

**Senate Bill No. 2111**

\_\_\_\_\_

Passed the Senate July 30, 1998

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

Passed the Assembly July 22, 1998

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_ day  
of \_\_\_\_\_, 1998, at \_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

└

## CHAPTER \_\_\_\_

An act to amend Sections 25200.3 and 25201.5 of, to add Section 25143.13 to, and to repeal Section 25201.5.1 of, the Health and Safety Code, relating to hazardous waste.

## LEGISLATIVE COUNSEL'S DIGEST

SB 2111, Costa. Non-RCRA hazardous waste: silver.

(1) Existing law defines the term “non-RCRA hazardous waste” as meaning hazardous waste that is regulated by the state, other than hazardous waste subject to the federal Resource Conservation and Recovery Act of 1976 (RCRA). Under existing law, the Department of Toxic Substances Control is required to develop and adopt by regulation criteria and guidelines for the identification of hazardous waste. A violation of the regulations governing hazardous waste is a crime.

Existing law exempts, from the requirement for obtaining a hazardous waste facilities permit, a generator whose hazardous waste treatment activities are limited to the treatment of effluent hazardous waste from the processing of silver halide-based imaging products if the effluent is a hazardous waste solely due to its silver content, and the generator complies with other specified requirements to qualify for that exemption. Existing law, the Wright-Polanco-Lempert Hazardous Waste Treatment Permit Reform Act of 1992, deems a generator who conducts specified treatment activities, including processing more than 500 gallons per month of effluent hazardous waste from silver halide-based imaging products, to be conditionally authorized to operate without obtaining a hazardous waste facilities permit or other grant of authorization, and also conditionally exempts from hazardous waste facilities permit requirements and corrective action requirements a generator who processes less than specified amounts of effluent hazardous waste from silver halide-based imaging products.



This bill would repeal the exemption for generators treating effluent from silver halide-based imaging products and would delete the processing of silver halide effluent from the conditional authorization and conditional exemption provisions. The bill would instead require wastes containing silver or silver compounds that are hazardous waste under RCRA solely due to the presence of silver in these wastes to be subject to regulation solely to the extent these wastes are regulated under the federal act, except as specified with regard to hazardous waste treatment of wastes that are not photoimaging solutions and wastewaters. The bill would exempt wastes containing silver or silver compounds from regulation under the hazardous waste control laws if these wastes are not subject to regulation as RCRA hazardous waste and the wastes would otherwise be subject to the hazardous waste control laws solely due to the presence of silver.

The bill would require the department to amend its regulations to conform to the bill's requirements and would provide that until the department amends these regulations, the applicable federal regulations pertaining to the regulation of wastes containing silver or silver compounds would be deemed to be the regulations of the department, except as specified. Since a violation of these regulations would be a crime, the bill would impose a state-mandated local program.

(2) 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.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) In January 1991, the Environmental Protection Agency deleted the national primary drinking water



standard for silver, based on its finding that silver posed no risks to human health. In November of 1994, the State Department of Health Services also deleted the primary maximum drinking water contaminant level for silver.

(b) Certain silver and silver compounds are excluded from regulation or are subject to minimal regulation under the federal act.

(c) Silver has a high positive economic value that minimizes the risk of mismanagement.

(d) The management of silver and silver compounds in the state does not warrant additional and more stringent regulatory oversight under Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

SEC. 2. Section 25143.13 is added to the Health and Safety Code, to read:

25143.13. (a) Notwithstanding any other provision of law, except as provided in subdivision (c), wastes containing silver or silver compounds that are RCRA hazardous wastes solely due to the presence of silver in the waste are subject to regulation under this chapter solely to the extent that these wastes are subject to regulation under the federal act.

(b) Notwithstanding any other provision of law, wastes containing silver or silver compounds are exempt from regulation under this chapter if the wastes are not subject to regulation under the federal act as RCRA hazardous waste, and the wastes would otherwise be subject to regulation under this chapter solely due to the presence of silver in the waste.

(c) With respect to treatment of a hazardous waste, subdivision (a) applies only to the removal of silver from photoimaging solutions and photoimaging solution wastewaters. Any other treatment of wastes containing silver or silver compounds that are RCRA hazardous wastes is subject to all of the applicable requirements of this chapter.

(d) The department shall amend its regulations, as necessary, to conform to this section. Until the department amends these regulations, the applicable



regulations adopted by the Environmental Protection Agency pursuant to the federal act pertaining to the regulation of wastes containing silver or silver compounds, which are regulated as RCRA hazardous wastes solely due to the presence of silver in the waste, shall be deemed to be the regulations of the department, except as otherwise provided in subdivision (c).

(e) This section shall not be construed to limit or abridge the powers or duties granted to any state or local agency pursuant to any law, other than this chapter, to regulate wastes containing silver or silver compounds.

SEC. 3. Section 25200.3 of the Health and Safety Code is amended to read:

25200.3. (a) A generator who uses the following methods for treating RCRA or non-RCRA hazardous waste in tanks or containers, which is generated onsite, and which do not require a hazardous waste facilities permit under the federal act, shall, for those activities, be deemed to be operating pursuant to a grant of conditional authorization without obtaining a hazardous waste facilities permit or other grant of authorization and a generator is deemed to be granted conditional authorization pursuant to this section, upon compliance with the notification requirements specified in subdivision (e), if the treatment complies with the applicable requirements of this section:

(1) The treatment of aqueous wastes which are hazardous solely due to the presence of inorganic constituents, except asbestos, listed in subparagraph (B) of paragraph (1) and subparagraph (A) of paragraph (2) of subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations, and which contain not more than 1400 ppm total of these constituents, using the following treatment technologies:

(A) Phase separation, including precipitation, by filtration, centrifugation, or gravity settling, including the use of demulsifiers and flocculants in those processes.

(B) Ion exchange, including metallic replacement.

(C) Reverse osmosis.

(D) Adsorption.



(E) pH adjustment of aqueous waste with a pH of between 2.0 and 12.5.

(F) Electrowinning of solutions, if those solutions do not contain hydrochloric acid.

(G) Reduction of solutions which are hazardous solely due to the presence of hexavalent chromium, to trivalent chromium with sodium bisulfite, sodium metabisulfite, sodium thiosulfite, ferrous chloride, ferrous sulfate, ferrous sulfide, or sulfur dioxide, provided that the solution contains less than 750 ppm of hexavalent chromium.

(2) Treatment of aqueous wastes which are hazardous solely due to the presence of organic constituents listed in subparagraph (B) of paragraph (1), or subparagraph (B) of paragraph (2), of subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations and which contain not more than 750 ppm total of those constituents, using either of the following treatment technologies:

(A) Phase separation by filtration, centrifugation, or gravity settling, but excluding supercritical fluid extraction.

(B) Adsorption.

(3) Treatment of wastes which are sludges resulting from wastewater treatment, solid metal objects, and metal workings which contain or are contaminated with, and are hazardous solely due to the presence of, constituents, except asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations, or treatment of wastes which are dusts which contain, or are contaminated with, and are hazardous solely due to the presence of, not more than 750 ppm total of those constituents, except asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations, using any of the following treatment technologies:



(A) Physical processes which constitute treatment only because they change the physical properties of the waste, such as filtration, centrifugation, gravity settling, grinding, shredding, crushing, or compacting.

(B) Drying to remove water.

(C) Separation based on differences in physical properties, such as size, magnetism, or density.

(4) Treatment of alum, gypsum, lime, sulfur, or phosphate sludges, using either of the following treatment technologies:

(A) Drying to remove water.

(B) Phase separation by filtration, centrifugation, or gravity settling.

(5) Treatment of wastes listed in Section 66261.120 of Title 22 of the California Code of Regulations, which meet the criteria and requirements for special waste classification in Section 66261.122 of Title 22 of the California Code of Regulations, using any of the following treatment technologies, if the waste is hazardous solely due to the presence of constituents, except asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations and the waste contains not more than 750 ppm total of those constituents:

(A) Drying to remove water.

(B) Phase separation by filtration, centrifugation, or gravity settling.

(C) Screening to separate components based on size.

(D) Separation based on differences in physical properties, such as size, magnetism, or density.

(6) Treatment of wastes, except asbestos, which have been classified by the department as special wastes pursuant to Section 66261.24 of Title 22 of the California Code of Regulations, using any of the following treatment technologies, if the waste is hazardous solely due to the presence of constituents, except asbestos, listed in subparagraph (B) of paragraph (1) of, and subparagraph (A) of paragraph (2) of, subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations



and the waste contains not more than 750 ppm of those constituents:

(A) Drying to remove water.

(B) Phase separation by filtration, centrifugation, or gravity settling.

(C) Magnetic separation.

(7) Treatment of soils which are hazardous solely due to the presence of metals listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations, using either of the following treatment technologies:

(A) Screening to separate components based on size.

(B) Magnetic separation.

(8) Except as provided in Section 25201.5, treatment of oil mixed with water and oil/water separation sludges, using any of the following treatment technologies:

(A) Phase separation by filtration, centrifugation, or gravity settling, but excluding supercritical fluid extraction. This phase separation may include the use of demulsifiers and flocculants in those processes, even if the processes involve the application of heat, if the heat is applied in totally enclosed tanks and containers, and if it does not exceed 160 degrees Fahrenheit, or any lower temperature which may be set by the department.

(B) Separation based on differences in physical properties, such as size, magnetism, or density.

(C) Reverse osmosis.

(9) Neutralization of acidic or alkaline wastes that are hazardous only due to corrosivity or toxicity that results only from the acidic or alkaline material, in elementary neutralization units, as defined in Section 66260.10 of Title 22 of the California Code of Regulations, if the wastes contain less than 10 percent acid or base constituents by weight, and are treated in tanks or containers and piping, constructed of materials compatible with the range of temperatures and pH levels, and subject to appropriate pH and temperature controls. If the waste contains more than 10 percent acid or base constituents by weight, the volume treated in a single batch at any one time shall not exceed 500 gallons.



(10) Treatment of spent cleaners and conditioners which are hazardous solely due to the presence of copper or copper compounds, subject to the following:

(A) The following requirements are met, in addition to all other requirements of this section:

(i) The waste stream does not contain more than 5000 ppm total copper.

(ii) The generator does not generate for treatment any more than 1000 gallons of the waste stream per month.

(iii) The treatment technologies employed are limited to those set forth in paragraph (1) for metallic wastes.

(iv) The generator keeps records documenting compliance with this subdivision, including records indicating the volume and concentration of wastes treated, and the management of related solutions which are not cleaners or conditioners.

(B) Cleaners and conditioners, for purposes of this paragraph, are solutions containing surfactants and detergents to remove dirt and foreign objects. Cleaners and conditioners do not include microetch, etchant, plating, or metal stripping solutions or solutions containing oxidizers, or any cleaner based on organic solvents.

(C) A grant of conditional authorization under this paragraph shall expire on January 1, 1998, unless extended by the department pursuant to this section.

(D) The department shall evaluate the treatment activities described in this paragraph and shall designate, by regulation, not later than January 1, 1997, those activities eligible for conditional authorization and those activities subject to permit-by-rule. In adopting regulations under this subparagraph, the department shall consider all of the following:

(i) The volume of waste being treated.

(ii) The concentration of the hazardous waste constituents.

(iii) The characteristics of the hazardous waste being treated.



(iv) The risks of the operation, and breakdown, of the treatment process.

(11) Any waste stream technology combination certified by the department, pursuant to Section 25200.1.5, as suitable for authorization pursuant to this section, that operates pursuant to the conditions imposed on that certification.

(b) Any treatment performed pursuant to this section shall comply with all of the following, except as to generators, who are treating hazardous waste pursuant to paragraph (11) of subdivision (a), who shall also comply with any additional conditions of the specified certification if those conditions are different from those set forth in this subdivision:

(1) The total volume of hazardous waste treated in the unit in any calendar month shall not exceed 5,000 gallons or 45,000 pounds, whichever is less, unless the waste is a dilute aqueous waste described in paragraph (1), (2), or (9) of subdivision (a) or oily wastes as described in paragraph (8) of subdivision (a). The department may, by regulation, impose volume limitations on wastes which have no limitations under this section, as may be necessary to protect human health and safety or the environment.

(2) The treatment is conducted in tanks or containers.

(3) The treatment does not consist of the use of any of the following:

(A) Chemical additives, except for pH adjustment, chrome reduction, oil/water separation, and precipitation with the use of flocculants, as allowed by this section.

(B) Radiation.

(C) Electrical current except in the use of electrowinning, as allowed by this section.

(D) Pressure, except for reverse osmosis, filtration, and crushing, as allowed by this section.

(E) Application of heat, except for drying to remove water or demulsification, as allowed by this section.



(4) All treatment residuals and effluents are managed and disposed of in accordance with applicable federal, state, and local requirements.

(5) The treatment process does not do either of the following:

(A) Result in the release of hazardous waste into the environment as a means of treatment or disposal.

(B) Result in the emission of volatile hazardous waste constituents or toxic air contaminants, unless the emission is in compliance with the rules and regulations of the air pollution control district or air quality management district.

(6) The generator unit complies with any additional requirements set forth in regulations adopted pursuant to this section.

(c) A generator operating pursuant to subdivision (a) shall comply with all of the following requirements:

(1) Except as provided in paragraph (4), the generator shall comply with the standards applicable to generators specified in Chapter 12 (commencing with Section 66262.10) of Division 4.5 of Title 22 of the California Code of Regulations and with the applicable requirements in Sections 66265.12, 66265.14, and 66265.17 of Title 22 of the California Code of Regulations.

(2) The generator shall comply with Section 25202.9 by making an annual waste minimization certification.

(3) The generator shall comply with the environmental assessment procedures required pursuant to subdivisions (a) to (e), inclusive, of Section 25200.14. If that assessment reveals that there is contamination resulting from the release of hazardous waste or constituents from a solid waste management unit or a hazardous waste management unit at the generator's facility, regardless of the time at which the waste was released, the generator shall take every action necessary to expeditiously remediate that contamination, if the contamination presents a substantial hazard to human health and safety or the environment or if the generator is required to take corrective action by the department. If a facility is remediating the contamination pursuant to,



and in compliance with the provisions of, an order issued by a California regional water quality control board or other state or federal environmental enforcement agency, that remediation shall be adequate for the purposes of complying with this section, as the remediation pertains to the jurisdiction of the ordering agency. This paragraph does not limit the authority of the department or a unified program agency pursuant to Section 25187 as may be necessary to protect human health and safety or the environment.

(4) The generator unit shall comply with container and tank standards applicable to non-RCRA wastes, unless otherwise required by federal law, specified in subdivisions (a) and (b) of Section 66264.175 of Title 22 of the California Code of Regulations, as the standards apply to container storage and transfer activities, and to Article 9 (commencing with Section 66265.170) and Article 10 (commencing with Section 66265.190) of Chapter 15 of Division 4.5 of Title 22 of the California Code of Regulations, except for Section 66265.197 of Title 22 of the California Code of Regulations.

(A) Unless otherwise required by federal law, ancillary equipment for a tank or container treating hazardous wastes solely pursuant to this section, is not subject to Section 66265.193 of Title 22 of the California Code of Regulations, if the ancillary equipment's integrity is attested to, pursuant to Section 66265.191 of Title 22 of the California Code of Regulations, every two years from the date that retrofitting requirements would otherwise apply.

(B) (i) The Legislature hereby finds and declares that in the case of underground, gravity-pressured sewer systems, integrity testing is often not feasible.

(ii) The best feasible leak detection measures which are sufficient to ensure that underground gravity-pressured sewer systems, for which it is not feasible to conduct integrity testing, do not leak.

(iii) If it is not feasible for an operator's ancillary equipment, or a portion thereof, to undergo integrity testing, the operator shall not be subject to Section



66265.193 of Title 22 of the California Code of Regulations, if the operator implements the best feasible leak detection measures which are determined to be sufficient by the department in those regulations, and those leak detection measures do not reveal any leaks emanating from the operator's ancillary equipment. Any ancillary equipment found to leak shall be retrofitted by the operator to meet the secondary containment standards of Section 66265.196 of Title 22 of the California Code of Regulations.

(5) The generator shall prepare and maintain a written inspection schedule and a log of inspections conducted.

(6) The generator shall prepare and maintain written operating instructions and a record of the dates, concentrations, amounts, and types of waste treated. Records maintained to comply with the state, federal, or local programs may be used to satisfy this requirement, to the extent that those documents substantially comply with the requirements of this section. The operating instructions shall include, but not be limited to, directions regarding all of the following:

(A) How to operate the treatment unit and carry out waste treatment.

(B) How to recognize potential and actual process upsets and respond to them.

(C) When to implement the contingency plan.

(D) How to determine if the treatment has been efficacious.

(E) How to address the residuals of waste treatment.

(7) The generator shall maintain adequate records to demonstrate to the department and the unified program agency that the requirements and conditions of this section are met, including compliance with all applicable pretreatment standards and with all applicable industrial waste discharge requirements issued by the agency operating the publicly owned treatment works into which the wastes are discharged. The records shall be maintained onsite for a period of five years.



(8) The generator shall treat only hazardous waste which is generated onsite. For purposes of this chapter, a residual material from the treatment of a hazardous waste generated offsite is not a waste that has been generated onsite.

(9) Except as provided in Section 25404.5, the generator shall submit a fee to the State Board of Equalization in the amount required by Section 25205.14, unless the generator is subject to a fee under a permit-by-rule. The generator shall submit that fee within 30 days of the date that the fee is assessed by the State Board of Equalization.

(d) Notwithstanding any other provision of law, the following activities are ineligible for conditional authorization:

(1) Treatment in any of the following units:

(A) Landfills.

(B) Surface impoundments.

(C) Injection wells.

(D) Waste piles.

(E) Land treatment units.

(2) Commingling of hazardous waste with any hazardous waste that exceeds the concentration limits or pH limits specified in subdivision (a), or diluting hazardous waste in order to meet the concentration limits or pH limits specified in subdivision (a).

(3) Treatment using a treatment process not specified in subdivision (a).

(4) Pretreatment or posttreatment activities not specified in subdivision (a).

(5) Treatment of any waste which is reactive or extremely hazardous.

(e) (1) Not less than 60 days prior to commencing the first treatment of hazardous waste under this section, the generator shall submit a notification, in person or by certified mail, with return receipt requested, to the department and to one of the following:

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



(B) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to 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.

(2) Upon demonstration of good cause by the generator, the department may allow a shorter time period, than the 60 days required by paragraph (1), between notification and commencement of hazardous waste treatment pursuant to this section.

(3) Each notification submitted pursuant to this subdivision shall be completed, dated, and signed according to the requirements of Section 66270.11 of Title 22 of the California Code of Regulations, as those requirements that were in effect on January 1, 1996, and apply to hazardous waste facilities permit applications, shall be on a form prescribed by the department, and shall include, but not be limited to, all of the following information:

(A) The name, identification number, site address, mailing address, and telephone number of the generator to whom the conditional authorization is granted.

(B) A description of the physical characteristics and chemical composition of the hazardous waste to which the conditional authorization applies.

(C) A description of the hazardous waste treatment activity to which the conditional authorization applies, including the basis for determining that a hazardous waste facilities permit is not required under the federal act.

(D) A description of the characteristics and management of any treatment residuals.

(E) Documentation of any convictions, judgments, settlements, or orders resulting from an action by any local, state, or federal environmental or public health enforcement agency concerning the operation of the facility within the last three years, as the documents would be available under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of



Division 7 of Title 1 of the Government Code) or the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of the Civil Code). For purposes of this paragraph, a notice of violation for any local, state, or federal agency does not constitute an order and a generator is not required to report the notice unless the violation is not corrected and the notice becomes a final order.

(f) Any generator operating pursuant to a grant of conditional authorization shall comply with all regulations adopted by the department relating to generators of hazardous waste.

(g) (1) Upon terminating operation of any treatment process or unit conditionally authorized pursuant to this section, the generator conducting treatment pursuant to this section shall remove or decontaminate all waste residues, containment system components, soils, and structures or equipment contaminated with hazardous waste from the unit. The removal of the unit from service shall be conducted in a manner that does both of the following:

(A) Minimizes the need for further maintenance.

(B) Eliminates the escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or waste decomposition products to the environment after the treatment process is no longer in operation.

(2) Any generator conducting treatment pursuant to this section who permanently ceases operation of a treatment process or unit that is conditionally authorized pursuant to this section shall, upon completion of all activities required under this subdivision, provide written notification, in person or by certified mail, with return receipt requested, to the department and to one of the following:

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

(B) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to 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.

(h) In adopting regulations pursuant to this section, the department may impose any further restrictions or limitations consistent with the conditionally authorized status conferred by this section which are necessary to protect human health and safety and the environment.

(i) The department may revoke any conditional authorization granted pursuant to this section. The department shall base a revocation on any one of the causes set forth in subdivision (a) of Section 66270.43 of Title 22 of the California Code of Regulations or in Section 25186, or upon a finding that operation of the facility in question will endanger human health and safety, domestic livestock, wildlife, or the environment. The department shall conduct the revocation of a conditional authorization granted pursuant to this section in accordance with Chapter 21 (commencing with Section 66271.1) of Division 4.5 of Title 22 of the California Code of Regulations and as specified in Section 25186.7.

(j) A generator who would otherwise be subject to this section may contract with the operator of a transportable treatment unit who is operating pursuant to a permit-by-rule, a standardized permit, or a full state hazardous waste facilities permit to treat the generator's waste. If treatment of the generator's waste takes place under such a contract, the generator is not otherwise subject to the requirements of this section, but shall comply with all other requirements of this chapter that apply to generators. The operator of the transportable treatment unit that performs onsite treatment pursuant to this subdivision shall comply with all requirements applicable to transportable treatment units operating pursuant to a permit-by-rule, as set forth in the regulations adopted by the department.

(k) (1) Within 30 days of any change in operation which necessitates modifying any of the information submitted in the notification required pursuant to subdivision (e), a generator shall submit an amended notification, in person or by certified mail, with return



receipt requested, to the department and to one of the following:

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

(B) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to 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.

(2) Each amended notification shall be completed, dated, and signed in accordance with the requirements of Section 66270.11 of Title 22 of the California Code of Regulations, as those requirements apply to hazardous waste facilities permit applications.

(l) A person who has submitted a notification to the department pursuant to subdivision (e) shall be deemed to be operating pursuant to this section, and, except as provided in Section 25404.5, shall be subject to the fee set forth in subdivision (a) of Section 25205.14 until that person submits a certification that the generator has ceased all treatment activities of hazardous waste streams authorized pursuant to this section in accordance with the requirements of subdivision (g). The certification required by this subdivision shall be submitted, in person or by certified mail, with return receipt requested, to the department and to one of the following:

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

(2) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to 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.

(m) The development and publication of the notification form specified in subdivision (e) is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.



The department shall hold at least one public workshop concerning the development of the notification form.

SEC. 4. Section 25201.5 of the Health and Safety Code is amended to read:

25201.5. (a) Notwithstanding any other provision of law, a hazardous waste facilities permit is not required for a generator who treats hazardous waste of a total weight of not more than 500 pounds, or a total volume of not more than 55 gallons, in any calendar month, if both of the following conditions are met:

(1) The hazardous waste is not an extremely hazardous waste and is listed in Section 67450.11 of Title 22 of the California Code of Regulations, as in effect on January 1, 1992, as eligible for treatment pursuant to the regulations adopted by the department for operation under a permit-by-rule and the treatment technology used is approved for that waste stream in Section 67450.11 of Title 22 of the California Code of Regulations for treatment under a permit-by-rule.

(2) The generator is not otherwise required to obtain a hazardous waste facilities permit or other grant of authorization for any other hazardous waste management activity at the facility.

(b) Notwithstanding any other provision of law, treatment in the following units is ineligible for exemption pursuant to subdivision (a) or (c):

- (1) Landfills.
- (2) Surface impoundments.
- (3) Injection wells.
- (4) Waste piles.
- (5) Land treatment units.
- (6) Thermal destruction units.

(c) Notwithstanding any other provision of law, a hazardous waste facilities permit or other grant of authorization is not required to conduct the following treatment activities, if the generator treats the following hazardous waste streams using the treatment technology required by this subdivision:

(1) The generator mixes or cures resins mixed in accordance with the manufacturer's instructions,



including the mixing or curing of multicomponent and preimpregnated resins in accordance with the manufacturer's instructions.

(2) The generator treats a container of 110 gallons or less capacity, which is not constructed of wood, paper, cardboard, fabric, or any other similar absorptive material, for the purposes of emptying the container as specified by Section 66261.7 of Title 22 of the California Code of Regulations, as revised July 1, 1990, or treats the inner liners removed from empty containers that once held hazardous waste or hazardous material. The generator shall treat the container or inner liner by using the following technologies, if the treated containers and rinseate are managed in compliance with the applicable requirements of this chapter:

(A) The generator rinses the container or inner liner with a suitable liquid capable of dissolving or removing the hazardous constituents which the container held.

(B) The generator uses physical processes, such as crushing, shredding, grinding, or puncturing, that change only the physical properties of the container or inner liner, if the container or inner liner is first rinsed as provided in subparagraph (A) and the rinseate is removed from the container or inner liner.

(3) The generator conducts drying by pressing or by passive or heat-aided evaporation to remove water from wastes classified as special wastes by the department pursuant to Section 66261.124 of Title 22 of the California Code of Regulations.

(4) The generator conducts magnetic separation or screening to remove components from wastes classified as special wastes by the department pursuant to Section 66261.124 of Title 22 of the California Code of Regulations.

(5) The generator neutralizes acidic or alkaline wastes which are hazardous solely due to corrosivity or toxicity resulting from the presence of acidic or alkaline material from food or food byproducts, and alkaline or acidic waste, other than wastes containing nitric acid, at SIC Code Major Group 20, food and kindred product facilities,



as defined in subdivision (p) of Section 25501, if both of the following conditions are met:

(A) The neutralization process does not result in the emission of volatile hazardous waste constituents or toxic air contaminants.

(B) The neutralization process is required in order to meet discharge or other regulatory requirements.

(6) Except as provided for specific waste streams in Section 25200.3, the generator conducts the separation by gravity of the following, if the activity is conducted in impervious tanks or containers constructed of noncorrosive materials, the activity does not involve the addition of heat or other form of treatment, or the addition of chemicals other than flocculants and demulsifiers, and the activity is managed in compliance with applicable requirements of federal, state, or local agency or treatment works:

(A) The settling of solids from waste where the resulting aqueous stream is not hazardous.

(B) The separation of oil/water mixtures and separation sludges, if the average oil recovered per month is less than 25 barrels.

(7) The generator is a laboratory which is certified by the State Department of Health Services or operated by an educational institution, and treats wastewater generated onsite solely as a result of analytical testing, or is a laboratory which treats less than one gallon of hazardous waste, which is generated onsite, in any single batch, subject to the following:

(A) The wastewater treated is hazardous solely due to corrosivity or toxicity that results only from the acidic or alkaline material, as defined in Section 66260.10 of Title 22 of the California Code of Regulations, or is excluded from the definition of hazardous waste by subparagraph (E) of paragraph (2) of subsection (a) of Section 66261.3 of Title 22 of the California Code of Regulations, or both.

(B) The treatment meets all of the following requirements, in addition to all other requirements of this section:



(i) The treatment complies with all applicable pretreatment requirements.

(ii) Neutralization occurs in elementary neutralization units, as defined in Section 66260.10 of Title 22 of the California Code of Regulations; wastes to be neutralized do not contain any more than 10 percent acid or base concentration by weight, or any other concentration limit which may be imposed by the department; and vessels and piping for neutralization are constructed of materials that are compatible with the range of temperatures and pH levels, and subject to appropriate pH temperature controls.

(iii) Treatment does not result in the emission of volatile hazardous waste constituents or toxic air contaminants.

(8) The hazardous waste treatment is carried out in a quality control or quality assurance laboratory at a facility that is not an offsite hazardous waste facility and the treatment activity otherwise meets the requirements of paragraph (1) of subdivision (a).

(9) Any waste stream technology combination certified by the department, pursuant to Section 25200.1.5, as suitable for authorization pursuant to this section, that operates pursuant to the conditions imposed on that certification.

(10) The generator uses any technology that is certified by the department, pursuant to Section 25200.1.5, as effective for the treatment of formaldehyde or glutaraldehyde solutions used in health care facilities that are operated pursuant to the conditions imposed on the certification and which makes the operation appropriate to this tier. The technology may be certified using a pilot certification process until the department adopts regulations pursuant to Section 25200.1.5. This paragraph shall be operative only until April 11, 1996.

(d) A generator conducting treatment pursuant to subdivision (a) or (c) shall meet all of the following conditions:

(1) The waste being treated is generated onsite, and a residual material from the treatment of a hazardous



waste generated offsite is not a waste that has been generated onsite.

(2) The treatment does not require a hazardous waste facilities permit pursuant to the federal act.

(3) The generator prepares and maintains written operating instructions and a record of the dates, amounts, and types of waste treated.

(4) The generator prepares and maintains a written inspection schedule and log of inspections conducted.

(5) The records specified in paragraphs (3) and (4) are maintained onsite for a period of three years.

(6) The generator maintains adequate records to demonstrate that it is in compliance with all applicable pretreatment standards and with all applicable industrial waste discharge requirements issued by the agency operating the publicly owned treatment works into which the wastes are discharged.

(7) (A) Not less than 60 days before commencing treatment of hazardous waste pursuant to this section, the generator shall submit a notification, 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 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) Upon demonstration of good cause by the generator, the department may allow a shorter time period, than the 60 days required by subparagraph (A), between notification and commencement of hazardous waste treatment pursuant to this section.

(C) The notification submitted pursuant to this paragraph shall be completed, dated, and signed in accordance with the requirements of Section 66270.11 of Title 22 of the California Code of Regulations, as those requirements apply to permit applications, shall be on a



form prescribed by the department, and shall include, but not be limited to, all of the following information:

(i) The name, identification number, site address, mailing address, and telephone number of the generator to whom the conditional exemption applies.

(ii) A description of the physical characteristics and chemical composition of the hazardous waste to which the conditional exemption applies.

(iii) A description of the hazardous waste treatment activity to which the conditional exemption applies, including, but not limited to, the basis for determining that a hazardous waste facilities permit is not required under the federal act.

(iv) A description of the characteristics and management of any treatment residuals.

(D) The development and publication of the notification form required under this paragraph is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall hold at least one public workshop concerning the development of the notification form.

(E) Any notification submitted pursuant to this paragraph shall supersede any prior notice of intent submitted by the same generator in order to obtain a permit-by-rule under the regulations adopted by the department. This subparagraph does not require the department to refund any fees paid for any application in conjunction with the submission of a notice of intent for a permit-by-rule.

(8) (A) Upon terminating operation of any treatment process or unit exempted pursuant to this section, the generator who conducted the treatment shall remove or decontaminate all waste residues, containment system components, soils, and other structures or equipment contaminated with hazardous waste from the unit. The removal of the unit from service shall be conducted in a manner that does both of the following:

(i) Minimizes the need for further maintenance.

(ii) Eliminates the escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or



waste decomposition products to the environment after treatment process is no longer in operation.

(B) Any owner or operator who permanently ceases operation of a treatment process or unit that is conditionally exempted pursuant to this section shall, upon completion of all activities required under this subdivision, provide written notification 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 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.

(9) The waste is managed in accordance with all applicable requirements for generators of hazardous waste under this chapter and the regulations adopted by the department pursuant to this chapter.

(10) Except as provided in Section 25404.5, the generator submits a fee in the amount required by Section 25205.14, unless the generator is subject to a fee under a permit-by-rule or a grant of conditional authorization pursuant to Section 25200.3. The generator shall submit that fee within 30 days of the date that the fee is assessed by the State Board of Equalization, in the manner specified by Section 43152.10 of the Revenue and Taxation Code.

(e) (1) Unless otherwise required by federal law, ancillary equipment for a tank or container treating hazardous wastes solely pursuant to this section is not subject to Section 66265.193 of Title 22 of the California Code of Regulations, if the ancillary equipment's integrity is attested to pursuant to Section 66265.191 of Title 22 of the California Code of Regulations every two years from the date that retrofitting requirements would otherwise apply.



(2) (A) The Legislature hereby finds and declares that, in the case of underground, gravity-pressured sewer systems, integrity testing is often not feasible.

(B) The department shall, by regulation, determine the best feasible leak detection measures which are sufficient to ensure that underground gravity-pressured sewer systems, for which it is not feasible to conduct integrity testing, do not leak.

(C) If it is not feasible for an operator's ancillary equipment, or a portion thereof, to undergo integrity testing, the operator shall not be subject to Section 66265.193 of Title 22 of the California Code of Regulations, if the operator implements the best feasible leak detection measures that are determined to be sufficient by the department in those regulations, and those leak detection measures do not reveal any leaks emanating from the operator's ancillary equipment. Any ancillary equipment found to leak shall be retrofitted by the operator to meet the full secondary containment standards of Section 66265.196 of Title 22 of the California Code of Regulations.

(f) Nothing in this section shall abridge any authority granted to the department, a unified program agency, or local health officer or local public officer designated pursuant to Section 25180, by any other provision of law to impose any further restrictions or limitations upon facilities subject to this section, that the department, a unified program agency, or local health officer or local public officer designated pursuant to Section 25180, determines to be necessary to protect human health or the environment.

(g) A generator that would otherwise be subject to this section may contract with the operator of a transportable treatment unit who is operating pursuant to this section to treat the generator's waste. If treatment of the generator's waste takes place under such a contract, the generator is not otherwise subject to the requirements of this section, but shall comply with all other requirements of this chapter that apply to generators. The operator of the transportable treatment unit shall comply with all of



the applicable requirements of this section and, for purposes of this section, the operator of the transportable treatment unit shall be deemed to be the generator.

(h) A generator conducting activities which are exempt from this chapter pursuant to Section 66261.7 of Title 22 of the California Code of Regulations, as that section read on January 1, 1993, is not required to comply with this section.

(i) (1) Within 30 days of any change in operation which necessitates modifying any of the information submitted in the notification required pursuant to paragraph (7) of subdivision (d), a generator shall submit an amended notification, in person or by certified mail, with return receipt requested, to the department and to one of the following:

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

(B) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to 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.

(2) Each amended notification made pursuant to this subdivision shall be completed, dated, and signed in accordance with the requirements of Section 66270.11 of Title 22 of the California Code of Regulations, as those requirements apply to hazardous waste facilities permit applications.

(j) A person who submitted a notification to the department pursuant to paragraph (7) of subdivision (d) shall be deemed to be operating pursuant to this section, and, except as provided in Section 25404.5, shall be subject to the fee set forth in subdivision (c) of Section 25205.14 until that person submits a certification that the generator has ceased all treatment activities of hazardous waste streams authorized pursuant to this section in accordance with the requirements of paragraph (8) of subdivision (d). The certification required by this subdivision shall be submitted, in person or by certified



mail, with return receipt requested, to the department and to one of the following:

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

(2) If the generator is not under the jurisdiction of a CUPA, the notification shall be submitted to 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.

SEC. 5. Section 25201.5.1 of the Health and Safety Code is repealed.

SEC. 6. 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.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved \_\_\_\_\_, 1998

\_\_\_\_\_  
*Governor*

