

MEMORANDUM 2026-13

**Recodification of Toxic Substances Statutes:  
Next Portion (Facility and Generator Fees)**

---

The Commission<sup>1</sup> is preparing a nonsubstantive recodification of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, a chapter addressing multiple aspects of hazardous waste control and related provisions, to improve the organization and expression of the law, pursuant to [2024 Cal. Stat. res. ch. 138](#) (ACR 169, Kalra).<sup>2</sup>

As Chapter 6.5 contains an unusually large amount of statutory material,<sup>3</sup> at each of its meetings the Commission has been evaluating proposed recodification of distinct portions of that chapter for inclusion in an eventual tentative recommendation proposing recodification of the entire chapter.<sup>4</sup>

This memorandum presents a staff draft of the next portion of Chapter 6.5 proposed to be recodified and included in a tentative recommendation. Consistent with prior presented drafts, this draft again includes proposed Commission Comments corresponding to each recodified section, Staff Notes explaining the recodification process and identifying issues seeking public comment, and disposition and derivation tables corresponding to the recodified provisions.

---

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

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

<sup>2</sup> Commission recommendations recodifying former Chapter 6.8 of Division 20 were submitted to and thereafter enacted by the Legislature. [Hazardous Substance Account Recodification Act](#) (Preprint – Dec. 2021), [2022 Cal. Stat. ch. 257](#) (AB 2293, Committee on Environmental Safety and Toxic Materials); [Hazardous Substance Account Recodification Act: Conforming Revisions](#) (Preprint – Dec. 2021), [2022 Cal. Stat. ch. 258](#) (AB 2327, Committee on Environmental Safety and Toxic Materials).

<sup>3</sup> Chapter 6.5 contains approximately 850 code sections, many of which are quite lengthy, set out in 55 distinct statutory articles. An extrapolation based on the Commission's earlier recodification of former Chapter 6.8 (commencing with Section 25300) of Division 20) of the Health and Safety Code ([2022 Cal. Stat. ch. 257](#) (AB 2293, Committee on Environmental Safety and Toxic Materials)), which contained roughly a fifth the amount of statutory text contained in Chapter 6.5, suggests that a printed final recommendation proposing recodification of Chapter 6.5 may require approximately 1,400 pages in what would likely be two Commission bound volumes.

<sup>4</sup> Due to the volume of material that will eventually appear in the tentative recommendation, the precise placement of the recodified provisions within the proposed recodification of Chapter 6.5 remains provisional until the tentative recommendation is fully assembled.

If the Commission provisionally approves the content of the presented draft, it will be incorporated and presented to the Commission at a future Commission meeting in a continually updated cumulative draft of a proposed recodification of Chapter 6.5.<sup>5</sup>

Unless otherwise indicated, all references in this memorandum to “proposed” statutory provisions are to provisions in the proposed recodification, and all statutory references without that designation are to provisions of the existing Health and Safety Code, or other existing codes.

**Commissioner comments on any aspect of the attached draft,<sup>6</sup> including suggestions that a substantive issue raised by a proposed revision should be considered for future study,<sup>7</sup> are welcome.**

## GENERAL DRAFTING APPROACH

Consistent with prior draft legislation proposed in this study, the staff continues to take a conservative approach to drafting proposed recodified provisions.<sup>8</sup> Except as described below, existing statutory text is repeated verbatim in the proposed recodification of the provision.

In accordance with the Commission’s prior decisions in the study, certain minor changes to existing statutory text continue to be made as a matter of course.<sup>9</sup> However, other than those changes necessarily made to implement the recodification,<sup>10</sup> these minor changes are still shown in the draft in strikeout and underscore.

On occasion, the staff may determine that a provision could be nonsubstantively clarified in a manner that does not allow the improvement to be easily presented using only strikeout and underscore. In those instances, a “clean” revision of the provision is proposed in the draft without strikeout or underscore, but with the original text of the provision presented in a boxed Staff Note following the proposed provision, soliciting public comment on the proposed revision.<sup>11</sup>

---

<sup>5</sup> See e.g., Memorandum [2025-49](#).

<sup>6</sup> Written comments should be sent to [scohen@clrc.ca.gov](mailto:scohen@clrc.ca.gov). Comments may also be presented orally at any Commission meeting at which this study is on the meeting agenda. The Commission’s meeting agendas can be viewed on the Commission [website](#).

<sup>7</sup> This study also directs the Commission to include in its final report to the Legislature “a list of substantive issues that the commission identifies in the course of its work, for possible future study.” [2024 Cal. Stat. res. C h. 138](#) (ACR 169, Kalra).

<sup>8</sup> Memorandum [2020-13](#), p. 3.

<sup>9</sup> See Memorandum [2020-13](#), pp. 3-4, [Minutes](#) (May 2020), p. 4; Memorandum [2021-19](#), pp. 3-4.

<sup>10</sup> For example, renumbering and/or redesignating statutory parts, chapters, articles, sections, and components of sections, including cross-references within provisions.

<sup>11</sup> See e.g., EX 16 (Staff Note following proposed § 84265).

Finally, if the staff identifies an interpretation issue or substantive question presented by the text of an existing section, the issue or question is also raised in a boxed Staff Note following the proposed provision to solicit public comment.

## PREVIOUSLY APPROVED DEFINED TERMS

Previously submitted Memorandum [2025-17](#) presented defined terms for the proposed recodified provisions presented in this memorandum. These defined terms, which were previously approved by the Commission, are presented again for reference purposes and because the staff is proposing a revision.

### **Proposed Section 84155**

Previously proposed Section 84155 would recodify existing Section [25205.1\(a\)](#), which was added in 1991<sup>12</sup> and defines the term “board” to mean the State Board of Equalization for purposes of Article 9.1 of Chapter 6.5.

However, Section [25110.3](#) was added in 2021,<sup>13</sup> defining “board” to mean the newly created Board of Environmental Safety for purposes of Chapter 6.5.

The Board of Environmental Safety is identified by name 18 times in Article 9.1. The term “board” appears only three times, and in each instance the context suggests “board” is intended to refer to the Board of Environmental Safety, and not the Board of Equalization. The Board of Equalization is not referenced in Article 9.1.

To avoid confusion, the staff is proposing to seek public comment on deleting the 1991 definition of “board” in existing Section [25205.1\(a\)](#) and replacing all references to the Board of Environmental Safety in the recodification of Article 9.1 with the term “board.”

**Does the Commission provisionally approve the proposed recodification in the attached draft, including the proposal relating to the revised definition of the term “board,” for inclusion in a future tentative recommendation?**

Respectfully submitted,

Steve Cohen  
Attorney

---

<sup>12</sup> 1991 Cal. Stat. ch. 1123 (SB 194, Torres).

<sup>13</sup> 2021 Cal. Stat. ch. 73 ([SB 158](#), Committee on Budget and Fiscal Review).



PROPOSED ARTICLES 1 THROUGH 5 OF CHAPTER 4  
OF PART 3 OF DIVISION 46  
OF THE HEALTH & SAFETY CODE

**Staff Note.** The content of this draft, proposing recodification of a portion of Chapter 6.5 of Division 20 of the Health & Safety Code in a new Division 46 of the Health & Safety Code, is a work in progress, and subject to change. For the current provisional outline of the entire proposed organization of new Division 46, see the draft attached as an exhibit to Memorandum [2026-7](#).

All proposed changes to existing statutory text in this draft other than technical changes are either shown in strikeout and underscore or described in a Staff Note following the section in which the change is proposed.

**Comments.** A draft of an official Commission “Comment” follows each proposed code section in the recodification. Comments, which are included in a final Commission recommendation, are phrased as if the corresponding code section had been repealed and replaced with the proposed section. Thus, in Comments, existing code provisions are referred to as “former” provisions.

Comments indicate the source of each recodified code provision and describe how the recodified provision compares with any predecessor provision. Courts have routinely held that Commission Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation.

**Staff Notes.** Some provisions in this draft are followed by one or more “Staff Notes.” Staff Notes are intended to be temporary and normally will not be included in a Commission final recommendation. Unlike Comments, Staff Notes reflect the current state of the law. Thus, in Staff Notes, code provisions are referred to as “existing” and “proposed” provisions.

Staff Notes flag issues requiring special attention or treatment. When a Staff Note in a draft solicits public comment, it will typically be continued in the Commission’s tentative recommendation as a “Note” calling for that same comment. However, if a Staff Note asks for public comment on a proposed revision and the Commission thereafter decides not to propose the revision, the Staff Note will typically not appear in the tentative recommendation.

**Cross-references.** In many instances the provisions proposed for recodification in this draft cross-refer to other provisions contained in Chapter 6.5. Where that cross-referenced provision has not yet been included in a recodification draft, the section number in the cross-reference is left unchanged, but shown in bold text. Bracketed text designates cross-references that have been updated in form, but may still require further updating to reflect proposed recodification.

Each of these cross-references will be updated as the draft of the recodification progresses.

**Tables.** A “disposition table” at the end of this draft identifies in tabular form the disposition of every provision of existing Chapter 6.5 that is included in the draft. Following that table is a “derivation table” identifying the statutory derivation of every new provision in the draft.

**Substantive Issues for Possible Future Study.** Part of the Legislature’s assignment to the Commission in this study was to “include a list of substantive issues that the commission identifies in the course of its work, for possible future study.” To the extent a recodified provision in this draft raises such an issue, it will appear in a list following the disposition and derivation tables.

**Public comment.** The Commission welcomes public comment at any time, on any issue relating to the content of this draft or on any other aspect of this study. Comments should be directed to Steve Cohen ([scohen@clrc.ca.gov](mailto:scohen@clrc.ca.gov)).



# Contents

1	DIVISION 46. HAZARDOUS SUBSTANCES AND WASTE MANAGEMENT .....	1
2	PART 3. FINANCIAL PROVISIONS .....	1
3	CHAPTER 4. FACILITY AND GENERATOR FEES .....	1
4	Article 1. Definitions .....	1
5	§ 84150. Application of definitions.....	1
6	§ 84155. “Board” .....	1
7	§ 84160. “Class 1 modification” .....	2
8	§ 84165. “Class 2 modification” .....	2
9	§ 84170. “Class 3 modification” .....	3
10	§ 84175. “Disposal” .....	3
11	§ 84180. “Facility” .....	4
12	§ 84185. “Generator” .....	4
13	§ 84190. “Hazardous waste” .....	4
14	§ 84195. “Land treat” .....	5
15	§ 84200. “Large storage facility” .....	5
16	§ 84205. “Large treatment facility” .....	5
17	§ 84210. “Mini-storage facility” .....	6
18	§ 84215. “Mini-treatment facility” .....	6
19	§ 84220. “Site” .....	7
20	§ 84225. “Small storage facility” .....	7
21	§ 84230. “Small treatment facility” .....	8
22	§ 84235. “Storage” .....	9
23	§ 84240. “Treatment” .....	10
24	§ 84245. “Unit” .....	10
25	Article 2. Facility Fees.....	11
26	§ 84260. Application of article.....	11
27	§ 84265. Facility fee payment obligations generally.....	11
28	§ 84270. Calculation of specific facility fees .....	13
29	§ 84275. Exceptions to applicability of facility fee.....	18
30	§ 84285. Deposit of funds .....	19
31	§ 84290. Department notifications to Department of Tax and Fee Administration .....	20
32	§ 84295. Exception for government agency disposal facility operator .....	21
33	§ 84300. Operation in reporting period prior to 1994 .....	22
34	Article 3. Scheduling of Facility Fee Rates by Board .....	22
35	§ 84310. Operative date of article .....	22
36	§ 84315. Establishment of rate schedule .....	22
37	§ 84320. Provision of rate schedules to Department of Tax and Fee Administration.....	23
38	§ 84325. Basis for establishing rate schedules .....	23
39	§ 84330. Conformity of fee revenues with appropriations by Legislature .....	24
40	§ 84335. Limitations on rates in 2023-24 fiscal year .....	24
41	§ 84340. Limitations on rates in fiscal years subsequent to 2023-24.....	26
42	§ 84345. Adoption of regulations .....	26
43	Article 4. Generation and Handling Fees.....	26
44	§ 84355. Threshold amount of generated hazardous waste.....	26
45	§ 84360. Generation and handling fee rates .....	27
46	§ 84365. Establishment of generation and handling fee rates .....	28
47	§ 84375. Generation and handling fee for imported hazardous waste .....	29
48	§ 84380. Provision of generation and handling fee rates to Department of Tax and Fee	
49	Administration.....	29

1	§ 84385. Basis of rates for generation and handling fees.....	30
2	§ 84390. Conformity of generation and handling fee revenues with appropriations by	
3	Legislature.....	30
4	§ 84395. Limitations in establishing generation and handling fee rates .....	31
5	§ 84400. Exemptions from generation and handling fee generally.....	31
6	§ 84405. Exemptions from generation and handling fee for victims of disasters .....	32
7	Article 4. Annual Fees .....	33
8	§ 84420. Annual fees for organizations engaged with hazardous materials .....	33
9	§ 84425. Establishment of schedule of annual fee rates.....	34
10	§ 84430. Capacity of facility .....	36
11	§ 84435. Type of facility .....	37
12	Article 5. General Provisions.....	37
13	§ 84445. Contesting of imposed fee .....	37
14	§ 84450. Regulations needed to implement fees generally .....	37
15	Article 6. Miscellaneous Provisions .....	38
16	§ 84460. Reimbursement to department for costs.....	38
17	§ 84465. Notifications relating to 1993 reporting period .....	40
18	§ 84470. Identification number certification system.....	41
19	§ 84475. Legislative declaration relating to changes made in 2021 to specified fees.....	42
20	DISPOSITION OF EXISTING LAW .....	43
21	DERIVATION OF NEW LAW.....	46

DRAFT LEGISLATION

1 **Health & Safety Code §§ 83000-[XXXXX] (added). Toxics Reduction and Management**  
2 SEC. \_\_\_\_ . Division 46 (commencing with Section 83000) is added to the Health  
3 and Safety Code, to read:

4 DIVISION 46. HAZARDOUS SUBSTANCES AND WASTE  
5 MANAGEMENT

6 ...

7 PART 3. FINANCIAL PROVISIONS

8 ...

9 CHAPTER 4. FACILITY AND GENERATOR FEES

10 Article 1. Definitions

11 **Staff Note:** The contents of proposed Article 1 have already been provisionally approved by the  
12 Commission for inclusion in a tentative recommendation in this study. *With the exception of the*  
13 *Staff Note following proposed Section 84155*, the article is again included in this draft only as a  
14 reference, as it provides definitions of terms used in the subsequent articles of the chapter that are  
15 being presented to the Commission for the first time.

16 **§ 84150. Application of definitions**

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

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

20 **§ 84155. “Board”**

21 84155. “Board” means the State Board of Equalization.

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

23 **Staff Note.** The introductory clause of existing Section 25205.1 (which would be continued by  
24 proposed Section 84150) indicates that the definition of the term “board” in existing Section  
25 25205.1(a) is intended to apply “for purposes of” Article 9.1 of Chapter 6.5, the article that would  
26 be recodified by this proposed chapter.

27 However, Section 25205.1 was last amended in 2006, before the Board of Environmental Safety  
28 was created, and before Section 25110.3 was added to the Health and Safety Code in 2021, defining  
29 the word “board” for purposes of all of Chapter 6.5 to mean the Board of Environmental Safety.

30 In the provisions proposed to be recodified in this chapter, the Board of Environmental Safety is  
31 referenced by name 18 times. The term “board” appears only three times in two code sections,  
32 existing Section 25205.5.01 (which would be recodified in proposed Section 84365), and in  
33 existing Section 25205.6.1 (which would be recodified in proposed Section 84425). Both of these  
34 existing sections were added to the Health and Safety Code in 2021 in the same bill that added the

1 new definition of the term “board,” and in each of the three instances in which the term “board” is  
2 used in these sections, it appears in a context suggesting the term was intended as a shorthand  
3 reference to the Board of Environmental Safety, which is referenced by name in the same code  
4 section.

5 **To avoid confusion about the meaning of the term “board” as used in the recodified**  
6 **provisions of existing Article 9.1, the staff has proposed to (1) revise all references to the**  
7 **Board of Environmental Safety in the recodification of existing Article 9.1 to refer to the term**  
8 **“board,” (2) indicate in the Commission Comment to each section in which the term appears**  
9 **that the term is intended to be defined by the recodification of existing Section 25110.3, and**  
10 **(3) add a Staff Note requesting public comment on this issue following proposed Sections**  
11 **84365 and 84435, the two recodified sections of Article 9.1 in which the term “board”**  
12 **currently appears.**

13 **Thereafter, in the absence of contrary public comment, the staff will propose that existing**  
14 **Section 25205.1(a), defining the term “board” to mean the State Board of Equalization solely**  
15 **for purposes of existing Article 9.1, be discontinued, leaving all references to the term “board”**  
16 **in the recodification of Article 9.1 defined by the recodification of existing Section 25110.3.**

17 **§ 84160. “Class 1 modification”**

18 84160. “Class 1 modification” has the meaning provided in regulations adopted  
19 by the department.

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

22 See Section 83160 (“department”).

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

26 25205.1(*l*) “Class 1 modification,” “class 2 modification,” and “class 3 modification” have the  
27 meanings provided in regulations adopted by the department.

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

30 **§ 84165. “Class 2 modification”**

31 84165. “Class 2 modification” has the meaning provided in regulations adopted  
32 by the department.

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

35 See Section 83160 (“department”).

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

39 25205.1(*l*) “Class 1 modification,” “class 2 modification,” and “class 3 modification” have the  
40 meanings provided in regulations adopted by the department.

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

1 § 84170. “Class 3 modification”

2 84170. “Class 3 modification” has the meaning provided in regulations adopted  
3 by the department.

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

6 See Section 83160 (“department”).

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

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

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

14 § 84175. “Disposal”

15 84175. “Disposal” means only the placement of hazardous waste satisfying all of  
16 the following criteria:

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

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

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

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

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

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

29 **Staff Notes. (1)** Proposed Section 84175 would restate the part of existing Section 25205.1(*o*)  
30 applicable to the definition of “disposal” for clarity. Existing Section 25214.12(*o*) reads as follows:

31 25205.1(*o*) “Treatment,” “storage,” and “disposal” mean only that treatment, storage, or  
32 disposal of hazardous waste engaged in at a facility pursuant to a permit or grant of interim status  
33 issued by the department pursuant to Article 9 (commencing with Section 25200). Treatment,  
34 storage, or disposal that does not require this permit or grant of interim status shall not be considered  
35 treatment, storage, or disposal for purposes of this article.

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

40 (2) “Storage” does not include the ongoing presence of hazardous wastes in the ground or in  
41 surface impoundments after the facility has permanently discontinued accepting new hazardous  
42 wastes for placement into the ground or into surface impoundments. **The staff welcomes comment**  
43 **on whether this restatement of the part of existing Section 25205.1(*o*) applicable to the**

1 **definition of “disposal” improves its clarity without substantively changing its meaning.**  
2

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

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

13 **§ 84180. “Facility”**

14 84180. “Facility” means any units or other structures, and all contiguous land,  
15 used for the treatment, storage, disposal, or recycling of hazardous waste, for which  
16 a permit or a grant of interim status has been issued by the department for that  
17 activity pursuant to **Article 9 (commencing with Section 25200)**.

18 **Comment.** Section 84180 continues former Section 25205.1(b) without substantive change.  
19 See Sections 83160 (“department”) 84175 (“disposal”), 84190 (“hazardous waste”), 83325  
20 (“recycling”), 84235 (“storage”), 84240 (“treatment”).

21 **§ 84185. “Generator”**

22 84185. “Generator” means a person who generates hazardous waste at an  
23 individual site commencing on or after July 1, 1988, including but not limited to a  
24 person identified on a manifest as the generator and whose identification number is  
25 listed on that manifest, if that identifying information was provided by that person  
26 or by an agent or employee of that person.

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

29 **§ 84190. “Hazardous waste”**

30 84190. (a) “Hazardous waste” has the meaning provided in **Section 25117**.

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

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

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

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

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

4       **§ 84195. “Land treat”**

5       84195. “Land treat” means to apply hazardous waste onto or incorporate it into  
6 the soil surface for the sole and express purpose of degrading, transforming, or  
7 immobilizing the hazardous constituents.

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

10       **§ 84200. “Large storage facility”**

11       84200. “Large storage facility” means the following:

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

16       (b) In those cases in which total storage capacity is not provided in a permit,  
17 interim status document, or federal Part A application for the facility, “large storage  
18 facility” means a storage facility that stores 1,000 or more tons of hazardous waste  
19 during any one month of the current reporting period commencing on or after July  
20 1, 1991.

21       **Comment.** Section 84200 restates former Section 25205.1(c) without substantive change.  
22       See Sections 84180 (“facility”), 84190 (“hazardous waste”), 84235 (“storage”), 83360 (“storage  
23 facility”).

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

26       25205.1. (c) “Large storage facility,” in those cases in which total storage capacity is provided  
27 in a permit, interim status document, or federal Part A application for the facility, means a storage  
28 facility with capacity to store 1,000 or more tons of hazardous waste. In those cases in which it is  
29 not so provided, “large storage facility” means a storage facility that stores 1,000 or more tons of  
30 hazardous waste during any one month of the current reporting period commencing on or after July  
31 1, 1991.

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

34       **§ 84205. “Large treatment facility”**

35       84205. “Large treatment facility” means the following:

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

40       (b) In those cases in which total treatment capacity is not provided in a permit,  
41 interim status document, or federal Part A application for the facility, “large

1 treatment facility” a treatment facility that treats, land treats, or recycles 1,000 or  
2 more tons of hazardous waste during any one month of the current reporting period  
3 commencing on or after July 1, 1991.

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

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

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

9 25205.1. (d) “Large treatment facility,” in those cases in which total treatment capacity is  
10 provided in a permit, interim status document, or federal Part A application for the facility, means  
11 a treatment facility with capacity to treat, land treat, or recycle 1,000 or more tons of hazardous  
12 waste. In those cases in which it is not so provided, “large treatment facility” means a treatment  
13 facility that treats, land treats, or recycles 1,000 or more tons of hazardous waste during any one  
14 month of the current reporting period commencing on or after July 1, 1991.

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

17 **§ 84210. “Mini-storage facility”**

18 84210. “Mini-storage facility” means the following:

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

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

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

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

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

31 25205.1. (f) “Ministorage facility,” in those cases in which total storage capacity is provided in  
32 a permit, interim status document, or federal Part A application for the facility, means a storage  
33 facility with capacity to store 0.5 tons (1,000 pounds) or less of hazardous waste. In those cases in  
34 which it is not so provided, “ministorage facility” means a storage facility that stores 0.5 tons (1,000  
35 pounds) or less of hazardous waste during any one month of the current reporting period  
36 commencing on or after July 1, 1991.

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

39 **§ 84215. “Mini-treatment facility”**

40 84215. “Mini-treatment facility” means the following:

41 (a) In those cases in which total treatment capacity is provided in a permit, interim  
42 status document, or federal Part A application for the facility, a treatment facility

1 with capacity to treat, land treat, or recycle 0.5 tons (1,000 pounds) or less of  
2 hazardous waste.

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

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

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

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

13 25205.1. (g) “Minitreatment facility,” in those cases in which total treatment capacity is  
14 provided in a permit, interim status document, or federal Part A application for the facility, means  
15 a treatment facility with capacity to treat, land treat, or recycle 0.5 tons (1,000 pounds) or less of  
16 hazardous waste. In those cases in which it is not so provided, “minitreatment facility” means a  
17 treatment facility that treats, land treats, or recycles 0.5 tons (1,000 pounds) or less of hazardous  
18 waste during any one month of the current reporting period commencing on or after July 1, 1991.

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

21 **§ 84220. “Site”**

22 84220. “Site” means the location of an operation that generates hazardous wastes  
23 and is noncontiguous to any other location of these operations owned by the  
24 generator.

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

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

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

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

33 **§ 84225. “Small storage facility”**

34 84225. “Small storage facility” means the following:

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

39 (b) In those cases in which total storage capacity is not provided in a permit,  
40 interim status document, or federal Part A application for the facility, a storage  
41 facility that stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of

1 hazardous waste during any one month of the current reporting period commencing  
2 on or after July 1, 1991.

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

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

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

8 25205.1. (i) “Small storage facility,” in those cases in which total storage capacity is provided in  
9 a permit, interim status document, or federal Part A application for the facility, means a storage  
10 facility with capacity to store more than 0.5 tons (1,000 pounds), but less than 1,000 tons of  
11 hazardous waste. In those cases in which it is not so provided, “small storage facility” means a  
12 storage facility that stores more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous  
13 waste during any one month of the current reporting period commencing on or after July 1, 1991.

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

16 **§ 84230. “Small treatment facility”**

17 84230. “Small treatment facility” means the following:

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

22 (b) In those cases in which total treatment capacity is provided in a permit, interim  
23 status document, or federal Part A application for the facility, a treatment facility  
24 that treats, land treats, or recycles more than 0.5 tons (1,000 pounds), but less than  
25 1,000 tons, of hazardous waste during any month of the current reporting period  
26 commencing on or after July 1, 1991.

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

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

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

32 25205.1. (j) “Small treatment facility,” in those cases in which total treatment capacity is  
33 provided in a permit, interim status document, or federal Part A application for the facility, means  
34 a treatment facility with capacity to treat, land treat, or recycle more than 0.5 tons (1,000 pounds),  
35 but less than 1,000 tons of hazardous waste. In those cases in which this is not provided, “small  
36 treatment facility” means a treatment facility that treats, land treats, or recycles more than 0.5 tons  
37 (1,000 pounds), but less than 1,000 tons, of hazardous waste during any month of the current  
38 reporting period commencing on or after July 1, 1991.

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

1 § 84235. “Storage”

2 84235. “Storage” means only the storage of hazardous waste satisfying both of  
3 the following criteria:

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

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

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

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

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

16 25205.1.(o) “Treatment,” “storage,” and “disposal” mean only that treatment, storage, or  
17 disposal of hazardous waste engaged in at a facility pursuant to a permit or grant of interim status  
18 issued by the department pursuant to Article 9 (commencing with Section 25200). Treatment,  
19 storage, or disposal that does not require this permit or grant of interim status shall not be considered  
20 treatment, storage, or disposal for purposes of this article.

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

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

28 **The staff welcomes comment on whether this restatement of the part of existing Section**  
29 **25214.12(o) applicable to the definition of “storage” improves its clarity without substantively**  
30 **changing its meaning.**

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

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

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

42 **The staff welcomes public comment on whether statutory text should be added to proposed**  
43 **Section 84235, or perhaps to Section 84150, clarifying that the definition of the term “storage”**  
44 **in proposed Section 84235 is intended to apply to the proposed chapter in which Section 84235**

1 **appears, notwithstanding the overarching definition of the term that presently appears in**  
2 **existing Section 25113.**

3 **§ 84240. “Treatment”**

4 84240. “Treatment” means only the treatment of hazardous waste engaged in at a  
5 facility pursuant to and requiring a permit or grant of interim status issued by the  
6 department pursuant to **Article 9 (commencing with Section 25200).**

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

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

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

13 25205.1.(o) “Treatment,” “storage,” and “disposal” mean only that treatment, storage, or  
14 disposal of hazardous waste engaged in at a facility pursuant to a permit or grant of interim status  
15 issued by the department pursuant to Article 9 (commencing with Section 25200). Treatment,  
16 storage, or disposal that does not require this permit or grant of interim status shall not be considered  
17 treatment, storage, or disposal for purposes of this article.

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

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

25 **The staff welcomes comment on whether this restatement of the part of existing Section**  
26 **25214.12(o) applicable to the definition of “treatment” improves its clarity without**  
27 **substantively changing its meaning.**

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

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

38 **§ 84245. “Unit”**

39 84245. (a) “Unit” means a hazardous waste management unit, as defined in  
40 regulations adopted by the department.

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

43 **Comment.** Section 84245 continues former Section 25205.1(k) without substantive change.

1 See Sections 83160 (“department”), 84190 (“hazardous waste”).

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

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

## 11 Article 2. Facility Fees

### 12 § 84260. Application of article

13 84260. This ~~section shall become~~ article became operative on July 1, 2022, and  
14 ~~shall apply~~ applies to the annual facility fees due for the 2022–23 fiscal year, and  
15 each fiscal year thereafter.

16 **Comment.** Section 84260 continues former Section 25205.2(m) without substantive change.  
17 See Section 84180 (“facility”).

### 18 § 84265. Facility fee payment obligations generally

19 84265. (a) Except as provided in ~~subdivisions (h) and (k) Section 84275, and in~~  
20 ~~accordance with Section 43152.6 of the Revenue and Taxation Code,~~ the operator  
21 of a facility shall pay a facility fee in accordance with Section 43152.6 of the  
22 Revenue and Taxation Code for each reporting period, or any portion of a reporting  
23 period, to the California Department of Tax and Fee Administration, based on the  
24 size and type of the facility, as specified in ~~this section~~ Section 84270.

25 (b) The fee rate shall be the rate established for the fiscal year in which the  
26 payment is due.

27 (c) Operators subject to facility fee liability pursuant to this ~~section~~ article shall  
28 pay all of the following amounts for each of the following reporting periods:

29 (1) ~~The operator shall pay the applicable facility fee for each reporting period in~~  
30 ~~which the facility actually engaged in the treatment, storage, or disposal~~ treated,  
31 stored, or disposed of hazardous waste.

32 (2) ~~The operator shall pay the applicable facility fee for one additional reporting~~  
33 ~~period immediately following the final last reporting period in which the facility~~  
34 ~~actually engaged in that treatment or storage of~~ treated or stored hazardous waste,  
35 with the facility’s size for that additional reporting period shall be deemed to be the  
36 largest size at which the facility has ever been subject to the fee. determined as  
37 follows:

38 (A) If prior to the commencement of the additional reporting period the  
39 department previously had approved a unit or portion of the facility for a variance,

1 closure, or permit-by-rule, the facility's size for that reporting period shall be  
2 deemed to be its largest size since the department granted the approval.

3 (B) If subparagraph (A) is inapplicable, the facility's largest size at which the  
4 facility had ever been subject to a facility fee pursuant to this article, or pursuant to  
5 former Article 9.1 (commencing with Section 25205.1) of Chapter 6.5 of Division  
6 20 of the Health and Safety Code.

7 ~~(C) The operator of a disposal facility shall pay twice~~ Twice the applicable facility  
8 fee for one additional reporting period immediately following the ~~final~~ last reporting  
9 period in which the facility actually engaged in disposal of hazardous waste.

10 (d) For purposes of this section, a facility shall not be deemed to have stopped be  
11 treating, storing, or disposing of hazardous waste unless it has actually until both of  
12 the following have occurred:

13 (1) The facility has actually ceased that the activity and .

14 (2) The facility has notified the department of its intent to close.

15 **Comment.** Subdivision (a) of Section 84265 restates the first sentence of former Section  
16 25205.2(a)(2) without substantive change.

17 Subdivision (b) continues the second sentence of former Section 25205.2(a)(2) without  
18 substantive change.

19 Subdivision (c) restates former Section 25205.2(i)(1)-(3) without substantive change.

20 Subdivision (d) restates former Section 25205.2(i)(4) without substantive change.

21 See Sections 83160 ("department"), 84175 ("disposal"), 84180 ("facility"), 84190 ("hazardous  
22 waste"), 84235 ("storage"), 84240 ("treatment"), 84245 ("unit").

23 **Staff Notes. (1)** Section 84265 would combine and restate the first two sentences of former  
24 Section 25205.2(a)(2), and former Section 25205.2(i), to improve readability and avoid confusion.  
25 Section 25205.2(a)(2) and (i) presently read as follows:

26 25205.2.(a)(2) Except as provided in subdivisions (h) and (k), and in accordance with Section  
27 43152.6 of the Revenue and Taxation Code, the operator of a facility shall pay a facility fee for  
28 each reporting period, or any portion of a reporting period, to the California Department of Tax and  
29 Fee Administration based on the size and type of the facility, as specified in this section. The fee  
30 rate shall be the rate established for the fiscal year in which the payment is due.

31 ...

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

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

36 (2) The operator shall pay the applicable facility fee for one additional reporting period  
37 immediately following the final reporting period in which the facility actually engaged in that  
38 treatment or storage. The facility's size for that additional reporting period shall be deemed to be  
39 the largest size at which the facility has ever been subject to the fee. If the department previously  
40 approved a unit or portion of the facility for a variance, closure, or permit-by-rule, the facility's  
41 size for that reporting period shall be deemed to be its largest size since the department granted the  
42 approval.

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

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

3 **Absent comment, the proposed restatement of these provisions will be presumed correct.**

4 (2) The term “reporting period” is used throughout existing Article 9.1, relating to facility and  
5 generator fees, without definition.

6 **Public comment is sought relating to (1) the intended meaning of this term as used in the**  
7 **existing Article, and (2) whether the inclusion of a statutory definition of the term as relates**  
8 **to the recodified provisions of the article would be a helpful nonsubstantive improvement.**

9 (3) Throughout existing Sections 25205.2 and 25205.2.1, the precise intended meaning of the  
10 terms “fee,” “rate,” “fee rate,” “base rate,” “facility fee,” and “base facility rate,” and the extent to  
11 which those terms are meant to have distinct meanings, is at times unclear.

12 **Public comment is welcome on whether this proposed recodification, in attempting to**  
13 **clarify that occasional ambiguity, has continued the intended meaning of the existing usages.**

14 (4) The word “actually” is used several times in existing Section 25205.2(i) to modify the word  
15 “engaged” or “ceased.” See proposed Section 84265(c)(1), (c)(2), (c)(2)(C), and (d)(1). **Public**  
16 **comment is welcome on (1) the intended meaning of the word “actually” as used in these**  
17 **contexts, and (2) whether deleting the word in those provisions of proposed Section 84265**  
18 **would substantively change the meaning of existing Section 25205.2(i).**

19 **§ 84270. Calculation of specific facility fees**

20 84270. (a)(1) ~~For the 2022-23 fiscal year, the~~ The facility fee rates established  
21 specified in this section shall apply only to the 2022-23 fiscal year.

22 (2) Commencing July 1, 2023, the fee rates established pursuant to **Section**  
23 **25205.2.1** shall apply.

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

26 (2) Except as provided in ~~subdivision (e)~~ subdivisions (c) and (f), in computing  
27 the facility fees, all of the following shall apply facility fees shall be calculated as  
28 follows:

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

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

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

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

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

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

41 (G) The facility fee to be paid by a large offsite treatment facility shall ~~equal~~ be  
42 three times the base facility rate.

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

3 (c) The fee to be paid by a facility with a postclosure permit during the first five  
4 years of the postclosure period shall be as follows:

5 (1) ~~Twenty-six thousand nine hundred eighty dollars (\$26,980) annually for~~ By a  
6 small facility for which 0.5 tons (1,000 pounds) or less of hazardous waste remain  
7 after closure, twenty-six thousand nine hundred eighty dollars (\$26,980) annually.

8 (2) ~~Fifty-three thousand nine hundred sixty dollars (\$53,960) annually for~~ By a  
9 medium facility for which more than 0.5 tons (1,000 pounds) but less than 1,000  
10 tons of hazardous waste remain after closure, fifty-three thousand nine hundred  
11 sixty dollars (\$53,960) annually.

12 (3) ~~Eighty thousand nine hundred forty dollars (\$80,940) annually for~~ By a large  
13 facility for which 1,000 or more tons of hazardous waste remain after closure, eighty  
14 thousand nine hundred forty dollars (\$80,940) annually.

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

17 (1) ~~Fourteen thousand three hundred seventy five dollars (\$14,375) annually for~~  
18 By a small facility for which 0.5 tons (1,000 pounds) or less of hazardous waste  
19 remain after closure, fourteen thousand three hundred seventy-five dollars  
20 (\$14,375) annually.

21 (2) ~~Twenty-eight thousand seven hundred fifty dollars (\$28,750) annually for~~ By a  
22 medium facility for which more than 0.5 tons (1,000 pounds), but less than 1,000  
23 tons, of hazardous waste remain after closure, twenty-eight thousand seven hundred  
24 fifty dollars (\$28,750) annually.

25 (3) ~~Forty-eight thousand five hundred fifty dollars (\$48,550) annually for~~ By a  
26 large facility for which 1,000 or more tons of hazardous waste remain after closure,  
27 forty-eight thousand five hundred fifty dollars (\$48,550) annually.

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

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

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

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

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

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

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

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

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

11 (g)(1) Except as provided in **Section 25404.5**, ~~the owner or operator of~~ a facility  
12 or transportable treatment unit operating pursuant to a permit-by-rule shall pay a  
13 facility fee to the California Department of Tax and Fee Administration per for each  
14 facility or transportable treatment unit, for each reporting period, or portion of a  
15 reporting period.

16 (2) The fee for the 2022–23 fiscal year reporting period shall be four thousand six  
17 hundred dollars (\$4,600).

18 (h)(1) Except as provided in **Section 25404.5**, a generator operating under a grant  
19 of conditional authorization pursuant to **Section 25200.3** shall pay a facility fee to  
20 ~~the California Department of Tax and Fee Administration per for each~~ facility,  
21 for each reporting period, or portion of a reporting period, unless the generator is subject  
22 to a fee under a permit-by-rule.

23 (2) The fee for the 2022–23 fiscal year reporting period shall be four thousand six  
24 hundred dollars (\$4,600).

25 (i) Except as provided in **Section 25404.5**, ~~the fee for~~ a generator performing  
26 treatment conditionally exempted pursuant to **Section 25144.6** or **subdivision (a)**  
27 **or (c) of Section 25201.5** for the 2022–23 fiscal year ~~reporting period~~ shall pay  
28 a facility fee of one hundred eighty dollars (\$180) paid to the California Department  
29 of Tax and Fee Administration per facility for each reporting period, unless that the  
30 generator is subject to a fee under a permit-by-rule or a conditional authorization  
31 pursuant to **Section 25200.3**.

32 (j) ~~The A~~ fee imposed pursuant to this section shall be paid in accordance with  
33 Part 22 (commencing with Section 43001) of Division 2 of the Revenue and  
34 Taxation Code.

35 **Comment.** Subdivision (a) of Section 84270 restates former Section 25205.2(a)(3) without  
36 substantive change.

37 Subdivision (b) restates former Section 25205.2(b) without substantive change.

38 Subdivision (c) combines and restates former Section 25205.2(a)(1) and (c) without substantive  
39 change.

40 Subdivision (d) combines and restates former Section 25205.2(a)(1) and (d) without substantive  
41 change.

42 Subdivision (e) restates former Section 25205.2(e) without substantive change.

43 Subdivision (f) restates former Section 25205.2(f) without substantive change.

44 Subdivision (g) restates the first two sentences of former Section 25205.2(j)(1) without  
45 substantive change.

1 Subdivision (h) restates the first two sentences of former Section 25205.2(j)(2) without  
2 substantive change.

3 Subdivision (i) restates the first sentence of former Section 25205.2(j)(3) without substantive  
4 change.

5 Subdivision (j) restates former Section 25205.2(l) without substantive change.

6 See Sections 83160 (“department”), 84175 (“disposal”), 84180 (“facility”), 84185 “generator”),  
7 84190 (“hazardous waste”), 84200 “large storage facility”), 84205 (“large treatment facility”),  
8 84210 (“mini-storage facility”), 84215 (“mini-treatment facility”), 84225 (“small storage facility”),  
9 84230 (“small treatment facility”) 84235 (“storage”), 84240 (“treatment”), 84245 (“unit”).

10 **Staff Notes. (1)** Section 84270 would combine and restate multiple provisions within existing  
11 Section 25205.2, to improve readability of those provisions and avoid confusion. Those provisions  
12 presently read as follows:

13 25205.2. (a)(1) For purposes of subdivisions (c) and (d), a facility or unit is “small” if 0.5 tons  
14 (1,000 pounds) or less of hazardous waste remain after closure, “medium” if more than 0.5 tons  
15 (1,000 pounds), but less than 1,000 tons, of hazardous waste remain after closure, and “large” if  
16 1,000 or more tons of hazardous waste remain after closure.

17 ...

18 (3) For the 2022–23 fiscal year, the fee rates established in this section shall apply. Commencing  
19 July 1, 2023, the fee rates established pursuant to Section 25205.2.1 shall apply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (A) The facility treats not more than 1,500 gallons of liquid hazardous waste and not more than  
10 3,000 pounds of solid hazardous waste in any calendar month.

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

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

15 ...

16 (j) (1) Except as provided in Section 25404.5, the owner or operator of a facility or transportable  
17 treatment unit operating pursuant to a permit-by-rule shall pay a fee to the California Department  
18 of Tax and Fee Administration per facility or transportable treatment unit for each reporting period,  
19 or portion of a reporting period. The fee for the 2022–23 fiscal year reporting period shall be four  
20 thousand six hundred dollars (\$4,600). The department shall notify the California Department of  
21 Tax and Fee Administration of all known owners or operators operating pursuant to a permit-by-  
22 rule who are not exempted from this fee pursuant to Section 25404.5. The department shall also  
23 notify the California Department of Tax and Fee Administration of any owner or operator  
24 authorized to operate pursuant to a permit-by-rule, who is not exempted from this fee pursuant to  
25 Section 25404.5, within 60 days after the owner or operator is authorized.

26 (2) Except as provided in Section 25404.5, a generator operating under a grant of conditional  
27 authorization pursuant to Section 25200.3 shall pay a fee to the California Department of Tax and  
28 Fee Administration per facility for each reporting period, or portion of a reporting period, unless  
29 the generator is subject to a fee under a permit-by-rule. The fee for the 2022–23 fiscal year reporting  
30 period shall be four thousand six hundred dollars (\$4,600). The department shall notify the  
31 California Department of Tax and Fee Administration of all known generators operating pursuant  
32 to a grant of conditional authorization under Section 25200.3 who are not exempted from this fee  
33 pursuant to Section 25404.5. The department shall also notify the California Department of Tax  
34 and Fee Administration of any generator authorized to operate under a grant of conditional  
35 authorization, who is not exempted from this fee pursuant to Section 25404.5, within 60 days of  
36 the receipt of notification.

37 (3) Except as provided in Section 25404.5, the fee for a generator performing treatment  
38 conditionally exempted pursuant to Section 25144.6 or subdivision (a) or (c) of Section 25201.5  
39 for the 2022–23 fiscal year reporting period shall be one hundred eighty dollars (\$180) paid to the  
40 California Department of Tax and Fee Administration per facility for each reporting period, unless  
41 that generator is subject to a fee under a permit-by-rule or a conditional authorization pursuant to  
42 Section 25200.3. The department shall notify the California Department of Tax and Fee  
43 Administration of all known facilities performing treatment conditionally exempted by Section  
44 25144.6 or subdivision (a) or (c) of Section 25201.5 who are not exempted from this fee pursuant  
45 to Section 25404.5. The department shall also notify the California Department of Tax and Fee  
46 Administration of any generator who notifies the department that the generator is conducting a  
47 conditionally exempt treatment operation, and who is not exempted from this fee pursuant to  
48 Section 25404.5, within 60 days of the receipt of the notification.

49 (k) A treatment facility is not subject to the facility fee established pursuant to this section, if the  
50 facility engages in treatment exclusively to accomplish a removal or remedial action or a corrective  
51 action in accordance with an order issued by the United States Environmental Protection Agency  
52 pursuant to the federal act or in accordance with an order issued by the department pursuant to  
53 Section 25187, or if the removal or remedial action is carried out pursuant to a removal action work

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

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

10 **Absent comment, the proposed restatement of these provisions will be presumed correct.**

11 **(2) Public comment is welcome on several issues relating to existing Section 25205.2(e),**  
 12 which would be continued by proposed Section 84280(e), and reads as follows:

13 “If a facility falls into more than one category listed in either subdivision (b) or (d), or any  
 14 combination of categories, or if multiple operations under a single hazardous waste facilities permit  
 15 or grant of interim status fall into more than one category listed in subdivision (b) or (d), or any  
 16 combination of categories, the facility operator shall pay only the rate for the facility category that  
 17 is the highest rate.”

18 **(a) Is the use of the word “either” before the reference to “subdivision (b) or (d)” in the**  
 19 **first clause of subdivision (e) intended to mean that the multiple categories (“more than one**  
 20 **category”) referenced in the clause must *all* be listed in *either* subdivision (b) *or* in subdivision**  
 21 **(d), or does the text encompass a scenario in which at some point in a reporting period a**  
 22 **facility was in a category listed in subdivision (b), and at another time in a category in**  
 23 **subdivision (d)?**

24 **(b) Later in Section 25205.2(e), a reference to “subdivision (b) or (d)” appears that is *not***  
 25 **preceded by the word “either” — what is the intended meaning of this reference?**

26 **(c) What is the intended meaning of the phrase “or any combination of categories” in**  
 27 **each of the two instances in which that phrase appears in Section 25205.2(e)?**

28 **§ 84275. Exceptions to applicability of facility fee**

29 84275. (a) Notwithstanding ~~subdivision (a)~~ **Section 84270**, a person who is issued  
 30 a variance by the department from the requirement of obtaining a hazardous waste  
 31 facilities permit or grant of interim status is not subject to ~~the a fee, pursuant to~~  
 32 **Section 84270** for any reporting period following the reporting period in which the  
 33 variance was granted by the department.

34 (b)(1) A Notwithstanding Section 84270, a treatment facility is not subject to the  
 35 facility fee ~~established otherwise applicable pursuant to this section~~ **Section 84270**,  
 36 ~~if the~~ and the department shall instead assess that facility a fee pursuant to paragraph  
 37 (2), in either of the following circumstances:

38 (A) The facility engages in treatment exclusively to accomplish a removal or,  
 39 remedial action, or a corrective action in accordance with an order issued by the  
 40 United States Environmental Protection Agency pursuant to the federal act, or in  
 41 accordance with an order issued by the department pursuant to Section 25187, or if  
 42 the , and the facility was put in operation solely for purposes of complying with that  
 43 order.

44 (B) The facility engages in treatment exclusively to accomplish a removal or  
 45 remedial action is carried out pursuant to a removal action work plan or a remedial

1 action plan prepared pursuant to Article 12 (commencing with Section 79195) of  
2 Chapter 5 of Part 2 of Division 45, and is authorized to operate pursuant to Article  
3 14 (commencing with Section 79290) of Chapter 5 of Part 2 of Division 45, ~~if the~~  
4 ~~facility was put in operation solely for purposes of complying with that order.~~

5 (2) The If a treatment facility satisfies either subparagraph (A) or subparagraph  
6 (B) of paragraph (1), the department shall instead assess a fee for that facility an  
7 hourly fee, based on the department’s work standards, for the actual time spent by  
8 the department for the inspection and oversight of that facility. The department shall  
9 ~~base the fee on the department’s work standards and shall assess the fee on an hourly~~  
10 ~~basis.~~

11 **Comment.** Subdivision (a) of Section 84275 restates former Section 25205.2(h) without  
12 substantive change.

13 Subdivision (b) restates the first clause of former Section 25205.2(a)(2), and former Section  
14 25205.2(k), without substantive change.

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

17 **Staff Note.** Section 84275 would combine and restate multiple provisions within existing  
18 Section 25205.2, to improve readability of those provisions and avoid confusion. Those provisions  
19 presently read as follows:

20 25205.2. (a)(2) Except as provided in subdivisions (h) and (k) ...[, and in accordance with  
21 Section 43152.6 of the Revenue and Taxation Code, the operator of a facility shall pay a facility  
22 fee for each reporting period, or any portion of a reporting period, to the California Department of  
23 Tax and Fee Administration based on the size and type of the facility, as specified in this section.]  
24 ...

25 (h) Notwithstanding subdivision (a), a person who is issued a variance by the department from  
26 the requirement of obtaining a hazardous waste facilities permit or grant of interim status is not  
27 subject to the fee, for any reporting period following the reporting period in which the variance was  
28 granted by the department.  
29 ...

30 (k) A treatment facility is not subject to the facility fee established pursuant to this section, if the  
31 facility engages in treatment exclusively to accomplish a removal or remedial action or a corrective  
32 action in accordance with an order issued by the United States Environmental Protection Agency  
33 pursuant to the federal act or in accordance with an order issued by the department pursuant to  
34 Section 25187, or if the removal or remedial action is carried out pursuant to a removal action work  
35 plan or a remedial action plan prepared pursuant to Article 12 (commencing with Section 79195)  
36 of Chapter 5 of Part 2 of Division 45 and is authorized to operate pursuant to Article 14  
37 (commencing with Section 79290) of Chapter 5 of Part 2 of Division 45, if the facility was put in  
38 operation solely for purposes of complying with that order. The department shall instead assess a  
39 fee for that facility for the actual time spent by the department for the inspection and oversight of  
40 that facility. The department shall base the fee on the department’s work standards and shall assess  
41 the fee on an hourly basis.

42 **Absent comment, the proposed restatement of these provisions will be presumed correct.**

43 **§ 84285. Deposit of funds**

44 84285. (a) The California Department of Tax and Fee Administration shall  
45 deposit all fees collected pursuant to this ~~section~~ article into the Hazardous Waste  
46 Facilities Account in the Hazardous Waste Control Account.

1 (b) The deposited fees so deposited may be expended by the department, upon  
2 appropriation by the Legislature, for the purposes specified in **Section 25174.01**.

3 **Comment.** Section 84285 continues former Section 25205.2(g) without substantive change.  
4 See Section 83160 (“department”).

5 **§ 84290. Department notifications to Department of Tax and Fee Administration**

6 84290. ~~On or before October 1 of each calendar year, the~~ The department shall  
7 notify the California Department of Tax and Fee Administration of ~~all the following:~~

8 (a) All known facility operators, by facility type and size, on or before October 1  
9 of each calendar year.

10 (b) ~~The department shall also notify the California Department of Tax and Fee~~  
11 ~~Administration of any~~ Any facility operator who is issued a permit or grant of  
12 interim status, within 30 days from the date that a permit or grant of interim status  
13 is issued to the operator.

14 (c) ~~The department shall notify the California Department of Tax and Fee~~  
15 ~~Administration of all~~ All known facility owners or operators operating pursuant to  
16 a permit-by-rule who are not exempted from ~~this~~ the fee required by Section  
17 25205.2(j)(1) pursuant to **Section 25404.5**.

18 (d) ~~The department shall also notify the California Department of Tax and Fee~~  
19 ~~Administration of any~~ Any facility owner or operator authorized to operate pursuant  
20 to a permit-by-rule, who is not exempted from ~~this~~ the fee required by Section  
21 25205.2(j)(1) pursuant to **Section 25404.5**, within 60 days after the owner or  
22 operator is authorized.

23 (e) ~~The department shall notify the California Department of Tax and Fee~~  
24 ~~Administration of all~~ All known generators operating pursuant to a grant of  
25 conditional authorization under **Section 25200.3** who are not exempted from ~~this~~  
26 the fee required by Section 25205.2(j)(2) pursuant to **Section 25404.5**.

27 (f) ~~The department shall also notify the California Department of Tax and Fee~~  
28 ~~Administration of any~~ Any generator authorized to operate under a grant of  
29 conditional authorization, who is not exempted from ~~this~~ the fee required by Section  
30 25205.2(j)(2) pursuant to **Section 25404.5**, within 60 days of the receipt of  
31 notification.

32 (g) ~~The department shall notify the California Department of Tax and Fee~~  
33 ~~Administration of all~~ All known facilities performing treatment conditionally  
34 exempted by **Section 25144.6** or **subdivision (a) or (c) of Section 25201.5** ~~who that~~  
35 are not exempted from ~~this~~ the fee required by Section 25205.2(j)(3) pursuant to  
36 **Section 25404.5**.

37 (h) ~~The department shall notify the California Department of Tax and Fee~~  
38 ~~Administration of any~~ Any generator who notifies the department that the generator  
39 is conducting a conditionally exempt treatment operation, who is not exempted from  
40 ~~this~~ the fee required by Section 25205.2(j)(3) pursuant to **Section 25404.5**, within  
41 60 days of the receipt of the notification.

1 **Comment.** Subdivision (a) of Section 84290 restates the third sentence of former Section  
2 25205.2(a)(2) without substantive change.

3 Subdivision (b) restates the fourth sentence of former Section 25205.2(a)(2) without substantive  
4 change.

5 Subdivision (c) restates the third sentence of former Section 25205.2(j)(1) without substantive  
6 change.

7 Subdivision (d) restates the fourth sentence of former Section 25205.2(j)(1) without substantive  
8 change.

9 Subdivision (e) restates the third sentence of former Section 25205.2(j)(2) without substantive  
10 change.

11 Subdivision (f) restates the fourth sentence of former Section 25205.2(j)(2) without substantive  
12 change.

13 Subdivision (g) restates the second sentence of former Section 25205.2(j)(3) without substantive  
14 change.

15 Subdivision (h) restates the third sentence of former Section 25205.2(j)(3) without substantive  
16 change.

17 See Sections 83160 (“department”), 84180 (“facility”), 84185 (“generator”), 84240  
18 (“treatment”).

19 **Staff Notes. (1)** Section 84290 would restate and consolidate in a single code section multiple  
20 provisions relating to agency obligations scattered throughout existing Section 25205.2, to improve  
21 readability and avoid confusion relating to those provisions.

22 **Public comment is welcome on whether the consolidation of these provisions in a single**  
23 **section is helpful or detrimental.**

24 **(2)** The fourth sentence of existing Section 25205.2(j)(2) (which would be continued by proposed  
25 Section 84290(f)) requires the department to notify the California Department of Tax and Fee  
26 Administration of “any generator authorized to operate under a grant of conditional authorization,”  
27 without referencing the section pursuant to which the referenced grant was made.

28 **Public comment is welcome on whether a reference should be added in this provision to**  
29 **former Section 25200.3, a reference that does appear in the *third* sentence of Section**  
30 **25205.2(j)(2) (which would be continued by proposed Section 84290(e)), which also references**  
31 **a grant of conditional authorization.**

32 **(3)** The third sentence of existing Section 25205.2(j)(3) (which would be continued by proposed  
33 Section 84290(h)) requires the department to notify the California Department of Tax and Fee  
34 Administration of “any generator who notifies the department that the generator is conducting a  
35 conditionally exempt treatment operation,” without specifying the basis of the conditional  
36 exemption.

37 **Public comment is welcome on whether a reference should be added in this provision to**  
38 **that basis, as appears in the *second* sentence of Section 25205.2(j)(3) (which would be**  
39 **continued by proposed Section 84290(g)), which also references conditionally exempted**  
40 **treatment.**

41 **§ 84295. Exception for government agency disposal facility operator**

42 84295. (a) Notwithstanding **Section 25205.2**, a disposal facility operator that is a  
43 government agency shall be subject to a maximum facility fee of ten thousand  
44 dollars (\$10,000) for any reporting period of 12 months and five thousand dollars  
45 (\$5,000) for any reporting period of six months, for that disposal facility for any

1 reporting period in which it did not at any time dispose of hazardous waste ~~during~~  
2 ~~the reporting period.~~

3 (b) This section shall apply to all reporting periods since the inception of the  
4 facility fee up to and including the reporting period ending December 31, 1998.

5 (c) This section shall not affect the imposition of the annual postclosure facility  
6 fee imposed pursuant to **Section 25205.2.**

7 **Comment.** Subdivision (a) of Section 84295 continues the first sentence of former Section  
8 25205.21(a) without substantive change.

9 Subdivision (b) continues the second sentence of former Section 25205.21(a) without substantive  
10 change.

11 Subdivision (c) continues former Section 25205.21(b) without substantive change.

12 See Sections 84175 (“disposal”), 84180 (“facility”), 83210 (“hazardous waste”).

### 13 § 84300. Operation in reporting period prior to 1994

14 84300. Notwithstanding any other provision of law, no facility for any reporting  
15 period prior to 1994 shall be a “disposal facility” for purposes of the annual facility  
16 fee if that facility had a permit or interim status document issued by the department  
17 which designated that facility or any part of its process as “storage” or “treatment”  
18 and did not designate that facility or any part of its process as “disposal” or  
19 “landfill.”

20 **Comment.** Section 84300 continues former Section 25205.17 without substantive change.

21 See Sections 83160 (“department”), 84180 (“facility”).

22 **Staff Note. The staff welcomes comment on whether existing Section 25205.17, which would**  
23 **be continued by proposed Section 84300, should be continued or repealed.**

## 24 Article 3. Scheduling of Facility Fee Rates by Board

### 25 § 84310. Operative date of article

26 84310. This ~~section~~ article ~~shall become~~ became operative on January 1, 2022.

27 **Comment.** Section 84310 continues former Section 25205.2.1(f) without substantive change.

28 **Staff Note. Public comment is welcome on whether existing Section 25205.2.1(f), which**  
29 **would be continued by proposed Section 84305, needs to be included in this recodification.**

### 30 § 84315. Establishment of rate schedule

31 84315. (a) ~~(1) The Board of Environmental Safety board~~ shall establish, by  
32 regulation, a ~~schedule of rates for the fee~~ rate schedule for the fees authorized by  
33 ~~Section 25025.2 Article 2,~~ to be applicable commencing July 1, 2023, ~~and.~~

34 (b) The board may thereafter adjust the schedule of rates rate schedule no more  
35 frequently than once per year ~~thereafter~~ and no later than October 1 of any year in  
36 which the ~~Board of Environmental Safety board~~ adopts the schedule of rates rate  
37 schedule.

38 **Comment.** Section 84315 restates the first sentence of former Section 25205.2.1(a)(1) without  
39 substantive change.

1 See Section 83090 (“board”).

2 **Staff Notes. (1)** Proposed Section 84315 would restate existing Section 25205.2.1(a)(1), to  
3 improve readability of that section and avoid confusion. The existing section presently reads as  
4 follows:

5 25205.2.1. (a) (1) The Board of Environmental Safety shall establish, by regulation, a schedule  
6 of rates for the fee authorized by Section 25205.2, to be applicable commencing July 1, 2023, and  
7 may adjust the schedule of rates no more frequently than once per year thereafter and no later than  
8 October 1 of any year in which the Board of Environmental Safety adopts the schedule of rates.

9 **Absent comment, the proposed restatement of these provisions will be presumed correct.**

10 **(2)** Existing Section 25205.1 (which would be continued by proposed Section 84150) defines the  
11 term “board” for purposes of the existing Article that would be recodified by this proposed chapter  
12 as the State Board of Equalization.

13 However, Section 25205.1 was last amended in 2006, well before the creation of the Board of  
14 Environmental Safety, an entity that is referenced very frequently in this proposed recodified  
15 chapter. Section 25205.1 was also last amended well before the 2021 addition of Section 25110.3  
16 to the Health and Safety Code, which defines the word “board” for purposes of the entirety of  
17 Chapter 6.5 as meaning the Board of Environmental Safety.

18 In the provisions proposed to be recodified in this chapter, beginning with the provisions in this  
19 proposed Article, the Board of Environmental Safety is referenced by name 18 times. The term  
20 “board” appears only three times in two code sections, and in each instance in a context suggesting  
21 the term is intended to be a shorthand reference to the Board of Environmental Safety.

22 To avoid confusion as to the intended meaning of the term “board” as used in the recodified  
23 provisions of existing Article 9.1, the staff has provisionally recodified all references to the Board  
24 of Environmental Safety in Article 9.1, including the reference in this recodified provision, to  
25 instead refer to the term “board,” noting in the Commission Comment to the section that the term  
26 “board” is defined as the Board of Environmental Safety, and will adjust any reference in the  
27 existing Article 9.1 to the term “board” that was intended to be a reference to the State Board of  
28 Equalization.

29 **Public comment is welcome on these revisions.**

30 **§ 84320. Provision of rate schedules to Department of Tax and Fee Administration**

31 84320. No later than October 1 of each year, the ~~Board of Environmental Safety~~  
32 board shall provide the California Department of Tax and Fee Administration ~~the~~  
33 fee rates rate schedules that have been established pursuant to this ~~section~~ article.

34 **Comment.** Section 84320 continues former Section 25205.2.1(a)(2) without substantive change.  
35 See Section 83090 (“board”).

36 **§ 84325. Basis for establishing rate schedules**

37 84325. (a) ~~The A rate schedule of rates~~ established pursuant to ~~subdivision (a)~~  
38 Section 84310 shall be based on both of the following:

39 (1) The costs of the administration and collection of fees.

40 (2) Statewide general administrative costs assessed to the Hazardous Waste  
41 Facilities Account for that fiscal year.

42 (b)(1) ~~The rate schedule of rates~~ shall also allow for a reserve in the Hazardous  
43 Waste Facilities Account each year at in an amount determined by the ~~Board of~~  
44 Environmental Safety board to be sufficient to ensure that ~~all programs~~ no program

1 funded by the Hazardous Waste Facilities Account will ~~not~~ be adversely affected by  
2 any revenue ~~shortfalls~~ shortfall or additional baseline expenditure ~~adjustments~~  
3 adjustments ~~but not to~~ .

4 (2) Notwithstanding paragraph (1), the reserve identified in paragraph (1) shall  
5 not exceed 10 percent of authorized expenditure levels.

6 **Comment.** Subdivision (a) of Section 84325 continues former Section 25205.2.1(b)(1) without  
7 substantive change.

8 Subdivision (b) restates former Section 25205.2.1(b)(3) without substantive change.

9 See Section 83090 (“board”).

10 **Staff Note.** Subdivision (b) of Section 84325 restates Section 25205.2.1(b)(3) to improve  
11 readability and avoid confusion. That existing paragraph provides as follows:

12 25205.2.1(b)(3) The rates shall allow for a reserve in the Hazardous Waste Facilities Account  
13 each year at an amount determined by the Board of Environmental Safety to be sufficient to ensure  
14 that all programs funded by the Hazardous Waste Facilities Account will not be adversely affected  
15 by any revenue shortfalls or additional baseline expenditure adjustments, but not to exceed 10  
16 percent of authorized expenditure levels.

17 **Public comment is welcome on whether the proposed restatement of Section**  
18 **25205.2.1(b)(3) would substantively change the meaning of the provision.**

19 **§ 84330. Conformity of fee revenues with appropriations by Legislature**

20 84330. The total amount of fee revenues collected each fiscal year pursuant to this  
21 article shall conform with the amounts appropriated by the Legislature for that fiscal  
22 year from the Hazardous Waste Facilities Account for expenditure, as authorized  
23 pursuant to **Section 25174.01.**

24 **Comment.** Section 84330 continues former Section 25205.2.1(b)(2) without substantive change.

25 **Staff Note.** Public comment is welcome on the intended meaning of existing Section  
26 25205.2.1(b)(2), which would be continued by proposed Section 84330, with the goal of further  
27 clarifying the text of proposed Section 84330.

28 **Specifically, is the existing provision intended to be a limitation on the total amount of fee**  
29 **revenues collected in any fiscal year, or on the amounts appropriated by the Legislature from**  
30 **the Hazardous Waste Facilities Account for expenditure for that fiscal year?**

31 **§ 84335. Limitations on rates in 2023-24 fiscal year**

32 84335. The rates established pursuant to ~~subdivision (a)~~ Section 84310 for the  
33 2023-24 fiscal year shall not exceed the following rates:

34 (a) The base rate in **paragraph (1) of subdivision (b) of Section 25205.2** shall  
35 not exceed one hundred eighty-nine thousand eight hundred twenty dollars  
36 (\$189,820).

37 (b) The rate for a small facility with a postclosure permit in the first five years of  
38 the postclosure period established in **paragraph (1) of subdivision (c) of Section**  
39 **25205.2** shall not exceed fifty-three thousand nine hundred sixty dollars (\$53,960).

40 (c) The rate for a medium facility with a postclosure permit in the first five years  
41 of the postclosure period established in **paragraph (2) of subdivision (c) of Section**

1 **25205.2** shall not exceed one hundred seven thousand nine hundred twenty dollars  
2 (\$107,920).

3 (d) The rate for a large facility with a postclosure permit in the first five years of  
4 the postclosure period established in **paragraph (3) of subdivision (c) of Section**  
5 **25205.2** shall not exceed one hundred sixty-one thousand eight hundred eighty  
6 dollars (\$161,880).

7 (e) The rate for a small facility with a postclosure permit after the first five years  
8 of the postclosure period established in **paragraph (1) of subdivision (d) of Section**  
9 **25205.2** shall not exceed twenty-eight thousand seven hundred fifty dollars  
10 (\$28,750).

11 (f) The rate for a medium facility with a postclosure permit after the first five  
12 years of the postclosure period established in **paragraph (2) of subdivision (d) of**  
13 **Section 25205.2** shall not exceed fifty-seven thousand five hundred dollars  
14 (\$57,500).

15 (g) The rate for a large facility with a postclosure permit after the first five years  
16 of the postclosure period established in **paragraph (3) of subdivision (d) of Section**  
17 **25205.2** shall not exceed ninety-seven thousand one hundred dollars (\$97,100).

18 (h) The rate for a facility that has been issued a Series A standardized permit  
19 established in **paragraph (1) of subdivision (f) of Section 25205.2** shall not exceed  
20 one hundred ten thousand five hundred sixty dollars (\$110,560).

21 (i) The rate for a facility that has been issued a Series B standardized permit  
22 established in **paragraph (2) of subdivision (f) of Section 25205.2** shall not exceed  
23 fifty-one thousand eight hundred twenty dollars (\$51,820).

24 (j) The rate for a facility that has been issued a Series C standardized permit  
25 established in **paragraph (3) of subdivision (f) of Section 25205.2** shall not exceed  
26 forty-three thousand five hundred twenty dollars (\$43,520).

27 (k) The rate for a facility that has been issued a Series C standardized permit  
28 established in **paragraph (4) of subdivision (f) of Section 25205.2** shall not exceed  
29 twenty-one thousand seven hundred sixty dollars (\$21,760).

30 (l) The rate for a transportable treatment unit operating pursuant to a permit-by-  
31 rule established in **paragraph (1) of subdivision (j) of Section 25205.2** shall not  
32 exceed nine thousand two hundred dollars (\$9,200).

33 (m) The rate for a generator operating under a grant of conditional authorization  
34 established in **paragraph (2) of subdivision (j) of Section 25205.2** shall not exceed  
35 nine thousand two hundred dollars (\$9,200).

36 (n) The rate for a generator performing conditionally exempted treatment  
37 established in **paragraph (3) of subdivision (j) of Section 25205.2** shall not exceed  
38 three hundred sixty dollars (\$360).

39 ~~(2) The rate limits established in this subdivision are the limits for the 2023–24~~  
40 ~~fiscal year.~~

41 **Comment.** Section 84335 restates former Section 25205.2.1(c)(1) and the first sentence of  
42 former Section 25205.2.1(c)(2) without substantive change.

43 See Sections 84180 (“facility”), 84185 “generator”), 84240 (“treatment”).

1 **§ 84340. Limitations on rates in fiscal years subsequent to 2023-24**

2 84340. (a) Beginning with the 2024-25 fiscal year, and for each fiscal year  
3 thereafter, the ~~rate~~ limit on rates specified in Section 84330 shall be adjusted  
4 annually to reflect increases or decreases in the cost of living during the prior fiscal  
5 year, as measured by the Consumer Price Index issued by the Department of  
6 Industrial Relations or by a successor agency.

7 (b) If the ~~Board of Environmental Safety~~ board determines the fee revenue  
8 collected during the preceding year was greater than, or less than, the amounts  
9 appropriated by the Legislature, the fee rates proposed by the ~~Board of~~  
10 ~~Environmental Safety~~ board shall be adjusted to compensate for the over or under  
11 collection of revenue.

12 **Comment.** Subdivision (a) of Section 84340 continues the second sentence of former Section  
13 25205.2.1(c)(2) without substantive change.

14 Subdivision (b) continues former Section 25205.2.1(d) without substantive change.

15 See Section 83090 (“board”).

16 **§ 84345. Adoption of regulations**

17 84345. (a) A regulation adopted pursuant to this ~~section~~ article may be adopted as  
18 an emergency regulation in accordance with Chapter 3.5 (commencing with Section  
19 11340) of Part 1 of Division 3 of Title 2 of the Government Code, ~~and for~~ .

20 (b) For the purposes of that chapter Chapter 3.5 (commencing with Section 11340)  
21 of Part 1 of Division 3 of Title 2 of the Government Code, including Section 11349.6  
22 of the Government Code, the adoption of these regulations is an emergency and an  
23 emergency regulation pursuant to subdivision (a) shall be considered by the Office  
24 of Administrative Law as necessary for the immediate preservation of the public  
25 peace, health, and safety, and general welfare.

26 (c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of  
27 Division 3 of Title 2 of the Government Code, an emergency regulation adopted by  
28 the department pursuant to this ~~section~~ article shall be filed with, but not be repealed  
29 by, the Office of Administrative Law.

30 (d) A regulation adopted pursuant to this ~~section~~ article shall remain in effect until  
31 repealed by the ~~Board of Environmental Safety~~ board.

32 **Comment.** Section 84345 restates former Section 25205.2.1(e) without substantive change.

33 See Sections 83090 (“board”), 83160 (“department”).

34 **Article 4. Generation and Handling Fees**

35 **§ 84355. Threshold amount of generated hazardous waste**

36 84355. (a) Except as otherwise provided in this ~~section~~ article, a generator of  
37 hazardous waste shall pay to the California Department of Tax and Fee  
38 Administration a generation and handling fee for each generator site that generates  
39 an amount equal to, or more than, five or more tons for each of hazardous waste in  
40 a calendar year, or portion of the a calendar year.

1 (b) ~~For purposes of calculating the amount of the fee imposed pursuant to~~  
2 ~~paragraph (1), a~~ A generator of hazardous waste ~~that is issued a hazardous waste~~  
3 ~~facilities permit from the department and that pays the annual facility fee, as~~  
4 ~~specified in~~ required by Section 25205.2, may deduct, from the amount of  
5 hazardous waste ~~otherwise~~ subject to this subdivision (a) that is generated per  
6 calendar year; the amount of hazardous waste ~~that is~~ stored, bulked, and transferred  
7 solely through the location of the permitted hazardous waste facility and ~~that is on~~  
8 en route to another facility that, if that second facility is authorized to do any of the  
9 following:

10 (1) Manage the hazardous waste for reclamation and recovery, including fuel  
11 blending before energy recovery at another site.

12 (2) Manage the hazardous waste through destruction methods or treatment before  
13 disposal at another site.

14 (3) Manage the hazardous waste by any form of treatment.

15 (4) Dispose of the hazardous waste.

16 (c) The fee imposed pursuant to this section shall be paid in accordance with Part  
17 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation  
18 Code.

19 (d) This section ~~shall become~~ became operative on January 1, 2022, and applies  
20 to ~~the~~ generation and handling fees imposed pursuant to subdivision (a) for  
21 hazardous waste generated on or after January 1, 2021.

22 **Comment.** Subdivision (a) of Section 84355 restates former Section 25205.5(a)(1) without  
23 substantive change.

24 Subdivision (b) restates former Section 25205.5(a)(4) without substantive change.

25 Subdivision (c) restates former Section 25205.5(b) without substantive change.

26 Subdivision (d) restates former Section 25205.5(c) without substantive change.

27 See Section 83160 (“department”), 84175 (“disposal”), 84180 (“facility”), 84185 (generator”),  
28 84190 (“hazardous waste”), 84240 (“treatment”).

29 **Staff Note. Public comment is welcome on whether the restatement of any of the provisions**  
30 **of existing Section 25205.5 substantively changes existing law.**

31 **§ 84360. Generation and handling fee rates**

32 84360. (a) For the 2022–23 fiscal year, the generation and handling fee rate shall  
33 be forty-nine dollars and twenty-five cents (\$49.25) for each ton or fraction of a ton  
34 of hazardous waste generated in calendar year 2021.

35 (b) Commencing July 1, 2023, the generation and handling fee rates established  
36 pursuant to Section ~~25205.5.01~~ 84365 shall apply to each ton, ~~including the first~~  
37 ~~five tons~~, or fraction of a ton rounded up to the next nearest ton, of hazardous waste  
38 generated.

39 (c) This section became operative on January 1, 2022, and applies to the  
40 generation and handling fees imposed pursuant to subdivision (a) for hazardous  
41 waste generated on or after January 1, 2021.

1 **Comment.** Subdivision (a) of Section 84360 restates former Section 25205.5(a)(2) without  
2 substantive change.

3 Subdivision (b) restates former Section 25205.5(a)(3) without substantive change.

4 Subdivision (c) continues former Section 25205.5(c) without substantive change.

5 See Section 84190 (“hazardous waste”).

6 **§ 84365. Establishment of generation and handling fee rates**

7 84365. (a) The ~~Board of Environmental Safety~~ board shall establish, by  
8 regulation, a rate schedule of rates for the generation and handling fee authorized  
9 by Section ~~25205.5~~ 84360, to be applicable commencing July 1, 2023, ~~and~~.

10 (b) The board may thereafter adjust the rate schedule of rates no more frequently  
11 than once per year ~~thereafter~~, and no later than October 1 of any year in which the  
12 ~~Board of Environmental Safety~~ board adopts the rate schedule of rates for the  
13 generation and handling fee.

14 (c) A regulation adopted pursuant to this section may be adopted as an emergency  
15 regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part  
16 1 of Division 3 of Title 2 of the Government Code, ~~and for~~.

17 (d) For the purposes of that chapter Chapter 3.5 (commencing with Section 11340)  
18 of Part 1 of Division 3 of Title 2 of the Government Code, including Section 11349.6  
19 of the Government Code, the adoption of these regulations an emergency regulation  
20 pursuant to this section is an emergency, and shall be considered by the Office of  
21 Administrative Law as necessary for the immediate preservation of the public peace,  
22 health, and safety, and general welfare.

23 (e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of  
24 Division 3 of Title 2 of the Government Code, an emergency regulation adopted by  
25 the department pursuant to this section shall be filed with, but not be repealed by,  
26 the Office of Administrative Law.

27 (f) A regulation adopted pursuant to this section shall remain in effect until  
28 repealed by the ~~Board of Environmental Safety~~ board.

29 (g) This section ~~shall become~~ became operative on January 1, 2022.

30 **Comment.** Subdivision (a) of Section 84365 continues the first half of former Section  
31 25205.5.01(a)(1) without substantive change.

32 Subdivision (b) continues the second half of former Section 25205.5.01(a)(1) without substantive  
33 change.

34 Subdivision (c) continues the first half of the first sentence of former Section 25205.5.01(e)  
35 without substantive change.

36 Subdivision (d) continues the second half of the first sentence of former Section 25205.5.01(e)  
37 without substantive change.

38 Subdivision (e) continues the second sentence of former Section 25205.5.01(e) without  
39 substantive change.

40 Subdivision (f) continues the third sentence of former Section 25205.5.01(e) without substantive  
41 change.

42 Subdivision (g) continues former Section 25205.5.01(f) without substantive change.

43 See Section 83090 (“board”), 83160 (“department”).

44 **Staff Note.** Existing Section 25205.5.1(a)(2), which would be continued by proposed Section  
45 84365(b), currently contains a reference to the term “board.”

1 The term “board” is currently defined by existing Section 25110.3, for purposes of the entirety  
2 of Chapter 6.5, to mean the Board of Environmental Safety. However, the term is also defined by  
3 existing Section 25205.01, for purposes of the Article in which existing Section 25205.6.1 appears,  
4 to mean the State Board of Equalization. Nevertheless, as explained in a Staff Note following  
5 proposed Section 84155, the staff believes the term “board” as used in existing Section 25205.5.1  
6 is meant to be a reference to the Board of Environmental Safety.

7 **Public comment is welcome on whether the term “board” as used in existing Section**  
8 **25205.5.1(a)(2) is intended to refer to the Board of Environmental Safety, or the State Board**  
9 **of Equalization.**

10  
11 **§ 84375. Generation and handling fee for imported hazardous waste**

12 84375. (a) On and after January 1, 2022, the operator of a facility receiving for  
13 hazardous waste imported into this state for purposes of treatment, recycling, or  
14 disposal, ~~the operator of the facility receiving the imported hazardous waste~~ shall  
15 pay the applicable generation and handling fee.

16 (b) This section ~~shall become~~ became operative on January 1, 2022, and shall  
17 apply to the generation and handling fees due for the 2022 reporting period and  
18 thereafter, including the prepayments due during the reporting period and the fee  
19 due and payable by February 28 of the year following the reporting period.

20 **Comment.** Section 84375 continues former Section 25205.22 without substantive change.

21 See Sections 84175 (“disposal”), 84180 (“facility”), 84190 (“hazardous waste”), 83325  
22 (“recycling”), 84240 (“treatment”).

23 **§ 84380. Provision of generation and handling fee rates to Department of Tax and Fee**  
24 **Administration**

25 84380. (a) No later than October 1 of each year, the board shall provide the  
26 California Department of Tax and Fee Administration the generation and handling  
27 fee rates that have been modified pursuant to ~~this section~~ Section 84365.

28 (b) This section ~~shall become~~ became operative on January 1, 2022.

29 **Comment.** Subdivision (a) of Section 84380 continues former Section 25205.5.01(a)(2) without  
30 substantive change.

31 Subdivision (b) continues former Section 25205.5.01(f) without substantive change.

32 See Section 83090 (“board”).

33 **Staff Note.** Existing Section 25205.5.01(a)(2), which would be continued by proposed Section  
34 84380, requires the “board” to provide the California Department of Tax and Fee Administration  
35 fee rates that have been modified pursuant to existing Section 25205.5.01(a)(1), which would be  
36 continued by proposed Section 84375(b).

37 The term “board” is defined by existing Section 25110.3, for purposes of the entirety of Chapter  
38 6.5, to mean the Board of Environmental Safety. The term is also defined by existing Section  
39 25205.01, for purposes of the Article in which existing Section 25205.5.01 appears, to mean the  
40 State Board of Equalization. However, as explained in a Staff Note following proposed Section  
41 84155, the staff believes that this reference to the “board” in 25205.5.01(a)(2) is meant to be a  
42 reference to the Board of Environmental Safety.

43 **Public comment is welcome on whether the term “board” in existing Section**

1 **25205.5.01(a)(2) is intended to refer to the Board of Environmental Safety, or the State Board**  
2 **of Equalization.**

3 **§ 84385. Basis of rates for generation and handling fees**

4 84385. (a) The generation and handling rate schedule of rates established pursuant  
5 to ~~subdivision (a)~~ Section 84365 shall be based on both of the following:

6 (1) The costs of the administration and collection of fees.

7 (2) Statewide general administrative costs assessed to the Hazardous Waste  
8 Control Account for that purpose.

9 (b)(1) The scheduled rates shall allow for a reserve in the Hazardous Waste  
10 Control Account each year at in an amount determined by the ~~Board of~~  
11 Environmental Safety board to be sufficient to ensure that ~~all programs~~ no program  
12 funded by the Hazardous Waste Control Account will ~~not~~ be adversely affected by  
13 any revenue ~~shortfalls~~ shortfall or additional baseline expenditure ~~adjustments~~  
14 adjustment, but not to

15 (2) Notwithstanding paragraph (1), the reserve identified in paragraph (1) shall  
16 not exceed 10 percent of authorized expenditure levels.

17 (c) This section ~~shall become~~ became operative on January 1, 2022.

18 **Comment.** Subdivision (a) of Section 84385 continues former Section 25205.5.01(b)(1) without  
19 substantive change.

20 Subdivision (b) continues former Section 25205.5.01(b)(3) without substantive change.

21 Subdivision (c) continues former Section 25205.5.01(f) without substantive change

22 See Section 83090 (“board”).

23 **§ 84390. Conformity of generation and handling fee revenues with appropriations by**  
24 **Legislature**

25 84390. (a) The total amount of generation and handling fee revenues collected  
26 each fiscal year shall conform with the amounts appropriated by the Legislature for  
27 that fiscal year from the Hazardous Waste Facilities Account for expenditure, as  
28 authorized pursuant to **Section 25174.**

29 (b) This section ~~shall become~~ became operative on January 1, 2022.

30 **Comment.** Subdivision (a) of Section 84390 continues former Section 25205.5.01(b)(2) without  
31 substantive change.

32 Subdivision (b) continues former Section 25205.5.01(f) without substantive change.

33 **Staff Note.** Public comment is welcome on the intended meaning of existing Section  
34 25205.5.01(b)(2), which would be continued by proposed Section 84390, to allow for possible  
35 clarification of the text of the section.

36 **Specifically, is this provision intended to be a limitation on the total amount of fee revenues**  
37 **collected in any fiscal year, or on the amounts appropriated by the Legislature from the**  
38 **Hazardous Waste Facilities Account for expenditure for that fiscal year?**

1 § 84395. Limitations in establishing generation and handling fee rates

2 84395. (a) The generation and handling fee rate established by the ~~Board of~~  
3 ~~Environmental Safety board~~ pursuant to ~~subdivision (a)~~ Section 84365 shall not  
4 exceed ninety-eight dollars and fifty cents (\$98.50).

5 ~~(2) The rate limit established in this subdivision is the limit for the 2023–24 fiscal~~  
6 ~~year.~~

7 (b) Beginning with the 2024–25 fiscal year, and for each fiscal year thereafter, the  
8 generation and handling fee rate ~~limit~~ shall be adjusted annually to reflect increases  
9 or decreases in the cost of living during the prior fiscal year, as measured by the  
10 Consumer Price Index issued by the Department of Industrial Relations or by a  
11 successor agency.

12 (c) If the ~~Board of Environmental Safety board~~ determines the generation and  
13 handling fee revenue collected during the preceding year was greater than, or less  
14 than, the amounts appropriated by the Legislature, the generation and handling fee  
15 rates proposed by the ~~Board of Environmental Safety board~~ shall be adjusted to  
16 compensate for the over or under collection of revenue.

17 (d) This section ~~shall become~~ became operative on January 1, 2022.

18 **Comment.** Subdivision (a) of Section 84395 continues former Section 25205.5.01(c)(1) and the  
19 first sentence of subdivision (c)(2) without substantive change.

20 Subdivision (b) continues the second sentence of subdivision (c)(2) without substantive change.

21 Subdivision (c) continues former Section 25205.5.01(d) without substantive change.

22 Subdivision (d) continues former Section 25205.5.01(f) without substantive change.

23 See Section 83090 (“board”).

24 § 84400. Exemptions from generation and handling fee generally

25 84400. (a) ~~(1)~~ The department shall adopt regulations to establish a process for  
26 evaluating exemptions from ~~the~~ a generation and handling fee imposed pursuant to  
27 ~~25205.5~~ this article claimed by a generator.

28 (b) The department shall adopt these regulations in consultation with the  
29 California Department of Tax and Fee Administration, and after conducting one or  
30 more public workshops for which the department provides public notice and  
31 provides an opportunity for all interested parties to comment.

32 (c) The regulations adopted pursuant to this section shall establish both of the  
33 following:

34 (1) The criteria and process for evaluating exemption claims.

35 (2) The information a ~~claimant~~ generator claiming an exemption is required to  
36 submit to the department.

37 (d) A regulation adopted pursuant to this section may be adopted as an emergency  
38 regulation pursuant to Section **25205.5.4**.

39 **Comment.** Section 84400 continues former Section 25205.5.3 without substantive change.

40 See Sections 83160 (“department”), 84185 (“generator”).

1 § 84405. Exemptions from generation and handling fee for victims of disasters

2 84405. (a) ~~Notwithstanding Section 25205.5 any other provision of this article,~~  
3 the department may adopt regulations exempting ~~victims of disasters~~ a victim of a  
4 disaster from the generation and handling fee imposed pursuant to ~~Section 25205.5~~  
5 this article.

6 (b) The regulations may allow that exemption if all of the following apply:

7 (1) The hazardous waste that is the basis for the fee is generated in a geographical  
8 area identified in a state of emergency proclamation by the Governor pursuant to  
9 Section 8625 of the Government Code ~~because of~~ attributable to fire, flood, storm,  
10 earthquake, riot, or civil unrest.

11 (2) The hazardous waste that is the basis for the fee is generated when property  
12 owned or controlled by the victim is damaged or destroyed as a result of the disaster.

13 (3) The hazardous waste ~~is not hazardous waste~~ that is the basis for the fee is not  
14 routinely produced as part of a manufacturing or commercial business ~~or that is~~ .

15 (4) The hazardous waste that is the basis for the fee is not managed by a hazardous  
16 waste facility ~~or~~ .

17 (5) The hazardous waste that is the basis for the fee is not managed by a facility  
18 operated by a generator of hazardous waste who files a hazardous waste notification  
19 statement with the department pursuant to **subdivision (a) of Section 25158.**

20 (6) The victim of the disaster meets any other condition or limitation on eligibility  
21 specified by the department.

22 (c) This section ~~shall become~~ became operative on January 1, 2022, and shall  
23 apply to ~~the~~ generation and handling fees due for the 2022 reporting period and  
24 thereafter, including ~~the~~ prepayments due during the reporting period and ~~the fee~~  
25 fees due and payable following the reporting period.

26 **Comment.** Subdivision (a) of Section 84405 continues the first introductory sentence of former  
27 Section 25205.5.1 without substantive change.

28 Subdivision (b) continues the second introductory sentence of former Section 25205.5.1, and  
29 former Section 25205.5.1(a) through (d), without substantive change.

30 Subdivision (c) continues former Section 25205.5.1(e) without substantive change.

31 See Sections 83160 (“department”), 84180 (“facility”), 84185 (“generator”), 84190 (“hazardous  
32 waste”).

33 **Staff Notes.** (1) Proposed Section 84405 would restate existing Section 25205.5.1 for clarity.

34 **Public comment is welcome on whether any aspect of this restatement would substantively**  
35 **change the intended meaning of any provision in existing Section 25205.5.1.**

36 (2) Existing Section 25205.5.1(a) contains a reference to “hazardous waste ... generated in a  
37 geographical area identified in a state of emergency proclamation by the Governor.”

38 **Public comment is welcome on whether the referenced state of emergency proclamation**  
39 **needs to be in effect at the time of the generation of hazardous waste, or at any time relevant**  
40 **to the provisions of existing Section 25205.5.1.**

1 (3) Existing Section 25205.5.1(b) contains a reference to “hazardous waste generated when  
2 property owned or controlled by the victim is damaged or destroyed as a result of the disaster.”

3 **Public comment is welcome on any intended relationship in time between the generation of**  
4 **the hazardous waste and the damage or destruction suffered by the specified victim.**

5 Article 4. Annual Fees

6 **§ 84420. Annual fees for organizations engaged with hazardous materials**

7 84420. (a) For purposes of this section, “organization” means a corporation,  
8 limited liability company, limited partnership, limited liability partnership, general  
9 partnership, and sole proprietorship.

10 (b) On or before October 1 of each year, the department shall adopt and provide  
11 the California Department of Tax and Fee Administration with a schedule of codes  
12 ~~that consists of~~ identifying the types of organizations that use, generate, store, or  
13 conduct activities in this state related to hazardous materials, as defined in Section  
14 **25501**, including, but not limited to, hazardous waste.

15 (1) The schedule shall consist of identification codes from one of the following  
16 classification systems, as deemed suitable by the department:

17 (A) The Standard Industrial Classification (SIC) system established by the United  
18 States Department of Commerce.

19 (B) The North American Industry Classification System (NAICS) adopted by the  
20 United States Census Bureau.

21 (c) Each organization of a type identified in the schedule adopted pursuant to  
22 subdivision (a) shall pay an annual fee in accordance with Section 43152.9 of the  
23 Revenue and Taxation Code for the fiscal year in which it is assessed.

24 (d) For purposes of this section, the number of employees employed by an  
25 organization is the number of persons employed in this state for more than 500 hours  
26 during the calendar year preceding the calendar year in which the fee is due.

27 (e) The annual ~~fee amounts~~ fees for the 2022–23 fiscal year shall be set at the  
28 following amounts:

29 (1) One thousand two hundred sixty-one dollars (\$1,261) for ~~those~~ organizations  
30 with ~~100 or more employees, but fewer than 250~~ 100 – 249 employees.

31 (2) Two thousand seven hundred six dollars (\$2,706) for ~~those~~ organizations with  
32 ~~250 or more employees, but fewer than 500~~ 250 – 499 employees.

33 (3) Sixteen thousand dollars (\$16,000) for ~~those~~ organizations with ~~500 or more~~  
34 ~~employees, but fewer than 1,000~~ 500 – 999 employees.

35 (4) Fifty-four thousand one hundred dollars (\$54,100) for ~~those~~ organizations  
36 with 1,000 or more employees.

37 (f) Commencing July 1, 2023, the fee rates established pursuant to Section  
38 **25205.6.1** shall apply.

39 (g) The fee imposed pursuant to this section shall be paid by each organization  
40 ~~that is identified~~ in the schedule adopted pursuant to subdivision (b) in accordance

1 with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and  
2 Taxation Code and shall be deposited in the Toxic Substances Control Account.

3 (h) The revenues from fees imposed pursuant to this section shall be available,  
4 upon appropriation by the Legislature, for the purposes specified in **subdivision (b)**  
5 **of Section 25173.6**.

6 ~~(g)~~ ~~(1)~~ (i) Pursuant to paragraph (3) of subsection (c) of Section 104 of the federal  
7 Comprehensive Environmental Response, Compensation, and Liability Act of  
8 1980, as amended (42 U.S.C. Sec. 9604(c)(3)), the state is obligated to pay specified  
9 costs of removal and remedial actions carried out pursuant to the federal  
10 Comprehensive Environmental Response, Compensation, and Liability Act of  
11 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

12 ~~(2)~~ (j) The fee rates specified in subdivision (c) are intended to provide sufficient  
13 revenues to fund the purposes of **subdivision (b) of Section 25173.6**, including  
14 appropriations in any given fiscal year to fund the state's obligation pursuant to  
15 paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive  
16 Environmental Response, Compensation, and Liability Act of 1980, as amended (42  
17 U.S.C. Sec. 9604(c)(3)).

18 (k) This section does not apply to a nonprofit corporation primarily engaged in  
19 the provision of residential social and personal care for children, the aged, and  
20 special categories of persons with some limits on their ability for self-care, as  
21 described in SIC Code 8361 of the Standard Industrial Classification (SIC) Manual  
22 published by the United States Office of Management and Budget, 1987 edition or  
23 as described in Codes 623220, 623312, and 623990 of the North American Industry  
24 Classification System (NAICS) published by the United States Office of  
25 Management and Budget, 2017 edition.

26 (l) This section ~~shall become~~ became operative on January 1, 2022.

27 **Comment.** Section 84420 continues former Section 25205.6 without substantive change.

28 See Sections 83160 (“department”), 84190 (“hazardous waste”).

29 **§ 84425. Establishment of schedule of annual fee rates**

30 84425. (a) (1) The ~~Board of Environmental Safety~~ board shall establish, by  
31 regulation, a rate schedule ~~of rates~~ for the fees authorized by Section **25205.6** to be  
32 applicable commencing July 1, 2023, and may adjust the rate schedule ~~of rates~~ no  
33 more ~~frequently~~ than once per year and no later than October 1 of any year in which  
34 the board adopts the rate schedule ~~of rates~~.

35 (2) No later than October 1 of each year, the Board of Environmental Safety shall  
36 provide the California Department of Tax and Fee Administration the fee rates that  
37 have been modified pursuant to this section.

38 (b) (1) The rate schedule ~~of rates~~ established pursuant to subdivision (a) shall be  
39 based on both of the following:

40 (A) The costs of the administration and collection of the fees.

41 (B) Statewide general administrative costs assessed to the account for that fiscal  
42 year.

1 (2) The total amount of fee revenues collected each fiscal year shall conform with  
2 the amounts appropriated by the Legislature for that fiscal year from the Toxic  
3 Substances Control Account for expenditure as authorized pursuant to Section  
4 25173.6.

5 (3) The rates shall allow for a reserve in the Toxic Substances Control Account  
6 each year at an amount determined by the board to be sufficient to ensure that all  
7 programs funded by the Toxic Substances Control Account will not be adversely  
8 affected by any revenue shortfalls or additional baseline expenditure adjustments,  
9 but not to exceed 10 percent of the authorized expenditure levels.

10 (c) (1) The rates established pursuant to subdivision (a) shall be set for the  
11 following categories, and shall not exceed the ~~levels noted~~ following amounts:

12 (A) ~~Organizations with 100 or more employees, but fewer than 250~~ Two thousand  
13 five hundred twenty-two dollars (\$2,522) for organizations with 100 – 249  
14 employees. This fee shall not exceed two thousand five hundred twenty two dollars  
15 (\$2,522).

16 (B) ~~Organizations with 250 or more employees, but fewer than 500~~ Five thousand  
17 four hundred twelve dollars (\$5,412) for organizations with 250 – 499 employees.  
18 This fee shall not exceed five thousand four hundred twelve dollars (\$5,412).

19 (C) ~~Organizations with 500 or more employees, but fewer than 999~~ Thirty-two  
20 thousand dollars (\$32,000) for organizations with 500 – 999 employees. This fee  
21 shall not exceed thirty two thousand dollars (\$32,000).

22 (D) ~~Organizations with 1,000 or more~~ One hundred eight thousand two hundred  
23 dollars (\$108,200) for organizations with 1,000 or more employees. This fee shall  
24 not exceed one hundred eight thousand two hundred dollars (\$108,200).

25 (2) The rate limits established in this subdivision are the limits for the 2023–24  
26 fiscal year. Beginning with the 2024–25 fiscal year, and for each fiscal year  
27 thereafter, the rate limits shall be adjusted annually to reflect increases or decreases  
28 in the cost of living during the prior fiscal year, as measured by the Consumer Price  
29 Index issued by the Department of Industrial Relations or by a successor agency.

30 (d) A regulation adopted pursuant to this section may be adopted as an emergency  
31 regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part  
32 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that  
33 chapter, including Section 11349.6 of the Government Code, the adoption of these  
34 regulations is an emergency and shall be considered by the Office of Administrative  
35 Law as necessary for the immediate preservation of the public peace, health, and  
36 safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with  
37 Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an  
38 emergency regulation adopted by the department pursuant to this section shall be  
39 filed with, but not be repealed by, the Office of Administrative Law.

40 (e) A regulation adopted pursuant to this section shall remain in effect until  
41 repealed by the ~~Board of Environmental Safety~~ board.

42 **Comment.** Section 84425 continues former Section 25205.6.1 without substantive change.  
43 See Sections 83090 (“board”), 83160 (“department”).

1 **Staff Note.** Existing Section 25205.6.1(a)(1) and (a)(3), which would be continued by proposed  
2 Section 84425(a)(1) and (a)(3), each contain a reference to the term “board.”

3 The term “board” is defined by existing Section 25110.3, for purposes of the entirety of Chapter  
4 6.5, to mean the Board of Environmental Safety. However, the term is also defined by existing  
5 Section 25205.01, for purposes of the Article in which existing Section 25205.6.1 appears, to mean  
6 the State Board of Equalization. Nevertheless, as explained in a Staff Note following proposed  
7 Section 84155, the staff believes the term “board” as used in these two occasions in existing Section  
8 25205.5.1 is meant to be a reference to the Board of Environmental Safety.

9 **Public comment is welcome on whether the term “board” as used in existing Section**  
10 **25205.6.1(a)(1) and (a)(3) is intended to refer to the Board of Environmental Safety, or the**  
11 **State Board of Equalization.**

12 **§ 84430. Capacity of facility**

13 84430. (a) If a facility has a permit or an interim status document which sets forth  
14 the facility’s allowable capacity for treatment or storage, the facility’s size for  
15 purposes of the annual facility fee pursuant to **Section 25205.2** shall be based upon  
16 that capacity, except as provided in subdivision (d).

17 (b) If a facility’s allowable capacity changes or is initially established as a result  
18 of a permit modification, or a submission of a certification pursuant to subdivision  
19 (d), the fee that is due for the reporting period in which the change occurs shall be  
20 the higher fee.

21 (c) The department may require the facility to submit an application to modify its  
22 permit to provide for an allowable capacity.

23 (d) A facility may reduce its allowable capacity below the amounts specified in  
24 subdivision (a) or (c) by submitting a certification signed by the owner or operator  
25 in which the owner or operator pledges that the facility will not handle hazardous  
26 waste at a capacity above the amount specified in the certification.

27 ~~(e) In that case~~ If the certification set forth in subdivision (d) is submitted, the  
28 facility’s size for purposes of the annual facility fee pursuant to **Section 25205.2**  
29 shall be based upon the capacity specified in the certification, until the certification  
30 is withdrawn.

31 (f) Exceeding the capacity limits specified in a certification that has not been  
32 withdrawn shall be a violation of the hazardous waste control law and may subject  
33 a facility or its operator to a penalty and corrective action as provided in this chapter.

34 (g) This section shall have no bearing on the imposition of the annual postclosure  
35 facility fee.

36 **Comment.** Subdivision (a) of Section 84430 continues former Section 25205.18(a) without  
37 substantive change.

38 Subdivision (b) continues former Section 25205.18(b) without substantive change.

39 Subdivision (c) continues former Section 25205.18(c) without substantive change.

40 Subdivision (d) continues the first sentence of former Section 25205.18(d) without substantive  
41 change.

42 Subdivision (e) continues the second sentence of former Section 25205.18(d) without substantive  
43 change.

44 Subdivision (f) continues the third sentence of former Section 25205.18(d) without substantive  
45 change.

1 Subdivision (g) continues former Section 25205.18(e) without substantive change.  
2 See Sections Section 83160 (“department”), 84180 (“facility”), 84190 (“hazardous waste”),  
3 84235 (“storage”), 84240 (“treatment”).

4 **§ 84435. Type of facility**

5 84435. (a) If a facility has a permit or an interim status document ~~which~~ that sets  
6 forth the facility’s type, pursuant to Section **25205.1**, as either a treatment, storage,  
7 or disposal facility, the facility’s type for purposes of the annual facility fee pursuant  
8 to Section **25205.2** shall be rebuttably presumed to be ~~what is~~ the type set forth in  
9 that permit or document.

10 (b) If the facility’s type changes as a result of a permit or interim status  
11 modification, any change in the annual facility fee shall be effective the reporting  
12 period following the one in which the modification becomes effective.

13 (c) If the facility’s permit or interim status document does not set forth its type,  
14 the department may require the facility to submit an application to modify the permit  
15 or interim status document to provide for a facility type.

16 (d) A permit or interim status document may set forth more than one facility type  
17 or size. In accordance with **subdivision (d) of Section 25205.4**, the facility shall be  
18 subject only to the highest applicable fee.

19 **Comment.** Section 84435 continues former Section 25205.19 without substantive change.  
20 See Sections 83160 (“department”), 84175 (“disposal”), 84180 (“facility”), 84235 (“storage”),  
21 84240 (“treatment”).

22 Article 5. General Provisions

23 **§ 84445. Contesting of imposed fee**

24 84445. (a) Notwithstanding Chapter 3 (commencing with Section 43151) of Part  
25 22 of Division 2 of the Revenue and Taxation Code, at the request of any party  
26 contesting any fee imposed pursuant to **this chapter** or Part 2 (commencing with  
27 Section 78000) of Division 45, the department may hold an informal conference to  
28 attempt to settle the dispute.

29 (b) Upon the payment of any sum agreed upon between the contesting party and  
30 the department in settlement of the disputed fee liability, the liable person shall be  
31 released from any further liability for payment of the disputed fee.

32 **Comment.** Section 84445 continues former Section 25205.23 without substantive change.  
33 See Section 83160 (“department”).

34 **§ 84450. Regulations needed to implement fees generally**

35 84450. (a) The department may adopt, amend, or repeal, in accordance with the  
36 Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
37 Part 1 of Division 3 of Title 2 of the Government Code), regulations as may be  
38 necessary to implement the fees imposed pursuant to ~~this article~~ this chapter.

39 (b) Regulations adopted by the department pursuant to this section shall be  
40 developed in consultation with the ~~Board of Environmental Safety~~ board.

1 (c) The department shall conduct one or more public workshops before adopting  
2 the proposed regulations.

3 (d) Regulations adopted by the department pursuant to this section and **Section**  
4 **25205.5.3** may be adopted as emergency regulations in accordance with the  
5 Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
6 Part 1 of Division 3 of Title 2 of the Government Code), and for purposes of that  
7 act, including Section 11349.6 of the Government Code, the adoption of the  
8 regulations is an emergency and shall be considered by the Office of Administrative  
9 Law as necessary for the immediate preservation of the public peace, health, and  
10 safety, and general welfare.

11 (e) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing  
12 with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code),  
13 emergency regulations adopted by the department pursuant to this section shall be  
14 filed with, but not be repealed by, the Office of Administrative Law, and shall  
15 remain in effect until repealed by the department.

16 **Comment.** Subdivision (a) of Section 84450 continues former Section 25205.5.4(a) without  
17 substantive change.

18 Subdivision (b) continues the first sentence of former Section 25205.5.4(b) without substantive  
19 change.

20 Subdivision (c) continues the second sentence of former Section 25205.5.4(b) without  
21 substantive change.

22 Subdivision (d) continues the first sentence of former Section 25205.5.4(c) without substantive  
23 change.

24 Subdivision (e) continues the second sentence of former Section 25205.5.4(c) without  
25 substantive change.

26 See Sections 83090 (“board”), 83160 (“department”).

## 27 Article 6. Miscellaneous Provisions

28 **Staff Note.** The five code sections from existing Article 9.1 that appear in the following article  
29 of the proposed recodification appear on their face to be either unrelated to Facility and Generator  
30 Fees, which is the subject of existing Article 9.1, or obsolete.

31 **Public comment is welcome on whether any of the recodified provisions that follow should**  
32 **either be either discontinued or placed in another location in the recodification of Chapter**  
33 **6.5 recommended by the Commission.**

### 34 § 84460. Reimbursement to department for costs

35 84460. (a)(1) A person who applies for, or requests, any of the following shall  
36 enter into a written agreement with the department pursuant to which that person  
37 shall reimburse the department, pursuant to **Article 9.2 (commencing with Section**  
38 **25206.1)**, for the costs incurred by the department in processing the application or  
39 responding to the request:

40 (A) A new hazardous waste facilities permit, including a standardized permit.

41 (B) A hazardous waste facilities permit for postclosure.

1 (C) A renewal of an existing hazardous waste facilities permit, including a  
2 standardized permit or postclosure permit.

3 (D) A class 2 or class 3 modification of an existing hazardous waste facilities  
4 permit or grant of interim status, including a standardized permit or grant of interim  
5 status or a postclosure permit.

6 (E) A variance.

7 (F) A waste classification determination.

8 (2) (A) Except as provided in subparagraph (B), an agreement required pursuant  
9 to paragraph (1) shall provide for at least 25 percent of the reimbursement to be  
10 made in advance of the processing of the application or the response to the request.  
11 The 25-percent advance payment shall be based upon the department's total  
12 estimated costs of processing the application or response to the request.

13 (B) Subparagraph (A) shall not apply with regard to an agreement entered into by  
14 a facility owned by a federal agency.

15 (3) An agreement entered into pursuant to this section shall, if applicable, include  
16 the department's costs of reviewing and overseeing corrective action as set forth in  
17 subdivision (b).

18 (b) An applicant pursuant to paragraph (1) of subdivision (a) and the owner and  
19 the operator of the facility shall pay the department's costs in reviewing and  
20 overseeing any corrective action program described in the application for a  
21 standardized permit pursuant to **subparagraph (C) of paragraph (2) of**  
22 **subdivision (c) of Section 25201.6** or required pursuant to **subdivision (b) of**  
23 **Section 25200.10**, and in reviewing and overseeing any corrective action work  
24 undertaken at the facility pursuant to that corrective action program.

25 (c)(1) An applicant pursuant to paragraph (1) of subdivision (a) and the owner and  
26 the operator of the facility shall, pursuant to Section 21089 of the Public Resources  
27 Code, pay all costs incurred by the department for purposes of complying with the  
28 California Environmental Quality Act (Division 13 (commencing with Section  
29 21000) of the Public Resources Code), in conjunction with an application or request  
30 for any of the activities identified in subdivision (a), including any activities  
31 associated with correction action.

32 (2) Paragraph (1) does not apply to projects that are exempt from the California  
33 Environmental Quality Act (Division 13 (commencing with Section 21000) of the  
34 Public Resources Code).

35 (d) Reimbursements received pursuant to this section shall be placed in the  
36 Hazardous Waste Control Account for appropriation in accordance with Section  
37 **25174**.

38 (e) Subdivision (a) does not apply to a variance granted pursuant to Article 4  
39 (commencing with Section 66263.40) of Chapter 13 of Division 4.5 of Title 22 of  
40 the California Code of Regulations.

41 (f) Subdivision (a) does not apply to any of the following:

42 (1) A variance issued to a public agency to transport wastes for purposes of  
43 operating a ~~household hazardous waste collection facility or to transport or~~

1 transporting waste from a household hazardous waste collection facility, which that  
2 receives household hazardous waste or hazardous waste from very small quantity  
3 generators pursuant to **Article 10.8 (commencing with Section 25218).**

4 (2) A permanent household hazardous waste collection facility.

5 (3) A variance issued to a public agency to conduct a collection program for  
6 agricultural wastes.

7 (g) Fees imposed pursuant to this section shall be administered and collected by  
8 the department.

9 (h) (1) The changes made in this section by Chapter 340 of the Statutes of 2016  
10 apply to applications and requests submitted to the department on and after April 1,  
11 2016.

12 (2) If, on and after April 1, 2016, an applicant has submitted an application and  
13 paid a fee pursuant to subdivision (d), as that subdivision read on April 1, 2016, but  
14 before September 13, 2016, the department shall determine the difference between  
15 the amount paid by the applicant and the amount due pursuant to subdivision (a),  
16 and that applicant shall be liable for that amount.

17 **Comment.** Section 84460 continues former Section 25205.7 without substantive change.  
18 See Section 84180 (“facility”).

19 **Staff Note.** Public comment is welcome on whether the proposed revision of existing Section  
20 25205.7(f)(1), which would be continued by proposed Section 84460(f)(1), would substantively  
21 change the intended meaning of the existing provision.

22 **§ 84465. Notifications relating to 1993 reporting period**

23 84465. (a) Notwithstanding any other provision of law ~~or regulation~~, for the 1993  
24 reporting period, the deadline for submitting permit-by-rule fixed treatment unit  
25 facility-specific notifications and unit-specific notifications is April 1, 1993, or 60  
26 days prior to commencing the first treatment of that waste, whichever date is later.

27 (b) The development and publication of the notification form for a fixed or  
28 transportable treatment unit operating pursuant to a permit-by-rule, as specified in  
29 subdivisions (a) and (b) of Section 67450.2 of Title 22 of the California Code of  
30 Regulations, is not subject to Chapter 3.5 (commencing with Section 11340) of Part  
31 1 of Division 3 of Title 2 of the Government Code. The department shall hold at  
32 least one public workshop concerning the development of the notification form.

33 (c) A facility or transportable treatment unit operating pursuant to a permit-by-  
34 rule shall provide the following information with the notifications required pursuant  
35 to subdivisions (a) and (b) of Section 67450.2 of Title 22 of the California Code of  
36 Regulations:

37 (1) The basis for determining that a hazardous waste facility permit is not required  
38 under the federal act.

39 (2) Documentation of any convictions, judgments, settlements, or orders resulting  
40 from an action by any local, state, or federal environmental or public health  
41 enforcement agency concerning the operation of the facility within the last three

1 years, as the documents would be available under the California Public Records Act  
2 (Division 10 (commencing with Section 7920.000) of Title 1 of the Government  
3 Code) or the Information Practices Act of 1977 (Chapter 1 (commencing with  
4 Section 1798) of Title 1.8 of Part 4 of the Civil Code).

5 (3) A waste minimization certificate, as specified in Section **25202.9**.

6 (d) The facility or transportable treatment unit operating pursuant to a permit-by-  
7 rule shall treat only waste that is generated onsite.

8 **Comment.** Section 84465 continues former Section 25205.13 without substantive change.

9 **Staff Note.** The opening clause of existing Section 25205.13 reads “Notwithstanding any other  
10 provision of law or regulation,…” In proposed Section 84465(a), the reference to “regulation” is  
11 proposed to be deleted, based on a rationale that regulations are also laws.

12 **Public comment is welcome on whether the deletion of the reference to “regulation” in**  
13 **proposed Section 84465 would cause any confusion, or a substantive change to existing law.**

14 **§ 84470. Identification number certification system**

15 84470. (a) The department shall establish an identification number certification  
16 system to annually verify the accuracy of information related to generators,  
17 transporters, and facilities authorized to treat, store, or dispose of hazardous waste.  
18 Each entity issued an identification number shall provide or verify the information  
19 specified in paragraphs (1) to (9), inclusive, when requested by the department. The  
20 system shall include the provision or verification of all of the following information:

21 (1) The name, mailing address, facsimile number, fictitious business name,  
22 federal employer number, California Department of Tax and Fee Administration  
23 identification number, SIC code, email address, if available, and telephone number  
24 of the firm or organization engaged in hazardous waste activities.

25 (2) The name, mailing address, facsimile number, and telephone number of the  
26 owner of the firm or organization.

27 (3) The name, title, mailing address, facsimile number, and telephone number of  
28 a contact person for the firm or organization.

29 (4) The identification number assigned to the firm or organization.

30 (5) The site location address or description associated with the firm or  
31 organization’s identification number provided in paragraph (4).

32 (6) The number of employees of the firm or organization.

33 (7) If the firm or organization is a generator, a statement of whether the generator  
34 produces RCRA hazardous waste or non-RCRA hazardous waste.

35 (8) An identification of any of the following hazardous waste activities in which  
36 the firm or organization is engaged:

37 (A) Generation.

38 (B) Transportation.

39 (C) Onsite treatment, storage, or disposal.

40 (9) The waste codes associated with the four largest hazardous waste streams, by  
41 volume, of the firm or organization. The federal waste code shall be verified for

1 RCRA hazardous waste and the California waste code shall be verified for non-  
2 RCRA hazardous waste.

3 (b) Any generator, transporter, and facility operator who fails to comply with this  
4 section, or who fails to provide information required by the department to verify the  
5 accuracy of hazardous waste activity data, shall be subject to suspension of any and  
6 all identification numbers assigned to the generator, transporter, or facility operator  
7 and to any other authorized enforcement action.

8 (c) This section ~~shall become~~ became operative on January 1, 2022.

9 **Comment.** Section 84470 continues former Section 25205.16 without substantive change.

10 **§ 84475. Legislative declaration relating to changes made in 2021 to specified fees**

11 84475. (a) The Legislature hereby finds and declares that changes made to the  
12 imposition and administration of the disposal fee, generator fee, and transportable  
13 treatment unit fee set forth in Sections 28, 53, 54, and 64 of Chapter 73 of the  
14 Statutes of 2021 were not intended to repeal the authority for the Department of  
15 Toxic Substances Control and the California Department of Tax and Fee  
16 Administration to continue to administer and collect those fees.

17 (b) The disposal fee that was imposed pursuant to Section **25174.1**, as that section  
18 read on December 31, 2022, for hazardous waste disposed of on or before June 30,  
19 2022, that was due and payable on or before June 30, 2022, shall continue to be  
20 administered and collected.

21 (c) The generator fee that was imposed pursuant to Section **25205.5**, as that  
22 section read on December 31, 2021, for hazardous waste generated on or before  
23 December 31, 2021, that was due and payable on or before February 28, 2022, shall  
24 continue to be administered and collected.

25 (d) The transportable treatment unit fee imposed pursuant to Section **25205.14**, as  
26 that section read on December 31, 2022, for each facility or transportable treatment  
27 unit authorized on or before June 30, 2022, and that was due and payable on or  
28 before December 31, 2022, shall continue to be administered and collected.

29 (e) The exemptions and exclusions authorized pursuant to Section **25174.7**, as that  
30 section on December 31, 2022, and Section **25205.5**, as that section read on  
31 December 31, 2021, shall only apply to the fees described in subdivisions (b) and  
32 (c).

33 (f) It is the intent of the Legislature to authorize the California Department of Tax  
34 and Fee Administration to administer and collect the fees specified in this section in  
35 accordance with Part 22 (commencing with Section 43001) of Division 2 of the  
36 Revenue and Taxation Code.

37 **Comment.** Section 84475 continues former Section 25205.25 without substantive change.

DISPOSITION OF EXISTING LAW

**Note.** This table shows the proposed disposition, as reflected in this staff draft, of provisions in Chapter 6.5 of Division 20 of the Health and Safety Code (§§ 25100-25259), as the law existed on January 1, 2025. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

<b>Existing Provision</b>	<b>Proposed New Provision</b>
25205.2(a)(1) .....	84270(c), (d)
25205.2(a)(2)(1 <sup>st</sup> clause) .....	84275(b)
25205.2(a)(2)(1 <sup>st</sup> sent.) .....	84265(a)
25205.2(a)(2)(2 <sup>nd</sup> sent.) .....	84265(b)
25205.2(a)(2) (3 <sup>rd</sup> sent.) .....	84290(a)
25205.2(a)(2) (4 <sup>th</sup> sent.) .....	84290(b)
25205.2(a)(3) .....	84270(a)
25205.2(b) .....	84270(b)
25205.2(c) .....	84270(c)
25205.2(d) .....	84270(d)
25205.2(e) .....	84270(e)
25205.2(f) .....	84270(f)
25205.2(g) .....	84285
25205.2(h) .....	84275(a)
25205.2(i)(1)-(3) .....	84265(c)
25205.2(i)(4) .....	84265(d)
25205.2(j)(1) (1 <sup>st</sup> two sent.) .....	84270(g)
25205.2(j)(1) (3 <sup>rd</sup> sent.) .....	84290(c)
25205.2(j)(1) (4 <sup>th</sup> sent.) .....	84290(d)
25205.2(j)(2) (1 <sup>st</sup> two sent.) .....	84270(h)
25205.2(j)(2) (3 <sup>rd</sup> sent.) .....	84290(e)
25205.2(j)(3) (1 <sup>st</sup> sent.) .....	84270(i)
25205.2(j)(3) (2 <sup>nd</sup> sent.) .....	84290(g)
25205.2(j)(3) (3 <sup>rd</sup> sent.) .....	84290(h)
25205.2(k) .....	84275(b)
25205.2(l) .....	84270(k)
25205.2(m) .....	84260
25205.2.1(a)(1) .....	84315
25205.2.1(a)(2) .....	84320
25205.2.1(b)(1) .....	84325(a)
25205.2.1(b)(2) .....	84330
25205.2.1(b)(3) .....	84325(b)
25205.2.1(c)(1) .....	84335
25205.2.1(c)(2) (1 <sup>st</sup> sent.) .....	84335
25205.2.1(c)(2) (2 <sup>nd</sup> sent.) .....	84340(a)
25205.2.1(d) .....	84340(b)
25205.2.1(e) .....	84345
25205.2.1(f) .....	84310
25205.5(a)(1) .....	84355(a)
25205.5(a)(2) .....	84360(a)

25205.5(a)(3) .....	84360(b)
25205.5(a)(4) .....	84355(b)
25205.5(b) .....	84355(c)
25205.5(c) .....	84355(d), 84360(c)
25205.5.01(a)(1) (1 <sup>st</sup> half of 1 <sup>st</sup> sent.) .....	84365(a)
25205.5.01(a)(1) (2 <sup>nd</sup> half of 1 <sup>st</sup> sent.) .....	84365(b)
25205.5.01(a)(2) .....	84380(a)
25205.5.01(b)(1) .....	84385(a)
25205.5.01(b)(2) .....	84390(a)
25205.5.01(b)(3) .....	84385(b)
25205.5.01(c)(1) .....	84395(a)
25205.5.01(c)(2) (1 <sup>st</sup> sent.) .....	84395(a)
25205.5.01(c)(2) (2 <sup>nd</sup> sent.) .....	84395(b)
25205.5.01(d) .....	84395(c)
25205.5.01(e) (1 <sup>st</sup> half of 1 <sup>st</sup> sent.) .....	84365(c)
25205.5.01(e) (2 <sup>nd</sup> half of 1 <sup>st</sup> sent.) .....	84365(d)
25205.5.01(e) (2 <sup>nd</sup> sent.) .....	84365(e)
25205.5.01(e) (3 <sup>rd</sup> sent.) .....	84365(f)
25205.5.01(f) .....	84365(g), 84380(b), 84385(e), 84390(f)
25205.5.1 (1 <sup>st</sup> intro sent.) .....	84405(a)
25205.5.1 (2 <sup>nd</sup> intro sent.) .....	84405(b)
25205.5.1(a) .....	84405(b)
25205.5.1(b) .....	84405(b)
25205.5.1(c) .....	84405(b)
25205.5.1(d) .....	84405(b)
25205.5.1(e) .....	84405(e)
25205.5.3 .....	84400
25205.6 .....	84420
25205.6.1 .....	84425
25205.7 .....	84460
25205.13 .....	84465
25205.16 .....	84470
25205.17 .....	84300
25205.18(a) .....	84430(a)
25205.18(b) .....	84430(b)
25205.18(c) .....	84430(c)
25205.18(d) (1 <sup>st</sup> sent.) .....	84430(d)
25205.18(d) (2 <sup>nd</sup> sent.) .....	84430(e)
25205.18(d) (3 <sup>rd</sup> sent.) .....	84430(f)
25205.18(e) .....	84430(g)
25205.19 .....	84435
25205.21(a) (1 <sup>st</sup> sent.) .....	84295(a)
25205.21(a) (2 <sup>nd</sup> sent.) .....	84295(b)
25205.21(b) .....	84295(c)
25205.22 .....	84375
25205.23 .....	84445
25205.25 .....	84475

\_\_\_\_\_

DERIVATION OF NEW LAW

**Note.** This table shows the derivation of each provision in proposed Division 46 reflected in this staff draft. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

<b>Proposed New Provision</b>	<b>Existing Provision</b>
84260.....	25205.2(m)
84265(a).....	25205.2(a)(2) (1 <sup>st</sup> sent.)
84265(b).....	25205.2(a)(2) (2 <sup>nd</sup> sent.)
84265(c).....	25205.2(i)(1)-(3)
84265(d).....	25205.2(i)(4)
84270(a).....	25205.2(a)(3)
84270(b).....	25205.2(b)
84270(c).....	25205.2(a)(1) and (c)
84270(d).....	25205.2(a)(1) and (d)
84270(e).....	25205.2(e)
84270(f).....	25205.2(f)
84270(g).....	25205.2(j)(1) (1 <sup>st</sup> two sent.)
84270(h).....	25205.2(j)(2) (1 <sup>st</sup> two sent.)
84270(i).....	25205.2(j)(3) (1 <sup>st</sup> sent.)
84270(j).....	25205.2(l)
84275(a).....	25205.2(h)
84275(b).....	25205.2(a)(2) (1 <sup>st</sup> cl.), (k)
84285.....	25205.2(g)
84290(a).....	25205.2(a)(2) (3 <sup>rd</sup> sent.)
84290(b).....	25205.2(a)(2) (4 <sup>th</sup> sent.)
84290(c).....	25205.2(j)(1) (3 <sup>rd</sup> sent.)
84290(d).....	25205.2(j)(1) (4 <sup>th</sup> sent.)
84290(e).....	25205.2(j)(2) (3 <sup>rd</sup> sent.)
84290(f).....	25205.2(j)(2) (4 <sup>th</sup> sent.)
84290(g).....	25205.2(j)(3) (3 <sup>rd</sup> sent.)
84290(h).....	25205.2(j)(3) (4 <sup>th</sup> sent.)
84295(a).....	25205.21(a) (1 <sup>st</sup> sent.)
84295(b).....	25205.21(a) (2 <sup>nd</sup> sent.)
84295(c).....	25205.21(b)
84300.....	25205.17
84310.....	25205.2.1(f)
84315.....	25205.2.1(a)(1)
84320.....	25205.2.1(a)(2)
84325(a).....	25205.2.1(b)(1)
84325(b).....	25205.2.1(b)(3)
84330.....	25205.2.1(b)(2)
84335.....	25205.2.1(c)(1), (c)(2) (1 <sup>st</sup> sent.)
84340(a).....	25205.2.1(c)(2) (2 <sup>nd</sup> sent.)
84340(b).....	25205.2.1(d)
84345.....	25205.2.1(e)
84355(a).....	25205.5(a)(1)
84355(b).....	25205.5(a)(4)

<b>Proposed New Provision</b>	<b>Existing Provision</b>
84355(c).....	25205.5(b)
84355(d).....	25205.5(c)
84360(a).....	25205.5(a)(2)
84360(b).....	25205.5(a)(3)
84365(a).....	25205.5.01(a)(1) (1 <sup>st</sup> half of 1 <sup>st</sup> sent.)
84365(b).....	25205.5.01(a)(1) (2 <sup>nd</sup> half of 1 <sup>st</sup> sent.)
84365(c).....	25205.5.01(e) (1 <sup>st</sup> half of 1 <sup>st</sup> sent.)
84365(d).....	25205.5.01(e) (2 <sup>nd</sup> half of 1 <sup>st</sup> sent.)
84365(e).....	25205.5.01(e) (2 <sup>nd</sup> sent.)
84365(f).....	25205.5.01(e) (3 <sup>rd</sup> sent.)
84365(g).....	25205.5.01(f)
84375.....	25205.22
84380(a).....	25205.5.01(a)(2)
84380(b).....	25205.5.01(f)
84385(a).....	25205.5.01(b)(3)
84385(b).....	25205.5.01(b)(1)
84385(c).....	25205.5.01(f)
84390(a).....	25205.5.01(b)(2)
84390(b).....	25205.5.01(f)
84395(a).....	25205.5.01(c)(1), (c)(2) (1 <sup>st</sup> sent.)
84395(b).....	25205.5.01(c)(2) (2 <sup>nd</sup> sent.)
84395(c).....	25205.5.01(d)
84395(d).....	25205.5.01(f)
84400.....	25205.5.3
84405(a).....	25205.5.1 (1 <sup>st</sup> sent.)
84405(b).....	25205.5.1(2 <sup>nd</sup> sent.), (a)-(d)
84405(c).....	25205.5.1(e)
84420.....	25205.6
84425.....	25214.6.1
84430(a).....	25205.18(a)
84430(b).....	25205.18(b)
84430(c).....	25205.18(c)
84430(d).....	25205.18(d) (1 <sup>st</sup> sent.)
84430(e).....	25205.18(d) (2 <sup>nd</sup> sent.)
84430(f).....	25205.18(d) (3 <sup>rd</sup> sent.)
84430(g).....	25205.18(e)
84435.....	25205.19
84445.....	25205.23
84450(a).....	25205.5.4(a)
84450(b).....	25205.5.4(b) (1 <sup>st</sup> sent.)
84450(c).....	25205.5.4(b) (2 <sup>nd</sup> sent.)
84450(d).....	25205.5.4(c) (1 <sup>st</sup> sent.)
84450(e).....	25205.5.4(c) (2 <sup>nd</sup> sent.)
84460.....	25205.5.7
84465.....	25205.13

**Proposed New Provision**

**Existing Provision**

84470.....	25205.16
84475.....	25205.25

---