~

**Gov't Code § 12812.1 (repealed). Deputy secretaries**

SEC. \_\_\_\_\_. Section 12812.1 of the Government Code is repealed.

~~The Governor may, with respect to the California Environmental Protection Agency, appoint not more than three deputies to the Secretary for Environmental Protection. Each deputy secretary shall hold office at the pleasure of the secretary, and shall receive a salary fixed by the secretary with the approval of the Department of Personnel Administration.~~

**Gov't Code § 12812.5 (repealed). Environmental technology program**

SEC. \_\_\_\_\_. Section 12812.5 of the Government Code is repealed.

~~(a) On or before March 1, 1994, the California Environmental Protection Agency, using existing resources and in consultation with other relevant agencies in state and local government, shall do all of the following:~~

~~(1) Establish an environmental technologies clearinghouse, which shall include, but not be limited to, maintaining information on California-based environmental technology companies and information on funding sources for environmental technology endeavors and making this information available to interested parties.~~

~~(2) Make available technical assistance within the California Environmental Protection Agency to assist California-based environmental technology companies to improve export opportunities, and to enhance foreign buyers' awareness of, and access to, environmental technologies and services offered by California-based companies. The technical assistance may include, but is not limited to, organizing and leading trade missions, receiving reverse trade missions, referral services, reviewing project opportunities, and notifying California-based companies of export opportunities and trade shows.~~

~~(3) Perform research studies and solicit technical advice to identify international market opportunities for California-based environmental technology companies.~~

~~(4) Participate in federally and other non-state funded technical exchange programs, when appropriate, to increase foreign buyers' interest in California's environmental technologies.~~

~~(5) Coordinate activities in state government, and with the federal government and other countries' governments, to take advantage of trade promotion and financial assistance opportunities available to California-based environmental technology companies.~~

~~(b) The California Environmental Protection Agency shall report annually to the Legislature the status of the California Environmental Technology Program established pursuant to this section through the Environmental Report of the Governor as provided in Section 12805.5.~~

**Gov't Code §§ 16000-16081 (repealed). Environmental Quality Study Council**

SEC. \_\_\_\_\_. Part 14 (commencing with Section 16000) of Division 3 of Title 2 of the Government Code is repealed.

**Comment.** Sections 16000 to 16081, inclusive, are repealed as obsolete. The Environmental Quality Study Council ceased to exist on the adjournment sine die of the 1972 Regular Session of the Legislature. See former Section 16054.

**Gov't Code § 65943.5 (amended). Environmental permit applications**

SEC. \_\_\_\_\_. Section 65943.5 of the Government Code is amended to read:

65943.5. (a) Notwithstanding any other provision of this chapter, any appeal pursuant to subdivision (c) of Section 65943 involving a permit application to a board, office, or department within the California Environmental Protection Agency shall be made to the Secretary for Environmental Protection.

(b) Notwithstanding any other provision of this chapter, any appeal pursuant to subdivision (c) of Section 65943 involving an application for the issuance of an environmental permit from an environmental agency shall be made to the Secretary for Environmental Protection under either of the following circumstances:

(1) The environmental agency has not adopted an appeals process pursuant to subdivision (c) of Section 65943.

(2) The environmental agency declines to accept an appeal for a decision pursuant to subdivision (c) of Section 65943.

(c) For purposes of subdivision (b), "environmental permit" has the same meaning as defined in Section 71012 10125 of the ~~Public Resources Environment~~ Code, and "environmental agency" has the same meaning as defined in Section 71011 10120 of the ~~Public Resources Environment~~ Code, except that "environmental agency" does not include the agencies described in subdivisions (c) and (h) of Section 71011 10120 of the ~~Public Resources Environment~~ Code.

**Comment.** Section 65943.5 is amended to substitute reference to the Environment Code provisions that replaced former Sections 71011 and 71012 of the Public Resources Code.

**Gov't Code § 65956.5 (amended). Environmental permit actions**

SEC. \_\_\_\_\_. Section 65956.5 of the Health & Safety Code is amended to read:

65956.5. (a) Prior to an applicant providing advance notice to an environmental agency of the intent to provide public notice pursuant to subdivision (b) of Section 65956 for action on an environmental permit, the applicant may submit an appeal in writing to the governing body of the environmental agency, or if there is no governing body, to the director of the environmental agency, as provided by the environmental agency, for a determination regarding the failure by the environmental agency to take timely action on the issuance or denial of the environmental permit in accordance with the time limits specified in this chapter.

(b) There shall be a final written determination by the environmental agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The final written determination by the environmental agency shall specify both of the following:

(1) The reason or reasons for failing to act pursuant to the time limits in this chapter.

(2) A date by which the environmental agency shall act on the permit application.

(c) Notwithstanding any other provision of this chapter, any appeal submitted pursuant to subdivision (a) involving an environmental permit from an environmental agency shall be made to the Secretary for Environmental Protection if the environmental agency declines to accept the appeal for a decision pursuant to subdivision (a) or the environmental agency does not make a final written determination pursuant to subdivision (b).

(d) Any appeal submitted pursuant to subdivision (a) involving an environmental permit to a board, office, or department within the California Environmental Protection Agency shall be made to the Secretary for Environmental Protection.

(e) For purposes of this section, “environmental permit” has the same meaning as defined in Section ~~71012~~ 10125 of the ~~Public Resources~~ Environment Code, and “environmental agency” has the same meaning as defined in Section ~~71011~~ 10120 of the ~~Public Resources~~ Environment Code, except that “environmental agency” does not include the agencies described in subdivisions (c) and (h) of Section ~~71011~~ 10120 of the ~~Public Resources~~ Environment Code.

**Comment.** Section 65956.5 is amended to substitute reference to the Environment Code provisions that replaced former Sections 71011 and 71012 of the Public Resources Code.

**Health & Safety Code § 25179.6 (amended). Land disposal restrictions**

SEC. \_\_\_\_\_. Section 25179.6 of the Health & Safety Code is amended to read:

25179.6. (a)(1) A land disposal restriction, treatment standard, or land disposal criteria adopted by the department pursuant to former Article 7.7 (commencing with Section 25179.1), which article was repealed by the act adding this section, shall, pursuant to this section, remain in effect on and after January 1, 1996, except as provided in paragraph (2), only if both of the following conditions apply to that adopted restriction, treatment standard, or land disposal criteria:

(A) The land disposal of hazardous waste was actually prohibited or otherwise limited by those disposal restrictions, treatment standards, or land disposal criteria on and before December 31, 1995.

(B) The implementation date of those disposal restrictions, treatment standards, or land disposal criteria were not suspended until January 1, 1996, by any provision of former Article 7.7.

(2) Those land disposal restrictions, treatment standards, or land disposal criteria that remain in effect on and after January 1, 1996, pursuant to paragraph (1), may be repealed or amended by the department by regulation to maintain consistency with this article or pursuant to a determination by the department that any such land disposal restriction, treatment standard, or land disposal criteria is not necessary to protect public health and safety or the environment.

(b) On and after January 1, 1996, any land disposal restriction, treatment standard, or land disposal criteria which is not required pursuant to Section 25179.5 and which was adopted by the department pursuant to the former Article 7.7 specified in subdivision (a), but which did not prohibit land disposal prior to January 1, 1996, or was otherwise suspended until January 1, 1996, by any provision of former Article 7.7 shall not prohibit land disposal on or after January 1, 1996, and shall be deemed repealed, including any land disposal restriction, treatment standard, or land disposal criteria for any of the following categories of hazardous waste:

(1) Any RCRA hazardous waste for which a treatment standard has not been adopted or for which the Environmental Protection Agency has granted a delay of the effective date of the standard pursuant to Section 6924 of the federal act.

(2) Any non-RCRA hazardous waste subject to treatment standards based upon incineration, solvent extraction, or biological treatment.

(3) Any non-RCRA hazardous waste subject to a treatment standard adopted pursuant to paragraph (3) of subdivision (a) of Section 66268.106 of Title 22 of the California Code of Regulations.

(c) Except as provided in subdivision (a) with regard to repealing or limiting the effect of restrictions, standards or criteria that prohibited land disposal as of December 31, 1995, the department may, by regulation, adopt new land disposal restrictions, treatment standards, or land disposal criteria in addition to, or more stringent than, those restrictions, standards, or criteria required pursuant to the federal act, or required by the Environmental Protection Agency pursuant to the federal act, or for those hazardous wastes not subject to restrictions, standards, or criteria required pursuant to the federal act, or required by the Environmental Protection Agency pursuant to the federal act, if the

department determines, after holding a public hearing, that both of the following conditions exist:

(1) A new state land disposal restriction, treatment standard, or criteria is necessary to protect public health and safety and the environment, as indicated by evidence on the record.

(2) Attainment of the additional restriction, standard, or criteria can be practically achieved in this state and is consistent with the intent language of this article, as provided in Section 25179.1.

(d) On or before January 1, 2001, the department shall review and, as deemed necessary, revise the hazardous waste land disposal restrictions, treatment standards, and land disposal criteria which were adopted by the department before January 1, 1996, pursuant to former Article 7.7 (commencing with Section 25179.1) and that remain in effect after that date, to maintain consistency with this section. Any treatment standards adopted by the department on or after January 1, 1996, pursuant to this section, shall be reviewed and revised, as deemed necessary, by the department.

(e) Nothing in this section exempts the department from compliance with Section 57005 1501 of the Environment Code and with Sections 11346.2, 11346.3, 11346.5, and 11346.6 of the Government Code.

**Comment.** Section 25179.6 is amended to substitute reference to the Environment Code provisions that replaced former Section 57005.

#### **Health & Safety Code § 25200.18 (amended). Electronic reporting of permit modifications**

SEC. \_\_\_\_\_. Section 25200.18 of the Health & Safety Code is amended to read:

25200.18. On or before July 1, 1996, or within six months of the adoption of electronic reporting standards by the Secretary for Environmental Protection pursuant to Section 71060 15200 of the Public Resources Environment Code, whichever occurs later, the department shall implement a procedure for the electronic reporting of all hazardous waste facilities permit modifications, to the extent that the secretary determines that the procedure is compatible with the electronic reporting standards adopted by the secretary, as follows:

(a) Permit modifications, at the option of the applicant, may be submitted electronically using the standard file format, transmission protocols, and electronic signature and authentication techniques adopted by the Secretary for Environmental Protection for other environmental data reporting purposes under ~~Part 2~~ Part 4 (commencing with Section 71050 15000) of ~~Division 34 of the Public Resources Code~~ of Division 2 of the Environment Code.

(b) Section 71063 15300 of the Public Resources Environment Code, which requires a pilot program demonstration and evaluation, does not apply to the electronic permit modification procedures adopted pursuant to this section.

**Comment.** Section 25200.18 is amended to substitute reference to the Environment Code provisions that replaced former Part 2 (commencing with Section 71050) of Division 34 of the Public Resources Code and former Section 71063 of the Public Resources Code.

#### **Health & Safety Code § 25244.19 (amended). Source reduction evaluation review**

SEC. \_\_\_\_\_. Section 25244.19 of the Health & Safety Code is amended to read:

25244.19. (a) On or before September 1, 1991, and every four years thereafter, each generator shall conduct a source reduction evaluation review and plan pursuant to subdivision (b).

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

(1) The name and location of the site.  
(2) The SIC Code of the site.  
(3) Identification of all routinely generated hazardous waste streams that result from ongoing processes or operations that have a yearly volume exceeding 5 percent of the total yearly volume of hazardous waste generated at the site, or, for extremely hazardous waste, 5 percent of the total yearly volume generated at the site. For purposes of this paragraph, a hazardous waste exceeds 5 percent of the total yearly volume, and is subject to this article, if it is routinely generated on an ongoing basis and meets any of the following criteria:

(A) It is a hazardous waste stream processed in a wastewater treatment unit that discharges to a publicly owned treatment works or under a national pollutant discharge elimination system (NPDES) permit, as specified in the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 and following), and its weight before treatment exceeds 5 percent of the weight of the total yearly volume at the site.

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

(C) It is a hazardous waste stream that annually weighs 600 kilograms or more and its weight exceeds 5 percent of the weight of the total yearly volume at the site, less the weight of any hazardous waste stream identified in subparagraph (A).

(D) It is an extremely hazardous waste stream that annually weighs 0.6 kilograms or more and its weight exceeds 5 percent of the weight of the total yearly volume at the site, less the weight of any hazardous waste stream identified in subparagraph (A).

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

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

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

(i) Input change.

(ii) Operational improvement.

(iii) Production process change.

(iv) Product reformulation.

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

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

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

(8) Certification pursuant to subdivision (d).

(9) Any generator subject to this article shall include in its source reduction evaluation review and plan four-year numerical goals for reducing the generation of hazardous waste streams through the approaches provided for in subparagraph (B) of paragraph (4), based upon its best estimate of what is achievable in that four-year period, as follows:

(A) For those generators and waste streams subject to this program prior to January 1, 1993, the four-year numerical goals shall be included in the plan which is required to be prepared by September 1, 1995, and every four years thereafter, pursuant to subdivision (a).

(B) Any generator who is subject to this program pursuant to paragraph (3) of subdivision (d) of Section 25244.15, and was not subject to this program before January 1, 1993, shall prepare its source reduction evaluation review and plan, or compliance

check list, as provided in paragraph (3) of subdivision (d) of Section 25244.15, on September 1, 1993, and every four years thereafter.

(10) A summary progress report that briefly summarizes and, to the extent practicable, quantifies, in a manner that is understandable to the general public, the results of implementing the source reduction methods identified in the generator's review and plan for each waste stream addressed by the previous plan over the previous four years. The report shall also include an estimate of the amount of reduction that the generator anticipates will be achieved by the implementation of source reduction methods during the period between the preparation of the review and plan and the preparation of the generator's next review and plan. Notwithstanding any other provision of this section, the summary progress report required to be prepared pursuant to this paragraph shall be submitted to the department on or before September 1, 1999, and every four years thereafter.

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

(d) Every review and plan conducted pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor who is registered pursuant to Section 25570.3 Chapter 1 (commencing with Section 7000) of Part 2 of Division 2 of the Environment Code and who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the review and plan only if the review and plan meet all of the following requirements:

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

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

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

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

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

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

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

(3) Adverse impacts on product quality.

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

(f) If the generator elects not to implement the review and plan, including, but not limited to, a selected measure pursuant to subdivision (e), the generator shall amend its

review and plan to reflect that election and include in the review and plan proper documentation identifying the rationale for that election.

**Comment.** Section 25244.19 is amended to substitute reference to the Environment Code provisions that replaced former Section 25570.3.

**Health & Safety Code § 25244.20 (amended). Performance report**

SEC. \_\_\_\_\_. Section 25244.20 of the Health & Safety Code is amended to read:

25244.20. (a) On or before September 1, 1991, and every four years thereafter, each generator shall prepare a hazardous waste management performance report documenting hazardous waste management approaches implemented by the generator.

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

(1) The name and location of the site.

(2) The SIC Code for the site.

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

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

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

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

(i) Changes in business activity.

(ii) Changes in waste classification.

(iii) Natural phenomena.

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

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

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

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

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

(A) For the initial report, the baseline year is the calendar year selected by the generator for which substantial hazardous waste generation, or onsite or offsite management data is available, prior to 1991, except the generator may select 1990 as the baseline year. If the generator selects 1990 as the baseline year for the initial report, the information required pursuant to paragraph (3) of subdivision (b) for the initial report shall be provided for the 1990 calendar year only.

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

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

(e) Every report completed pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor

who is registered pursuant to ~~Section 25570.3~~ Chapter 1 (commencing with Section 7000) of Part 2 of Division 2 of the Environment Code and who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the report only if the report identifies factors that affect the generation and onsite and offsite management of hazardous wastes and summarizes the effect of those factors on the generation and onsite and offsite management of hazardous wastes.

**Comment.** Section 25244.20 is amended to substitute reference to the Environment Code provisions that replaced former Section 25570.3.

**Health & Safety Code § 25395.1 (amended). Definitions**

SEC. \_\_\_\_\_. Section 25395.1 of the Health & Safety Code is amended to read:

25395.1. As used in this article, the following terms have the following meaning:

(a) “Private site manager” means an individual who is registered as a class II environmental assessor pursuant to ~~Section 25570.3~~ Chapter 1 (commencing with Section 7000) of Part 2 of Division 2 of the Environment Code.

(b) “Private site management team” means a group coordinated by a private site manager, which may consist of any or all of the following persons:

(1) A person holding a four-year bachelor of science degree from an accredited college or university who has done significant work in biological, chemical, physical, environmental or soil science, environmental health, environmental engineering, toxicology, industrial hygiene, or a related field.

(2) An environmental engineer holding a four-year bachelor of science in engineering degree from an accredited college or university.

(3) An engineer registered in the State of California.

(4) A geologist registered in the State of California.

(5) A certified hydrogeologist registered in the State of California.

(6) A certified engineering geologist registered in the State of California.

(7) A geophysicist registered in the State of California.

(8) An industrial hygienist or safety engineer registered in the State of California.

(9) A process engineer holding a four-year bachelor of science degree in engineering from an accredited college or university.

(10) A petroleum engineer holding a four-year bachelor of science degree in engineering from an accredited college or university.

(11) The necessary technical support personnel and equipment operators, as determined by the private site manager.

(c) “Project proponent” means any person who applies to the department for approval to conduct the response to a release or threatened release of hazardous substances pursuant to this article.

(d) “Independent,” as used in subdivision (b) of Section 25395.3, means that the private site manager or the members of the private site management team meet all of the following requirements:

(1) The site manager or team member is not an employee of the project proponent, a known responsible party, or a prospective buyer of the site property.

(2) The site manager or team member is not a general partner, or a limited partner, with any project proponent, known responsible party, or prospective buyer of the site property.

(3) The site manager or team member is not a shareholder in the project proponent entity, known responsible party, or a prospective buyer of the site property.

(4) The site manager or team member does not receive any source of income from the project proponent, known responsible party, or a prospective buyer of the site property, other than the payment of fees for professional services.

(5) The site manager or team member does not accept, or agree to accept, any payment that is in any way contingent upon the completion of a response action of the site as a private site management project.

**Comment.** Section 25395.1 is amended to substitute reference to the Environment Code provisions that replaced former Section 25570.3.

**Health & Safety Code § 25398.4 (amended). Remedial action plan**

SEC. \_\_\_\_\_. Section 25398.4 of the Health & Safety Code is amended to read:

25398.4. Any remedial action plan prepared pursuant to this chapter shall require response actions that, when fully implemented, place the site for which the plan is prepared in a condition that allows it to be permanently used for its planned use without any significant risk to human health or any significant potential for future environmental damage. To ensure that those objectives are met and permanently maintained, response actions shall be based on a site specific assessment that evaluates the potential human health risks, if any, that are posed by the hazardous substance release or threatened release at the site, the potential human health risks, if any, that may result if the site is permanently used for its planned use after response actions have been completed, and the adverse effects on the environment, if any, of the hazardous substance release. The site-specific assessment required by this section shall be carried out using standard criteria, principles, and protocols for risk assessments adopted by the department. Those criteria, principles, and protocols shall be based on sound scientific methods, knowledge, and practice, and shall reflect criteria, principles, and protocols developed for risk assessment pursuant to Section 57003 1500 of the Environment Code to the extent relevant to risk assessments conducted pursuant to this chapter.

**Comment.** Section 25398.4 is amended to substitute reference to the Environment Code provisions that replaced former Section 57003.

**Health and Safety Code § 25400 (amended). Immunity**

SEC. \_\_\_\_\_. Section 25400 of the Health and Safety Code is amended to read:

25400. (a) The Legislature finds and declares that a threat to the public health and safety exists wherever there is a discharge, spill, or presence of hazardous substances on public or private property; and that public entities, county public health directors, public safety employees, members of radiation emergency screening teams formed pursuant to Section 25574, persons authorized by a public entity, or ~~registered sanitarian~~ registered environmental health specialist employees should be encouraged to abate those hazards, and to that end a qualified immunity from liability should be provided for public entities, county public health directors, public safety employees, members of radiation emergency screening teams formed pursuant to Section 25574, persons authorized by a public entity, or registered sanitarian employees.

(b) Except as provided in Article 1 (commencing with Section 17000) of Chapter 1 of Division 9 of the Vehicle Code, a public entity, county public health director, a public safety employee, a member of a radiation emergency screening team formed pursuant to Section 25574, a person authorized by a public entity, or a ~~registered sanitarian~~ registered environmental health specialist employee shall not be liable for any injury or property damage caused by an act or omission taken by a county public health director, a public safety employee, a member of a radiation emergency screening team formed pursuant to Section 25574, a person authorized by a public entity, or a ~~registered sanitarian~~ registered environmental health specialist employee acting within the scope of employment to abate or attempt to abate hazards reasonably believed to be an imminent peril to public health and safety caused by the discharge, spill, or presence of a hazardous substance, unless the act taken or omission was performed in bad faith or in a grossly negligent manner.

(c) For the purposes of this section, it shall be presumed that the act or omission was performed in good faith and without gross negligence. This presumption shall be one affecting the burden of proof.

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

(1) "Hazardous substance" means a substance that presents a threat to the public because of its toxicity, radioactivity, flammability, or other characteristic dangerous to the public health or the environment.

(2) "Imminent peril" includes a peril which, if not mitigated, threatens the public health or welfare, or the environment.

(3) "Person authorized by a public agency" includes a person from whom services are contracted by a public agency.

(4) "Public agency" includes, but is not limited to, the federal government or any department or agency thereof to the extent permitted by law.

(5) "Public safety employee" means any person who is a public entity employee and whose principal duties include law enforcement, fire protection, fire prevention, or the enforcement of regulations relating to facilities or sites where hazardous substances are stored or handled.

(6) "~~Registered sanitarian employee~~" "Registered environmental health specialist employee" means a person who is registered pursuant to Section 520 Chapter 2 (commencing with Section 8000) of Part 2 of Division 2 of the Environment Code and who is a paid employee of a state or local public entity.

(e) It is not the intent of this section to impair any cause of action against the person, firm, or entity creating the spill, discharge, or presence of the hazardous material giving rise to the response of the public entity, county public health director, public safety employee, member of a radiation screening team formed pursuant to Section 25574, person authorized by a public entity, or registered sanitarian employee.

(f) The immunity for county public health directors or ~~registered sanitarian~~ registered environmental health specialist employees provided by this section shall apply only where the person, at the request of a public entity or public safety employee in charge of scene management, provides emergency assistance or advice at the scene of the peril in mitigating or attempting to mitigate the effects of an actual or threatened discharge, spill, or presence of a hazardous substance on private or public property. The request issued by the scene manager shall be confirmed by that person in a written report of the incident.

**Comment.** Section 25400 is amended to remove a reference to the obsolete term "registered sanitarian." See Env't Code § 8000(c) ("registered sanitarian" means "registered environmental health specialist"). An obsolete reference to former Health and Safety Code Section 520 is also corrected. The substance of the reference is continued with a reference to Chapter 2 (commencing with Section 8000) of Part 2 of Division 2 of the Environment Code.

#### **Health & Safety Code §§ 25570-25570.4 (repealed). Environmental Assessors**

SEC. \_\_\_\_ Chapter 6.98 (commencing with Section 25570) of Division 20 of the Health and Safety Code is repealed.

#### **Health & Safety Code § 44392. Minimum requirements for conduct of audit and development of plan**

SEC. \_\_\_\_ Section 44392 of the Health & Safety Code is amended to read:

44392. A facility operator subject to this chapter shall conduct an airborne toxic risk reduction audit and develop a plan which shall include at a minimum all of the following:

(a) The name and location of the facility.

(b) The SIC code for the facility.

(c) The chemical name and the generic classification of the chemical.

(d) An evaluation of the ATRRM's available to the operator.

(e) The specification of, and rationale for, the ATRRMs that will be implemented by the operator. The audit and plan shall document the rationale for rejecting ATRRMs that are identified as infeasible or too costly.

(f) A schedule for implementing the ATRRMs. The schedule shall meet the time requirements of subdivision (a) of Section 44391 or the time period for implementing the plan set by the district pursuant to subdivision (b) or (c) of Section 44391, whichever is applicable.

(g) The audit and plan shall be reviewed and certified as meeting this chapter by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor registered pursuant to Section 25570.3 Chapter 1 (commencing with Section 7000) of Part 2 of Division 2 of the Environment Code.

**Comment.** Section 44392 is amended to substitute a reference to the Environment Code provisions that replaced former Section 57004

**Health & Safety Code §§ 57000-57005 (repealed). Regulation of Environmental Protection**

SEC. \_\_\_\_\_. Division 37 (commencing with Section 57000) of the Health and Safety Code is repealed.

**Health & Safety Code §§ 58000-58018 (repealed). Department of Toxic Substances Control**

SEC. \_\_\_\_\_. Division 38 (commencing with Section 58000) of the Health and Safety Code is repealed.

**Health & Safety Code §§ 59000-58019 (repealed). Office of Environmental Health Hazard Assessment**

SEC. \_\_\_\_\_. Division 38 (commencing with Section 59000) of the Health and Safety Code is repealed.

**Health & Safety Code § 100425 (amended). Annual adjustment of fees or charges**

SEC. \_\_\_\_\_. Section 100425 of the Health & Safety Code is amended to read:

100425. (a) The fees or charges for the issuance or renewal of any permit, license, registration, or document pursuant to Sections 1639.5, 1676, 1677, 2202, 2805, 11887, 100720, 100860, ~~106700~~, 106890, 106925, 107080, 107090, 107095, 107160, 110210, 110470, 111130, 111140, 111630, 112405, 112510, 112750, 112755, 113060, 113065, 113845, 114056, 114065, paragraph (2), of subdivision (c) of Section 114090, 114140, subdivision (b) of Section 114290, 114367, 115035, 115065, 115080, 116205, 117923, 117995, 118045, 118210, and 118245, and Section 8508 of the Environment Code shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the state department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the state department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The state department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section. This adjustment of fees and publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

**Comment.** Section 100425 is amended to substitute reference to the Environment Code provisions that replaced former Section 106700.

**Health & Safety Code § 101165 (amended). Certified individuals; restriction, limitation or prevention of public health duties**

SEC. \_\_\_\_\_. Section 101165 of the Health & Safety Code is amended to read:

101165. Nothing in this article, or any other provision of law, shall be construed to restrict, limit, or prevent individuals certified under authority of this part or ~~Article 1 (commencing with Section 106600) of Chapter 4 of Part 1 of Division 104~~ Article 1 (commencing with Section 8000) of Chapter 2 of Part 2 of Division 2 of the Environment Code from performing their duties for the protection of the public health.

**Comment.** Section 101165 is amended to substitute reference to the Environment Code provisions that replaced former Article 1 (commencing with Section 106600) of Chapter 4 of Part 1 of Division 104 of the Health and Safety Code..

**Health & Safety Code §§ 106600-106735 (repealed). Registered Environmental Health Specialists**

SEC. \_\_\_\_\_. Article 1 (commencing with Section 106600) of Chapter 4 of Divisions 104 of the Health and Safety Code is repealed.

**Health and Safety Code § 115880 (amended). Sanitation standards**

SEC. \_\_\_\_\_. Section 115880 of the Health & Safety Code is amended to read:

115880. (a) The department shall by regulation, in consultation with local health officers and the public, establish minimum standards for the sanitation of public beaches, including, but not limited to, the removal of refuse, as it determines are reasonably necessary for the protection of the public health and safety.

(b) Prior to final adoption by the department, the regulations and standards required by this section shall undergo an external comprehensive review process similar to the process set forth in ~~Section 57004 of the Health and Safety Code~~ Article 6 (commencing with Section 1600) of Chapter 2 of Part 1 of Division 2 of the Environment Code.

(c) The regulations shall, at a minimum, do all of the following, by December 31, 1998:

(1) Require the testing of the waters adjacent to all public beaches for microbiological contaminants, including, but not limited to, total coliform, fecal coliform, and enterococci bacteria. The department may require the testing of waters adjacent to all public beaches for microbiological indicators other than those set forth in this paragraph, or a subset of those set forth in this paragraph, if the department affirmatively establishes, based on the best available scientific studies and the weight of the evidence, that the alternative indicators are as protective of the public health.

(2) Establish protective minimum standards for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate for testing pursuant to paragraph (1).

(3) Establish protocols for all of the following:

(A) Determining monitoring site locations and monitoring frequency based on risks to public health.

(B) Making decisions regarding public notification of health hazards, including, but not limited to the posting, closing, and reopening of public beaches.

(4) Require that the waters adjacent to public beaches be tested for total coliform, fecal coliform, and enterococci bacteria, or for other microbiological indicators that the department determines are appropriate for testing pursuant to paragraph (1). Except as set forth in paragraph (5), testing shall be conducted on at least a weekly basis, from April 1 to October 31, inclusive, of each year, beginning in 1999, if all of the following apply:

(A) The beach is visited by more than 50,000 people annually.

(B) The beach is located on an area adjacent to a storm drain that flows in the summer.

(5) The monitoring frequency and locations established pursuant to this subdivision and related regulations may only be reduced or altered after the testing required pursuant to paragraph (4) reveals levels of microbiological contaminants that do not exceed for a period of two years the minimum protective standards established pursuant to paragraph (2).

(d) The local health officer shall be responsible for testing the waters adjacent to, and coordinating the testing of, all public beaches within his or her jurisdiction.

(e) The local health officer may meet the testing requirements of this section by utilizing test results from other agencies conducting microbiological contamination testing of the waters under his or her jurisdiction.

(f) Any city or county may adopt standards for the sanitation of public beaches within its jurisdiction that are stricter than the standards adopted by the state department pursuant to this section.

(g) For purposes of this section, "public beach" means any public beach located within the coastal zone, as defined in Section 30103 of the Public Resources Code.

(h) Any duty imposed upon a local public officer or agency pursuant to this section shall be mandatory only during a fiscal year in which the Legislature has appropriated sufficient funds, as determined by the State Director of Health Services, in the annual Budget Act or otherwise for local agencies to cover the costs to those agencies associated with the performance of these duties. The State Director of Health Services shall annually, within 15 days after enactment of the Budget Act, file a written statement with the Secretary of the Senate and with the Chief Clerk of the Assembly memorializing whether sufficient funds have been appropriated.

**Comment.** Section 115880 is amended to substitute a reference to the Environment Code provisions that replaced former Section 57004

#### **Health & Safety Code § 118460 (amended). Power to enter and inspect rags**

SEC. \_\_\_\_\_. Section 118460 of the Health and Safety Code is amended to read:

118460. Every local health officer or ~~registered sanitarian~~ registered environmental health specialist, upon proper demand and notice of his or her authority, may, during business hours, enter any place where wiping rags are used, are kept for sale, or offered for sale, and inspect the wiping rags. No person shall refuse to permit the inspection, or impede or obstruct the officer during the inspection.

**Comment.** Section 118460 is amended to remove a reference to the obsolete term "registered sanitarian." See Env't Code § 8000(c) ("registered sanitarian" means "registered environmental health specialist").

#### **Penal Code § 830.12 (amended). Not peace officers**

SEC. \_\_\_\_\_. Section 830.12 of the Penal Code is amended to read:

830.12. Notwithstanding any other provision of law, persons designated by a local agency as litter control officers, vehicle abatement officers, ~~registered sanitarians~~ registered environmental health specialists, and solid waste specialists, are not peace officers, may not exercise the powers of arrest of a peace officer, as specified in Section 836, and shall not be authorized to carry or use firearms within the scope and course of their employment. These persons may, however, be authorized by the governing board of the particular local agency to issue citations involving violations of laws relating to abandoned vehicles and littering.

**Comment.** Section 830.12 is amended to remove a reference to the obsolete term "registered sanitarian." See Env't Code § 8000(c) ("registered sanitarian" means "registered environmental health specialist").

**Public Resources Code §§ 71000-71067 (repealed). Environmental Protection**

SEC. \_\_\_\_\_. Division 34 (commencing with Section 71000) of the Public Resources Code is repealed.

**Pub. Util. Code § 7672 (amended). “Hazardous material”**

SEC. \_\_\_\_\_. Section 7672 of the Public Utilities Code is amended to read:

7672. For purposes of this article, “hazardous material” means any of the following:

(a) A hazardous material as defined in Section 171.8 of Title 49 of the Code of Federal Regulations.

(b) A hazardous material defined in Section 25501 of the Health and Safety Code.

(c) Any commodity listed by the Office of Environmental Health Hazard Assessment pursuant to Section 59019 of the Health and Safety Code 4306 of the Environment Code.

**Comment.** Section 7672 is amended to substitute a reference to the Environment Code provisions that replaced former Health and Safety Code Section 59019.

**Pub. Util. Code § 7711 (amended). Report to legislature on hazardous sites**

SEC. \_\_\_\_\_. Section 7711 of the Public Utilities Code is amended to read:

7711. On or before July 1, 1992, and on or before July 1 annually thereafter, the commission shall report to the Legislature on sites on railroad lines in the state it finds to be hazardous. The report shall include, but not be limited to, information on all of the following:

(a) A list, prepared pursuant to Section 59019 of the Health and Safety Code 4306 of the Environment Code, of all commodities transported on railroad lines in the state that could pose a hazard to the public or the environment in the event of a train derailment or other accident.

(b) A description of the quantities of commodities identified in subdivision (a) that are transported on railroad lines in the state. The commission shall also describe the locations and routes at, and on, which the commodities specified in subdivision (a) are transported. Railroad corporations shall provide to the commission all information necessary to comply with this subdivision.

(c) A list of all railroad derailment accident sites in the state on which accidents have occurred within at least the previous five years. The list shall describe the nature and probable causes of the accidents, if known.

(d) A list of all railroad sites in the state that the commission determines pose a local safety hazard. Factors that the commission shall consider in determining a local safety hazard may include, but need not be limited to, all of the following:

(1) The severity of grade and curve of track.

(2) The value of special skills of train operators in negotiating the particular segment of railroad line.

(3) The value of special railroad equipment in negotiating the particular segment of railroad line.

(4) The types of commodities transported on or near the particular segment of railroad line.

(5) The hazard posed by the release of the commodity into the environment.

(6) The value of special railroad equipment in the process of safely loading, transporting, storing, or unloading potentially hazardous commodities.

(7) The proximity of railroad activity to human activity or sensitive environmental areas.

(e) In determining which railroad sites pose a local safety hazard pursuant to subdivision (d), the commission shall consider the history of accidents at or near the sites. The commission shall not limit its determination to sites at which accidents have already occurred, but shall identify potentially hazardous sites based on the criteria enumerated in

subdivision (d) and all other criteria that the commission determines influence railroad safety.

**Comment.** Section 7711 is amended to substitute a reference to the Environment Code provisions that replaced former Health and Safety Code Section 59019.

**Welf & Inst. Code § 18335 (amended). Inspections of nutrition project sites**

SEC. \_\_\_\_\_. Section 18335 of the Welfare and Institutions Code is amended to read:

18335. Notwithstanding any other provision of law:

(a) Retired firemen may be utilized to conduct fire inspections of the sites of nutrition projects for senior citizens in order to determine whether such sites are in compliance with state and local fire safety standards.

(b) Retired ~~licensed sanitarians~~ registered environmental health specialists may be utilized to conduct sanitation inspections of sites of nutrition projects for senior citizens in order to determine whether such sites are in compliance with applicable state and local sanitation standards.

Such retirees may contract with local area agencies on aging or nutrition projects to perform the required inspections as independent contractors. Fees for the undertaking of such inspections shall be paid out of federal funds allocated to local area agencies on aging which are provided by Title III of the Older Americans Act.

A written report of the findings of such fire safety and sanitation inspections shall be furnished to the appropriate area agency on aging or the director of the nutrition project in which sites inspected are located.

A report of uncorrected fire safety deficiencies, after a followup inspection, shall be supplied or mailed to the local fire protection agency.

A report of uncorrected sanitation deficiencies, after a followup inspection, shall be supplied or mailed to the local health agency.

It is the intent of this section that inspections carried out pursuant hereto shall satisfy federal regulations which provide that sites for nutrition projects for senior citizens must meet applicable state and local fire sanitation standards.

**Comment.** Section 18335 is amended to remove a reference to the obsolete term “sanitarian.” See Env’t Code § 8000(c) (“sanitarian” means “registered environmental health specialist”).

## Disposition of Existing Law

**Note.** This table shows the disposition of sections in the Government Code, Health and Safety Code, and Public Resources Code, in effect on January 27, 1998, that are to be repealed in connection with the Environment Code legislation. For further detail, see the Comment to the appropriate section in the attached staff draft.

### GOVERNMENT CODE

Gov't Code	Env't Code	Gov't Code	Env't Code
12805	2000	16022	Omitted
12805.5	5000	16050	Omitted
12807	Omitted	16051	Omitted
12812	1100	16052	Omitted
12812.1	1101	16052.1	Omitted
12812.5	1700	16053	Omitted
16000	Omitted	16054	Omitted
16001	Omitted	16055	Omitted
16020	Omitted	16080	Omitted
16021	Omitted	16081	Omitted

### HEALTH AND SAFETY CODE

Health & Safety Code	Env't Code	Health & Safety Code	Env't Code
25570	7001	57000(a) (intro.)	1200
25570.1	7000	57000(a)(1)	1205
25570.2(a)	7105	57000(a)(2)	1215
25570.2(b)	7110	57000(b)	1300(a)
25570.2(c)	7140	57000(c)	1300(b)
25570.2(d)	7115	57000(d)	1300(c)
25570.2(e)	7145	57000(e)	1210
25570.2(f) (pt.)	7108	57001(a)-(c)	1401(a)-(c)
25570.2(f) (pt.)	7125	57001(d)	1403
25570.2(g) (pt.)	7107	57001(e)	1401(d)
25570.2(g) (pt.)	7120	57001(f)	1402
25570.2(h) (1st pt.)	7130	57002	1400
25570.2(h) (last pt.)	7135	57003	1500
25570.2 (intro)	7100	57004(a)	1600
25570.3(a)	7200	57004(b)	1601(a)
25570.3(b)	7201	57004(c)	1601(b)
25570.3(c)	7202	57004(d)-(f)	1602(a)-(c)
25570.3(d)	7203	57005	1501
25570.3(e)	7204	58000	3000
25570.3(f)	7205	58001(a)	3105
25570.3(g)	7206	58001(b)	3110
25570.3(h)	7207	58001 (intro.)	3100
25570.3(i)	7208	58002	3001
25570.3(j)	7209	58002.5	3002
25570.3(k)	7210	58003	3003
25570.3(l)	7211	58004	3200
25570.3(m)	7212	58005	3201
25570.4	7213	58006	3202

Health & Safety Code	Env't Code	Health & Safety Code	Env't Code
58007	3203	106615(h)	8105
58008	3004	106615(i)	8125
58009	3300	106615 (intro.)	8100
58010	3301	106620	8003
58011	3302	106625	8201
58012	3400	106630(a)(1)	8301(a)
58013	3401	106630(a)(2)	8301(b)
58014	3402	106630(a)(3)	8302(b)
58015	3303	106630(b)	8302(a)
58016	3005	106630(c)	8303
58017	3304	106630(d)	8401(a)
58018	3305	106630(e)	8401(b)
59000	4000	106630 (intro.)	8300
59001(a)	4110	106635	8500
59001(b)	4105	106640	8501
59001 (intro.)	4100	106645	8503
59002	4001	106650	8504
59002.5	4002	106655	8506
59003	4003	106660	8600
59004	4200	106665(a)	8601
59005	4201	106665(b)	8602
59006	4202	106665(c)	8603
59007	4203	106665(d)	8604
59008	4004	106670	8505
59009	4300	106675(a)	8700
59010	4301	106675(b)	8701
59011	4302	106680	8702
59012	4400	106687	8703
59013	4401	106690	8704
59014	4005	106695	8507
59015	4303	106700	8508
59016	4304	106705	8502
59017	4305	106710	8400
59019	4306	106715(a)	8800
106600	8000	106715(b)(1)-(5)	8801(a)-(e)
106605	8001	106715(b)(6)(A)-(C)	8801(f)
106610	8705	106715(b)(6)(D)	8802
106615(a)	8120	106715(c)	8801(g)
106615(b)	8115	106715(d)	8803
106615(c)	8140	106720	8804
106615(d)	8130	106725	8402
106615(e)	8145	106730	8002
106615(f)	8110	106735	8200
106615(g)	8135		

## PUBLIC RESOURCES CODE

Pub. Res. Code	Env't Code	Pub. Res. Code	Env't Code
71000	10000	71020(a) & (b)	11101
71001	10001	71020(c)	11102
71010	10140	71021(a) & (b)	11100
71011	10120	71021(c)	11200
71012	10125	71021(d)	11000
71013	10135	71022(a)(1)-(6)	11202
71014	10105	71022(a)(1st snt.)	11201(a)
71015	10110	71022(b) & (c)	11201(b) & (c)
71016	10130	71023	11300
71017	10115	71024	11203

<b>Pub. Res. Code</b>	<b>Env't Code</b>	<b>Pub. Res. Code</b>	<b>Env't Code</b>
71025 .....	11205	71035.6(f) .....	14303
71026 .....	11204	71035.7 .....	14304
71027 .....	11301	71035.8 .....	14305
71028 .....	11302	71035.9 .....	14000
71029 .....	11206	71050 .....	15000
71030 .....	12000	71053 .....	15105
71031 .....	13000	71054 .....	15110
71035(a) .....	14105	71055 .....	15115
71035(b) .....	14110	71060 .....	15200
71035(c) .....	14115	71061 .....	15201
71035(d) .....	14120	71062 .....	15202
71035 (intro.) .....	14100	71063 .....	15300
71035.1 .....	14200	71064 .....	15400
71035.10 .....	14204	71065 .....	15204
71035.11 .....	14001	71066 .....	15206
71035.2 .....	14201	71067 .....	15500
71035.3 .....	14202	71068(a) .....	15205
71035.4 .....	14203	71068(b) .....	15203
71035.5 .....	14300	71068(c) .....	15501
71035.6(a)-(d) .....	14301	71068(d) .....	15502
71035.6(e) .....	14302	71068(e) .....	15001