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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 3.5. Hazardous Waste Management Plans [25135- 25135.] (*Article 3.5 added by Stats. 1986, Ch. 1504, Sec. 6.*)

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

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

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

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

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

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

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

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

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

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

(i) Treated onsite.

(ii) Recycled onsite.

(iii) Identified as universal wastes.

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

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

(A) Information regarding each hazardous waste facility, including a description of the facility, the amount of hazardous waste the facility is permitted to receive annually, and the amount of hazardous waste managed by the facility that is received from in-

state versus out-of-state generators. The information provided pursuant to this subparagraph shall include information on both of the following:

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

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

(B) An analysis of the location of each destination facility, including an assessment of the area in which the destination facility is located. For destination facilities located in the state, this analysis shall include zoning and other geographic information and the CalEnviroScreen score, and may include information from national environmental health screening tools. For destination facilities located in other states, the analysis shall include a similar assessment of the environmental conditions or vulnerability to environmental pollutants of the population surrounding each destination facility, to the extent data are available.

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

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

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

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

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

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

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

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

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

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

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

(A) Statewide total amounts of hazardous waste.

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

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

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

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

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

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

(II) Reducing the amount of hazardous waste disposed.

(III) Reducing the amount of hazardous waste generated.

(IV) Reducing the risk of exposure to communities threatened by releases of hazardous substances, as defined in Part 2 (commencing with Section 78000) of Division 45, and releases of hazardous wastes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Before approving the final state hazardous waste management plan prepared pursuant to subdivision (a), the board shall hold at least three public hearings in various parts of the state to receive comments from the public on the draft hazardous waste

management plan. The board and the department, in finalizing the state hazardous waste management plan prepared pursuant to subdivision (a), shall consider the public comments and revise the draft state hazardous waste management plan as they deem appropriate.

(f) (1) For purposes of implementing this section, using the funds appropriated for the 2021–22 fiscal year, the department may enter into necessary contracts to procure subject matter expertise or other technical assistance. The contracts are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, and Section 10295 of, and Article 4 (commencing with Section 10335) of Chapter 2 of, and Chapter 3 (commencing with Section 12100) of, Part 2 of Division 2 of the Public Contract Code, and any policies, procedures, and regulations authorized by those laws.

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

(Amended by Stats. 2022, Ch. 258, Sec. 37. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)