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HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] (*Division 20 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 6.5. Hazardous Waste Control [25100 - 25259] (*Chapter 6.5 added by Stats. 1972, Ch. 1236.*)

ARTICLE 11.9. Pollution Prevention and Hazardous Waste Source Reduction and Management Review Act [25244.12 - 25244.23] (*Heading of Article 11.9 amended by Stats. 2012, Ch. 39, Sec. 41.*)

25244.12. This article shall be known and may be cited as the Pollution Prevention and Hazardous Waste Source Reduction and Management Review Act.

(*Amended by Stats. 2012, Ch. 39, Sec. 42. (SB 1018) Effective June 27, 2012.*)

25244.13. The Legislature finds and declares as follows:

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

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

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

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

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

(1) Reduce the generation of hazardous waste.

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

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

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

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

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

(Amended by Stats. 2012, Ch. 39, Sec. 43. (SB 1018) Effective June 27, 2012.)

25244.13.1. (a) The department's duties to implement this article are contingent upon, and limited to, the availability of funding.

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

(Added by Stats. 2012, Ch. 39, Sec. 44. (SB 1018) Effective June 27, 2012.)

25244.14. For purposes of this article, the following definitions apply:

(a) "Advisory committee" means the California Pollution Prevention Advisory Committee established pursuant to Section 25244.15.1.

(b) "Appropriate local agency" means a county, city, or regional association that has adopted a hazardous waste management plan pursuant to Article 3.5 (commencing with Section 25135).

(c) "Business" has the same meaning as defined in Section 25501.

(d) "Hazardous waste management approaches" means approaches, methods, and techniques of managing the generation and handling of hazardous waste, including source reduction, recycling, and the treatment of hazardous waste.

(e) "Hazardous waste management performance report" or "report" means the report required by subdivision (b) of Section 25244.20 to document and evaluate the results of hazardous waste management practices.

(f) "NAICS Code" means the identification number assigned to specific types of businesses by the North American Industry Classification System (NAICS) adopted by the United States Census Bureau.

(g) "Pollution prevention" means the reduction of chemical sources that have adverse impacts on public health and the environment, including, but not limited to, source reduction.

(h) "SIC Code" means the identification number assigned to specific types of businesses by the Standard Industrial Classification (SIC) system established by the United States Department of Commerce.

(i) (1) "Source reduction" means one of the following:

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

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

(2) "Source reduction" includes, but is not limited to, all of the following:

(A) "Input change," which means a change in raw materials or feedstocks used in a production process or operation so as to reduce, avoid, or eliminate the generation of hazardous waste.

(B) "Operational improvement," which means improved site management so as to reduce, avoid, or eliminate the generation of hazardous waste.

(C) "Production process change," which means a change in a process, method, or technique that is used to produce a product or a desired result, including the return of materials or their components, for reuse within the existing processes or operations, so as to reduce, avoid, or eliminate the generation of hazardous waste.

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

(3) "Source reduction" does not include any of the following:

(A) Actions taken after a hazardous waste is generated.

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

(C) Actions that merely shift hazardous wastes from one environmental medium to another environmental medium.

(D) Treatment.

(j) "Source reduction evaluation review and plan" or "review and plan" means a review conducted by the generator of the processes, operations, and procedures in use at a generator's site, in accordance with the format established by the department pursuant to subdivision (a) of Section 25244.16, and that does both of the following:

(1) Determines any alternatives to, or modifications of, the generator's processes, operations, and procedures that may be implemented to reduce the amount of hazardous waste generated.

(2) Includes a plan to document and implement source reduction measures for the hazardous wastes specified in paragraph (1) that are technically feasible and economically practicable for the generator, including a reasonable implementation schedule.

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

(Amended by Stats. 2012, Ch. 39, Sec. 45. (SB 1018) Effective June 27, 2012.)

25244.15. (a) This article establishes a program for pollution prevention, including, but not limited to, hazardous waste source reduction.

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

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

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

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

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

(Amended by Stats. 2012, Ch. 39, Sec. 46. (SB 1018) Effective June 27, 2012.)

25244.15.1. (a) The California Pollution Prevention Advisory Committee is hereby created and consists of the following members:

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

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

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

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

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

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

(7) Ten public members with experience in pollution prevention as appointed by the department. These public members shall include all of the following:

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

(B) One representative of a publicly owned treatment works.

(C) Two representatives of industry.

(D) One representative of small business.

(E) One representative of organized labor.

(F) Two representatives of statewide environmental advocacy organizations.

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

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

(b) The advisory committee shall select one member to serve as chairperson.

(c) The members of the advisory committee shall serve without compensation, but each member, other than officials of the state, upon request, shall be reimbursed for all reasonable expenses incurred in the performance of his or her duties, as authorized by the department.

(d) When convened by the department, the advisory committee shall provide a public forum for discussion and deliberation on matters pertaining to the implementation of this chapter.

(e) The advisory committee's responsibilities shall include, but not be limited to, the following:

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

(2) Evaluating the performance and progress of the department's pollution prevention program.

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

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

(Amended by Stats. 2012, Ch. 39, Sec. 47. (SB 1018) Effective June 27, 2012.)

25244.16. The department shall do both of the following:

(a) Adopt a format to be used by generators for completing the review and plan required by Section 25244.19, and the report required by Section 25244.20. The format shall include at least all of the factors the generator is required to include in the review and plan and the report. The department may include any other factor determined by the department to be necessary to carry out this article. The adoption of a format pursuant to this subdivision is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Establish a data and information system to be used by the department for processing and evaluating the source reduction and other hazardous waste management information submitted by generators pursuant to Section 25244.18. In establishing the data and information system, the department shall do all of the following:

(1) Establish methods and procedures for appropriately processing or managing hazardous waste source reduction and management information.

(2) Use the data management expertise, resources, and forms of already established environmental protection programs, to the extent practicable.

(3) Establish computerized data retrieval and data processing systems, including safeguards to protect trade secrets designated pursuant to Section 25244.23.

(4) Identify additional data and information needs of the program.

(Amended by Stats. 2012, Ch. 39, Sec. 48. (SB 1018) Effective June 27, 2012.)

25244.17. The department may establish a technical and research assistance program to assist businesses in identifying and applying methods of pollution prevention. The program shall emphasize assistance to smaller businesses that have inadequate technical and financial resources for obtaining information, assessing pollution prevention methods, and developing and applying pollution prevention techniques. The program be carried out by the department pursuant to this section may include, but is not limited to, each of the following:

(a) Programs by private or public consultants, including onsite consultation at sites or locations where hazardous waste is generated, to aid those generators requiring assistance in developing and implementing the review and plan, the plan summary, the report, and the report summary required by this article.

(b) Seminars, workshops, training programs, and other similar activities to assist businesses to evaluate pollution prevention alternatives and to identify opportunities for pollution prevention.

(c) Assembling, cataloging, and disseminating information about pollution prevention methods, available consultant services, and regulatory requirements.

(d) The identification of a range of generic and specified technical pollution prevention solutions that can be applied by particular types of businesses.

(Amended by Stats. 2012, Ch. 39, Sec. 49. (SB 1018) Effective June 27, 2012.)

25244.17.1. The department may establish a technical assistance and outreach program to promote implementation of model pollution prevention measures in priority business categories.

(a) In the work plan described in Section 25244.22, the department may, in consultation with the advisory committee, identify priority categories of businesses by SIC or NAICS Code. At least one selected category of businesses shall be a category that consists primarily of small businesses. At least one selected category of businesses shall be a category that consists primarily of businesses affected by an action taken by the department pursuant to Article 14 (commencing with Section 25251).

(b) For each selected priority business category, the department may implement a cooperative pollution prevention technical assistance and outreach program that includes the following elements:

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

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

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

(Amended by Stats. 2012, Ch. 39, Sec. 50. (SB 1018) Effective June 27, 2012.)

25244.17.2. (a) (1) The department may provide pollution prevention training and resources to CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs so that they can provide technical assistance to businesses in identifying and applying methods of pollution prevention.

(2) The activities conducted pursuant to paragraph (1) shall emphasize activities necessary to implement Sections 25244.17 and 25244.17.1.

(b) As part of implementing the program authorized by this section, the department may develop a California Green Business Program that provides support and assistance to programs operated by local governments to meet the requirement of subdivision (c) and that would voluntarily certify small businesses that adopt environmentally preferable business practices, including, but not limited to, increased energy efficiency, reduced greenhouse gas emissions, promotion of water conservation, and reduced waste generation. The department's California Green Business Program may do any or all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The department may determine, in consultation with the advisory committee, the most effective methods to promote implementation of pollution prevention education programs by CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs. Program elements may include, but are not limited to, all of the following:

(1) Sponsoring workshops, conferences, technology fairs, and other training events.

(2) Sponsoring regional training groups, such as the regional hazardous waste reduction committees.

(3) Developing and distributing educational materials, such as short descriptions of successful pollution prevention projects and materials explaining how pollution prevention has been used by businesses to achieve compliance with environmental laws enforced by local governments.

(4) Developing site review checklists, training manuals, and technical resource manuals and using those resources to train CUPAs, small business development corporations, business environmental assistance centers, and other regional and local government environmental programs.

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

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

(Amended by Stats. 2012, Ch. 39, Sec. 51. (SB 1018) Effective June 27, 2012.)

25244.18. (a) The department or the unified program agency may request from any generator, and the generator shall provide within 30 days from the date of the request, a copy of the generator's review and plan or report conducted and completed pursuant to Section 25244.19 or 25244.20. The department or the unified program agency may evaluate any of those documents submitted to the department or the unified program agency to determine whether it satisfies the requirements of this article.

(b) (1) If the department or the unified program agency determines that a generator has not completed the review and plan in the manner required by Section 25244.19, or the report in the manner required by Section 25244.20, the department or the unified program agency shall provide the generator with a notice of noncompliance, specifying the deficiencies in the review and plan or report identified by the department. If the department or the unified program agency finds that the review and plan does not comply with Section 25244.19, the department or the unified program agency shall consider the review and plan to be incomplete. A generator shall file a revised review and plan or report correcting the deficiencies identified by the department or the unified program agency within 60 days from the date of the receipt of the notice. The department or the unified program agency may grant, in response to a written request from the generator, an extension of the 60-day deadline, for cause, except that the department or the unified program agency shall not grant that extension for more than an additional 60 days.

(2) If a generator fails to submit a revised review and plan or report complying with the requirements of this article within the required period, or if the department or unified program agency determines that a generator has failed to implement the measures included in the generator's review and plan for reducing the generator's hazardous waste, in accordance with Section 25244.19, the department or the unified program agency may impose civil penalties pursuant to Section 25187, in an amount not to exceed

one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2, seek an order directing compliance pursuant to Section 25181, or enter into a consent agreement or a compliance schedule with the generator.

(c) If a generator fails to implement a measure specified in the review and plan pursuant to paragraph (5) of subdivision (b) of Section 25244.19, the generator shall not be deemed to be in violation of Section 25244.19 for not implementing the selected measure if the generator does both of the following:

(1) The generator finds that, upon further analysis or as a result of unexpected consequences, the selected measure is not technically feasible or economically practicable, or if the selected approach has resulted in any of the following:

(A) An increase in the generation of hazardous waste.

(B) An increase in the release of hazardous chemical contaminants to other media.

(C) Adverse impacts on product quality.

(D) A significant increase in the risk of an adverse impact to human health or the environment.

(2) The generator revises the review and plan to comply with the requirements of Section 25244.19.

(d) When taking enforcement action pursuant to this article, the department or the unified program agency shall not judge the appropriateness of any decisions or proposed measures contained in a review and plan or report, but shall only determine whether the review and plan or report is complete, prepared, and implemented in accordance with this article.

(e) In addition to the unified program agency, an appropriate local agency that has jurisdiction over a generator's site may request from the generator, and the generator shall provide within 30 days from the date of that request, a copy of the generator's current review and plan and report.

(f) In carrying out this article, the department shall not disseminate information determined to be a trade secret pursuant to Section 25244.23.

(Amended by Stats. 2012, Ch. 39, Sec. 52. (SB 1018) Effective June 27, 2012.)

25244.19. (a) On or before September 1, 1991, and every four years thereafter, each generator shall conduct a source reduction evaluation review and plan pursuant to subdivision (b).

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

(1) The name and location of the site.

(2) The SIC Code of the site.

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

(A) It is a hazardous waste stream processed in a wastewater treatment unit that discharges to a publicly owned treatment works or under a national pollutant discharge elimination system (NPDES) permit, as specified in the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 and following).

(B) It is a hazardous waste stream that is not processed in a wastewater treatment unit and its weight exceeds 5 percent of the weight of the total yearly volume at the site, less the weight of any hazardous waste stream identified in subparagraph (A).

(4) For each hazardous waste stream identified in paragraph (3), the review and plan shall include all of the following information:

(A) An estimate of the quantity of hazardous waste generated.

(B) An evaluation of source reduction approaches available to the generator that are potentially viable. The evaluation shall consider at least all of the following source reduction approaches:

(i) Input change.

(ii) Operational improvement.

(iii) Production process change.

(iv) Product reformulation.

(5) A specification of, and a rationale for, the technically feasible and economically practicable source reduction measures that will be taken by the generator with respect to each hazardous waste stream identified in paragraph (3). The review and plan shall fully document any statement explaining the generator's rationale for rejecting any available source reduction approach identified in paragraph (4).

(6) An evaluation, and, to the extent practicable, a quantification, of the effects of the chosen source reduction method on emissions and discharges to air, water, or land.

(7) A timetable for making reasonable and measurable progress towards implementation of the selected source reduction measures specified in paragraph (5).

(8) Certification pursuant to subdivision (d).

(9) A generator subject to this article shall include in its source reduction evaluation review and plan four-year numerical goals for reducing the generation of hazardous waste streams through the approaches provided for in subparagraph (B) of paragraph (4), based upon its best estimate of what is achievable in that four-year period.

(10) A summary progress report that briefly summarizes and, to the extent practicable, quantifies, in a manner that is understandable to the general public, the results of implementing the source reduction methods identified in the generator's review and plan for each waste stream addressed by the previous plan over the previous four years. The report shall also include an estimate of the amount of reduction that the generator anticipates will be achieved by the implementation of source reduction methods during the period between the preparation of the review and plan and the preparation of the generator's next review and plan.

(c) If a generator owns or operates multiple sites with similar processes, operations, and waste streams, the generator may prepare a single multisite review and plan addressing all of these sites.

(d) Every review and plan conducted pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the review and plan only if the review and plan meet all of the following requirements:

(1) The review and plan addresses each hazardous waste stream identified pursuant to paragraph (3) of subdivision (b).

(2) The review and plan addresses the source reduction approaches specified in subparagraph (B) of paragraph (4) of subdivision (b).

(3) The review and plan clearly sets forth the measures to be taken with respect to each hazardous waste stream for which source reduction has been found to be technically feasible and economically practicable, with timetables for making reasonable and measurable progress, and properly documents the rationale for rejecting available source reduction measures.

(4) The review and plan does not merely shift hazardous waste from one environmental medium to another environmental medium by increasing emissions or discharges to air, water, or land.

(e) At the time a review and plan is submitted to the department or the unified program agency, the generator shall certify that the generator has implemented, is implementing, or will be implementing, the source reduction measures identified in the review and plan in accordance with the implementation schedule contained in the review and plan. A generator may determine not to implement a measure selected in paragraph (5) of subdivision (b) only if the generator determines, upon conducting further analysis or due to unexpected circumstances, that the selected measure is not technically feasible or economically practicable, or if attempts to implement that measure reveal that the measure would result in, or has resulted in, any of the following:

(1) An increase in the generation of hazardous waste.

(2) An increase in the release of hazardous chemicals to other environmental media.

(3) Adverse impacts on product quality.

(4) A significant increase in the risk of an adverse impact to human health or the environment.

(f) If the generator elects not to implement the review and plan, including, but not limited to, a selected measure pursuant to subdivision (e), the generator shall amend its review and plan to reflect that election and include in the review and plan proper documentation identifying the rationale for that election.

(Amended by Stats. 2012, Ch. 39, Sec. 53. (SB 1018) Effective June 27, 2012.)

25244.20. (a) On or before September 1, 1991, and every four years thereafter, each generator shall prepare a hazardous waste management performance report documenting hazardous waste management approaches implemented by the generator.

(b) Except as provided in subdivision (d), the hazardous waste management performance report required by subdivision (a) shall be prepared for each site in accordance with the format adopted pursuant to subdivision (a) of Section 25244.16 and shall include all of the following:

(1) The name and location of the site.

(2) The SIC Code for the site.

(3) All of the following information for each waste stream identified pursuant to paragraph (3) of subdivision (b) of Section 25244.19:

(A) An estimate of the quantity of hazardous waste generated and the quantity of hazardous waste managed, both onsite and offsite, during the current reporting year and the baseline year, as specified in subdivision (c).

(B) An abstract for each source reduction, recycling, or treatment technology implemented from the baseline year through the current reporting year, if the reporting year is different from the baseline year.

(C) A description of factors during the current reporting year that have affected hazardous waste generation and onsite and offsite hazardous waste management since the baseline year, including, but not limited to, any of the following:

(i) Changes in business activity.

(ii) Changes in waste classification.

(iii) Natural phenomena.

(iv) Other factors that have affected either the quantity of hazardous waste generated or onsite and offsite hazardous waste management requirements.

(4) The certification of the report pursuant to subdivision (e).

(c) For purposes of subdivision (b), the following definitions apply:

(1) The current reporting year is the calendar year immediately preceding the year in which the report is to be prepared.

(2) The baseline year is either of the following, whichever is applicable:

(A) For the initial report, the baseline year is the calendar year selected by the generator for which substantial hazardous waste generation, or onsite or offsite management, data is available prior to 1991.

(B) For all subsequent reports, the baseline year is the current reporting year of the immediately preceding report.

(d) If a generator owns or operates multiple sites with similar processes, operations, and waste streams, the generator may prepare a single multisite report addressing all of these sites.

(e) Every report completed pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the report only if the report identifies factors that affect the generation and onsite and offsite management of hazardous wastes and summarizes the effect of those factors on the generation and onsite and offsite management of hazardous wastes.

(Amended by Stats. 2012, Ch. 39, Sec. 54. (SB 1018) Effective June 27, 2012.)

25244.21. (a) Every generator shall retain the original of the current review and plan and report, shall maintain a copy of the current review and plan and report at each site, or, for a multisite review and plan or report, at a central location, and upon request, shall make it available to any authorized representative of the department or the unified program agency conducting an inspection pursuant to Section 25185. If a generator fails, within five days, to make available to the inspector the review and plan or report, the department, the unified program agency, or any authorized representative of the department, or of the unified program agency, conducting an inspection pursuant to Section 25185, shall, if appropriate, impose a civil penalty pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2.

(b) If a generator fails to respond to a request for a copy of its review and plan or report made by the department or a unified program agency pursuant to subdivision (a) of Section 25244.18, or by a local agency pursuant to subdivision (e) of Section 25244.18, within 30 days from the date of the request, the department or unified program agency shall, if appropriate, assess a civil penalty pursuant to Section 25187, in an amount not to exceed one thousand dollars (\$1,000) for each day the violation of this article continues, notwithstanding Section 25189.2.

(c) (1) A person may request the department to certify that a generator is in compliance with this article by having the department certify that the generator has properly completed the review and plan and report required pursuant to Sections 25244.19 and 25244.20. The department shall respond within 60 days to a request for certification. Upon receiving a request for certification, the department shall request from the generator, who is the subject of the request, a copy of the generator's review and plan and report, pursuant to subdivision (a) of Section 25244.18, if the department does not have these documents. The department shall forward a copy of the review and plan and report to the person requesting certification, within 10 days from the date that the department receives the request for certification or receives the review and plan and report, whichever is later. The department shall protect trade secrets in accordance with Section 25244.23 in a review and plan or report, requested to be released pursuant to this subdivision.

(2) This subdivision does not prohibit any person from directly requesting from a generator a copy of the review and plan or report. Solely for the purposes of responding to a request pursuant to this subdivision, the department shall deem the review and plan or report to be a public record subject to Section 25152.5, and shall act in compliance with that section.

(Amended by Stats. 2012, Ch. 39, Sec. 55. (SB 1018) Effective June 27, 2012.)

25244.22. (a) The department may, on a periodic basis, prepare and make available for public review a draft work plan for the department's operations and activities in carrying out this article. The department shall prepare the work plan in consultation with the advisory committee and with other interested parties, including local government, industry, labor, health, and environmental organizations. The department shall hold a public meeting of the advisory committee to discuss the draft work plan before finalizing the work plan. This work plan shall include an outline of the department's proposed operations and activities under this article. The department shall use the data summary analysis prepared pursuant to subdivision (b) to develop criteria for the selection of targets for pollution prevention efforts. When identifying activities for inclusion in the work plan, the department shall consider potential benefits to human health and the environment, available resources, feasibility of applying pollution prevention techniques, and availability of related resources from other entities, such as other states, the federal government, local governments, and other organizations.

(b) The department may periodically prepare, and make available to the public on its Internet Web site, a summary analysis of readily available data on the state's hazardous waste generation and management patterns. The analysis may include information from various data sources including hazardous waste manifests, biennial generator reports, and United States Environmental Protection Agency Toxics Release Inventory reports. The department shall estimate the quantities of hazardous waste generated in the state, by hazardous waste stream, the amounts of hazardous waste generated in the state by industry SIC or NAICS Code, and the amounts of hazardous waste state generators sent offsite for management, by management method.

(Amended by Stats. 2012, Ch. 39, Sec. 56. (SB 1018) Effective June 27, 2012.)

25244.23. (a) (1) The department shall adopt regulations to ensure that trade secrets designated by a generator in all or a portion of the review and plan or the report required by this article are utilized by the director, the department, the unified program agency, or the appropriate local agency only in connection with the responsibilities of the department pursuant to this article, and that those trade secrets are not otherwise disseminated by the director, the department, the unified program agency, or any authorized representative of the department, or the appropriate local agency, without the consent of the generator.

(2) Any information subject to this section shall be made available to governmental agencies for use in making studies and for use in judicial review or enforcement proceedings involving the person furnishing the information.

(3) As provided by Section 25159.5, the regulations adopted pursuant to this subdivision shall conform with the corresponding trade secret regulations adopted by the Environmental Protection Agency pursuant to the federal act, except that the regulations

adopted by the department may be more stringent or more extensive than the federal trade secret regulations.

(4) "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information that is not patented, that is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value, and that gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(b) The department, the unified program agency, and the appropriate local agency shall protect from disclosure any trade secret designated by the generator pursuant to this section. The department shall make available information concerning pollution prevention approaches that have proved successful, and that do not constitute a trade secret, when carrying out subdivision (c) of Section 25244.17.

(c) This section does not permit a generator to refuse to disclose the information required pursuant to this article to the department, the unified program agency, or the appropriate local agency, an officer or employee of the department, the unified program agency, or the appropriate local agency, in connection with the official duties of that officer or employee under this article.

(d) Any officer or employee of the department, the unified program agency, or the appropriate local agency, or any other person, who, because of his or her employment or official position, has possession of, or has access to, confidential information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to any person not entitled to receive it, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail not exceeding six months, by a fine not exceeding one thousand dollars (\$1,000), or by both the fine and imprisonment.

(Amended by Stats. 2012, Ch. 39, Sec. 57. (SB 1018) Effective June 27, 2012.)