

Memorandum 2023-15

**Recodification of Toxic Substance Statutes:
Chapter 6.5 (Proposed Division 44)
(Resumption of Study)**

In this study, the Commission¹ has been directed to recommend nonsubstantive reorganization of two chapters of the Health and Safety Code (Chapters 6.5 and 6.8 of Division 20), along with “related” provisions, to improve the organization and expression of that law.² The study, which was assigned to the Commission in 2018,³ also directs that the Commission identify any substantive issues identified by the Commission in the course of preparing the reorganization, for possible future study.⁴

Unless otherwise indicated, all statutory references that follow are to provisions of the existing Health and Safety Code.

HISTORY OF STUDY TO DATE

The Commission previously decided to commence work on this study by recommending a recodification of Chapter 6.8 of Division 20, as it contained significantly less material than Chapter 6.5, was less complex, and its content was sufficiently distinct to allow for stand-alone recodification.⁵ In 2021, the Commission completed and approved final recommendations proposing

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

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

2. See 2021 Cal. Stat. res. ch. 108.

3. See 2018 Cal. Stat. res. ch. 158.

4. *Id.*

5. See Memorandum 2019-10, pp. 2-3; Minutes (Feb. 2019), p. 3. Chapter 6.8 contained approximately 265 code sections, in 16 statutory articles. Chapter 6.5 contains approximately 855 code sections, in 59 statutory articles. The staff also previously estimated that, based on page counts from an unannotated code book, Chapter 6.5 contained roughly five times more statutory text than Chapter 6.8.

recodification of Chapter 6.8 and conforming revisions,⁶ and bills implementing those recommendations were enacted in 2022.⁷

In May 2020, while the Commission was awaiting comment on a tentative recommendation recodifying Chapter 6.8, the staff presented the Commission with a memorandum beginning discussion of the Chapter 6.5 recodification.⁸ The memorandum included a summary of drafting practices the staff proposed to follow in preparing that proposed recodification — largely the same as those used for Chapter 6.8 — and a provisional outline of the organization of the recodification. The Commission agreed to the proposed drafting practices, and approved the provisional outline.⁹

In April 2021, the staff presented to the Commission the first segment of a proposed recodification of Chapter 6.5, including the first five chapters of Part 1 of a proposed new Division 44.¹⁰ The Commission provisionally approved those chapters for inclusion in a tentative recommendation recodifying Chapter 6.5.¹¹

CONTINUATION OF STUDY

As almost two years has passed since the Commission last considered the proposed recodification of Chapter 6.5, this memorandum is intended only to bring the current Commission up to date on the status of the study, as well as offer an opportunity to provide any new direction, if desired, relating to that recodification.

Unless the Commission directs otherwise, the staff will prepare and present a proposed recodification of Chapter 6.5 following the approach previously approved by the Commission for the recodification of Chapter 6.8. Segments of existing Chapter 6.5 will continue to be proposed for recodification in sequential memoranda, and as approved, those segments will be added to a cumulative draft that will be separately presented to the Commission.

That cumulative draft will also include a cumulative disposition table, derivation table, and a list of substantive issues the Commission identifies as candidates for possible future study as it progresses through the recodification. Also, as with the recodification of Chapter 6.8, the cumulative draft will include

6. See Minutes (Feb. 2021), p. 3.

7. See 2022 Cal. Stat. ch. 257 (AB 2293), 2022 Cal. Stat. ch. 258 (AB 2327).

8. Memorandum 2020-13.

9. See Minutes (May 2020), p. 4.

10. Memorandum 2020-13.

11. See Minutes (Apr. 2021), p. 3.

boxed Notes intended to flag issues requiring special attention or treatment, and will make use of other drafting practices previously approved by the Commission.¹²

The first of those cumulative drafts, including the proposed recodification of the first segment of Chapter 6.5 previously approved by the Commission, but updated to include legislative changes over the past two years, will be presented to the Commission in the next meeting interval.

The staff anticipates that it will take a significant amount of time to complete the proposed recodification of Chapter 6.5, and recommendation of conforming revisions. It took the staff approximately a year to prepare draft tentative recommendations recodifying Chapter 6.8 and proposing conforming revisions, and thereafter approximately five months to incorporate public comment on the tentative recommendations and prepare draft final recommendations.

Does the Commission have any concerns, or further direction it wishes to offer the staff, relating to the manner in which the staff proposes to resume this study?

Respectfully submitted,

Steve Cohen
Staff Counsel

12. See Memorandum 2021-19, pp. 2-4.