

FOR DISCUSSION PURPOSES ONLY

## PROPOSED DRAFT REGULATORY TEXT

### GENERATION AND HANDLING FEE REQUIREMENTS

#### DIVISION 4.5, TITLE 22, CALIFORNIA CODE OF REGULATIONS

**Legend:** Amendments are shown from the existing text of the California Code of Regulations, title 22, as:

Underline

Underline

Additions to existing text

Strikeout

~~Strikeout~~

Deletions to existing text

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Existing text (not shown) continues unchanged

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**Add article 4 to California Code of Regulations, title 22, division 4.5, chapter 10, to read as follows:**

### Article 4. Hazardous Waste Reporting Requirements

#### 66260.40. Scope

(a) Except as provided for in (b), any handler, as defined in section 66260.41, is required to annually report its hazardous waste activities by March 15 of each year if it meets any of the following criteria:

(1) Had an active hazardous waste identification number, issued by either the U.S. Environmental Protection Agency or by the Department, in California at any time during the prior calendar year; or

(2) Generated hazardous waste or engaged in the handling, treatment, or disposal of hazardous waste in California at any time during the prior calendar year.

(b) This section does not apply to any of the following:

(1) A handler with a hazardous waste identification number for a site on federally recognized tribal land.

(2) An occupant of a household who only generates household hazardous waste, as defined in section 66260.10.

Authority: Sections 25205.5.3, 25205.5.4, and 58012, Health and Safety Code.

Reference: Sections 25205.16, Health and Safety Code.

#### 66260.41. Handler

For the purposes of this article, "Handler" means any person that engages in "handling" as defined in Health and Safety Code section 25116 including but not limited to any "generator" as defined in Health and Safety Code section 25205.1.

Authority: Sections 25205.5.3, 25205.5.4, and 58012, Health and Safety Code.

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Reference: Sections 25205.16, Health and Safety Code.

### 66260.42. Reporting Requirements

(a) Handlers that meet the criteria listed in section 66262.40 shall provide and/or verify the following information in the Department's hazardous waste reporting mechanisms, including but not limited to, the electronic Verification Questionnaire:

(1) Information regarding the handler and its operator, including but not limited to:

(A) Name

(B) Mailing address

(C) Facsimile number

(D) Federal Employer Identification Number

(E) North American Industry Classification System Code

(F) California Department of Tax and Fee Administration identification number

(G) Operator type

(H) Business structure

(I) The number of employees of the firm or organization who that worked at least 500 hours or more in California in the prior calendar year, including those who that worked at locations that did not generate hazardous waste

(J) Email address

(K) Telephone number

(L) Any additional information that the Department may deem necessary.

(2) A handler must verify the corresponding facility addresses and statuses for each hazardous waste identification number it has been assigned.

(3) Additional Requirements:

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(A) Requirements for Generators. Generators shall also report or verify the following for each site for the prior calendar year, as applicable:

1. Manifested Waste Verification. Total quantity and type of hazardous waste manifested for each hazardous waste identification number.

a. All manifest discrepancies shall be resolved in accordance with section 66264.72 or 66265.72.

b. For any hazardous waste that was inaccurately manifested, the generator shall report the correct tonnage and provide an explanation for the discrepancy.

2. Unmanifested Hazardous Waste Reporting. Total quantity of the following unmanifested hazardous wastes:

a. Treated wood waste, as defined in Health and Safety Code section 25230.1(d).

b. Any waste that has been granted a variance pursuant to Health and Safety Code section 25143 and is not required to be manifested pursuant to the variance.

3. Consolidated Manifesting. The identification number of the transporter and total quantity of hazardous waste that was managed using consolidated manifesting procedures, pursuant to Health and Safety Code section 25160.2.

4. Generation and Handling Fee Exemptions and Deductions. For any waste for which an exemption or deduction is claimed, the waste tonnage and the statute or regulation that is the basis for each claimed exemption.

(B) Requirements for Transporters. Transporters shall also report or verify the following for each site for the prior calendar year, as applicable:

1. Manifested Waste Verification. Total quantity and type of hazardous waste transported for each hazardous waste identification number.

a. All manifest discrepancies shall be resolved in accordance with section 66264.72 or 66265.72.

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b. For any hazardous waste that was inaccurately manifested, the transporter shall report the correct tonnage and provide an explanation for the discrepancy.

2. Consolidated Manifesting. Manifest tracking number(s), generator identification number(s), and total quantity of hazardous waste that was managed using consolidated manifesting procedures, pursuant to Health and Safety Code section 25160.2.

(C) Requirements for Treatment, Storage or Disposal Facilities. Facilities that conducted onsite treatment, storage, or disposal shall also report or verify the following for each facility for the prior calendar year, as applicable:

1. Manifested Waste Verification. Total quantity and type of hazardous waste manifested for each hazardous waste identification number.

a. All manifest discrepancies shall be resolved in accordance with section 66264.72 or 66265.72.

b. For any hazardous waste that was inaccurately manifested, the owner or operator of the treatment, storage, or disposal facility shall report the correct tonnage and provide an explanation for the discrepancy.

2. Unmanifested Hazardous Waste Reporting. Total quantity of the following unmanifested hazardous wastes:

a. Treated wood waste, as defined in Health and Safety Code section 25230.1(d)

b. Any waste that has been granted a variance pursuant to Health and Safety Code section 25143 and is not required to be manifested pursuant to the variance.

3. Generation and Handling Fee Exemptions and Deductions. For any waste for which an exemption or deduction is claimed, the waste tonnage and the statute or regulation that serves as the basis for each claimed exemption.

(b) The handler shall certify, to the best of its knowledge, that the information provided pursuant to this section is true and correct.

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(c) Any handler that fails to comply with this section, or that fails to provide information required by the Department to verify the accuracy of hazardous waste activity data by the reporting deadline, may be subject to suspension of any and all hazardous waste ID numbers assigned to the handler, penalties pursuant to Health and Safety Code section 25189.2, and an administrative enforcement order issued pursuant to Health and Safety Code section 25187.

Authority: Sections 25205.5.3, 25205.5.4, and 58012, Health and Safety Code.

Reference: Sections 25205.16, Health and Safety Code.

**Add article 1 to California Code of Regulations, title 22, division 4.5, chapter 19, to read as follows:** Article 1. Generation and Handling Fee Exemption Criteria

66269.10. Purpose and Scope.

This article applies to all generators of hazardous waste pursuant to Chapter 6.5 of the Health and Safety Code.

Authority: Sections 25205.5.3, 25205.5.4, and 58012, Health and Safety Code.

Reference: Sections 25174.8.1, 25205.5.3, and 25205.5, Health and Safety Code.

66269.11. Definitions.

For the purposes of this chapter,

(a) “Contractor” means the entity authorized by a contract between the entity and the governmental agency to address a release of a hazardous substance on behalf of the governmental agency.

(b) “Load checking program” means an operation that is used by a facility that manages solid waste to remove waste that is incompatible with the facility’s waste management process if the operation is required in order to comply with regulatory standards, including permitting.

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Authority: Sections 25205.5.3, 25205.5.4, and 58012, Health and Safety Code.

Reference: Sections 25174.8.1, 25205.5, and 25205.5.3, Health and Safety Code.

### 66269.12. Exemptions Criteria.

#### (a) Applicability to generators of hazardous waste.

(1) For waste that undergoes treatment, the generator as defined for purposes of the generation and handling fee assessed pursuant to Health and Safety Code section 25205.5 shall continue to be the generator of the hazardous waste until a new treatment activity is performed.

(A) Hazardous waste that is generated during a new treatment activity is considered a new waste and is subject to the generation and handling fee; the fee shall be assessed on the entity that generated the new waste during treatment.

(2) The generator of the waste is the generator for the purposes of the generation and handling fee assessed pursuant to Health and Safety Code section 25205.5, including a generator who does not generate more than the minimum volume of waste that is assessed the fee, and a generator that is liable for the fee but did not pay the fee.

(b) Governmental Response Exemption: The exemption provided by Health and Safety Code section 25174.8.1(a)(1) applies to a governmental agency that takes immediate action necessary to remove or remedy a release of a hazardous substance. If all conditions of 25174.8.1(a)(1) are met, the governmental agency is exempt from the fee regardless of whether the identity of the responsible party is known.

(c) Household Hazardous Waste Exemption: The fee exemption in Health and Safety Code section 25174.8.1(a)(2) only applies to the hazardous wastes that a household hazardous waste facility collects from the public in compliance with the requirements in Chapter 45 of Division 4.5 of Title 22 of the California Code of Regulations. The exemption does not include waste generated by the household hazardous waste facility

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during activities not conducted pursuant to Article 10.8 (commencing with Section 25218) of the Health and Safety Code.

(d) Load Checking Exemption: The fee exemption in Health and Safety Code section 25174.8.1(a)(3) only applies to load checking programs as defined in section 66269.11. In order for its waste to be eligible for the exemption, the person operating the load checking program must have implemented, at the time the waste subject to the fee was received by the person performing the load checking program, operational procedures to minimize the amount of hazardous waste that is received alongside solid waste.

(e) Pass Through Waste Deduction: The fee deduction in Health and Safety Code section 25205.5(a)(4) applies to waste that is only stored, bulked, and transferred by a facility in accordance with their facility permit. The deduction only applies to waste that was generated offsite and was subject to the fee at the time of generation, even if the quantity of waste was not enough meet the minimum threshold for assessment of the fee on the original generator pursuant to Health and Safety Code section 25205.5. The waste eligible for the deduction does not include waste that has undergone treatment by the facility that is claiming the deduction or residuals of that treatment.

(f) Exempted Banned, Unregistered, or Outdated Agricultural Waste: A county operating a collection program pursuant to Division 20, Chapter 6.5, Article 9.4 of the Health and Safety Code is not the generator as specified in subsection (a) of this section.

(g) Disaster Victims Exemption: [*\*note - moved from 22 CCR Section 66269.2*]

(1) Victims of disasters shall be exempt from the disposal fee imposed pursuant to Health and Safety Code section 25205.25(b), the generator fee imposed pursuant to Health and Safety Code section 25205.25(c), and the generation and handling fee imposed pursuant to Health and Safety Code section 25205 if all of the following apply:

(A) The hazardous waste is generated in a geographical area identified in a state of emergency proclamation by the Governor pursuant to Government Code section 8625 because of fire, flood, storm, earthquake, riot, or civil unrest.



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(B) The hazardous waste is generated when property owned or controlled by the victim is damaged or destroyed as a result of the disaster.

(C)(i) The hazardous waste is not hazardous waste that is routinely produced as part of a manufacturing or commercial business or that is managed by a hazardous waste facility or a facility operated by a generator of hazardous waste who files a hazardous waste notification statement with the department pursuant to Health and Safety Code section 25158(a).

(ii) For purposes of this paragraph “routinely produced” means a waste type that is regularly generated in the normal course of that business' operations. However, if a regularly generated waste type is generated as a direct result of the disaster and not in the normal course of business then that waste is eligible for this exemption.

(D) The hazardous waste is disposed of within 365 days from the date an emergency proclamation was first issued by the Governor for the disaster which occurred in that geographical area.

(2) A person claiming an exemption from the disposal fee shall certify their eligibility for the exemption by providing written evidence to the operator of an authorized hazardous waste facility at which the hazardous waste is disposed in accordance with Health and Safety Code section 25205.25(b). A person who has paid a disposal fee to the state on hazardous waste meeting the criteria specified in subsection (g)(1) may claim a refund in accordance with Chapter 5 (commencing with Section 43451) of Part 22 of Division 2 of the Revenue and Taxation Code.

(3) A person claiming an exemption from the generator fee shall exclude hazardous waste meeting the criteria specified in subsection (g)(1) from the calculation of the generator fee due pursuant to Health and Safety Code section 25205.25(c). A person who has paid a generator fee to the state on hazardous waste meeting the criteria specified in subsection (g)(1) may claim a refund in accordance with Chapter 5 (commencing with Section 43451) of Part 22 of Division 2 of the Revenue and Taxation Code.

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(4) A person claiming an exemption from the generation and handling fee shall exclude hazardous waste meeting the criteria specified in subsection (g)(1) from the calculation of the generation and handling fee due pursuant to Health and Safety Code section 25205.5. A person who has paid a generation and handling fee to the state on hazardous waste meeting the criteria specified in subsection (g)(1) may claim a refund in accordance with Chapter 5 (commencing with Section 43451) of Part 22 of Division 2 of the Revenue and Taxation Code.

Authority: Sections 25205.5.1, 25205.5.3, 25205.5.4, and 58012, Health and Safety Code.

Reference: Sections 25174.8.1, 25205.5, 25205.5.1, 25205.5.3, and 25207.12, Health and Safety Code.

**Add article 2 to California Code of Regulations, title 22, division 4.5, chapter 19, to read as follows:**

Article 2. Exemption Review Process and Exemption Recordkeeping Requirements  
66269.20. Applicability.

This article applies to all generators who claim any exemption of any hazardous waste from the generation and handling fee assessed pursuant to Health and Safety Code section 25205.5 in a report submitted to the Department pursuant to Health and Safety Code section 25205.16 or in a return submitted to the California Department of Tax and Fee Administration pursuant to Revenue and Taxation Code section 43152.7.

Authority: Sections 25205.5.3, 25205.5.4, and 58012, Health and Safety Code.

Reference: Sections 25174.8.1, 25205.5.3, and 25205.5, Health and Safety Code.

66269.21. Exemption Review.

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(a) Any exemption from the generation and handling fee assessed pursuant to Health and Safety Code section 25205.5 claimed by a generator in a report submitted to the Department pursuant to Health and Safety Code section 25205.16 or in a return submitted to the California Department of Tax and Fee Administration pursuant to Revenue and Taxation Code section 43152.7 is subject to review and evaluation by the Department, at its sole discretion. The Department shall notify a generator in writing to begin exemption review pursuant to this section, and the written notification shall identify the information that the generator is required to submit to the Department pursuant to this section and section 66269.22.

(b) Except in the case of fraud, intent to evade requirements under this division, or failure to make a report or return, the written notification in subsection (a) shall be provided to a generator within 3 years of the last day of the calendar year within which the hazardous waste that is claimed as exempt was generated. In the case of fraud, intent to evade requirements under this section, or failure to make a report or return, the written notification in subsection (a) shall be provided to a generator within 8 years after the date the report or return was due for the hazardous waste that is claimed as exempt.

(c) Upon receipt of notification pursuant to subsection (a), the generator shall provide information required in section 66269.22 within 30 calendar days from receipt of the Department's notification. The generator may request in writing at most one extension of up to 15 calendar days.

(d) If the Department finds that the information submitted by a generator pursuant to subsection (c) is incomplete or inadequate, the Department shall notify the generator in writing of the deficiency and reason for deficiency. Upon receipt of a notice of deficient information, the generator shall provide any additional documentation or information requested by the Department within 30 calendar days of receipt of the Department's notification.

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(e) If a generator does not provide sufficient information required pursuant to section 66269.22 or fails to report within the time required in subsections (c) and (d), the Department may issue a final evaluation finding that the exemption claim is invalid due to insufficient documentation. If a generator willfully or knowingly provides false statements or withholds material facts, the generator may be subject to penalties pursuant to Article 3 of this chapter.

(f) The Department shall provide in writing a final evaluation to the generator and the California Department of Tax and Fee Administration that includes the basis for the evaluation. The final evaluation shall serve as the conclusion of the Department's exemption review pursuant to this section. The California Department of Tax and Fee Administration may consider the Department's evaluation in accordance with Part 22 of Division 2 of the Revenue and Taxation Code.

Authority: Sections 25205.5.3, 25205.5.4, and 58012, Health and Safety Code.

Reference: Sections 25174.8.1, 25196.1, and 25205.5.3, Health and Safety Code.

### 66269.22. Recordkeeping Requirements for Generators who Claim an Exemption from the Generation and Handling Fee.

(a) A generator who claims an exemption of any hazardous waste from the generation and handling fee assessed pursuant to Health and Safety Code section 25205.5 in a report submitted to the Department pursuant to Health and Safety Code section 25205.16 or a return submitted to the California Department of Tax and Fee Administration pursuant to Revenue and Taxation Code section 43152.7 shall keep the information specified by this section for 3 years from the last day of the calendar year in which the hazardous waste was generated.

(1) The time periods for retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or once the records are requested by the Department.

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(b) All generators that claim an exemption from the generation and handling fee must be able to provide upon request all of the following information:

(1) Explanation of the information provided, how it proves each of the criteria of the exemption being claimed, and the circumstances leading to the generation of the waste;

(2) Documentation required pursuant to section 66262.40;

(3) Shipping documentation including but not limited to manifest numbers, bills of lading, logs, invoices, and movement documents associated with the waste as applicable;

(4) Any other documentation that supports the claim of the exemption.

(b) A generator who claims an exemption to the generation and handling fee on the basis of a response by a government agency or its contractor to a release of hazardous substances, pursuant to Health and Safety Code section 25174.8.1(a)(1), shall keep records that verify all criteria of the exemption specified in Health and Safety Code section 25174.8.1(a)(1) and section 66269.12(b) are met. Required records include but are not limited to:

(1) Supporting documentation demonstrating the government agency or its contractor did not cause the release;

(2) Evidence immediate action was necessary;

(3) Any other documentation that supports the claim of the exemption.

(c) A generator who claims an exemption to the generation and handling fee for collection of household hazardous waste at a permitted facility pursuant to Health and Safety Code section 25174.8.1(a)(2) shall keep records to verify all criteria of the exemption specified in Health and Safety Code section 25174.8.1(a)(2) and section 66269.12(c) are met. Required records include but are not limited to:

(1) Total tonnage manifested off-site in the calendar year the waste being exempted was generated;

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(2) Form 303 for the waste generated in the calendar year the waste being exempted was generated;

(3) Any other documentation that supports the claim of the exemption.

(d) A generator who claims an exemption to the generation and handling fee for hazardous waste separated as part of a load checking program pursuant to Health and Safety Code 25174.8.1(a)(3) shall keep records to verify all criteria of the exemption specified in Health and Safety Code section 25174.8.1(a)(3) and section 66269.12(d) are met. Required records include but are not limited to:

(1) Records such as a log or inventory documenting that the waste was generated as part of the load checking program; and

(2) Any other documentation that supports the claim of the exemption.

(e) A generator who claims the “household do-it-yourselfer used oil” exemption to the generation and handling fee pursuant to Health and Safety Code section 25174.8.1(a)(4) shall keep records to verify all criteria of the exemption specified in Health and Safety Code section 25174.8.1(a)(4) are met. Required records include but are not limited to:

(1) Records of the amount of “household do-it-yourselfer used oil” that was collected during the calendar year, as required by Health and Safety Code section 25174.8.1(a)(4)(B);

(2) Documentation of authorization as a certified used oil collection center pursuant to Public Resources Code section 48660;

(3) Any other documentation that supports the claim of the exemption.

(f) A generator who claims an exemption to the generation and handling fee for waste recycled and used onsite shall keep records to verify all criteria of the exemption specified in Health and Safety Code section 25174.8.1(a)(5) are met. Required records include but are not limited to:

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(1) Documentation that the recycling occurred on-site such as the recyclable materials report pursuant to Health and Safety Code section 25143.10; and

(2) Any other documentation that supports the claim of the exemption.

(g) A generator who claims an exemption to the generation and handling fee for waste generated and treated onsite to become nonhazardous shall keep records to verify all criteria of the exemption specified in Health and Safety Code section 25174.8.1(a)(6) are met. Required records include but are not limited to:

(1) Documentation of the facility permit to treat the hazardous waste;

(2) Documentation demonstrating the resultant waste from the treatment was nonhazardous;

(3) Any other documentation that supports the claim of the exemption.

(h) A generator who claims the exemption to the generation and handling fee for universal waste as defined in Health and Safety Code section 25123.8 shall keep records to verify all criteria of the exemption specified in Health and Safety Code section 25174.8.1(a)(7) are met. Required records include but are not limited to:

(1) Records of the total quantity of universal waste generated in the calendar year the waste claimed as exempt was generated;

(2) Documentation of the destination facilities that the universal waste was transported to demonstrating the universal waste was managed in accordance with chapter 23 of this division;

(3) Any other documentation that supports the claim of the exemption.

(i) A generator who claims an exemption to the generation and handling fee for banned, unregistered, or outdated agricultural waste shall keep records to verify all criteria of the exemption specified in Health and Safety Code section 25207.12 are met. Required records include but are not limited to:

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(1) Demonstration that the generator claiming the exemption meets the definition of “eligible participant” pursuant to Health and Safety Code section 25207.1(c);

(2) Demonstration that the waste being exempted meets the definition of a “Banned or unregistered agricultural waste” or “Outdated agricultural waste” pursuant to the Health and Safety Code section 25207.1(a) and (d);

(3) Any other documentation that supports the claim of the exemption.

(j) A generator who claims an exemption to the generation and handling fee for generation of reusable soiled textile materials shall keep records in accordance with Health and Safety Code section 25144.6(b)(5) to verify all criteria of the exemption specified in Health and Safety Code section 25144.6 are met and shall keep any other documentation that supports the claim of the exemption.

(k) A generator who claims an exemption to the generation and handling fee as a disaster victim shall keep records to verify all criteria of the exemption specified in Health and Safety Code 25205.5.1 and section 66269.12(g) are met. Required records include but are not limited to:

(1) Documentation demonstrating all conditions of section 66269.12(g)(1) have been met; and

(2) Any other documentation that supports the claim of the exemption.

(l) A generator who claims a deduction to the generation and handling fee for hazardous waste stored, bulked, and transferred by a permitted facility shall keep records to verify all criteria of the deduction specified in Health and Safety Code 25205.5(a)(4) and section 66269.12(e) are met. Required records include but are not limited to:

(1) Documentation of the facility permit to conduct the activities listed in Health and Safety Code section 25205.5(a)(4);

(2) Documentation demonstrating payment of the annual facility fee for the calendar year the waste being stored, bulked, and transferred was generated;



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(3) Documentation demonstrating the facility the waste was in route to was authorized to conduct the activities listed in Health and Safety Code section 25205.5(a)(4)(A) through (D):

(4) Any other documentation that supports the claim of the exemption.

(m) Upon receipt of the documentation pursuant to this section, the Department may at its discretion request additional information to evaluate the exemption claim.

Authority: Sections 25205.5.1, 25205.5.3, 25205.5.4, and 58012, Health and Safety Code.

Reference: Sections 25144.6, 25174.8.1, 25196.1, 25205.5, 25205.5.1, 25205.5.3, 25205.5.4, and 25207.12, Health and Safety Code.

**Add article 3 to California Code of Regulations, title 22, division 4.5, chapter 19, to read as follows:**

### Article 3. Penalties

#### 66269.30. Applicability

(a) This article only applies to the assessment of penalties pursuant to Health and Safety Code sections 25187 and 25189.2. This article does not apply to the settlement of any enforcement action.

(b) For purposes of this article, the Department has the authority to issue administrative orders pursuant to Health and Safety Code sections 25187.

(c) The Department shall, pursuant to Health and Safety Code section 25180(d), determine whether the person being assessed a penalty is being treated equally and consistently with regard to the same types of violations previously assessed against other violators.

Authority: 25205.5.4 and 58012, Health and Safety Code.

Reference: 25187, 25189.2, and 25196.1, Health and Safety Code.

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### 66269.31. Penalty Calculation

Administrative penalties assessed in administrative enforcement orders issued pursuant to Health and Safety Code sections 25187 shall be assessed following the procedures set forth in this article. The penalty assessed for any violation in accordance with this article shall not exceed the maximum penalty specified in statute.

Authority: 25205.5.4 and 58012, Health and Safety Code.

Reference: 25187, 25189.2, and 25196.1, Health and Safety Code.

### 66269.32. Determining the Initial Penalty for Each Violation

#### (a) Violations for Delinquency in Reporting

(1)

<b>Tiered Penalties</b>	<b>Number of Days Delinquent After Reporting Deadline</b>		
<b>Tonnage Generated in Prior Calendar Year</b>	1-30 days	31-60 days	61+ days
less than 5 tons	\$25	\$75	\$125
5 tons but less than 10 tons	\$125	\$250	\$500
10 tons but less than 25 tons	\$250	\$500	\$750
25 tons but less than 500 tons	\$500	\$750	\$1,500
500 tons but less than 1,000 tons	\$750	\$1,500	\$3,000
1,000 or more tons	\$1,500	\$3,000	\$5,000

*or*

<b>Base Rate + Per Ton Rate</b>	<b>Number of Days Delinquent After Reporting Deadline</b>		
<b>Tonnage Generated in Prior Calendar Year</b>	1-30 days	31-60 days	61+ days
<b>BASE RATE (\$250) + PER TON</b>	\$1.50/ton	\$3.00/ton	\$5.00/ton

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<i>Examples:</i>			
5 tons generated	\$258	\$265	\$275
10 tons generated	\$265	\$280	\$300
25 tons generated	\$288	\$325	\$375
500 tons generated	\$1,000	\$1,750	\$2,750
1000 tons generated	\$1,750	\$3,250	\$5,000

(b) Violations for Failure to Report

(1)

<b>Failure to Report</b>	<b>Number of Instances of Failing to Report</b>		
<b>Tonnage Generated in Prior Calendar Year</b>	First Violation	Second Violation	Third Violation
less than 5 tons	\$1,250	\$1,500	\$2,000
5 tons but less than 10 tons	\$1,500	\$2,000	\$7,000
10 tons but less than 25 tons	\$2,000	\$7,000	\$10,000
25 tons but less than 500 tons	\$7,000	\$10,000	\$15,000
500 tons but less than 1,000 tons	\$10,000	\$15,000	\$20,000
1,000 or more tons	\$15,000	\$20,000	\$25,000

or

<b>Base Rate + Per Ton Rate</b>	<b>Number of Instances of Failing to Report</b>		
<b>Tonnage Generated in Prior Calendar Year</b>	First Violation	Second Violation	Third Violation
<b>BASE RATE (\$1,500) + PER TON</b>	\$15.00	\$20.00	\$30.00
<i>Examples:</i>			
5 tons generated	\$1,575	\$1,600	\$1,650
10 tons generated	\$1,650	\$1,700	\$1,800
25 tons generated	\$1,875	\$2,000	\$2,250
500 tons generated	\$9,000	\$11,500	\$16,500

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1000 tons generated	\$16,500	\$21,500	\$25,000
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(c) Violations for Inaccurate Reporting

(1)

<b>Failure to Report</b>	<b>Number of Instances of Failing to Report</b>		
<b>Tonnage Generated in Prior Calendar Year</b>	First Violation	Second Violation	Third Violation
less than 5 tons	\$1,000	\$1,250	\$1,500
5 tons but less than 10 tons	\$1,050	\$1,500	\$2,000
10 tons but less than 25 tons	\$1,200	\$1,750	\$2,500
25 tons but less than 500 tons	\$4,250	\$5,000	\$8,000
500 tons but less than 1,000 tons	\$5,000	\$7,500	\$10,000
1,000 or more tons	\$7,500	\$10,000	\$15,000

*or*

<b>Base Rate + Per Ton Rate</b>	<b>Number of Instances of Failing to Report</b>		
<b>Tonnage Generated in Prior Calendar Year</b>	First Violation	Second Violation	Third Violation
<b>BASE RATE (\$1,000) + PER TON</b>	\$7.50	\$10.00	\$15.00
<i>Examples:</i>			
5 tons generated	\$1,038	\$1,050	\$1,075
10 tons generated	\$1,075	\$1,100	\$1,150
25 tons generated	\$1,188	\$1,250	\$1,375
500 tons generated	\$4,750	\$6,000	\$8,500
1000 tons generated	\$8,500	\$11,000	\$15,000
5 tons generated	\$1,038	\$1,050	\$1,075

(e) Violations for Fraud or Willfully or Knowingly Providing Inaccurate Information

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(1)

<b>Tonnage Generated in Prior Calendar Year</b>	<b>Violation for Fraud</b>
less than 5 tons	\$25,000
5 tons but less than 10 tons	\$30,000
10 tons but less than 25 tons	\$35,000
25 tons but less than 500 tons	\$45,000
500 tons but less than 1,000 tons	\$50,000
1,000 or more tons	\$70,000

*or*

A handler who has willfully or knowingly reported false or inaccurate information, including committing fraud, will be subject to a \$70,000 penalty per identification number.

Authority: 25205.5.4 and 58012, Health and Safety Code.

Reference: 25187, 25189.2, and 25196.1, Health and Safety Code.

66269.33. Adjustment for Intent

(a) After determining the initial penalty, the Department shall adjust the initial penalty based on the violator's intent in committing the violation using the following guidelines:

Adjustment Factors for Violator's Intent

<u>Adjustment Factor</u>	<u>Circumstance</u>
<u>Downward Adjustment of 100 percent</u>	<u>Violation was completely beyond the control of the violator.</u>
<u>Downward Adjustment of 0 to 50 percent</u>	<u>Violation occurred despite good faith efforts to comply with regulation(s).</u>
<u>No Adjustment</u>	<u>Violation indicated neither good faith efforts nor intentional failure to comply.</u>

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(b) Prophylactic Effect: The total initial penalty may be adjusted upward or downward to ensure that the penalty is sufficient to provide a prophylactic effect on both the violator and the regulated community as a whole.

(c) Ability to Pay: If the violator has provided the Department with the financial information necessary to assess the violator's ability to pay, the payment of the final penalty may be extended over a period of time if immediate, full payment would cause, in the judgment of the Department, extreme financial hardship. If extending the penalty payment over a period of time would cause, in the judgment of the Department, extreme financial hardship, the penalty may be reduced.

(d) Adjustment of the initial penalty in accordance with subsections (a), (b), or (c) may result in an adjusted initial penalty that is higher or lower than the range presented in the originally selected matrix cell, but shall not exceed the statutory maximum penalty pursuant to Health and Safety Code section 25189.2.

Authority: 25205.5.4 and 58012, Health and Safety Code.

Reference: 25187, 25189.2, and 25196.1, Health and Safety Code.

**Add article 4 to California Code of Regulations, title 22, division 4.5, chapter 19, to read as follows:**

Article 4. Fees *(Renumber existing regulations in chapter 19; no changes to text of regulations)*

66269.40. Environmental Fee. *(Existing 66269.1)*

66269.41. Facility Fee Rates for the 2023–24 Fiscal Year. *(Existing 66269.3)*

66269.42. Generation & Handling Fee Rate for Fiscal Year 2023–24. *(Existing 66269.4)*

66269.43. Environmental Fee Rates for Fiscal Year 2023–24. *(Existing 66269.5)*

66269.44. Facility Fee Rate Limits. *(Existing 66269.6)*

66269.45. Generation and Handling Fee Rate Limit. *(Existing 66269.7)*

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66269.46. Environmental Fee Rate Limits. *(Existing 66269.8)*

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