



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code: Section:

[Up^](#) [Add To My Favorites](#)

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 7.7. Hazardous Waste Treatment Reform Act of 1995 [25179.1 - 25179.12] (*Article 7.7 repealed and added by Stats. 1995, Ch. 638, Sec. 15.*)

25179.1. (a) This article shall be known, and may be cited, as the Hazardous Waste Treatment Reform Act of 1995.

(b) It is the intent of the Legislature, in enacting this article, to adopt reasonable and realistic methods for addressing the environmental risks associated with land disposal of hazardous waste and to encourage the treatment of hazardous waste to remove or reduce hazards to human health and the environment. However, it is not the Legislature's intent to impose hazardous waste management requirements upon hazardous waste generators and hazardous waste storage, treatment, and disposal facilities located within the state which could, if so imposed, encourage illegal disposal practices or force California generators to seek hazardous waste disposal solutions in other states or countries, thereby shifting the state's hazardous waste treatment and disposal burdens to other jurisdictions.

(c) The Legislature hereby finds and declares the following:

- (1) The hazardous waste treatment industry is important to California's economy and future environmental protection.
- (2) Treatment of hazardous waste, the generation of which cannot otherwise be prevented through waste minimization and recycling of hazardous constituents, is preferable to disposal of that waste by means of incineration or land disposal without treatment.
- (3) To improve California's economic and environmental well-being, the development and implementation of new hazardous waste treatment technologies in California that reduce or eliminate the hazards to human health and the environment of hazardous waste generated in California should be encouraged where these technologies can be practically utilized in California to substantially reduce or eliminate these hazards.

(Repealed and added by Stats. 1995, Ch. 638, Sec. 15. Effective January 1, 1996.)

25179.2. For purposes of this article, the following definitions apply:

- (a) "Agricultural drainage water" means subsurface water or perched groundwater which is drained from beneath agricultural lands and which results from agricultural irrigation.
- (b) "Free liquids" mean liquids which readily separate from the solid portion of a hazardous waste under ambient temperature and pressure.
- (c) "Hazardous waste landfill" means a disposal facility, or part of a facility, where hazardous waste is placed in or onto land and which is not a land treatment facility, a surface impoundment, or an injection well.
- (d) "Land disposal" means placement in or on the land, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or concrete vault or bunker intended for disposal purposes.
- (e) Notwithstanding Section 25123.5, and for purposes of this article only, "treatment" means any method, technique, or process, including incineration, occurring at authorized facilities that changes the physical, chemical, or biological character or composition of any hazardous waste and, by that change, the waste becomes nonhazardous, significantly less hazardous, or more suitable for land disposal because of removal or substantial reduction of undesirable properties, such as toxicity, mobility, persistence, reactivity,

bioaccumulation, flammability, or corrosivity. "Treatment" does not include any of the following, to the extent that one or more of the following are the only methods which are used:

- (1) Solidification of hazardous waste by the addition of absorbent material that produces a change only in the physical character of the waste, without a corresponding change in the chemical character of the waste.
- (2) Treatment occurring directly in or on the land, such as land treatment, except that treatment may include in situ treatment necessary for site mitigation.
- (3) Dilution of hazardous waste by the addition of nonhazardous material.
- (4) Evaporation in a surface impoundment.

(f) "Treated hazardous waste" means a hazardous waste that has been subject to treatment, as specified in subdivision (e), that meets treatment standards established by the department pursuant to Section 25179.6, and applicable treatment standards adopted by the Environmental Protection Agency pursuant to Section 3004(m) of the federal act (42 U.S.C. Sec. 6924(m)). "Treated hazardous waste" also includes a hazardous waste that meets all applicable treatment standards without prior treatment.

(g) "Designated treatment technology" means a hazardous waste environmental technology certified by the department in accordance with Section 25200.1.5 that the department has also designated, pursuant to Section 25179.7, as a method which will treat specified types of hazardous waste to substantially reduce or eliminate the risk to human health and the environment posed by that waste.

(h) "Treatable waste" means a type or category of hazardous waste, specified by the department, for which there is a designated treatment technology. A waste becomes a treatable waste one year after designation of the first treatment technology found by the department to be suitable for treatment of that type or category of hazardous waste pursuant to Section 25179.7.

(Repealed and added by Stats. 1995, Ch. 638, Sec. 15. Effective January 1, 1996.)

25179.3. Notwithstanding any other provision of law, except as provided in Section 26179.9, no person shall dispose of liquid waste, liquid hazardous waste, or hazardous waste containing free liquids in a hazardous waste landfill.

(Repealed and added by Stats. 1995, Ch. 638, Sec. 15. Effective January 1, 1996.)

25179.4. In developing new programs and carrying out this chapter, the department shall promote the following waste management practices in order of priority:

- (a) Reduction of hazardous waste generated.
- (b) Recycling of hazardous waste.
- (c) Treatment of hazardous waste.
- (d) Land disposal of residuals from hazardous waste recycling and treatment.

(Repealed and added by Stats. 1995, Ch. 638, Sec. 15. Effective January 1, 1996.)

25179.5. (a) Notwithstanding any other provision of law, except as provided in this article, any hazardous waste restricted from land disposal by the federal act, or by the Environmental Protection Agency pursuant to the federal act, or by the department pursuant to Section 25179.6, is prohibited from land disposal in the state, unless one of the following circumstances apply:

- (1) The hazardous waste, or the producer of the hazardous waste is granted a variance, extension, exclusion, or exemption by the administrator of the Environmental Protection Agency or by the department.
- (2) The waste is treated in accordance with an applicable treatment standard.
- (3) The federal restriction is stayed or otherwise conditioned by an appropriate court of law.

(4) It is a solid hazardous waste generated in the cleanup or decontamination of any site contaminated only by hazardous waste that has not been restricted or prohibited by the federal act or prohibited by the Environmental Protection Agency pursuant to the federal act, and which does not meet the treatment standards established by the department pursuant to Section 25179.6, if the department or other federal, state, or local agency with authority to approve the cleanup or decontamination has approved the disposal of the waste.

(b) (1) Any treatment standard that is adopted or amended by the Environmental Protection Agency pursuant to subsection (m) of Section 6924 of the federal act, for a hazardous waste prohibited from land disposal pursuant to subdivision (a) and that is in effect, is the treatment standard required to be met before the hazardous waste may be disposed of, using land disposal, in the state. Any land disposal restriction, including any treatment standard, notification requirement, or recordkeeping requirement that is adopted or

amended by the Environmental Protection Agency shall become effective in the state upon the effective date of that adoption or amendment, as specified in the final rule published in the Federal Register, and shall, as of that date, supersede any corresponding land disposal restriction specified in the department's regulations, unless one or more of the following conditions exist:

(A) A more stringent statutory requirement is applicable.

(B) A land disposal restriction previously adopted by the department expressly states, in that regulation, that the land disposal restriction is intended to supersede any less stringent land disposal restrictions which may be subsequently adopted by the Environmental Protection agency.

(C) The department subsequently adopts a more stringent land disposal restriction pursuant to subdivision (c) of Section 25179.6.

(2) Except as provided in Section 25179.6, any extension, variance, or exemption from the treatment standard granted by the Administrator of the Environmental Protection Agency shall also apply in this state.

(c) Subdivision (b) applies only to hazardous waste land disposal restrictions, standards, or criteria enforced by the department and does not limit or affect the standards adopted by any other local, state, or federal agency.

(d) Any hazardous waste or treated hazardous waste that meets all applicable treatment standards pursuant to this section may be disposed of to land at a hazardous waste disposal facility that has been issued a hazardous waste facilities permit allowing that disposal, if the disposal is conducted in compliance with this chapter, the applicable regulations adopted by the department, and the requirements of the permit issued by the department.

(Amended by Stats. 1998, Ch. 880, Sec. 5. Effective January 1, 1999.)

25179.6. (a) (1) A land disposal restriction, treatment standard, or land disposal criteria adopted by the department pursuant to former Article 7.7 (commencing with Section 25179.1), which article was repealed by the act adding this section, pursuant to this section, shall remain in effect on and after January 1, 1996, except as provided in paragraph (2), only if both of the following conditions apply to that adopted restriction, treatment standard, or land disposal criteria:

(A) The land disposal of hazardous waste was actually prohibited or otherwise limited by those disposal restrictions, treatment standards, or land disposal criteria on and before December 31, 1995.

(B) The implementation date of those disposal restrictions, treatment standards, or land disposal criteria were not suspended until January 1, 1996, by any provision of former Article 7.7 (commencing with Section 25179.1).

(2) Those land disposal restrictions, treatment standards, or land disposal criteria that remain in effect on and after January 1, 1996, pursuant to paragraph (1), may be repealed or amended by the department by regulation to maintain consistency with this article or pursuant to a determination by the department that any such land disposal restriction, treatment standard, or land disposal criteria is not necessary to protect public health and safety or the environment.

(b) On and after January 1, 1996, any land disposal restriction, treatment standard, or land disposal criteria that is not required pursuant to Section 25179.5 and that was adopted by the department pursuant to the former Article 7.7 (commencing with Section 25179.1) specified in subdivision (a), but that did not prohibit land disposal prior to January 1, 1996, or was otherwise suspended until January 1, 1996, by any provision of former Article 7.7 shall not prohibit land disposal on or after January 1, 1996, and shall be deemed repealed, including any land disposal restriction, treatment standard, or land disposal criteria for any of the following categories of hazardous waste:

(1) Any RCRA hazardous waste for which a treatment standard has not been adopted or for which the United States Environmental Protection Agency has granted a delay of the effective date of the standard pursuant to Section 6924 of the federal act.

(2) Any non-RCRA hazardous waste subject to treatment standards based upon incineration, solvent extraction, or biological treatment.

(3) Any non-RCRA hazardous waste subject to a treatment standard adopted pursuant to paragraph (3) of subdivision (a) of Section 66268.106 of Title 22 of the California Code of Regulations.

(c) Except as provided in subdivision (a) with regard to repealing or limiting the effect of restrictions, standards or criteria that prohibited land disposal as of December 31, 1995, the department, by regulation, may adopt new land disposal restrictions, treatment standards, or land disposal criteria in addition to, or more stringent than, those restrictions, standards, or criteria required pursuant to the federal act, or required by the United States Environmental Protection Agency pursuant to the federal act, or for those hazardous wastes not subject to restrictions, standards, or criteria required pursuant to the federal act, or required by the

United States Environmental Protection Agency pursuant to the federal act, if the department determines, after holding a public hearing, that both of the following conditions exist:

- (1) A new state land disposal restriction, treatment standard, or criteria is necessary to protect public health and safety and the environment, as indicated by evidence on the record.
- (2) Attainment of the additional restriction, standard, or criteria can be practically achieved in this state and is consistent with the intent language of this article, as provided in Section 25179.1.

(d) On or before January 1, 2001, the department shall review and, as deemed necessary, revise the hazardous waste land disposal restrictions, treatment standards, and land disposal criteria that were adopted by the department before January 1, 1996, pursuant to former Article 7.7 (commencing with Section 25179.1) and that remain in effect after that date, to maintain consistency with this section. Any treatment standards adopted by the department on or after January 1, 1996, pursuant to this section, shall be reviewed and revised, as deemed necessary, by the department.

(e) Nothing in this section exempts the department from compliance with Section 57005 and with Sections 11346.2, 11346.3, and 11346.5 of the Government Code.

(Amended by Stats. 2000, Ch. 343, Sec. 9.6. Effective January 1, 2001.)

25179.7. (a) The department may, upon receipt of a petition, designate treatment technologies certified pursuant to Section 25200.1.5 in accordance with this article. For each designated treatment technology, the department shall specify the types or categories of hazardous wastes that can be satisfactorily treated. The department may specify more than one certified treatment technology for a category of waste and the department may determine more than one category of waste to be suitable for treatment by a certified treatment technology. When listing a designated treatment technology, the department shall provide sufficient specificity in the listing of the treatable wastes to ensure that the definition of each type or category of waste is clearly defined. When designating a treatment technology for one or more types or categories of hazardous waste, the department shall ensure that all of the following criteria are met:

- (1) The treatment technology is appropriate for each of the types or categories of hazardous waste for which it is designated.
- (2) The treatment technology is technically feasible for each of the types or categories of hazardous waste for which it is designated.
- (3) The treatment technology is environmentally desirable for each of the types or categories of hazardous waste for which it is designated. In determining if treatment of a hazardous waste is environmentally desirable, the department shall consider whether there is a viable public health and safety or environmental benefit to be gained by treating the hazardous waste using a designated treatment technology in this state rather than otherwise disposing of the hazardous waste, and whether conducting that treatment in this state provides a benefit beyond that achieved by meeting the land disposal treatment standard, if any, specified for that hazardous waste pursuant to Section 25179.5.

(b) Upon designation of a certified treatment technology, the department shall notify the public of the types or categories of waste that can be treated by the designated treatment technology. The notice shall specify whether these types or categories represent new treatable wastes, and if not, what other designated treatment technologies also exist for that type or category of treatable waste. The notice shall include explanation of the potential changes in the payment of hazardous waste fees that may result from this designation.

(c) The department shall not impose any requirement or mandate on any person who generates, stores, treats, or disposes of hazardous waste to use a designated treatment technology. However, the department may provide incentives for the use of designated treatment technologies in this state consistent with authority granted the department pursuant to this chapter.

(d) The department may adopt regulations establishing standards for designated treatment technologies.

(e) When determining the fees specified in subdivision (h) of Section 25200.1.5, the department shall include the amounts sufficient to recover the actual costs of the department in reviewing and designating treatment technologies pursuant to this section.

(Repealed and added by Stats. 1995, Ch. 638, Sec. 15. Effective January 1, 1996.)

25179.8. (a) Except as provided in subdivision (d), the department may grant a variance from the requirements of Sections 25179.5 and 25179.6 for a hazardous waste, consistent with Section 25143.

(b) The department may grant a variance from the requirements of Section 25179.6 for agricultural drainage waters that meet the criteria established by the department pursuant to Section 25141 if a person demonstrates, to the satisfaction of the department, that all of the following conditions apply to the waste:

(1) There are no technically and economically feasible treatment, reuse, or recycling alternatives available to render the agricultural drainage water nonhazardous.

(2) The applicant can demonstrate that the continued disposal of agricultural drainage waters does not pose an immediate or significant long-term risk to public health or the environment.

(3) The disposal of the agricultural drainage waters is in compliance with the requirements of Section 25179.3.

(c) A variance granted by the department pursuant to subdivision (b) shall remain in effect for a period not longer than three years and may be renewed for additional three-year periods.

(d) When granting a variance pursuant to this section, the department may specify, where appropriate, any treatment that shall be required prior to land disposal of the waste, and may impose requirements that may be necessary to protect the public health and the environment.

(e) The department shall not grant a variance pursuant to subdivision (a) for hazardous waste that is restricted or prohibited by the Environmental Protection Agency pursuant to the federal act, unless either of the following applies:

(1) The waste has been granted a variance by the Administrator of the Environmental Protection Agency and the variance granted by the department does not permit less stringent management than that required pursuant to the federal variance.

(2) The Environmental Protection Agency has delegated the authority to grant variances to the department pursuant to the federal act.

(Amended by Stats. 1997, Ch. 17, Sec. 69. Effective January 1, 1998.)

25179.9. Lab packs which contain hazardous waste that has not been restricted or prohibited by the Environmental Protection Agency pursuant to Section 3004 of the federal act, are exempt from the requirements of Sections 25179.3 and 25179.6 if they are disposed of in accordance with the requirements established by the department, by regulation.

(Repealed and added by Stats. 1995, Ch. 638, Sec. 15. Effective January 1, 1996.)

25179.10. (a) The department may grant an exemption from the requirements of Section 25179.6 pursuant to subdivision (b) for either of the following:

(1) Any special waste which meets the criteria and requirements established for special waste in the regulations adopted by the department and has been classified as a special waste pursuant to the regulations adopted by the department but does not meet the treatment standards established by the department pursuant to Section 25179.6.

(2) Any hazardous waste generated in the extraction, beneficiation, or processing of ores and minerals.

(b) The department may grant an exemption for a waste specified in subdivision (a) if a person, upon application, demonstrates to the satisfaction of the department that no economically and technologically feasible alternatives exist to recycle, reuse, or treat the waste to meet the treatment standards adopted by the department pursuant to Section 25179.6 and that there will be no migration of hazardous constituents in concentrations which pollute or threaten to pollute the waters of the state from the disposal unit where the waste is to be disposed. An exemption granted pursuant to this subdivision shall remain in effect for five years. The department may renew the exemption if, upon application, it determines that the findings required by the subdivision still apply.

(Repealed and added by Stats. 1995, Ch. 638, Sec. 15. Effective January 1, 1996.)

25179.11. (a) A person discharging a hazardous waste into a surface impoundment that was constructed before July 1, 1986, and for which an application for waste discharge requirements was submitted on or before September 1, 1986, is exempt from the requirements of Sections 25179.5 and 25179.6 if all of the following conditions apply to the surface impoundment:

(1) The surface impoundment, the management of the hazardous waste discharged into the surface impoundment, and any residue resulting from the treatment of the hazardous waste meet the requirements of Section 3005(j) of the federal act and Section 268.4 of Title 40 of the Code of Federal Regulations, if applicable.

(2) The surface impoundment is in compliance with Article 9.5 (commencing with Section 25208).

(3) Hazardous waste is discharged into the surface impoundment for purposes of treating the hazardous waste to comply with any treatment standard in effect pursuant to Section 25179 or adopted by the department pursuant to Section 25179.6 for that hazardous waste, and the residues that result from the treatment of the hazardous waste which do not meet that treatment standard are removed for subsequent management within one year from the date of placement of the hazardous waste into the surface impoundment.

(b) A person discharging a hazardous waste into a surface impoundment that was constructed after July 1, 1986, and for which an application for waste discharge requirements was submitted after September 1, 1986, is exempt from the requirements of Sections 25179.5 and 25179.6 if all of the following conditions apply to the surface impoundment:

- (1) The surface impoundment, the management of the hazardous waste discharged into the surface impoundment, and any residue resulting from the treatment of the hazardous waste meet the requirements of Section 3005(j) of the federal act and Section 268.4 of Title 40 of the Code of Federal Regulations, if applicable.
- (2) The surface impoundment is in compliance with Article 9.5 (commencing with Section 25208).
- (3) Hazardous waste is discharged into the surface impoundment for purposes of treating the hazardous waste to comply with any treatment standard in effect pursuant to Section 25179.5 or adopted by the department pursuant to Section 25179.6 for that hazardous waste, and the residues that result from the treatment of the hazardous waste which do not meet that treatment standard are removed for subsequent management within one year from the date of placement of the hazardous waste into the surface impoundment.
- (4) The department determines that the use of the surface impoundment to treat the hazardous waste is the only means by which the hazardous waste can be treated using the best demonstrated available technology.

(Amended by Stats. 1996, Ch. 632, Sec. 3. Effective January 1, 1997.)

25179.12. (a) Except as provided in subdivisions (b) and (c), a person operating a land treatment facility is exempt from the requirements of Sections 25179.5 and 25179.6 if the facility is in compliance with the requirements of all state and federal statutes and regulations applicable to land treatment facilities, including, but not limited to, subdivision (b), and the facility has either been issued a final hazardous waste facilities permit or is operating under, and in compliance with, the requirements of interim status and the facility operator has submitted an application for a final permit.

(b) Land treatment facilities at which hazardous constituents have migrated from the treatment zone shall not be eligible for an exemption pursuant to subdivision (a) until the contamination has been removed to the satisfaction of the department. In order for the department to determine whether hazardous constituents have migrated from the treatment zone, the owner or operator of the land treatment facility shall provide data to the department on at least all of the following:

- (1) Soil cores taken from below the treatment zone.
- (2) Groundwater monitoring.
- (3) Unsaturated zone monitoring.
- (4) Waste analysis.
- (5) Historical activities at the facility.

(c) A land treatment facility may not treat hazardous waste which has been restricted or prohibited by the Environmental Protection Agency pursuant to Section 3004 of the federal act unless the land treatment has been authorized by the Administrator of the Environmental Protection Agency.

(Amended by Stats. 1996, Ch. 632, Sec. 4. Effective January 1, 1997.)