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AB-1597 Hazardous waste: transportation: electronic manifests. (2019-2020)

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Assembly Bill No. 1597

CHAPTER 133

An act to amend Sections 25123.3, 25160, 25160.2, 25160.5, 25205.15, 25207.5, and 25250.29 of, to repeal Sections 25160.3, 25160.4, and 25160.6 of, and to add Section 25160.01 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor July 30, 2019. Filed with Secretary of State July 30, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1597, Committee on Environmental Safety and Toxic Materials. Hazardous waste: transportation: electronic manifests.

(1) Existing law, which is part of the hazardous waste control law, imposes various manifest requirements for transporting hazardous waste, including, among others, requiring any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest and be subject to transporter registration requirements. A violation of the hazardous waste control law is a crime.

The federal Hazardous Waste Electronic Manifest Establishment Act requires the United States Environmental Protection Agency (EPA) to establish a national electronic manifest system. Under its regulatory authority under the federal act, the EPA has adopted regulations implementing the electronic manifest system and authorizing the use of an electronic manifest for the transportation of hazardous waste. The federal act requires states with authorized hazardous waste manifest programs to conform to those regulations implementing the electronic manifest system.

This bill would make changes to the hazardous waste control law to conform the provisions of that law to the federal EPA regulations implementing the electronic manifest system, and would delete obsolete provisions.

(2) By changing the conduct that constitutes the crime of violating the hazardous waste control law, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25123.3 of the Health and Safety Code is amended to read:

25123.3. (a) For purposes of this section, the following terms have the following meanings:

(1) "Liquid hazardous waste" means a hazardous waste that meets the definition of free liquids, as specified in Section 66260.10 of Title 22 of the California Code of Regulations, as that section read on January 1, 1994.

(2) "Remediation waste staging" means the temporary accumulation of non-RCRA contaminated soil that is generated and held onsite, and that is accumulated for the purpose of onsite treatment pursuant to a certified, authorized, or permitted treatment method, such as a transportable treatment unit, if all of the following requirements are met:

(A) The hazardous waste being accumulated does not contain free liquids.

(B) The hazardous waste is accumulated on an impermeable surface, such as high density polyethylene (HDPE) of at least 20 mils that is supported by a foundation, or high density polyethylene of at least 60 mils that is not supported by a foundation.

(C) The generator provides controls for windblown dispersion and precipitation runoff and run-on and complies with any stormwater permit requirements issued by a regional water quality control board.

(D) The generator has the accumulation site inspected weekly and after storms to ensure that the controls for windblown dispersion and precipitation runoff and run-on are functioning properly.

(E) The staging area is certified by a registered engineer for compliance with the standards specified in subparagraphs (A) to (D), inclusive.

(3) "Transfer facility" means any offsite facility that is related to the transportation of hazardous waste, including, but not limited to, loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

(b) "Storage facility" means a hazardous waste facility at which the hazardous waste meets any of the following requirements:

(1) The hazardous waste is held for greater than 90 days at an onsite facility. The department may establish criteria and procedures to extend that 90-day period, consistent with the federal act, and to prescribe the manner in which the hazardous waste may be held if not otherwise prescribed by statute.

(2) The hazardous waste is held for any period of time at an offsite facility that is not a transfer facility.

(3) (A) Except as provided in subparagraph (B), the waste is held at a transfer facility and any one of the following apply:

(i) The transfer facility is located in an area zoned residential by the local planning authority.

(ii) The transfer facility commences initial operations on or after January 1, 2005, at a site located within 500 feet of a structure identified in paragraphs (1) to (5), inclusive, of subdivision (c) of Section 25227.

(iii) The hazardous waste is held for a period greater than six days at a transfer facility located in an area that is not zoned industrial or agricultural by the local planning authority.

(iv) The hazardous waste is held for a period greater than 10 days at a transfer facility located in an area zoned industrial or agricultural by the local planning authority.

(v) The hazardous waste is held for a period greater than six days at a transfer facility that commenced initial operations before January 1, 2005, is located in an area zoned agricultural by the local planning authority, and is located within 500 feet of a structure identified in paragraphs (1) to (5), inclusive, of subdivision (c) of Section 25227.

(B) (i) Notwithstanding subparagraph (A), a transfer facility located in an area that is not zoned residential by the local planning authority is not a storage facility, if the only hazardous waste held at the transfer facility is hazardous waste that is generated as a result of an emergency release and that hazardous waste is collected and temporarily stored by emergency rescue personnel, as defined in Section 25501, or by a response action contractor upon the request of emergency rescue personnel or the response action contractor, and the holding of that hazardous waste is approved by the department.

(ii) For purposes of this subparagraph, "response action contractor" means any person who enters into a contract with the department to take removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) in response to a release or threatened release, including any subcontractors of the response action contractor.

(4) (A) Except as provided in subparagraph (B), the hazardous waste is held onsite for any period of time, unless the hazardous waste is held in a container, tank, drip pad, or containment building pursuant to regulations adopted by the department.

(B) Notwithstanding subparagraph (A), a generator that accumulates hazardous waste generated and held onsite for 90 days or less for offsite transportation is not a storage facility if all of the following requirements are met:

(i) The waste is non-RCRA contaminated soil.

(ii) The hazardous waste being accumulated does not contain free liquids.

(iii) The hazardous waste is accumulated on an impermeable surface, such as high density polyethylene (HDPE) of at least 20 mils that is supported by a foundation, or high density polyethylene of at least 60 mils that is not supported by a foundation.

(iv) The generator provides controls for windblown dispersion and precipitation runoff and run-on and complies with any stormwater permit requirements issued by a regional water quality control board.

(v) The generator has the accumulation site inspected weekly and after storms to ensure that the controls for windblown dispersion and precipitation runoff and run-on are functioning properly.

(vi) The generator, after final offsite transportation, inspects the accumulation site for contamination and remediates as necessary.

(vii) The site is certified by a registered engineer for compliance with the standards specified in clauses (i) to (vi), inclusive.

(5) The hazardous waste is held at a transfer facility at any location for any period of time in a manner other than in a container.

(6) The hazardous waste is held at a transfer facility at any location for any period of time and handling occurs. For purposes of this paragraph, "handling" does not include the transfer of packaged or containerized hazardous waste from one vehicle to another.

(c) The time period for calculating the 90-day period for purposes of paragraph (1) of subdivision (b), or the 180-day or 270-day period for purposes of subdivision (h), begins when the facility has accumulated 100 kilograms of hazardous waste or one kilogram of extremely hazardous waste or acutely hazardous waste. However, if the facility generates more than 100 kilograms of hazardous waste or one kilogram of extremely hazardous waste or acutely hazardous waste during any calendar month, the time period begins when any amount of hazardous waste first begins to accumulate in that month.

(d) Notwithstanding paragraph (1) of subdivision (b), a generator of hazardous waste that accumulates waste onsite is not a storage facility if all of the following requirements are met:

(1) The generator accumulates a maximum of 55 gallons of hazardous waste, one quart of acutely hazardous waste, or one quart of extremely hazardous waste at an initial accumulation point that is at or near the area where the waste is generated and that is under the control of the operator of the process generating the waste.

(2) The generator accumulates the waste in containers other than tanks.

(3) The generator does not hold the hazardous waste onsite without a hazardous waste facilities permit or other grant of authorization for a period of time longer than the shorter of the following time periods:

(A) One year from the initial date of accumulation.

(B) Ninety days, or if subdivision (h) is applicable, 180 or 270 days, from the date that the quantity limitation specified in paragraph (1) is reached.

(4) The generator labels any container used for the accumulation of hazardous waste with the initial date of accumulation and with the words "hazardous waste" or other words that identify the contents of the container.

(5) Within three days of reaching any applicable quantity limitation specified in paragraph (1), the generator labels the container holding the accumulated hazardous waste with the date the quantity limitation was reached and either transports the waste offsite or holds the waste onsite and complies with either the regulations adopted by the department establishing requirements for generators subject to the time limit specified in paragraph (1) of subdivision (b) or the requirements specified in paragraph (1) of subdivision (h), whichever requirements are applicable.

(6) The generator complies with regulations adopted by the department pertaining to the use and management of containers and any other regulations adopted by the department to implement this subdivision.

(e) (1) Notwithstanding paragraphs (1) and (4) of subdivision (b), hazardous waste held for remediation waste staging shall not be considered to be held at a hazardous waste storage facility if the total accumulation period is one year or less from the date of the

initial placing of hazardous waste by the generator at the staging site for onsite remediation, except that the department may grant one six-month extension, upon a showing of reasonable cause by the generator.

(2) (A) The generator shall submit a notification of plans to store and treat hazardous waste onsite pursuant to paragraph (2) of subdivision (a), in person or by certified mail, with return receipt requested, to the department and to one of the following:

(i) The CUPA, if the generator is under the jurisdiction of a CUPA.

(ii) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to the 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) If, after the notification pursuant to subparagraph (A), or during the initial year or the six-month extension granted by the department, the generator determines that treatment cannot be accomplished for all, or part of, the hazardous waste accumulated in a remediation waste staging area, the generator shall immediately notify the department and the appropriate local agency, pursuant to subparagraph (A), that the treatment has been discontinued. The generator shall then handle and dispose of the hazardous waste in accordance with paragraph (4) of subdivision (b).

(C) A generator shall not hold hazardous waste for remediation waste staging unless the generator can show, through laboratory testing, bench scale testing, or other documentation, that soil held for remediation waste staging is potentially treatable. Any fines and penalties imposed for a violation of this subparagraph may be imposed beginning with the 91st day that the hazardous waste was initially accumulated.

(3) Once an onsite treatment operation is completed on hazardous waste held pursuant to paragraph (1), the generator shall inspect the staging area for contamination and remediate as necessary.

(f) Notwithstanding any other provision of this chapter, remediation waste staging and the holding of non-RCRA contaminated soil for offsite transportation in accordance with paragraph (4) of subdivision (b) shall not be considered to be disposal or land disposal of hazardous waste.

(g) A generator who holds hazardous waste for remediation waste staging pursuant to paragraph (2) of subdivision (a) or who holds hazardous waste onsite for offsite transportation pursuant to paragraph (4) of subdivision (b) shall maintain records onsite that demonstrate compliance with this section related to storing hazardous waste for remediation waste staging or related to holding hazardous waste onsite for offsite transportation, as applicable. The records maintained pursuant to this subdivision shall be available for review by a public agency authorized pursuant to Section 25180 or 25185.

(h) (1) Notwithstanding paragraph (1) of subdivision (b), a generator of less than 1,000 kilograms of hazardous waste in any calendar month who accumulates hazardous waste onsite for 180 days or less, or 270 days or less if the generator transports the generator's own waste, or offers the generator's waste for transportation, over a distance of 200 miles or more, for offsite treatment, storage, or disposal, is not a storage facility if all of the following apply:

(A) The quantity of hazardous waste accumulated onsite never exceeds 6,000 kilograms.

(B) The generator complies with the requirements of subdivisions (d), (e), and (f) of former Section 262.34 of Title 40 of the Code of Federal Regulations, as that section existed on January 1, 2015.

(C) The generator does not hold acutely hazardous waste or extremely hazardous waste in an amount greater than one kilogram for a time period longer than that specified in paragraph (1) of subdivision (b).

(2) A generator meeting the requirements of paragraph (1) who does not receive a copy of the manifest with the signature of the owner or operator of the facility to which the generator's waste is submitted or is unable to verify through the e-Manifest system that the facility has received the waste and signed the manifest, within 60 days from the date that the hazardous waste was accepted by the initial transporter, shall submit a report to the department along with a legible copy of the manifest indicating that the generator cannot confirm the delivery or receipt of the generator's waste with the owner or operator of the facility.

(i) The department may adopt regulations that set forth additional restrictions and enforceable management standards that protect human health and the environment and that apply to persons holding hazardous waste at a transfer facility. A regulation adopted pursuant to this subdivision shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare, and may be adopted as an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 25160 of the Health and Safety Code is amended to read:

25160. (a) For purposes of this chapter, the following definitions apply:

(1) "Manifest" means a shipping document originated and signed by a generator of hazardous waste that contains all of the information required by the department and that complies with all applicable federal and state regulations, and includes any of the following:

(A) A California Uniform Hazardous Waste Manifest, which was a manifest document printed and supplied by the state for a shipment initiated on or before September 4, 2006.

(B) A Uniform Hazardous Waste Manifest, which is United States Environmental Protection Agency Form 8700-22 (Manifest) and includes, if necessary, Form 8700-22A (Manifest Continuation Sheet), printed by a source registered with the United States Environmental Protection Agency for a shipment initiated on or after September 5, 2006.

(C) (i) An electronic manifest, which is the electronic format of a hazardous waste manifest, that is obtained from the electronic manifest system and transmitted electronically to the system, that is the legal equivalent of United States Environmental Protection Agency Forms 8700-22 and 8700-22A, as specified in Section 25160.01.

(ii) A printed copy of the manifest from the e-Manifest system.

(2) "Electronic manifest system" or "e-Manifest system" means the United States Environmental Protection Agency's national information technology system through which an electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest, and to regulatory agencies.

(3) For purposes of this section and Section 25205.15, a shipment is initiated on the date when the manifest, is signed by the first transporter and the hazardous waste leaves the site where it is generated.

(b) (1) Except as provided in Section 25160.2 or 25160.8, or as otherwise authorized by a variance issued by the department, a person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, shall complete a manifest prior to the time the waste is transported or offered for transportation, and shall designate on that manifest the facility to which the waste is to be shipped for the handling, treatment, storage, disposal, or combination thereof. The manifest shall be completed as required by the department. The generator shall provide the manifest to the person who will transport the hazardous waste, who is the driver, if the hazardous waste will be transported by vehicle, or the person designated by the railroad corporation or vessel operator, if the hazardous waste will be transported by rail or vessel.

(A) The generator shall use the manifest shipping document United States Environmental Protection Agency Form 8700-22 and include, if necessary, Form 8700-22A, or an electronic manifest, which is the electronic format of a hazardous waste manifest, that is obtained from the e-Manifest system, and that is the legal equivalent of United States Environmental Protection Agency Forms 8700-22 and 8700-22A, as specified in Section 25160.01.

(B) A manifest shall only be used for the purposes specified in this chapter, including, but not limited to, identifying materials that the person completing the manifest reasonably believes are hazardous waste.

(C) Within 30 days from the date of transport, or submission for transport, of hazardous waste, each generator of that hazardous waste using a paper manifest shall submit to the department a legible copy of each paper manifest used. The copy submitted to the department shall contain the signatures of the generator and the transporter. The generator is not required to send the department a copy of an electronic manifest processed completely through the e-Manifest system.

(2) Except as provided in Section 25160.2 or 25160.8 or as otherwise authorized by a variance issued by the department, a person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, outside of the state, shall complete, whether or not the waste is determined to be hazardous by the importing country or state, a manifest in accordance with both of the following conditions:

(A) The generator shall use the manifest shipping document United States Environmental Protection Agency Form 8700-22 and include, if necessary, Form 8700-22A, or an electronic manifest, which is the electronic format of a hazardous waste manifest, that is obtained from the e-Manifest system, and that is the legal equivalent of United States Environmental Protection Agency Forms 8700-22 and 8700-22A, as specified in Section 25160.01.

(B) The generator shall submit a legible printed copy of any paper manifest used in accordance with subparagraph (A) to the department within 30 days from the date of the transport, or submission for transport, of the hazardous waste. The generator is not required to send the department a copy of an electronic manifest processed completely through the e-Manifest system.

(3) Within 30 days from the date of transport, or submission for transport, of hazardous waste out of state, each generator of that hazardous waste using a paper manifest shall submit to the department a legible printed copy of each paper manifest used. The copy submitted to the department shall contain the signatures of the generator and the initial transporter. If within 35

days from the date of the initial shipment, or for exports by water to foreign countries 60 days after the initial shipment, the generator has not received a copy of the manifest signed by all transporters and the facility operator or received verification through the e-Manifest system that the shipment has been received by the designated facility, the generator shall contact the owner or operator of the designated facility to determine the status of the hazardous waste and to request that the owner or operator immediately provide a signed copy of the manifest to the generator. Except as provided otherwise in paragraph (2) of subdivision (h) of Section 25123.3, if within 45 days from the date of the initial shipment or, for exports by water to foreign countries, 90 days from the date of the initial shipment, the generator has not received a copy of the signed manifest or verification through the e-Manifest system from the facility owner or operator that the shipment has been received and the manifest has been signed by the designated facility, the generator shall submit an exception report to the department.

(4) For shipments of waste that do not require a manifest pursuant to Title 40 of the Code of Federal Regulations, the department, by regulation, may require that a manifest be used.

(5) (A) Notwithstanding any other provision of this section, except as provided in subparagraph (B), the generator is not required to submit a copy of the manifest to the department for any waste transported in compliance with the consolidated manifest procedures in Section 25160.2 or with the procedures specified in Section 25160.8, or when the transporter is operating pursuant to a variance issued by the department pursuant to Section 25143 authorizing the use of a consolidated manifest for waste not listed in Section 25160.2, if the generator, transporter, and facility are all identified as the same company on the hazardous waste manifest. If multiple identification numbers are used by a single company, all of the company's identification numbers shall be included in its annual transporter registration application, if those numbers will be used with the consolidated manifest procedure. Nothing in this paragraph affects the obligation of a facility operator to submit information regarding the shipment it receives through a consolidated manifest into the e-Manifest system.

(B) If the waste subject to subparagraph (A) is transported out of state, the generator shall submit a legible copy of the paper manifest to the department that contains the signatures of the generator and the initial transporter. The generator is not required to send the department a copy of an electronic manifest processed completely through the e-Manifest system.

(c) (1) The department shall determine the form and manner in which a manifest shall be completed and the information that the manifest shall contain. The form of each manifest and the information requested on each manifest shall be the same for all hazardous wastes, regardless of whether the hazardous wastes are also regulated pursuant to the federal act or by regulations adopted by the United States Department of Transportation. However, the form of the manifest and the information required shall be consistent with federal regulations.

(2) Pursuant to federal regulations, the department may require information on the manifest in addition to the information required by federal regulations.

(d) (1) A person who transports hazardous waste in a vehicle shall either have a legible copy of the paper manifest in their possession while transporting the hazardous waste or shall have an electronic manifest accessible during transportation that the person forwarded to the person or persons who are scheduled to receive delivery of the waste shipment. To the extent that Section 177.817 of Title 49 of the Code of Federal Regulations requires transporters of hazardous materials to carry a paper document, a hazardous waste transporter shall carry one printed copy of the paper or electronic manifest on the transport vehicle. The manifest shall be shown upon demand to any representative of the department, any officer of the Department of the California Highway Patrol, any local health officer, any certified unified program agency, or any local public officer designated by the director. If the hazardous waste is transported by rail or vessel, the railroad corporation or vessel operator shall comply with Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations and shall also enter on the shipping papers any information concerning the hazardous waste that the department may require.

(2) Any person who transports a waste, as defined by Section 25124, and who is provided with a manifest for that waste shall, while transporting that waste, comply with all requirements of this chapter, and the regulations adopted pursuant thereto, concerning the transportation of hazardous waste.

(3) A person who transports hazardous waste shall transfer a copy of the manifest to the facility operator at the time of delivery, or to the person who will subsequently transport the hazardous waste in a vehicle. A person who transports hazardous waste and then transfers custody of that hazardous waste to a person who will subsequently transport that waste by rail or vessel shall transfer a copy of the manifest to the person designated by the railroad corporation or vessel operator, as specified by Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations. The transfer of a manifest under this paragraph may be completed by either the transfer of a paper manifest or a transfer by electronic manifest transmitted to the facility operator by submission to the e-Manifest system.

(4) A person transporting hazardous waste by motor vehicle, rail, or water shall certify to the department, at the time of initial registration and at the time of renewal of that registration pursuant to this article, that the transporter is familiar with the requirements of this section, the department regulations, and federal laws and regulations governing the use of manifests.

(e) (1) A facility operator in the state who receives hazardous waste for handling, treatment, storage, disposal, or any combination thereof, which was transported with a manifest pursuant to this section, shall comply with the requirements of Section 264.71 or 265.71 of Title 40 of the Code of Federal Regulations, as applicable, pertaining to receipt of that shipment.

(2) Any treatment, storage, or disposal facility receiving hazardous waste generated outside this state may only accept the hazardous waste for treatment, storage, disposal, or any combination thereof, if the hazardous waste is accompanied by a completed paper or electronic manifest.

(3) A facility operator may accept hazardous waste generated offsite that is not accompanied by a properly completed and signed paper or electronic manifest if the facility operator meets both of the following conditions:

(A) The facility operator is authorized to accept the hazardous waste pursuant to a hazardous waste facilities permit or other grant of authorization from the department.

(B) The facility operator is in compliance with the regulations adopted by the department specifying the conditions and procedures applicable to the receipt of hazardous waste under these circumstances.

(4) This subdivision applies only to shipments of hazardous waste for which a manifest is required pursuant to this section and the regulations adopted pursuant to this section.

(f) The department shall make available for review, by any interested party, the department's plans for revising and enhancing its system for tracking hazardous waste for the purposes of protecting human health and the environment, enforcing laws, collecting revenue, and generating necessary reports.

SEC. 3. Section 25160.01 is added to the Health and Safety Code, to read:

25160.01. (a) Electronic manifests that are obtained, completed, and transmitted in accordance with paragraph (3) of subdivision (a) of Section 262.20 of Title 40 of the Code of Federal Regulations, and used in lieu of United States Environmental Protection Agency Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in this chapter to obtain, complete, sign, provide, use, or retain a manifest.

(b) Electronic manifest signatures under this chapter shall meet the criteria described in Section 262.25 of Title 40 of the Code of Federal Regulations.

(c) (1) A generator, transporter, owner, or operator using the electronic manifest format may be assessed a user fee by the United States Environmental Protection Agency for the origination or processing of each electronic manifest. An owner or operator may also be assessed a user fee by the United States Environmental Protection Agency for the collection and processing of paper manifest copies that owners or operators submit to the electronic manifest system operator under clause (v) of paragraph (2) of subdivision (a) of Section 264.71 of, or clause (v) of paragraph (2) of subdivision (a) of Section 265.71 of, Title 40 of the Code of Federal Regulations.

(2) The fees described in paragraph (1) are maintained and updated from time to time by the United States Environmental Protection Agency, based on current and projected system costs and level of use of the electronic manifest system, and will be published as an appendix to Part 262 of Title 40 of the Code of Federal Regulations.

SEC. 4. Section 25160.2 of the Health and Safety Code is amended to read:

25160.2. (a) In lieu of the procedures prescribed by Sections 25160 and 25161, transporters and generators of hazardous waste meeting the conditions in this section may use the consolidated manifesting procedure set forth in subdivision (b) to consolidate shipments of waste streams identified in subdivision (c) collected from multiple generators onto a single consolidated manifest.

(b) The following consolidated manifesting procedure may be used only for non-RCRA hazardous waste or for RCRA hazardous waste that is not required to be manifested pursuant to the federal act or the federal regulations adopted pursuant to the federal act and transported by a registered hazardous waste transporter, and used only with the consent of the generator:

(1) A separate manifest shall be completed by each vehicle driver, with respect to each transport vehicle operated by that driver for each date.

(2) The transporter shall complete both the generator's and the transporter's section of the manifest using the transporter's name, identification number, terminal address, and telephone number. The generator's and transporter's sections shall be completed prior to commencing each day's collections. The driver shall sign and date the generator's and transporter's sections of the manifest.

(3) The transporter shall attach to the front of the manifest legible receipts for each quantity of hazardous waste that is received from a generator. The receipts shall be used to determine the total volume of hazardous waste in the vehicle. After the hazardous waste is delivered, the receipts shall be affixed to the transporter's copy of the manifest. The transporter shall leave a copy of the receipt with the generator of the hazardous waste. The generator shall retain each receipt for at least three years. This period of retention is extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the department or a certified unified program agency.

(4) All copies of each receipt shall contain all of the following information:

(A) The name, address, identification number, contact person, and telephone number of the generator, and the signature of the generator or the generator's representative.

(B) The date of the shipment.

(C) The manifest number.

(D) The volume or quantity of each waste stream received, its California and RCRA waste codes, the waste stream type listed in subdivision (c), and its proper shipping description, including the hazardous class and United Nations/North America (UN/NA) identification number, if applicable.

(E) The name, address, and identification number of the authorized facility to which the hazardous waste will be transported.

(F) The transporter's name, address, and identification number.

(G) The driver's signature.

(H) A statement, signed by the generator, certifying that the generator has established a program to reduce the volume or quantity and toxicity of the hazardous waste to the degree, as determined by the generator, to be economically practicable.

(5) The transporter shall enter the total volume or quantity of each waste stream transported on the manifest at the change of each date, change of driver, or change of transport vehicle. The total volume or quantity shall be the cumulative amount of each waste stream collected from the generators listed on the individual receipts.

(6) The transporter shall submit the generator copy of the manifest to the department within 30 days of each shipment.

(7) The transporter shall retain a copy of the manifest and all receipts for each manifest at a location within the state for three years. This period of retention is extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the department or a certified unified program agency.

(8) The transporter shall submit all copies of the manifest to the designated facility. A representative of the designated facility that receives the hazardous waste shall sign and date the manifest, return two copies to the transporter, retain one copy, and send the original to the department within 30 days.

(9) All other manifesting requirements of Sections 25160 and 25161 shall be complied with unless specifically exempted under this section. If an out-of-state receiving facility is not required to submit the signed manifest copy to the department, the consolidated transporter, acting as generator, shall submit a copy of the manifest signed by the receiving facility to the department pursuant to paragraph (3) of subdivision (b) of Section 25160.

(10) Each generator using the consolidated manifesting procedure shall have an identification number, unless exempted from manifesting requirements by Section 25143.13 for generators of photographic waste less than 100 kilograms per calendar month.

(c) The consolidated manifesting procedure set forth in subdivision (b) may be used only for the following waste streams and in accordance with the conditions specified below for each waste stream:

(1) Used oil and the contents of an oil/water separator, if the separator is a catch basin, clarifier, or similar collection device that is used to collect water containing residual amounts of one or more of the following: used oil, antifreeze, or other substances and contaminants associated with activities that generate used oil and antifreeze.

(2) The wastes listed in subparagraph (A) may be manifested under the procedures specified in this section only if all of the requirements specified in subparagraphs (B) and (C) are satisfied.

(A) Wastes eligible for consolidated manifesting include all of the following:

(i) Solids contaminated with used oil.

- (ii) Brake fluid.
- (iii) Antifreeze.
- (iv) Antifreeze sludge.
- (v) Parts cleaning solvents, including aqueous cleaning solvents.
- (vi) Hydroxide sludge contaminated solely with metals from a wastewater treatment process.
- (vii) "Paint-related" wastes, including paints, thinners, filters, and sludges.
- (viii) Spent photographic solutions.
- (ix) Dry cleaning solvents (including perchloroethylene, naphtha, and silicone based solvents).
- (x) Filters, lint, and sludges contaminated with dry cleaning solvent.
- (xi) Asbestos and asbestos-containing materials.
- (xii) Inks from the printing industry.
- (xiii) Chemicals and laboratory packs collected from K–12 schools.
- (xiv) Absorbents contaminated with other wastes listed in this section.
- (xv) Filters from dispensing pumps for diesel and gasoline fuels.
- (xvi) Any other waste, as specified in regulations adopted by the department.

(B) The generator does not generate more than 1,000 kilograms per calendar month of hazardous waste and meets the conditions of paragraph (1) of subdivision (h) of Section 25123.3. For the purpose of calculating the 1,000 kilograms per calendar month limit described in this section, the generator may exclude the volume of used oil and the contents of the oil/water separator that is managed pursuant to paragraph (1) of subdivision (c).

(C) (i) The generator enters into an agreement with the transporter in which the transporter agrees that the transporter will submit a confirmation to the generator that the hazardous waste was transported to an authorized hazardous waste treatment facility for appropriate treatment. The agreement may provide that the hazardous waste will first be transported to a storage or transfer facility in accordance with the applicable provisions of law.

(ii) The treatment requirement specified in clause (i) does not apply to asbestos, asbestos-containing materials, and chemicals and laboratory packs collected from K–12 schools, or any other waste stream for which the department determines there is no reasonably available treatment methodology or facility. These wastes shall be transported to an authorized facility.

(d) Transporters using the consolidated manifesting procedure set forth in this section shall submit quarterly reports to the department 30 days after the end of each quarter. Except as otherwise specified in paragraph (1), the quarterly report shall be submitted in an electronic format provided by the department. The department shall make all of the information in the quarterly reports submitted pursuant to this subdivision available to the public, through its usual means of disclosure, except the department shall not disclose the association between any specific transporter and specific generator. The list of generators served by a transporter shall be deemed to be a trade secret and confidential business information for purposes of Section 25173 and Section 66260.2 of Title 22 of the California Code of Regulations.

(1) Transporters that use the consolidated manifesting procedure for less than 1,000 tons per calendar year may apply to the department to continue submitting paper format reports.

(2) For each transporter's name, terminal address, and identification number, the quarterly report shall include the following information for each generator for each consolidated manifest:

- (A) The name, address, and identification number, the contact person's name, and the telephone number of each generator.
- (B) The date of the shipment.
- (C) The manifest number.
- (D) The volume or quantity of each waste stream received, its California and RCRA waste code, and the waste stream category listed in subdivision (c).

SEC. 5. Section 25160.3 of the Health and Safety Code is repealed.

SEC. 6. Section 25160.4 of the Health and Safety Code is repealed.

SEC. 7. Section 25160.5 of the Health and Safety Code is amended to read:

25160.5. (a) If a generator submits an incomplete or improperly completed copy of a paper manifest to the department, and the department returns the generator copy of the paper manifest to the person who submitted the manifest, the person to whom it was returned shall, within 30 days from the date of receipt of the returned manifest, submit a fee of twenty dollars (\$20) to the department to accompany the resubmitted manifest.

(b) The department shall deposit the fees collected pursuant to this section into the Hazardous Waste Control Account, for expenditure by the department, upon appropriation by the Legislature.

SEC. 8. Section 25160.6 of the Health and Safety Code is repealed.

SEC. 9. Section 25205.15 of the Health and Safety Code is amended to read:

25205.15. (a) Except for the first four manifests used in a calendar year by a business with less than 100 employees, and except as provided in paragraph (2), in addition to any fees to cover printing and distribution costs, the department shall impose a manifest fee of seven dollars and fifty cents (\$7.50) for each manifest form or electronic equivalent used by any person, in the following manner:

(1) The department shall bill generators for each manifest form or electronic equivalent. The billing frequency specified by the department may range from monthly to annually, with the payment by the generator required within 30 days from the date of receipt of the billing, and shall be determined based on consultation with the regulated community. In preparing the bills, the department shall distinguish between manifests used solely for recycled hazardous wastes and those used for nonrecycled hazardous wastes. In determining the billing frequency, the department may take into account each person's volume of manifest usage.

(2) (A) The manifest fee shall not be collected on the use of manifest forms that are used solely for hazardous wastes that are recycled.

(B) The manifest fee for each manifest form or electronic equivalent used solely for hazardous waste derived from air compliance solvents, shall be three dollars and fifty cents (\$3.50). This is in addition to any fees charged to cover printing and distribution costs.

(3) The department shall implement a system for the use of manifest forms that distinguishes among recycling manifests used solely for hazardous wastes that are to be recycled, manifests used solely to transport hazardous waste derived from air compliance solvents, and general manifests that may be used for transporting waste for any purpose.

(4) (A) If a person erroneously reports on a manifest form or electronic equivalent that the manifest is being used for the transport of hazardous wastes that are being shipped for recycling or for the transport of hazardous wastes derived from air compliance solvents rather than the transport of other types of hazardous waste, the person shall pay the seven dollars and fifty cents (\$7.50) manifest fee and an additional error correction fee of twenty dollars (\$20) per manifest, as required pursuant to Section 25160.5.

(B) Notwithstanding subparagraph (A) the department shall provide the manifest user with a reasonable opportunity to notify the department of any incorrect use of the recycling manifest, as described in subparagraph (A), and to provide the department with the appropriate manifest fee payment without additional fines, penalties, or payment of the error correction fee.

(5) The department may adopt regulations to implement and administer the manifest fee system imposed pursuant to this subdivision.

(b) For purposes of subdivision (a), "manifest" has the same meaning as defined in paragraph (1) of subdivision (a) of Section 25160.

(c) The manifest fees collected pursuant to this section shall be deposited in the Hazardous Waste Control Account and be available for expenditure, upon appropriation by the Legislature.

(d) For purposes of this section, "air compliance solvent" means a solvent, including aqueous solutions, that are required or approved for use by regulations adopted by the State Air Resources Board, an air pollution control district, or an air quality

management district, to meet air emission standards adopted by that board or district and, pursuant to those regulations, is required to be used instead of another solvent that was used and recycled prior to the adoption of those regulations.

SEC. 10. Section 25207.5 of the Health and Safety Code is amended to read:

25207.5. (a) Except as provided in subdivision (b), for purposes of this article, all eligible participants who transport banned, unregistered, or outdated agricultural wastes which are identified in the survey conducted pursuant to Section 25207.3, and which are prepackaged in accordance with the federal regulations specified in subdivision (a) of Section 25207.6 and transported to the collection site in accordance with subdivision (c) of Section 25207.6, or who transport banned, unregistered, or outdated agricultural wastes which are rejected at the collection site and required to be transported back to the point of origin, are exempt from all of the following:

- (1) The requirements for hazardous waste transporter registration specified in Section 25163.
- (2) The manifest requirement specified in subdivision (c) of Section 25160.
- (3) The volume and weight limits specified in subdivision (c) of Section 25163.
- (4) The requirement to obtain an extremely hazardous waste disposal permit pursuant to Chapter 43 (commencing with Section 67430.1) of Division 4.5 of Title 22 of the California Code of Regulations.

(b) Notwithstanding subdivision (a), any eligible participant who generates more than 100 kilograms per month of any RCRA hazardous waste or more than one kilogram per month of any extremely hazardous waste shall obtain a hazardous waste identification number and use a manifest as specified in paragraph (1) of subdivision (a) of Section 25160, when transporting banned, unregistered, or outdated agricultural wastes subject to a collection program, which shall be completed in accordance with the regulations set forth in Subpart B (commencing with Section 262.20) of Part 262 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

SEC. 11. Section 25250.29 of the Health and Safety Code is amended to read:

25250.29. (a) Except as provided in subdivisions (b) and (g), before a load of used oil is shipped to a transfer facility, recycling facility, or facility located out of the state, the used oil shall be tested and analyzed by a laboratory accredited by the State Department of Public Health pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101, to ensure that the used oil meets all of the following characteristics:

- (1) A flashpoint above 100 degrees Fahrenheit.
- (2) A polychlorinated biphenyls (PCB) concentration of less than 5 ppm.
- (3) A concentration of total halogens of 1000 ppm or less, unless the presumption in subclause (I) of clause (v) of subparagraph (C) of paragraph (1) of subdivision (a) of Section 25250.1 has been rebutted pursuant to subclause (II) of clause (v) of subparagraph (C) of paragraph (1) of subdivision (a) of Section 25250.1.

(b) The testing and analysis required pursuant to subdivision (a) shall be accomplished by a registered hazardous waste transporter prior to acceptance at a transfer facility or recycling facility, or shipment out of the state, except the transporter is not required to perform the testing and analysis if the transporter can do any of the following:

- (1) (A) Demonstrate that testing and analysis has been performed by the generator of the used oil prior to shipment.
(B) Subparagraph (A) does not require the generator of the used oil to perform the testing and analysis required by this section.
- (2) Provide documentation that the testing will be performed by a transfer facility or a recycling facility issued a permit by the department pursuant to this chapter.
- (3) If shipped to an out-of-state facility, provide documentation certifying that the out-of-state facility receiving the used oil has entered into an agreement with the department that meets the requirements of Section 25250.30.

(c) (1) A transporter shall not require a used oil collection center to test tanks or containers that contain only used lubricating oil or oil filters accepted from the public as a condition of accepting the oil for shipment.

- (2) A transporter shall not require a generator to test used oil as a condition of accepting that used oil for shipment.
- (3) This subdivision does not alter a generator's responsibility to comply with regulations adopted by the department that govern the operation of a generator, and a transporter shall not be required to transport untested used oil.

(d) This section does not affect or limit a testing requirement that the department may impose on a used oil transfer facility or used oil recycling facility as a condition of a permit issued by the department, including, but not limited to, a test required pursuant to a facility's waste analysis plan.

(e) The person performing a test required by subdivision (a) shall maintain records of tests performed for used oil for at least three years and is subject to audit and verification by the department.

(f) The registered hazardous waste transporter who is listed as the transporter on the manifest used to ship used oil out of state shall submit a report, on or before March 1 of each year, to the department, containing all of the following information for the preceding year:

(1) Total volume of used oil shipped out of state.

(2) Information pertaining to the out-of-state facility to which the used oil was shipped, including the facility name, facility address, and facility EPA ID number.

(3) Any other information that the department may require to ensure that the same data gathered for used oil managed within the state is gathered for used oil shipped out of state.

(g) (1) This section does not apply to a load for shipment that consists exclusively of used lubricating oil accepted by a used oil collection center from the public, including, but not limited to, used lubricating oil accepted by a publicly funded certified or uncertified used oil collection center located in a small rural county.

(2) This section does not require a generator to test used oil for dielectric oil derived from highly refined mineral oil used in oil filled electrical equipment. Nothing in this section exempts that oil from any testing requirement required by any other law.

(3) This section does not prohibit the transportation of used oil to a facility located outside the state, or impose liability other than compliance with the requirements of this section upon, or in another way affect the liability of, a generator whose used oil is transported to a facility located outside the state.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.