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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 8. Enforcement [25180 - 25196.1] (*Article 8 added by Stats. 1972, Ch. 1236.*)

25180. (a) (1) Except as provided in paragraph (2), the standards in this chapter and the regulations adopted by the department to implement this chapter shall be enforced by the department, and by any local health officer or any local public officer designated by the director.

(2) The standards of this chapter listed in paragraph (1) of subdivision (c) of Section 25404, and the regulations adopted to implement the standards of this chapter listed in paragraph (1) of subdivision (c) of Section 25404, shall be enforced by the department and one of the following:

(A) If there is no CUPA, the officer or agency authorized, pursuant to subdivision (f) of Section 25404.3, to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(B) Within the jurisdiction of a CUPA, the unified program agencies, to the extent provided by this chapter and Sections 25404.1 and 25404.2. Within the jurisdiction of a CUPA, the unified program agencies shall be the only local agencies authorized to enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404.

(b) (1) In addition to the persons specified in subdivision (a), any traffic officer, as defined by Section 625 of the Vehicle Code, and any peace officer specified in Section 830.1 of the Penal Code, may enforce Section 25160, subdivision (a) of Section 25163, and Sections 25250.18, 25250.19, and 25250.23. Traffic officers and peace officers are authorized representatives of the department for purposes of enforcing the provisions set forth in this subdivision.

(2) A peace officer specified in subdivision (a) of Section 830.37 of the Penal Code may, upon approval of the local district attorney, enforce the standards in this chapter and regulations adopted by the department to implement this chapter. A peace officer authorized to enforce those standards and regulations pursuant to this paragraph shall perform these duties in coordination with the appropriate local officer or agency authorized to enforce this chapter pursuant to subdivision (a), and shall complete a training program which is equivalent to that required by the department for local officers and agencies authorized to enforce this chapter pursuant to subdivision (a).

(c) Notwithstanding any limitations in subdivision (b), a member of the California Highway Patrol may enforce Sections 25185, 25189, 25189.2, 25189.5, 25191, and 25195, and Article 6 (commencing with Section 25160) and Article 6.5 (commencing with Section 25167.1), as those provisions relate to the transportation of hazardous waste.

(d) In enforcing this chapter, including, but not limited to, the issuance of orders imposing administrative penalties, the referral of violations to prosecutors for civil or criminal prosecution, the settlement of cases, and the adoption of enforcement policies and standards related to those matters, the department and the local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) shall exercise their enforcement authority in such a manner that generators, transporters, and operators of storage, treatment, transfer, and disposal facilities are treated equally and consistently with regard to the same types of violations.

(Amended by Stats. 2016, Ch. 86, Sec. 185. (SB 1171) Effective January 1, 2017.)

25180.1. For purposes of this chapter, "permit" includes matters deemed to be permits pursuant to subdivision (c) of Section 25198.6.

(Amended by Stats. 1992, Ch. 113, Sec. 1. Effective July 2, 1992.)

25180.2. The department shall prioritize an enforcement action authorized by this chapter affecting communities that have been identified by the California Environmental Protection Agency as being the most impacted environmental justice communities.

(Added by Stats. 2013, Ch. 598, Sec. 2. (AB 1329) Effective January 1, 2014.)

25180.5. (a) The department, the State Water Resources Control Board, and the California regional water quality control boards shall notify the local health officer and director of environmental health of a county, city, or district, and the CUPA for the jurisdiction as specified in subdivision (b), within 15 days after any of the following occur:

- (1) The department's or board's employees are informed or discover that a disposal of hazardous waste has occurred within that county, city, or district and that the disposal violates a state or local law, ordinance, regulation, rule, license, or permit or that the disposal is potentially hazardous to the public health or the environment.
- (2) The department or board proposes to issue an abatement order or a cease and desist order, to file a civil or criminal action, or to settle a civil or criminal action, concerning a disposal of hazardous waste within that county, city, or district.

(b) The notice given by the department or board pursuant to subdivision (a) shall include all test results and any relevant information which the department or board has obtained and which do not contain trade secrets, as defined by Section 25173, as determined by the department or board. If the department or board determines that the test results or information cannot be disseminated because of current or potential litigation, the department or board shall inform the local health officer, the director of environmental health, and the CUPA for the jurisdiction that the test results and information shall be used by the local health officer, the director of environmental health, and the unified program agencies, only in connection with their statutory responsibilities and shall not otherwise be released to the public.

(c) The department, the State Water Resources Control Board, and the California regional water quality control boards shall coordinate with the unified program agencies regarding violations of this chapter, or violations of regulations adopted pursuant to this chapter, at a unified program facility.

(Amended by Stats. 1995, Ch. 639, Sec. 19. Effective January 1, 1996.)

25180.7. (a) Within the meaning of this section, a "designated government employee" is any person defined as a "designated employee" by Government Code Section 82019, as amended.

(b) Any designated government employee who obtains information in the course of his or her official duties revealing the illegal discharge or threatened illegal discharge of a hazardous waste within the geographical area of his or her jurisdiction and who knows that the discharge or threatened discharge is likely to cause substantial injury to the public health or safety must, within 72 hours, disclose that information to the local Board of Supervisors and to the local health officer. No disclosure of information is required under this subdivision when otherwise prohibited by law, or when law enforcement personnel have determined that this disclosure would adversely affect an ongoing criminal investigation, or when the information is already general public knowledge within the locality affected by the discharge or threatened discharge.

(c) Any designated government employee who knowingly and intentionally fails to disclose information required to be disclosed under subdivision (b) shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code. The court may also impose upon the person a fine of not less than five thousand dollars (\$5000) or more than twenty-five thousand dollars (\$25,000). The felony conviction for violation of this section shall require forfeiture of government employment within thirty days of conviction.

(d) Any local health officer who receives information pursuant to subdivision (b) shall take appropriate action to notify local news media and shall make that information available to the public without delay.

(Amended by Stats. 2011, Ch. 15, Sec. 187. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68. Note: This section was added on Nov. 4, 1986, by initiative Prop. 65 (the Safe Drinking Water and Toxic Enforcement Act of 1986).)

25181. (a) If the department determines that a person has engaged in, is engaged in, or is about to engage in any acts or practices that constitute or will constitute a violation of this chapter, or any rule, regulation, permit, covenant, standard, requirement, or order issued, promulgated, or executed thereunder, and when requested by the department, the city attorney of the city in which those acts or practices occur, occurred, or will occur, the county counsel or the district attorney of the county in which those acts or practices occur, occurred, or will occur, or the Attorney General may apply to the superior court for an order enjoining those acts or practices, or for an order directing compliance, and upon a showing by the department that the person has engaged in or is about to engage in those acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

(b) If the unified program agency determines that a person has engaged in, is engaged in, or is about to engage in any acts or practices which constitute or will constitute a violation of this chapter, or any rule, regulation, permit, covenant, standard, requirement, or order issued, promulgated, or executed thereunder, and when requested by the unified program agency, the city

attorney of the city in which those acts or practices occur, occurred, or will occur, the county counsel or the district attorney of the county in which those acts or practices occur, occurred, or will occur, or the Attorney General, may apply to the superior court for an order enjoining those acts or practices, or for an order directing compliance, and upon a showing by the unified program agency that the person has engaged in or is about to engage in those acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

(c) If a county counsel or the district attorney brings an action pursuant to subdivision (a) or (b), the county counsel or the district attorney shall, within seven days of the filing of the action, notify the district attorney or county counsel, as applicable, of the county in which the acts or practices occur, occurred, or will occur.

(Amended by Stats. 2023, Ch. 154, Sec. 2. (SB 642) Effective January 1, 2024.)

25181.5. A registered waste transporter transporting medical waste who is not subject to Section 25097 shall be subject to penalties for violations pursuant to this article.

(Added by Stats. 1993, Ch. 813, Sec. 16. Effective January 1, 1994.)

25182. Every civil action brought under this chapter at the request of the department or a unified program agency shall be brought by the city attorney, the county counsel, the district attorney, or the Attorney General in the name of the people of the State of California, and any such actions relating to the same processing or disposal of hazardous wastes may be joined or consolidated.

(Amended by Stats. 2023, Ch. 154, Sec. 3. (SB 642) Effective January 1, 2024.)

25183. Any civil action brought pursuant to this chapter shall be brought in the county in which the processing or disposal of hazardous waste is made or proposed to be made, the county in which the principal office of the defendant is located, or the county in which the Attorney General has an office nearest to the county in which the principal office of the defendants, or any of them, is located in this state.

(Amended by Stats. 1982, Ch. 496, Sec. 8. Effective July 12, 1982.)

25184. In any civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued; or that the remedy at law is inadequate, and the temporary restraining order, preliminary injunction, or permanent injunction shall issue without such allegations and without such proof.

(Added by Stats. 1972, Ch. 1236.)

25184.1. If any administrative order or decision that imposes a penalty is issued pursuant to this chapter or Part 2 (commencing with Section 78000) of Division 45, the administrative order or decision has become final, and, if applicable, a petition for judicial review of the final order or decision has not been filed within the time limits prescribed in Section 11523 of the Government Code, the department may apply to the clerk of the appropriate court for a judgment to collect the administrative penalty. The department's application, which shall include a certified copy of the final administrative order or decision, constitutes a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

(Amended by Stats. 2022, Ch. 258, Sec. 46. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

25185. (a) In order to carry out the purposes of this chapter, any authorized representative of the department or the local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180, may, at any reasonable hour of the day, or as authorized pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, do any of the following:

(1) Enter and inspect a factory, plant, construction site, disposal site, transfer facility, or any establishment or any other place or environment where hazardous wastes are stored, handled, processed, disposed of, or being treated to recover resources.

(2) Carry out any sampling activities necessary to carry out this chapter, including obtaining samples from any individual or taking samples from the property of any person or from any vehicle in which any authorized representative of the department or the local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180 reasonably believes has transported or is transporting hazardous waste. However, upon request, split samples shall be given to the person from whom, or from whose property or vehicle, the samples were obtained.

(3) Stop and inspect any vehicle reasonably suspected of transporting hazardous wastes when accompanied by a uniformed peace officer in a clearly marked vehicle.

(4) Inspect and copy any records, reports, test results, or other information required to carry out this chapter.

(5) Photograph any waste, waste container, waste container label, vehicle, waste treatment process, waste disposal site, or condition constituting a violation of law found during an inspection.

(b) During the inspection, the inspector shall comply with all reasonable security, safety, and sanitation measures. In addition, the inspector shall comply with reasonable precautionary measures specified by the operator.

(c) (1) At the conclusion of the inspection, the inspector shall deliver to the operator of the facility or site a written summary of all violations alleged by the inspector. The inspector shall, prior to leaving the facility or site, deliver the written summary to the operator and shall discuss any questions or observations that the operator might have concerning the inspection.

(2) (A) The department or the local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180 shall prepare an inspection report which shall fully detail all observations made at the facility or site, all alleged violations, the factual basis for alleging those violations, and any corrective actions that should be taken by the operator of the facility or site. The department or the local officer or agency shall provide a copy of the inspection report to the operator within five days from the date of the preparation of the inspection report, and, in any event, not later than 65 days from the date of the inspection. The inspection report shall include all pertinent information, including, but not limited to, documents, photographs, and sampling results concerning the alleged violations. The department or the local officer or agency shall provide this information to the operator with the inspection report, including all photographs taken by the department in the course of the inspection and all laboratory results obtained as a result of the inspection. If sampling or laboratory results are not available at the time that the inspection report is prepared, that fact shall be contained in the report. Those results shall be provided to the operator within 10 working days of their receipt by the department or the local officer or agency.

(B) The time period required by subparagraph (A) may be extended as a result of a natural disaster, inspector illness, or other circumstances beyond the control of the department, or the local officer or agency, if the department or the local officer or agency so notifies the operator within 70 days from the date of the inspection and provides the inspection report to the operator in a timely manner after the reason for the delay is ended.

(C) Information from the inspection report, or the report itself, may be withheld by the department or the local officer or agency if necessary to a criminal investigation or other ongoing investigation in which the department or the local officer or agency determines, in writing, that disclosure of the information will result in a substantial probability of destruction of evidence, intimidation of witnesses, or other obstruction of justice.

(D) The department or the local officer or agency shall, at the operator's request, discuss the inspection report with the operator and shall, upon the request of the operator, review the inspection report and determine whether the operator's responses and documented or proposed corrective actions would be sufficient to comply with this chapter, or if any allegation of a violation is unwarranted.

(3) The operator of the site or facility which receives an inspection report pursuant to paragraph (2) shall submit a written response to the department or the local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180 within 60 days of receipt of the inspection report, or within a shorter time as the department or the local officer or agency may reasonably require, which shall include a statement documenting corrective actions taken by the operator or proposing corrective actions which will be taken by the operator, for purposes of compliance with this chapter, or disputing the existence of the violation. Upon receiving the written response from the operator, the department or the local officer or agency shall, upon the request of the operator, meet and confer with the operator regarding any questions, concerns, or comments that the operator may have concerning the inspection report. The department or the local officer or agency shall, within 30 working days from the date of receipt of a response which documents or proposes corrective action, or which disputes the existence of a violation, determine whether the corrective actions documented or proposed to be taken by the operator, if implemented as stated or proposed, will achieve compliance with this chapter, or whether a violation is still alleged, as applicable, and shall submit a written copy of that determination to the operator, in the form of a report of violation or other appropriate document. If the department or the local officer or agency fails to make the determination and submit a copy of the determination within 30 working days from the date of receipt of the operator's response, the department or the local officer or agency may not seek penalties for continuing violations or any alleged new violations caused by the corrective actions taken by the operator, until the department or the local officer or agency submits the determination to the operator and provides the operator with a reasonable time in which to make necessary operational modifications which differ from those proposed to the department or local officer or agency.

(d) Whenever information, including, but not limited to, documents, photographs, and sampling results, has been gathered pursuant to subdivision (a), the department or the local officer or agency shall comply with all procedures established pursuant to Section 25173 and shall notify the person whose facility was inspected prior to public disclosure of the information, and, upon request of that

person, shall submit a copy of any information to that person for the purpose of determining whether trade secret information, as defined in Section 25173, or facility security would be revealed by the information. "Public disclosure," as used in this section, shall not include review of the information by a court of competent jurisdiction or an administrative law judge. That review may be conducted in camera at the discretion of the court or judge.

(Amended by Stats. 1995, Ch. 639, Sec. 22. Effective January 1, 1996.)

25185.5. For a property that is designated as a hazardous waste property or border zone property pursuant to the former Article 11 (commencing with Section 25220), an authorized representative of the department may, at any reasonable hour of the day, or as authorized pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, enter and inspect any real property that is within 2,000 feet of a deposit of hazardous waste or a hazardous waste property and do any of the following:

- (a) Obtain samples of the soil, vegetation, air, water, and biota on or beneath the land.
- (b) Set up and maintain monitoring equipment for the purpose of assessing or measuring the actual or potential migration of hazardous wastes on, beneath, or toward the land.
- (c) Survey and determine the topography and geology of the land.
- (d) Photograph any equipment, sample, activity, or environmental condition described in subdivision (a), (b), or (c). The photographs shall be subject to the requirements of subdivision (d) of Section 25185.
- (e) This section does not apply to any hazardous waste facility that is required to be permitted pursuant to this chapter and that is subject to inspection pursuant to Section 25185.
- (f) An inspector who inspects pursuant to this section shall make a reasonable effort to inform the owner or his or her authorized representative of the inspection and shall provide split samples to the owner or representative upon request and shall comply with the provisions of subdivision (b) of Section 25185.

(Amended by Stats. 2012, Ch. 39, Sec. 34. (SB 1018) Effective June 27, 2012.)

25185.6. (a) (1) The department or a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180, in connection with any action authorized by this chapter, may require any of the following persons to furnish and transmit, upon reasonable notice, to the designated offices of the department or the local officer or agency any existing information relating to hazardous substances, hazardous wastes, or hazardous materials:

- (A) Any person who owns or operates any hazardous waste facility.
- (B) Any person who generates, stores, treats, transports, disposes of, or otherwise handles hazardous waste.
- (C) Any person who has generated, stored, treated, transported, disposed of, or otherwise handled hazardous waste.
- (D) Any person who arranges, or has arranged, by contract or other agreement, to store, treat, transport, dispose of, or otherwise handle hazardous waste.
- (E) Any person who applies, or has applied, for any permit, registration, or certification under this chapter.

(2) (A) The department, or a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180, may require a person described in paragraph (1) to furnish and transmit, upon reasonable notice, to the designated offices of the department or the local officer or agency, any information relating to the person's ability to pay for, or to perform, a response or corrective action.

(B) This paragraph applies only if there is a reasonable basis to believe that there has been or may be a release or threatened release of a hazardous substance, hazardous wastes, or hazardous material, and only for the purpose of determining under this chapter how to finance a response or corrective action or otherwise for the purpose of enforcing this chapter.

(b) (1) The department may require any person who has information regarding the activities of a person described in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) relating to hazardous substances, hazardous wastes, or hazardous materials to furnish and transmit, upon reasonable notice, that information to the designated offices of the department.

(2) (A) The department may require any person who has information regarding the activities of a person described in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a), relating to the ability of the person described in those subparagraphs to pay for, or to perform, a response or corrective action, upon reasonable notice, to furnish and transmit that information to the designated offices of the department.

(B) This paragraph applies only if there is a reasonable basis to believe that there has been or may be a release or threatened release of a hazardous substance, hazardous wastes, or hazardous material, and only for the purpose of determining under this chapter how to finance a response or corrective action or otherwise for the purpose of enforcing this chapter.

(c) Any person required to furnish information pursuant to this section shall pay any costs of photocopying or transmitting this information.

(d) When requested by the person furnishing information pursuant to this section, the department or the local officer or agency shall follow the procedures established under Section 25173.

(e) If a person intentionally or negligently fails to furnish and transmit to the designated offices of the department or the local officer or agency any existing information required pursuant to this section, the department may issue an order pursuant to Section 25187 directing compliance with the request.

(f) The department may disclose information submitted pursuant to this section to authorized representatives, contractors, or other governmental agencies only in connection with the department's responsibilities pursuant to this chapter. The department shall establish procedures to ensure that information submitted pursuant to this section is used only in connection with these responsibilities and is not otherwise disseminated without the consent of the person who provided the information to the department.

(g) The department may also make available to the United States Environmental Protection Agency any and all information required by law to be furnished to that agency. The sharing of information between the department and that agency pursuant to this section does not constitute a waiver by the department or any affected person of any privilege or confidentiality provided by law that pertains to the information.

(h) A person providing information pursuant to subdivision (a) or (b) shall, at the time of its submission, identify all information that the person believes is a trade secret. Any information or record not identified as a trade secret is available to the public, unless exempted from disclosure by other provisions of law. For purposes of this subdivision, "trade secret" is defined as in Section 25173.

(i) Notwithstanding Section 25190, a person who knowingly and willfully disseminates information protected by Section 25173 or procedures established by the department pursuant to Section 25173 shall, upon conviction, be punished by a fine of not more than five thousand dollars (\$5,000), imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(Amended by Stats. 2016, Ch. 145, Sec. 1. (AB 2893) Effective January 1, 2017.)

25186. The department may deny, suspend, or revoke any permit, registration, or certificate applied for, or issued, pursuant to this chapter in accordance with the procedures specified in Sections 25186.1 and 25186.2, where the applicant or holder of the permit, registration, or certificate, or in the case of a business concern, any trustee, officer, director, partner, or any person holding more than 5 percent of the equity in, or debt liability of, that business concern, has engaged in any of the following:

(a) Any violation of, or noncompliance with, this chapter, Chapter 6.7 (commencing with Section 25280), Part 2 (commencing with Section 78000) of Division 45, the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), the Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. Sec. 6901 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Sec. 5101 et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.), or any other equivalent federal or state statute or any requirement or regulation adopted pursuant thereto relating to the generation, transportation, treatment, storage, recycling, disposal, or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in subdivision (a) of Section 78075, or a hazardous material, as defined in Section 353 of the Vehicle Code, if the violation or noncompliance shows a repeating or recurring pattern or may pose a threat to public health or safety or the environment.

(b) The aiding, abetting, or permitting of any violation of, or noncompliance with, this chapter, Chapter 6.7 (commencing with Section 25280), Part 2 (commencing with Section 78000) of Division 45, the Porter-Cologne Water Quality Act (Division 7 (commencing with Section 13000) of the Water Code), the Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. Sec. 6901 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Sec. 5101 et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.), the Toxic Substances Control Act (15 U.S.C. Sec. 2601 et seq.), or any other equivalent federal or state statute or any requirement or regulation adopted pursuant thereto relating to the generation, transportation, treatment, storage, recycling, disposal, or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in subdivision (a) of Section 78075, or a hazardous material, as defined in Section 353 of the Vehicle Code, if the violation or noncompliance shows a repeating or recurring pattern or may pose a threat to public health or safety or the environment.

(c) Any violation of, or noncompliance with, any order issued by a state or local agency or by a hearing officer or a court relating to the generation, transportation, treatment, storage, recycling, disposal, or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in subdivision (a) of Section 78075, or a hazardous material, as defined in Section 353 of the Vehicle Code.

(d) Any misrepresentation or omission of a significant fact or other required information in the application for the permit, registration, or certificate, or in information subsequently reported to the department or to a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.

(e) (1) Activities resulting in any federal or state conviction that are significantly related to the fitness of the applicant or holder of the permit, registration, or certificate to perform the applicant's duties or activities under the permit, registration, or certificate.

(2) For purposes of this paragraph, "conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(3) An action that the department may take pursuant to this paragraph relating to the denial, suspension, or revocation of a permit, registration, or certificate may be based upon a conviction for which any of the following has occurred:

(A) The time for appeal has elapsed.

(B) The judgment of conviction has been affirmed on appeal.

(C) Any order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Section 1203.4 of the Penal Code permitting that person to withdraw the person's plea of guilty, and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(f) Activities resulting in the revocation or suspension of a license, permit, registration, or certificate held by the applicant or holder of the permit, registration, or certificate or, if the applicant or holder of the permit, registration, or certificate is a business concern, by any trustee, officer, director, partner, or any person holding more than 5 percent of the equity in, or debt liability of, that business concern relating to, the generation, transportation, treatment, storage, recycling, disposal, or handling of a hazardous waste, as defined in Section 25117, a hazardous substance, as defined in subdivision (a) of Section 78075, or a hazardous material, as defined in Section 353 of the Vehicle Code.

(Amended by Stats. 2022, Ch. 258, Sec. 47. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

25186.05. (a) For the purposes of this section, "violation" and "noncompliance" mean only the following:

(1) A violation or noncompliance pursuant to Section 25186 that creates a significant risk of harm to the public health or safety of the environment resulting from acute or chronic exposure to hazardous waste or hazardous waste constituents, and that threat makes it reasonably necessary to take action to prevent, reduce, or mitigate that exposure.

(2) A violation of, or noncompliance with, any order issued by the department to the applicant or holder of the permit.

(3) A federal or state felony conviction for a violation of this chapter or its equivalent in the federal act, or of any requirement or regulation adopted pursuant to that authority relating to the generation, transportation, treatment, storage, recycling, disposal, or handling of hazardous waste, as described in subdivision (e) of Section 25186.

(b) A violation or noncompliance by a federal hazardous waste facility, pursuant to Section 6961 of Title 42 of the United States Code, shall, for purposes of this section, be limited to a violation or noncompliance caused by an action or inaction within the boundaries identified in Part B of the federal hazardous waste permit application, pursuant to Section 270.14 of Title 40 of the Code of Federal Regulations, for that facility.

(c) "Violation" and "noncompliance" shall not include a minor violation as defined in Section 25117.6.

(d) (1) Except as provided in paragraph (2), the department shall consider three or more incidents of violation of, or noncompliance with, a requirement specified in subdivision (a) or (b) of Section 25186 for which a person or entity has been found liable or has been convicted, with respect to a single facility within a five-year period, as compelling cause to deny, suspend, or revoke the permit, registration, or certificate.

(2) This subdivision does not apply to a third violation or noncompliance if the department finds that extraordinary circumstances exist, including that a denial, suspension, or revocation would endanger the public health or safety or the environment.

(3) This subdivision does not limit or modify the department's authority to deny, suspend, or revoke any permit, registration, or certificate pursuant to Section 25186 or any other law.

(Added by Stats. 2015, Ch. 460, Sec. 2. (AB 1075) Effective January 1, 2016.)

25186.1. (a) Except as specified in Section 25186.2, proceedings for the suspension or revocation of a permit, registration, or certificate under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In the event

of a conflict between this chapter and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, the provisions of the Government Code shall prevail.

(b) (1) Proceedings to determine whether to grant, issue, modify, or deny a permit, registration, or certificate shall be conducted in accordance with the regulations adopted by the department.

(2) The petition for judicial review of a final decision of the department to grant, issue, modify, or deny a permit, registration, or certificate shall not be filed later than 90 days after the date that the notice of the final decision is served.

(Amended by Stats. 2000, Ch. 343, Sec. 9.7. Effective January 1, 2001.)

25186.2. The department may temporarily suspend any permit, registration, or certificate issued pursuant to this chapter prior to any hearing if the department determines that conditions may present an imminent and substantial endangerment to the public health or safety or the environment. In making this determination, the department may rely on any information, including, but not limited to, information concerning an actual, threatened, or potential harm to the public health or safety or the environment, information concerning a release or threat of a release, or a human health or ecological risk assessment. The department shall notify the holder of the permit, registration, or certificate of the temporary suspension and the effective date thereof and at the same time shall serve the person with an accusation. Upon receipt by the department of a notice of defense to the accusation from the holder of the permit, registration, or certificate, the department shall, within 15 days, set the matter for a hearing, which shall be held as soon as possible, but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the department has made a final determination on the merits, which shall be made within 60 days after the completion of the hearing. If the determination is not transmitted within this period, the temporary suspension shall be of no further effect.

(Amended by Stats. 2015, Ch. 460, Sec. 3. (AB 1075) Effective January 1, 2016.)

25186.2.5. The department may temporarily suspend the operation of a facility operating under an expired permit that has been extended pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 25200 or an interim status pursuant to Section 25200.5 prior to a hearing if the department determines that the action is necessary to prevent or mitigate a risk to the public health or safety or the environment. The department shall notify the owner and operator of the facility of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve the person with an accusation. Upon receipt by the department of a notice of defense to the accusation from the owner or operator of the facility, the department shall, within 15 days, set the matter for a hearing, which shall be held as soon as possible, but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the department has made a final determination on the merits, which shall be made within 60 days after the completion of the hearing. If the determination is not transmitted within this period, the temporary suspension shall be of no further effect.

(Added by Stats. 2014, Ch. 833, Sec. 2. (SB 712) Effective January 1, 2015.)

25186.3. (a) The department shall prepare a written report pursuant to subdivision (b) whenever the department proposes to issue a hazardous waste facilities permit applied for pursuant to Section 25200 and the department has information that the applicant, or the applicant under any previous name or names, or, if the applicant is a business concern, any officer, director, or partner of the business concern, has been named as a party in any action involving violation of any statute, regulation, or requirement specified in Section 25186, excluding civil and administrative penalties of one thousand dollars (\$1,000) or less at any hazardous waste facility issued a permit pursuant to this chapter, and that a conviction, judgment, or settlement has been entered during a three-year period preceding the date of application.

(b) The report shall list all convictions, judgments, and settlements relating to violations of any statutes, regulations, or requirements specified in Section 25186, excluding civil and administrative penalties of one thousand dollars (\$1,000) or less at any hazardous waste facility issued a permit pursuant to this chapter, that occurred during the three-year period preceding the date of application. The listing of settlements shall include the following statement: "Settlements may or may not include admissions of guilt." The report shall separately list all criminal convictions and those violations resulting in penalties of fifty thousand dollars (\$50,000) or more and shall be included in the administrative record for the proposed permit.

(c) For the purposes of this section, the department may use criminal history information obtained from the Department of Justice to the extent that the information is necessary to list all convictions, judgments, and settlements as required by subdivision (b).

(d) This section does not apply to facilities that meet the requirements necessary to operate pursuant to the department's permit-by-rule regulations.

(Added by Stats. 1991, Ch. 1209, Sec. 1.)

25186.5. (a) In making a determination pursuant to Section 25186, the director may contact the district attorney, local agencies, the Attorney General, the United States Department of Justice, the Environmental Protection Agency, or other agencies outside of the state that have, or have had, regulatory or enforcement jurisdiction over the applicant in connection with any hazardous waste or hazardous materials activities.

(b) Every hazardous waste licenseholder or applicant, other than a federal, state, or local agency, who is not otherwise required to file a disclosure statement on or before January 1, 1989, shall file a disclosure statement with the department on or before January 1, 1989.

(c) If changes or additions of information regarding majority ownership, the business name, or the information required by paragraphs (6) and (8) of subdivision (a) of Section 25112.5 occur after the filing of the statement, the licenseholder or applicant shall provide that information to the department, in writing, within 30 days of the change or addition.

(d) Any person submitting a disclosure statement shall pay a fee set by the department in an amount adequate to defray the costs of implementing this section, per person, officer, director, or partner required to be listed in the disclosure statement, in addition to any other fees required. The department shall deposit these fees in the Hazardous Waste Control Account. The fees shall be made available, upon appropriation by the Legislature, to cover the costs of conducting the necessary background searches.

(e) Any person who knowingly makes any false statement or misrepresentation in a disclosure statement filed pursuant to the requirements of this chapter is, upon conviction, subject to the penalties specified in Sections 25189 and 25189.2 and subdivision (a) of Section 25191.

(f) The disclosure statement submitted pursuant to subdivision (b) is exempt from the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(Amended by Stats. 2021, Ch. 615, Sec. 242. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

25186.6. (a) In any case filed in any court or administrative tribunal, including, but not limited to, the Office of Administrative Hearings, which alleges any violations of this chapter or any statute, regulation, or requirement specified in Section 25186, the prosecuting attorney shall, within 30 days of the date of filing, forward, to the office of Attorney General located in the City of Los Angeles, a summary of the case which provides all of the following information:

- (1) The case name and court or administrative number.
- (2) The court or administrative tribunal in which the case is being prosecuted.
- (3) The agency prosecuting the case.
- (4) The name, business address, and telephone number of the prosecuting attorney.
- (5) The statutes, regulations, or requirements which are alleged to have been violated.
- (6) The date of filing and date or dates of alleged violations.
- (7) A brief summary of the action.
- (8) The names, addresses, and telephone numbers of all respondents or defendants in the action.
- (9) The status of the case.

(b) Within 30 days of the conclusion of a case specified in subdivision (a) by verdict, award, judgment, dismissal, or settlement, the prosecuting attorney shall forward, to the office of the Attorney General located in the City of Los Angeles, an update of the information required by subdivision (a), including a statement describing the final outcome of the case.

(c) The cases subject to this section shall include those cases which are brought for purposes of clarifying, enforcing, limiting, or overturning any case which arose out of a violation of this chapter or statute, regulation, or requirement specified in Section 25186, including, but not limited to, appeals, actions for contempt, and revocations of probation.

(Added by Stats. 1989, Ch. 1257, Sec. 5.)

25186.7. The department may suspend or revoke any grant of authorization to operate pursuant to a permit-by-rule or authorization to conduct treatment pursuant to subdivision (a) or (c) of Section 25201.5, in accordance with the procedures specified in Sections 25186.1 and 25186.2, for any of the grounds specified in Section 25186 and may suspend or revoke any grant of conditional authorization granted pursuant to Section 25200.3 in accordance with the procedures specified in Sections 25186.1 and 25186.2, for any of the grounds specified in Section 25186 or as specified in subdivision (j) of Section 25200.3.

(Added by Stats. 1992, Ch. 1345, Sec. 6. Effective January 1, 1993.)

25187. (a) (1) The department or a unified program agency, in accordance with subdivision (l), may issue an order requiring that the violation be corrected and imposing an administrative penalty, for any violation of this chapter or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, whenever the department or unified program agency determines that a person has violated, is in violation of, or threatens, as defined in subdivision (e) of Section 13304 of the Water Code, to violate, this chapter or Part 2 (commencing with Section 78000) of Division 45, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter or Part 2 (commencing with Section 78000) of Division 45.

(2) In an order proposing a penalty pursuant to this section, the department or unified program agency shall take into consideration the nature, circumstances, extent, and gravity of the violation, the violator's past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violator's ability to pay the proposed penalty, and the prophylactic effect that the imposition of the proposed penalty would have on both the violator and the regulated community as a whole.

(b) The department or a unified program agency, in accordance with subdivision (l), may issue an order requiring corrective action whenever the department or unified program agency determines that there is or has been a release, as defined in Part 2 (commencing with Section 78000) of Division 45, of hazardous waste or constituents into the environment from a hazardous waste facility.

(1) In the case of a release of hazardous waste or constituents into the environment from a hazardous waste facility that is required to obtain a permit pursuant to Article 9 (commencing with Section 25200), the department shall pursue the remedies available under this chapter, including the issuance of an order for corrective action pursuant to this section, before using the legal remedies available pursuant to Part 2 (commencing with Section 78000) of Division 45, except in any of the following circumstances:

(A) If the person who is responsible for the release voluntarily requests in writing that the department issue an order to that person to take corrective action pursuant to Part 2 (commencing with Section 78000) of Division 45.

(B) If the person who is responsible for the release is unable to pay for the cost of corrective action to address the release. For purposes of this subparagraph, the inability of a person to pay for the cost of corrective action shall be determined in accordance with the policies of the Environmental Protection Agency for the implementation of Section 9605 of Title 42 of the United States Code.

(C) If the person responsible for the release is unwilling to perform corrective action to address the release. For purposes of this subparagraph, the unwillingness of a person to take corrective action shall be determined in accordance with the policies of the Environmental Protection Agency for the implementation of Section 9605 of Title 42 of the United States Code.

(D) If the release is part of a regional or multisite groundwater contamination problem that cannot, in its entirety, be addressed using the legal remedies available pursuant to this chapter and for which other releases that are part of the regional or multisite groundwater contamination problem are being addressed using the legal remedies available pursuant to Part 2 (commencing with Section 78000) of Division 45.

(E) If an order for corrective action has already been issued against the person responsible for the release, or the department and the person responsible for the release have, prior to January 1, 1996, entered into an agreement to address the required cleanup of the release pursuant to Part 2 (commencing with Section 78000) of Division 45.

(F) If the hazardous waste facility is owned or operated by the federal government.

(2) The order shall include a requirement that the person take corrective action with respect to the release of hazardous waste or constituents, abate the effects thereof, and take any other necessary remedial action.

(3) If the order requires corrective action at a hazardous waste facility, the order shall require that corrective action be taken beyond the facility boundary, where necessary to protect human health or the environment.

(4) The order shall incorporate, as a condition of the order, any applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the issuance of the order, to the extent that the department or unified program agency determines that those plans and policies are not less stringent than this chapter and

regulations adopted pursuant to this chapter. The order may include any more stringent requirement that the department or unified program agency determines is necessary or appropriate to protect water quality.

(5) Persons who are subject to an order pursuant to this subdivision include present and prior owners, lessees, or operators of the property where the hazardous waste is located, present or past generators, storers, treaters, transporters, disposers, and handlers of hazardous waste, and persons who arrange, or have arranged, by contract or other agreement, to store, treat, transport, dispose of, or otherwise handle hazardous waste.

(6) For purposes of this subdivision, "hazardous waste facility" includes the entire site that is under the control of an owner or operator engaged in the management of hazardous waste.

(c) Any order issued pursuant to this section shall be served by personal service or certified mail and shall inform the person so served of the right to a hearing. If the unified program agency issues the order pursuant to this section, the order shall state whether the hearing procedure specified in paragraph (2) of subdivision (f) may be requested by the person receiving the order.

(d) Any person served with an order pursuant to this section who has been unable to resolve any violation or deficiency on an informal basis with the department or unified program agency may, within 15 days after service of the order, request a hearing pursuant to subdivision (e) or (f) by filing with the department or unified program agency a notice of defense. The notice shall be filed with the office that issued the order. A notice of defense shall be deemed filed within the 15-day period provided by this subdivision if it is postmarked within that 15-day period. If a notice of defense is not filed within the time limits provided by this subdivision, the order shall become final.

(e) Any hearing requested on an order issued by the department shall be conducted within 90 days after receipt of the notice of defense by an administrative law judge of the Office of Administrative Hearings of the Department of General Services in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the authority granted to an agency by those provisions.

(f) Except as provided in subparagraph (B) of paragraph (2), a person requesting a hearing on an order issued by a unified program agency may select the hearing process specified in either paragraph (1) or (2) in the notice of defense filed with the unified program agency pursuant to subdivision (d). Within 90 days of receipt of the notice of defense by the unified program agency, the hearing shall be conducted using one of the following procedures:

(1) An administrative law judge of the Office of Administrative Hearings of the Department of General Services shall conduct the hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) (A) A hearing officer designated by the unified program agency shall conduct the hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and the unified program agency shall have all the authority granted to an agency by those provisions. When a hearing is conducted by a unified program agency pursuant to this paragraph, the unified program agency shall, within 60 days of the hearing, issue a decision.

(B) A person requesting a hearing on an order issued by a unified program agency may select the hearing process specified in this paragraph in a notice of defense filed pursuant to subdivision (d) only if the unified program agency has, as of the date the order is issued pursuant to subdivision (c), selected a designated hearing officer and established a program for conducting a hearing in accordance with this paragraph.

(g) The hearing decision issued pursuant to subdivision (f) is effective and final upon issuance. Copies of the decision shall be served by personal service or by certified mail upon the party served with the order and upon other persons who appeared at the hearing and requested a copy.

(h) Any provision of an order issued under this section, except the imposition of an administrative penalty, takes effect upon issuance by the department or unified program agency if the department or unified program agency finds that the violation or violations of law associated with that provision may pose an imminent and substantial endangerment to the public health or safety or the environment, and a request for a hearing shall not stay the effect of that provision of the order pending a hearing decision. However, if the department or unified program agency determines that any or all provisions of the order are so related that the public health or safety or the environment can be protected only by immediate compliance with the order as a whole, then the order as a whole, except the imposition of an administrative penalty, takes effect upon issuance by the department or unified program agency. A request for a hearing shall not stay the effect of the order as a whole pending a hearing decision.

(i) A decision issued pursuant to this section may be reviewed by the court pursuant to Section 11523 of the Government Code. In all proceedings pursuant to this section, the court shall uphold the decision of the department or unified program agency if the decision is based upon substantial evidence in the whole record. The filing of a petition for writ of mandate shall not stay any action required pursuant to this chapter or the accrual of any penalties assessed pursuant to this chapter. This subdivision does not prohibit the court from granting any appropriate relief within its jurisdiction.

(j) (1) All administrative penalties collected from actions brought by the department pursuant to this section shall be placed in a separate subaccount in the Toxic Substances Control Account and shall be available only for transfer to the Site Remediation Account or the Expedited Site Remediation Trust Fund and for expenditure by the department upon appropriation by the Legislature.

(2) The administrative penalties collected from an action brought by the department pursuant to Sections 25214.3, 25214.22.1, and 25215.82, in accordance with this section, shall be deposited in the Toxic Substances Control Account, for expenditure by the department for implementation and enforcement activities, upon appropriation by the Legislature, pursuant to Section 25173.6.

(k) All administrative penalties collected from an action brought by a unified program agency pursuant to this section shall be paid to the unified program agency that imposed the penalty, and shall be deposited into a special account that shall be expended to fund the activities of the unified program agency in enforcing this chapter pursuant to Section 25180.

(l) The authority granted under this section to a unified program agency is limited to both of the following:

(1) The issuance of orders to impose penalties and to correct violations of the requirements of this chapter and its implementing regulations, only when the violations are violations of requirements applicable to hazardous waste generators and persons operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption, when the violations occur at a unified program facility within the jurisdiction of the CUPA.

(2) The issuance of orders to require corrective action when there has been a release of hazardous waste or constituents only when the unified program agency is authorized to do so pursuant to Section 25404.1.

(m) The CUPA shall annually submit a summary report to the department on the status of orders issued by the unified program agencies under this section and Section 25187.1.

(n) The CUPA shall consult with the district attorney for the county on the development of policies to be followed in exercising the authority delegated pursuant to this section and Section 25187.1, as they relate to the authority of unified program agencies to issue orders.

(o) The CUPA shall arrange to have appropriate legal representation in administrative hearings that are conducted by an administrative law judge of the Office of Administrative Hearings of the Department of General Services, and when a decision issued pursuant to this section is appealed to the superior court.

(p) The department may adopt regulations to implement this section and paragraph (2) of subdivision (a) of Section 25187.1 as they relate to the authority of unified program agencies to issue orders. The regulations shall include, but not be limited to, all of the following requirements:

(1) Provisions to ensure coordinated and consistent application of this section and Section 25187.1 when both the department and the unified program agency have issued or will be issuing orders under one or both of these sections with regard to the same facility.

(2) Provisions to ensure that the enforcement authority granted to the unified program agencies will be exercised consistently throughout the state.

(3) Minimum training requirements for staff of the unified program agency relative to this section and Section 25187.1.

(4) Procedures to be followed by the department to rescind the authority granted to a unified program agency under this section and Section 25187.1, if the department finds that the unified program agency is not exercising that authority in a manner consistent with this chapter and Chapter 6.11 (commencing with Section 25404) and the regulations adopted pursuant thereto.

(q) Except for an enforcement action taken pursuant to this chapter or Part 2 (commencing with Section 78000) of Division 45, this section does not otherwise affect the authority of a local agency to take any action under any other law.

(Amended by Stats. 2022, Ch. 258, Sec. 48. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

25187.1. (a) (1) If the department or a unified program agency authorized pursuant to paragraph (2) determines, upon receipt of any information, that the presence of any hazardous waste at a facility or site at which hazardous waste is, or has been, stored, treated, or disposed of, or the release of any hazardous waste from the facility or site may present a substantial hazard to human health or the environment, the department or authorized unified program agency may issue an order requiring the owner or operator of the facility or site to conduct monitoring, testing, analysis, and reporting with respect to the facility or site which the department or authorized unified program agency deems reasonable to ascertain the nature and extent of the hazard.

(2) The authority granted under this section to a unified program agency is limited to the issuance of orders pursuant to paragraph (1) to a unified program facility within the jurisdiction of the CUPA, and is subject to Section 25404.1.

(b) If a facility or site subject to subdivision (a) is not in operation at the time the determination is made and the department finds that the owner of the facility or site, could not reasonably be expected to have actual knowledge of the presence of hazardous waste

at the facility or site and of its potential for release, the department may issue an order requiring the most recent previous owner or operator of the facility or site who could reasonably be expected to have the actual knowledge to carry out the actions specified in subdivision (a).

(c) Any order issued pursuant to subdivision (a) or (b) shall require the person to whom the order is issued to submit to the department or authorized unified program agency, within 30 days from the issuance of the order, a proposal for carrying out the required monitoring, testing, analysis, and reporting. The department or authorized unified program agency may, after providing the person with an opportunity to confer with the department or authorized unified program agency concerning the proposal, require the person to carry out the monitoring, testing, analysis, and reporting in accordance with the proposal, and with any modifications in the proposal as the department or authorized unified program agency deems reasonable to ascertain the nature and extent of the hazard.

(d) If the department or authorized unified program agency determines that there is no owner or operator specified in subdivision (a) or (b) to conduct monitoring, testing, analysis, or reporting satisfactory to the department or authorized unified program agency, if the department or authorized unified program agency deems the action carried out by an owner or operator is unsatisfactory, or if the department or authorized unified program agency cannot initially determine that there is an owner or operator specified in subdivision (a) or (b) who is able to conduct monitoring, testing, analysis, or reporting, the department or authorized unified program agency may do either of the following:

(1) Conduct monitoring, testing, or analysis, or any combination of these actions, which the department or authorized unified program agency deems reasonable, to ascertain the nature and extent of the hazard associated with the site.

(2) Authorize a local authority or other person to carry out the action, and require, by order, the owner or operator specified in subdivision (a) or (b) to reimburse the department or authorized unified program agency or other authority or person for the costs of the activity.

(e) The department or authorized unified program agency shall not issue an order pursuant to this section which requires the department or authorized unified program agency to be reimbursed for the costs of any action carried out by the department or authorized unified program agency to conduct monitoring, testing, and analysis to determine the results of the actions carried out by a person pursuant to an order issued pursuant to subdivision (a) or (b).

(f) For purposes of carrying out this section, the department, an authorized unified program agency, any other local agency, or other person authorized under paragraph (2) of subdivision (d), may take action pursuant to Section 25185.

(Amended by Stats. 1995, Ch. 639, Sec. 27. Effective January 1, 1996.)

25187.2. If an order or agreement issued by the department pursuant to Section 25187 to a potentially responsible party requires a person to take corrective action with respect to a release of hazardous waste or hazardous waste constituents into the environment, that person shall pay for the department's costs incurred in overseeing or carrying out the corrective action.

(Amended by Stats. 2015, Ch. 456, Sec. 1. (AB 273) Effective January 1, 2016.)

25187.3. (a) An owner or operator of a facility for which corrective action under department oversight is required shall include a corrective action cost estimate in any corrective measures study submitted to the department pursuant to an order issued or agreement entered into pursuant to Section 25187 for a release, as defined in Part 2 (commencing with Section 78000) of Division 45, of hazardous waste, hazardous waste constituents, or hazardous substances, as defined in Part 2 (commencing with Section 78000) of Division 45, into the environment from the facility.

(b) An owner or operator of a facility for which corrective action under department oversight is required shall demonstrate financial assurances within 90 days of the department's approval of a corrective action cost estimate as required by subdivision (a), or by Section 25246.1, and shall maintain financial assurances until the department determines that all required corrective actions are complete.

(c) (1) For purposes of subdivision (b), an owner or operator of a facility for which corrective action under department oversight is required shall demonstrate and maintain one or more of the financial assurance mechanisms set forth in subdivisions (a) to (e), inclusive, of Section 66265.143 of Title 22 of the California Code of Regulations.

(2) (A) As an alternative to the financial assurance requirement of paragraph (1), an owner or operator of a facility for which corrective action under department oversight is required may demonstrate and maintain financial assurances by means of a financial assurance mechanism other than those described in paragraph (1), if the alternative financial assurance mechanism has been submitted to, and approved by, the department as being at least equivalent to the financial assurance mechanisms described in paragraph (1).

(B) The department shall evaluate the equivalency of the proposed alternative financial assurance mechanism principally in terms of the certainty of the availability of funds for required corrective action activities and the amount of funds that will be made available. The department shall require the owner or operator of the facility to submit any information deemed necessary

by the department to make a determination regarding the equivalency of the proposed alternative financial assurance mechanism.

(d) The department shall waive the financial assurances required by subdivision (b) if the owner or operator of the facility is a federal or state governmental entity.

(e) An owner or operator may satisfy the requirements of this section by demonstrating to the department that it has provided financial assurance for corrective action to the State Water Resources Control Board or a California regional water quality control board for the same release identified by the department.

(f) For facilities for which sole jurisdiction has been granted pursuant to subdivision (b) of Section 25204.6, the department shall not require additional financial assurances unless it is the lead agency or is directed by the lead agency that has sole jurisdiction pursuant to subdivision (b) of Section 25204.6. This section does not alter the State Water Resources Control Board's rules and regulations regarding financial assurances.

(Amended by Stats. 2022, Ch. 258, Sec. 49. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

25187.5. (a) If corrective action is not taken on or before the date specified in an order issued pursuant to Section 25187, or if in the judgment of the department immediate corrective action is necessary to remedy or prevent an imminent substantial danger to the public health, domestic livestock, wildlife, or the environment, the department may take, or contract for the taking of, that corrective action and recover the cost thereof as provided in subdivision (c).

(b) (1) The department may expend up to one hundred thousand dollars (\$100,000) in a 12-month period of available moneys in the Hazardous Waste Control Account in the General Fund to take corrective action pursuant to subdivision (a).

(2) Notwithstanding any other provision of law, the department may enter into written contracts for corrective action taken or to be taken pursuant to subdivision (a).

(3) Notwithstanding any other provision of law, the department may enter into oral contracts, not to exceed ten thousand dollars (\$10,000) in obligation, when in the judgment of the department immediate corrective action is necessary to remedy or prevent an imminent substantial danger to the public health, domestic livestock, wildlife, or the environment.

(4) The contracts entered into pursuant to this subdivision, whether written or oral, may include provisions for the rental of tools or equipment, either with or without operators furnished, and for the furnishing of labor and materials necessary to accomplish the work.

(5) Any contract entered into by the department pursuant to this subdivision shall be exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

(c) If corrective action is taken pursuant to subdivision (a), the person or persons who were subject to the order issued pursuant to Section 25187, or any person or persons whose violation resulted in the imminent and substantial danger to health or the environment shall be liable to the department for the reasonable cost actually incurred in taking corrective action. In addition, the person or persons shall be liable to the department for administrative costs in an amount equal to 10 percent of the reasonable cost actually incurred or five hundred dollars (\$500), whichever is greater. The amount of cost determined pursuant to this subdivision shall be recoverable in a civil action by the department, in addition to any other fees or penalties. Persons who may be liable pursuant to this subdivision shall include, but not be limited to, present or prior owners, lessees, or operators of the property where the hazardous waste is located and producers, transporters or disposers of the hazardous waste.

(d) Neither the department, nor any person authorized by the department to enter upon any lands for the purpose of taking corrective action pursuant to subdivision (a) is liable to civil or criminal action for trespass for any acts that are necessary to carry out the corrective action.

(e) This section does not impose any new liability associated with acts that occurred before January 1, 1981, if the acts were not in violation of existing law or regulations at the time they occurred.

(Amended by Stats. 1998, Ch. 882, Sec. 6. Effective January 1, 1999.)

25187.6. (a) If an authorized agent of the department has probable cause to believe that any hazardous waste, or any material which the authorized agent reasonably believes to be a hazardous waste, is stored, transported, disposed of, or handled in violation of this chapter or in a manner that will constitute a violation of this chapter, and that the violation may threaten public health and safety, or the environment, the agent may issue an order of quarantine by affixing a tag or other appropriate marking to the container containing, or to the vehicle transporting, the hazardous waste.

(b) Upon issuing an order of quarantine pursuant to subdivision (a), the authorized agent shall notify the person who owns the hazardous waste, or the owner or lessee of the vehicle in which the wastes are transported, of all of the following:

(1) The hazardous waste has been subject to a quarantine order because the hazardous waste is, or is suspected of being, stored, transported, disposed of, or handled in violation of this chapter.

(2) No person shall remove, transfer, or dispose of the hazardous waste until permission for removal, transfer, or disposal is given by an authorized agent of the department or by a court.

(3) The person so notified may request, and shall be granted, an immediate hearing before a person designated by the director to review the validity of the authorized agent's order. For purposes of this section, an immediate hearing shall be held within 24 hours after a hearing is requested by the person subject to the order.

(c) Any order of quarantine issued pursuant to subdivision (a) shall take effect upon issuance and shall remain effective for 30 days thereafter, until an authorized agent removes the quarantine order pursuant to subdivision (d), or until the quarantine order is revoked pursuant to a hearing conducted in accordance with paragraph (3) of subdivision (b), whichever event occurs first.

(d) If an authorized agent of the department determines that a hazardous waste subject to a quarantine order is not being stored, handled, transported, or disposed of in violation of this chapter, or does not threaten public health and safety or the environment, the authorized agent shall revoke the order of quarantine.

(e) If an authorized agent of the department has probable cause to believe that a hazardous waste subject to a quarantine order will, or is likely to, be removed, transferred or disposed of in violation of this section, the authorized agent may remove the hazardous waste to a place of safekeeping.

(f) A hazardous waste in transit for which a quarantine order has been issued pursuant to subdivision (a) shall be stored or held at one of the following locations, which the authorized agent determines will represent the least risk to the public health and safety or the environment:

(1) The facility owned or operated by the producer of the waste, except when the producer is located outside the state.

(2) The transporter's yard, facility, or terminal.

(3) The treatment, storage, or disposal facility to which the hazardous waste is to be transported.

(4) Any other site designated by the authorized agent.

(g) All fees for storage and any other expenses incurred in carrying out subdivision (e) or (f) shall be a charge against the person who owns the hazardous waste or the owner or lessee of the vehicle in which the wastes are transported.

(h) For purposes of this section, "authorized agent of the department" includes any representative of a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.

(Amended by Stats. 1995, Ch. 639, Sec. 30. Effective January 1, 1996.)

25187.8. (a) An authorized representative of the department or local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180, who, in the course of conducting an inspection of a facility, detects a minor violation of any permit conditions, rule, regulation, standard, or other requirement, shall issue a notice to comply before leaving the site in which the minor violation is alleged to have occurred.

(b) A facility which receives a notice to comply pursuant to subdivision (a) shall have not more than 30 days from the date of receipt of the notice to comply in which to achieve compliance with the permit conditions, rule, regulation, standard, or other requirement cited on the notice to comply. Within five working days of achieving compliance, an appropriate person who is an owner or operator of, or an employee at, the facility shall sign the notice to comply and return it to the department representative or to the authorized local officer or agency, as the case may be, which states that the facility has complied with the notice to comply. A false statement that compliance has been achieved is a violation of this chapter pursuant to Section 25191.

(c) A single notice to comply shall be issued for all minor violations cited during the same inspection and the notice to comply shall separately list each of the cited minor violations and the manner in which each of the minor violations may be brought into compliance.

(d) A notice to comply shall not be issued for any minor violation which is corrected immediately in the presence of the inspector. Immediate compliance in that manner may be noted in the inspection report, but the facility shall not be subject to any further action by the department representative or by the authorized local officer or agency.

(e) Except as otherwise provided in subdivision (g), a notice to comply shall be the only means by which the department representative or the authorized local officer or agency shall cite a minor violation. The department representative or the authorized local officer or agency shall not take any other enforcement action specified in this chapter against a facility which has received a notice to comply if the facility complies with this section.

(f) If a facility that receives a notice to comply pursuant to subdivision (a) disagrees with one or more of the alleged violations listed on the notice to comply, the owner shall give the person who issued the notice to comply written notice of disagreement. If the

issuing agency takes administrative enforcement action on the basis of the disputed violation, that action may be appealed in the same manner as for other alleged violations under subdivisions (d) to (j), inclusive, of Section 25187.

(g) (1) Notwithstanding any other provision of this section, if a facility fails to comply with a notice to comply within the prescribed period, or if the department, or an authorized local officer or agency, determines that the circumstances surrounding a particular minor violation or combination of minor violations are such that immediate enforcement is warranted to prevent harm to the public health or safety or to the environment, the department or authorized local officer or agency may take any needed enforcement action authorized by this chapter.

(2) Notwithstanding any other provision of this section, if the department, or an authorized local officer or agency, determines that the circumstances surrounding a particular minor violation or combination of minor violations are such that the assessment of a civil penalty pursuant to this chapter is warranted or is required by the federal act, in addition to issuance of a notice to comply, the department or authorized local officer or agency shall assess that civil penalty in accordance with this chapter, if the department or authorized local officer or agency makes written findings that set forth the basis for the department's or authorized local officer's or agency's determination.

(h) A notice to comply issued to a facility pursuant to this section shall contain an explicit statement that the facility may be subject to reinspection at any time by the department or authorized local officer or agency that issued the notice to comply. Nothing in this section shall be construed as preventing the reinspection of a facility to ensure compliance with this chapter or to ensure that minor violations cited in a notice to comply have been corrected and that the facility is in compliance with this chapter.

(i) Nothing in this section shall be construed as preventing the department, or authorized local officer or agency, on a case-by-case basis, from requiring a facility to submit reasonable and necessary documentation to support the facility's claim of compliance pursuant to subdivision (b).

(Amended by Stats. 1995, Ch. 639, Sec. 32.5. Effective January 1, 1996.)

25188. A person subject to an order issued pursuant to Section 25187 who does not comply with that order shall be subject to a civil penalty of not more than seventy thousand dollars (\$70,000) for each day of noncompliance.

(Amended by Stats. 2017, Ch. 499, Sec. 1. (AB 245) Effective January 1, 2018.)

25189. (a) A person who intentionally or negligently makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter, shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that violation continues.

(b) Except as provided in subdivision (c), (d), or (e), a person who intentionally or negligently violates a provision of this chapter or a permit, rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter, shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each violation of a separate provision or, for continuing violations, for each day that violation continues.

(c) A person who intentionally disposes or causes the disposal of a hazardous or extremely hazardous waste at a point that is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not less than one thousand dollars (\$1,000) or more than seventy thousand dollars (\$70,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains and the person has knowledge of the deposit is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with an order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(d) A person who negligently disposes or causes the disposal of a hazardous or extremely hazardous waste at a point that is not authorized according to the provisions of this chapter shall be subject to a civil penalty of not more than seventy thousand dollars (\$70,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court may direct. Each day on which the deposit remains and the person had knowledge of the deposit is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with an order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(e) A person who intentionally or negligently treats or stores, or causes the treatment or storage of, a hazardous waste at a point that is not authorized according to this chapter shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(f) Each civil penalty imposed for a separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.

(g) A person shall not be liable for a civil penalty imposed under this section and for a civil penalty imposed under Section 25189.2 for the same act or failure to act.

(Amended by Stats. 2017, Ch. 499, Sec. 2. (AB 245) Effective January 1, 2018.)

25189.1. (a) In addition to liability under any other provision of law, any person who is liable for a civil penalty pursuant to subdivision (c) or (d) of Section 25189 or subdivision (c) of Section 25189.2, or is convicted pursuant to subdivision (b) of Section 25189.5, is also civilly liable for all the costs or expenses which may be incurred by the state, or by a local agency, in doing any of the following:

(1) Assess short-term or long-term injury to, degradation or destruction of, or any loss of, any natural resource resulting from the disposal of the hazardous waste which is the subject of the civil penalty or conviction.

(2) Restore, rehabilitate, replace, or acquire the equivalent of, any natural resource injured, degraded, destroyed, or lost as a result of the disposal of the hazardous waste which is the subject of the civil penalty or conviction.

(b) The liability imposed by subdivision (a) is separate and in addition to any civil penalty imposed pursuant to subdivision (c) or (d) of Section 25189 or subdivision (c) of Section 25189.2 or any fine imposed pursuant to subdivision (e) of Section 25189.5.

(c) Any funds collected pursuant to this section are in addition to any other funds which may be collected pursuant to this chapter.

(d) A state or local agency may collect funds pursuant to this section prior to carrying out the actions specified in paragraph (1) or (2) of subdivision (a).

(e) An action brought pursuant to this section may be brought by the trustee of the natural resources specified in Section 79685. The action may be prosecuted by the Attorney General or the district attorney. The action may be prosecuted by the district attorney only after the trustee, in consultation with the Office of the Attorney General, approves that prosecution in writing. The trustee shall have 30 days to consider any requested action and approval shall be presumed to have been granted if a written denial is not issued within 30 days. The trustee may not unreasonably withhold approval.

(f) All funds collected pursuant to this section by the trustee of the natural resources shall be deposited, at the discretion of the trustee, in the Fish and Wildlife Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund or in a special deposit trust fund.

(Amended by Stats. 2022, Ch. 258, Sec. 50. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

25189.2. (a) A person who makes a false statement or representation in an application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter, is liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(b) Except as provided in subdivision (c) or (d), a person who violates a provision of this chapter or a permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(c) A person who disposes, or causes the disposal of, a hazardous or extremely hazardous waste at a point that is not authorized according to the provisions of this chapter is liable for a civil penalty of not more than seventy thousand dollars (\$70,000) for each violation and may be ordered to disclose the fact of this violation or these violations to those persons as the court or, in the case of an administrative action, a hearing officer, may direct. Each day on which the deposit remains is a separate additional violation, unless the person immediately files a report of the deposit with the department and is complying with an order concerning the deposit issued by the department, a hearing officer, or a court of competent jurisdiction for the cleanup.

(d) A person who treats or stores, or causes the treatment or storage of, a hazardous waste at a point that is not authorized according to this chapter, shall be liable for a civil penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(e) For purposes of subdivisions (c) and (d), a person who offers hazardous waste to a transporter that is registered pursuant to Section 25163 or to a storage, treatment, transfer, resource recovery, or disposal facility that holds a valid hazardous waste facilities permit or other grant of authorization from the department that authorizes the facility to accept the waste being offered shall not be considered to have caused disposal, treatment, or storage of hazardous waste at an unauthorized point solely on the basis of having offered that person's waste, provided the person has taken reasonable steps to determine that the transporter is registered or the facility is authorized by the department to accept the hazardous waste being offered.

(f) A person shall not be liable for a civil penalty imposed under this section and for a civil penalty imposed under Section 25189 for the same act or failure to act.

(g) Liability under this section may be imposed in a civil action or liability may be imposed administratively pursuant to Section 25187.

(Amended by Stats. 2017, Ch. 499, Sec. 3. (AB 245) Effective January 1, 2018.)

25189.3. (a) For purposes of this section, the term "permit" means a hazardous waste facilities permit, interim status authorization, or standardized permit.

(b) The department shall suspend the permit of any facility for nonpayment of any facility fee assessed pursuant to Section 25205.2 or activity fee assessed pursuant to Section 25205.7, if the operator of the facility is subject to the fee, and if the department or State Board of Equalization has certified in writing to all of the following:

(1) The facility's operator is delinquent in the payment of the fee for one or more reporting periods.

(2) The department or State Board of Equalization has notified the facility's operator of the delinquency.

(3) (A) For a facility operator that elected to pay the flat activity fee rate pursuant to subdivision (d) of Section 25205.7, as that section read on January 1, 2016, the operator has exhausted his or her administrative rights of appeal provided by Chapter 3 (commencing with Section 43151) of Part 22 of Division 2 of the Revenue and Taxation Code, and the State Board of Equalization has determined that the operator is liable for the fee, or that the operator has failed to assert those rights.

(B) For a facility operator that pays the activity fee under a reimbursement agreement with the department pursuant to subdivision (a) of Section 25205.7, the operator has exhausted the dispute resolution procedures adopted by the department pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 25206.2.

(c) (1) The department shall suspend the permit of any facility for nonpayment of a penalty assessed upon the owner or operator for failure to comply with this chapter or the regulations adopted pursuant to this chapter, if the penalty has been imposed by a trial court judge or by an administrative hearing officer, if the person has agreed to pay the penalty pursuant to a written agreement resolving a lawsuit or an administrative order, or if the penalty has become final due to the person's failure to respond to the lawsuit or order.

(2) The department may suspend a permit pursuant to this subdivision only if the owner or operator is delinquent in the payment of the penalty and the department has notified the owner or operator of the delinquency pursuant to subdivision (d).

(d) Before suspending a permit pursuant to this section, the department shall notify the owner or operator of its intent to do so, and shall allow the owner or operator a minimum of 30 days in which to cure the delinquency.

(e) The department may deny a new permit or refuse to renew a permit on the same grounds for which the department is required to suspend a permit under this section, subject to the same requirements and conditions.

(f) (1) The department shall reinstate a permit that is suspended pursuant to this section upon payment of the amount due if the permit has not otherwise been revoked or suspended pursuant to any other provision of this chapter or regulation. Until the department reinstates a permit suspended pursuant to this section, if the facility stores, treats, disposes of, or recycles hazardous wastes, the facility shall be in violation of this chapter. If the operator of the facility subsequently pays the amount due, the period of time for which the operator shall have been in violation of this chapter shall be from the date of the activity that is in violation until the day after the owner or operator submits the payment to the department.

(2) Except as otherwise provided in this section, the department is not required to take any other statutory or regulatory procedures governing the suspension of the permit before suspending a permit in compliance with the procedures of this section.

(g) (1) A suspension under this section shall be stayed while an authorized appeal of the fee or penalty is pending before a court or an administrative agency.

(2) For purposes of this subdivision, "an authorized appeal" means any appeal allowed pursuant to an applicable regulation or statute.

(h) The department may suspend a permit under this section based on a failure to pay the required fee or penalty that commenced before January 1, 2002, if the failure to pay has been ongoing for at least 30 days following that date.

(i) Notwithstanding Section 43651 of the Revenue and Taxation Code, the suspension of a permit pursuant to this section, the reason for the suspension, and any documentation supporting the suspension, shall be a matter of public record.

(j) (1) This section does not authorize the department to suspend a permit held by a government agency if the agency does not dispute the payment but nonetheless is unable to process the payment in a timely manner.

(2) This section does not apply to a site owned or operated by a federal agency if the department has entered into an agreement with that federal agency regarding the remediation of that site.

(k) This section does not limit or supersede Section 25186.

(Amended by Stats. 2016, Ch. 340, Sec. 18. (SB 839) Effective September 13, 2016.)

25189.4. (a) In addition to any penalty imposed under any other law, a person who is subject to the imposition of civil or criminal penalties pursuant to the provisions specified in subdivision (b) shall also be subject to an additional civil penalty of not less than five thousand dollars (\$5,000) or more than fifty thousand dollars (\$50,000) for each day of each violation, if the person has been found liable for, or has been convicted of, two or more previous violations subject to the penalties specified in subdivision (b) and those violations or convictions occurred within any consecutive 60 months.

(b) The additional liability specified in subdivision (a) shall apply to a penalty imposed pursuant to, or a conviction under, paragraph (2) of subdivision (g) of Section 25187.8, or Section 25189, 25189.2, 25189.3, 25189.5, 25189.6, or 25189.7.

(Added by Stats. 2015, Ch. 460, Sec. 4. (AB 1075) Effective January 1, 2016.)

25189.5. (a) The disposal of any hazardous waste, or the causing thereof, is prohibited when the disposal is at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter.

(b) Any person who is convicted of knowingly disposing or causing the disposal of any hazardous waste, or who reasonably should have known that he or she was disposing or causing the disposal of any hazardous waste, at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

(c) Any person who knowingly transports or causes the transportation of hazardous waste, or who reasonably should have known that he or she was causing the transportation of any hazardous waste, to a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

(d) Any person who knowingly treats or stores any hazardous waste at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

(e) The court also shall impose upon a person convicted of violating subdivision (b), (c), or (d), a fine of not less than five thousand dollars (\$5,000) nor more than one hundred thousand dollars (\$100,000) for each day of violation, except as further provided in this subdivision. If the act which violated subdivision (b), (c), or (d) caused great bodily injury, or caused a substantial probability that death could result, the person convicted of violating subdivision (b), (c), or (d) may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for one, two, or three years, in addition and consecutive to the term specified in subdivision (b), (c), or (d), and may be fined up to two hundred fifty thousand dollars (\$250,000) for each day of violation.

(f) For purposes of this section, except as otherwise provided in this subdivision, "each day of violation" means each day on which a violation continues. In any case where a person has disposed or caused the disposal of any hazardous waste in violation of this section, each day that the waste remains disposed of in violation of this section and the person has knowledge thereof is a separate additional violation, unless the person has filed a report of the disposal with the department and is complying with any order concerning the disposal issued by the department, a hearing officer, or court of competent jurisdiction.

(Amended by Stats. 2011, Ch. 15, Sec. 188. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68. Note: Provisions now in subd. (e), but which had been in subd. (d) before Oct. 2, 1989, were amended on Nov. 4, 1986, by initiative Prop. 65.)

25189.6. (a) Any person who knowingly, or with reckless disregard for the risk, treats, handles, transports, disposes, or stores any hazardous waste in a manner which causes any unreasonable risk of fire, explosion, serious injury, or death is guilty of a public offense and shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000) nor more than two hundred fifty thousand dollars (\$250,000) for each day of violation, or by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by both that fine and imprisonment.

(b) Any person who knowingly, at the time the person takes the actions specified in subdivision (a), places another person in imminent danger of death or serious bodily injury, is guilty of a public offense and shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000) nor more than two hundred fifty thousand dollars (\$250,000) for each day of violation, and by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, six, or nine years.

(Amended by Stats. 2011, Ch. 15, Sec. 189. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

25189.7. (a) The burning or incineration of any hazardous waste, or the causing thereof, is prohibited when the burning or incineration is at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter.

(b) Any person who is convicted of knowingly burning or incinerating, or causing the burning or incineration of, any hazardous waste, or who reasonably should have known that he or she was burning or incinerating, or causing the burning or incineration of, any hazardous waste, at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

(c) The court also shall impose upon a person convicted of violating subdivision (b) a fine of not less than five thousand dollars (\$5,000) nor more than one hundred thousand dollars (\$100,000) for each day of violation, except as otherwise provided in this subdivision. If the act which violated subdivision (b) caused great bodily injury or caused a substantial probability that death could result, the person convicted of violating subdivision (b) may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for one, two, or three years, in addition and consecutive to the term specified in subdivision (b), and may be fined up to two hundred fifty thousand dollars (\$250,000) for each day of violation.

(Amended by Stats. 2011, Ch. 15, Sec. 190. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

25190. (a) Except as otherwise provided in Sections 25185.6, 25189.5, 25189.6, 25189.7, and 25191, any person who violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is, upon conviction, guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for up to six months in a county jail or by both that fine and imprisonment.

(b) If the conviction is for a second or subsequent violation, the person shall, upon conviction, be punished by imprisonment in the county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months. The court shall also impose upon the person a fine of not less than five thousand dollars (\$5,000) or more than twenty-five thousand dollars (\$25,000).

(Amended by Stats. 2015, Ch. 459, Sec. 2. (AB 276) Effective January 1, 2016.)

25191. (a) (1) Any person who knowingly does any of the acts specified in subdivision (b) shall, upon conviction, be punished by a fine of not less than two thousand dollars (\$2,000) or more than twenty-five thousand dollars (\$25,000) for each day of violation, or by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(2) If the conviction is for a second or subsequent violation of subdivision (b), the person shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months, or in a county jail for not more than one year, or by a fine of not less than two thousand dollars (\$2,000) or more than fifty thousand dollars (\$50,000) for each day of violation, or by both that fine and imprisonment.

(3) Each day or partial day that a violation occurs is a separate violation.

(b) A person who does any of the following is subject to the punishment prescribed in subdivision (a):

(1) Makes any false statement or representation in any application, label, manifest, record, report, permit, notice to comply, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter, that has been altered or concealed.

(3) Destroys, alters, or conceals any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter.

(4) Withholds information regarding a real and substantial danger to the public health or safety when that information has been requested by the department, or by a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180, and is required to carry out the responsibilities of the department or the authorized local officer or agency pursuant to this chapter in response to a real and substantial danger.

(5) Except as otherwise provided in this chapter, engages in transportation of hazardous waste in violation of Section 25160 or 25161, or subdivision (a) of Section 25163, or in violation of any regulation adopted by the department pursuant to those provisions, including, but not limited to, failing to complete or provide the manifest in the form and manner required by the department.

(6) Except as otherwise provided in this chapter, produces, receives, stores, or disposes of hazardous waste, or submits hazardous waste for transportation, in violation of Section 25160 or 25161 or any regulation adopted by the department pursuant

to those sections, including, but not limited to, failing to complete, provide, or submit the manifest in the form and manner required by the department.

(7) Transports any waste, for which there is provided a manifest, if the transportation is in violation of this chapter or the regulations adopted by the department pursuant thereto.

(8) Violates Section 25162.

(c) (1) The penalties imposed pursuant to subdivision (a) on any person who commits any of the acts specified in paragraph (5), (7), or (8) of subdivision (b) shall be imposed only (A) on the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled or (B) on the person who authorizes or causes the transporting, carrying, or handling. These penalties shall not be imposed on the driver of the vehicle, unless the driver is also the owner or lessee of the vehicle or authorized or caused the transporting, carrying, or handling.

(2) If any person other than the person producing the hazardous waste prepares the manifest specified in Section 25160, that other person is also subject to the penalties imposed on a person who commits any of the acts specified in paragraph (6) of subdivision (b).

(d) Any person who knowingly does any of the following acts, each day or partial day that a violation occurs constituting a separate violation, shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500) for each day of violation, or by imprisonment in the county jail for not to exceed six months, or by both that fine and imprisonment:

(1) Carries or handles, or authorizes the carrying or handling of, a hazardous waste without having in the driver's possession the manifest specified in Section 25160.

(2) Transports, or authorizes the transportation of, hazardous waste without having in the driver's possession a valid registration issued by the department pursuant to Section 25163.

(e) Whenever any person is prosecuted for a violation pursuant to paragraph (5), (6), (7), or (8) of subdivision (b), subdivision (d), or subdivision (c) of Section 25189.5, the prosecuting attorney may take appropriate steps to make the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled, the driver of the vehicle, or any other person who authorized or directed the loading, maintenance, or operation of the vehicle, who is reasonably believed to have violated these provisions, a codefendant. If a codefendant is held solely responsible and found guilty, the court may dismiss the charge against the person who was initially so charged.

(Amended by Stats. 2011, Ch. 15, Sec. 192. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)

25191.2. Actions pursuant to Sections 25189.5, 25189.6, 25189.7, 25190, and 25191 may be brought by any city attorney.

(Added by Stats. 1990, Ch. 185, Sec. 1.)

25191.7. (a) A person who provides information that materially contributes to the imposition of a civil penalty or criminal fine against a person for violating this chapter shall be paid a reward pursuant to regulations adopted by the department under subdivision (f). The reward shall be equal to 10 percent of the amount of the civil penalty or criminal fine collected by the department, district attorney, county counsel, or city attorney. The department shall pay the award to the person who provides information that results in the imposition of a civil penalty, and the county shall pay the award to the person who provides information that results in the imposition of a criminal fine. No reward paid pursuant to this subdivision shall exceed five thousand dollars (\$5,000).

(b) No informant shall be eligible for a reward for a violation known to the department, unless the information materially contributes to the imposition of criminal or civil penalties for a violation specified in this section.

(c) If there is more than one informant for a single violation, the first notification received by the department shall be eligible for the reward. If the notifications are postmarked on the same day or telephoned notifications are received on the same day, the reward shall be divided equally among those informants.

(d) Public officers and employees of the United States, the State of California, or counties and cities in California are not eligible for the reward pursuant to subdivision (a), unless reporting those violations does not relate in any manner to their responsibilities as public officers or employees.

(e) An informant who is an employee of a business and who provides information that the business violated this chapter is not eligible for a reward if the employee intentionally or negligently caused the violation or if the employee's primary and regular responsibilities included investigating the violation, unless the business knowingly caused the violation.

(f) The department shall adopt regulations that establish procedures for the receipt and review of claims for payment of rewards. All decisions concerning the eligibility for an award and the materiality of the provided information shall be made pursuant to these regulations. In each case brought under subdivision (a), the department, the office of the city attorney, the county counsel, or the

district attorney, whichever office brings the action, shall determine whether the information materially contributed to the imposition of civil or criminal penalties for violations of this chapter.

(g) The department shall continuously publicize the availability of the rewards pursuant to this section for persons who provide information pursuant to this section.

(h) Claims may be submitted only for those referrals made on or after January 1, 1982.

(Amended by Stats. 2024, Ch. 80, Sec. 83. (SB 1525) Effective January 1, 2025.)

25192. (a) All civil and criminal penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be deposited in the Toxic Substances Control Account in the General Fund.

(2) Twenty-five percent shall be paid to the office of the city attorney, city prosecutor, county counsel, district attorney, or the Attorney General, whichever office brought the action.

(3) Twenty-five percent shall be paid to the department and used to fund the activity of the CUPA, the local health officer, or other local public officer or agency authorized to enforce the provisions of this chapter pursuant to Section 25180, whichever entity investigated the matter that led to the bringing of the action. If investigation by the local police department or sheriff's office or the Department of the California Highway Patrol led to the bringing of the action, the CUPA, the local health officer, or the authorized officer or agency, shall pay a total of 40 percent of its portion under this subdivision to that investigating agency or agencies to be used for the same purpose. If more than one agency is eligible for payment under this paragraph, division of payment among the eligible agencies shall be in the discretion of the CUPA, the local health officer, or the authorized officer or agency.

(b) If a reward is paid to a person pursuant to Section 25191.7, the amount of the reward shall be deducted from the amount of the civil penalty before the amount is apportioned pursuant to subdivision (a).

(Amended by Stats. 2023, Ch. 154, Sec. 5. (SB 642) Effective January 1, 2024. Note: This section was amended on Nov. 4, 1986, by initiative Prop. 65.)

25193. The remedies provided by this chapter are cumulative, and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party, and no judgment under this chapter shall preclude any party from obtaining additional relief based upon the same facts.

(Added by Stats. 1980, Ch. 876.)

25194. Any action brought pursuant to this chapter against a person shall not abate by reason of a sale or other transfer of ownership, except with the express written consent of the director.

(Amended by Stats. 1995, Ch. 639, Sec. 34. Effective January 1, 1996.)

25194.5. (a) The withdrawal of an application for a permit, registration, or certificate, after it has been filed with the department shall not, unless the department consents in writing to the withdrawal, deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the permit, registration, or certificate upon any ground provided by law or to enter an order denying the permit, registration, or certificate upon any ground, and a withdrawal shall not affect the authority of the department, or a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180, to institute or continue a proceeding against the applicant pertaining to any violation of this chapter or any rule, regulation, standard, or requirement issued or promulgated pursuant to this chapter.

(b) The suspension, expiration, or forfeiture by operation of law of a permit, registration, or certificate issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court, or its surrender or attempted or actual transfer without the written consent of the department shall not affect the authority of the department, or a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180, to institute or continue a disciplinary proceeding against the holder of a permit, registration, or certificate upon any ground, or the authority of the department to enter an order suspending or revoking the permit, registration, or certificate, or otherwise taking an action against the holder of a permit, registration, or certificate on any ground.

(Amended by Stats. 1995, Ch. 639, Sec. 35. Effective January 1, 1996.)

25195. It is a misdemeanor for any person to do any of the following:

(a) Willfully prevent, interfere with, or attempt to impede in any way the work of any duly authorized representative of the department, or a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180, in the lawful enforcement of any provision of this chapter.

(b) Willfully prevent or attempt to prevent any such representative from examining any relevant books or records in the conduct of his or her official duties under this chapter.

(c) Willfully prevent or interfere with any such representative in the preserving of evidence of any violation of any of the provisions of this chapter or of the rules and regulations promulgated pursuant to this chapter.

(Amended by Stats. 1995, Ch. 639, Sec. 36. Effective January 1, 1996.)

25196. A person who knowingly violates a provision of subdivision (a) of former Section 25221 as that section read on January 1, 2012, and who violated that provision prior to the effective date of Chapter 39 of the Statutes of 2012, or who knowingly violates Section 25227, shall be subject to a civil penalty not to exceed 25 percent of the fair market value of the land and improvements, 25 percent of the sale price of the land and improvements, or fifty thousand dollars (\$50,000), whichever has been established and is greatest.

(Amended by Stats. 2014, Ch. 544, Sec. 4. (SB 1458) Effective January 1, 2015.)

25196.1. (a) A person who generates or has generated hazardous waste that fails to provide information to the department as required pursuant to this chapter and regulations adopted pursuant to this chapter is liable for a civil or administrative penalty not to exceed seventy thousand dollars (\$70,000) for each separate violation or, for continuing violations, for each day that the violation continues.

(b) The department may adopt regulations to implement subdivision (a).

(Added by Stats. 2024, Ch. 72, Sec. 22. (SB 156) Effective July 2, 2024.)