

ASSEMBLY BILL

No. 1540

Introduced by Assembly Member Weggeland

February 24, 1995

An act to amend Sections 25158.2, 25158.3, and 25158.4, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1540, as introduced, Weggeland. Treatability study samples.

(1) Existing law exempts from the requirements of the provisions regulating hazardous waste, and the regulations adopted pursuant to those provisions, a person who generates a treatability study sample for the purpose of conducting a treatability study, as defined, a treatability study sample undergoing a treatability study, and those activities of a laboratory or testing facility, including transportable treatment units, conducting a treatability study, if specified conditions are met, including that the treatability study sample is no more than 400 kilograms, and the study is retained for not longer than one year. A violation of these requirements are a crime.

The Department of Toxic Substance Control is required to adopt emergency regulations regulating the management of treatability study samples and the conduct of treatability studies and existing law makes the provisions regulating treatability samples inoperative on the date these regulations become effective. The department is required to adopt regulations concerning the generation and management of

treatability samples on or before the date these emergency regulations are repealed. Existing law defines the term “acutely hazardous waste” as a waste so classified in the department’s regulations.

This bill would revise the amounts which may be handled as a treatability study sample, as specified, depending upon the amount of acutely hazardous waste in the sample, and would allow a sample to be retained up to 2 years for a study involving bioremediation. The bill would define the terms “nonacutely hazardous waste,” and “as received” for purposes of these quantity limitations. The bill would revise the amounts which may be subjected to initiation of treatment in any single day and the amounts which may stored at the facility for purposes of evaluation. The bill would allow up to 500 kilograms of treated material from a particular hazardous waste stream from treatability studies to be stored for future evaluation for up to 5 years from the date of the initial receipt.

Since a violation of these requirements would be a crime, the bill would impose a state-mandated local program.

The bill would make a conforming change with regard to the adoption of regulations by the department.

(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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. Section 25158.2 of the Health and Safety
- 2 Code is amended to read:
- 3 25158.2. (a) For purposes of this section and Section
- 4 25158.3, the following terms have the following meaning:
- 5 (1) “Treatability study” means either of the following,
- 6 but does not include the commercial treatment or
- 7 disposal of hazardous waste:



1 (A) The application of a treatment process to a
2 representative sample of hazardous waste to determine
3 any of the following:

4 (i) Whether the hazardous waste can be effectively
5 treated by the treatment process employed in the
6 treatability study.

7 (ii) What pretreatment, if any, is required.

8 (iii) The optimal conditions and processing techniques
9 required to achieve the desired treatment.

10 (iv) The efficiency of a treatment process for a specific
11 hazardous waste or wastes.

12 (v) The characteristics and volumes of residual from a
13 particular treatment process.

14 (B) Lines compatibility, corrosion, or other material
15 compatibility studies.

16 (2) "Treatability study sample" means a small
17 quantity of hazardous waste, of ~~no~~ *not* more than 400
18 kilograms, which will be subject to a treatability study
19 *than either of the following, whichever is greater:*

20 *(A) Ten thousand kilograms of media contaminated*
21 *with nonacutely hazardous waste, 1,000 kilograms of*
22 *nonacutely hazardous waste which is other than*
23 *contaminated media, one kilogram of acutely hazardous*
24 *waste, or 2,500 kilograms of media contaminated with*
25 *acutely hazardous waste, for each process being*
26 *evaluated for each generated hazardous waste stream.*

27 *(B) The quantities specified in subdivision (e) of*
28 *Section 261.4 of Title 40 of the Code of Federal*
29 *Regulations, as adopted pursuant to the federal act.*

30 (3) "Acutely hazardous waste" has the same meaning
31 as defined in Section 25110.02 and "nonacutely hazardous
32 waste" means a hazardous waste which is not an acutely
33 hazardous waste.

34 (b) Any person who accumulates or stores treatability
35 study samples shall contain those samples during
36 accumulation and storage in containers that are marked
37 clearly with the words "treatability study sample." A
38 container holding a treatability study sample shall be in
39 a good, nonleaking condition and shall be labeled with all
40 of the following information:



1 (1) The composition and physical state of the material.

2 (2) A statement that calls attention to the particular
3 hazardous properties of the treatability study sample.

4 (3) The name and address of the generator of the
5 treatability study sample.

6 (4) The date the treatability study sample was first
7 placed in the containers.

8 (c) Any person who generates a treatability study
9 sample for the purpose of conducting a treatability study
10 is not subject to this chapter with respect to that sample,
11 except for the requirements of subdivision (e) of Section
12 25162, or the regulations adopted pursuant to this
13 chapter, except for Sections 66262.50, 66262.52, and
14 66262.53 of Title 22 of the California Code of Regulations,
15 as those sections read on January 1, 1993, if the person
16 complies with the conditions specified in this section and
17 the treatability study sample meets any of the following
18 conditions:

19 (1) The treatability study sample is being collected
20 and prepared for transportation by the generator or the
21 agent of the generator.

22 (2) The treatability study sample is being accumulated
23 or stored by the generator or the agent of the generator
24 prior to transportation to a laboratory or testing facility.

25 (3) The treatability study sample is being transported
26 to the laboratory or testing facility for the purpose of
27 conducting a treatability study.

28 (d) The exemption specified in subdivision (c) applies
29 only if all of the following conditions are met:

30 (1) The treatability study sample mass is not more
31 than ~~400 kilograms of any hazardous waste that is not an~~
32 ~~extremely hazardous waste, one kilogram of extremely~~
33 ~~hazardous waste, or 250 kilograms of soil, water, or debris~~
34 ~~contaminated with extremely hazardous waste, than~~
35 *10,000 kilograms of media contaminated with nonacutely*
36 *hazardous waste, 1,000 kilograms of nonacutely*
37 *hazardous waste which is other than contaminated*
38 *media, one kilogram of acutely hazardous waste, or 2,500*
39 *kilograms of media contaminated with acutely hazardous*



1 *waste*, for each process being evaluated for each
2 generated *hazardous* waste stream.

3 (2) The treatability study sample is retained at the site
4 of generation for not longer than one year; *or, in the case*
5 *of a treatability study involving bioremediation, two*
6 *years*, and not more than 10 days elapse between when
7 the treatability study sample is shipped to the laboratory
8 or testing facility and when it is received at the laboratory
9 or testing facility.

10 (3) The generator or the agent of the generator retains
11 responsibility for the recycling or disposal of the
12 treatability study sample or its residues after the
13 treatability study is completed.

14 (e) Each treatability study sample shall be packaged so
15 that it will not leak, spill, or vaporize from its packaging
16 during shipment and may be transported only if the
17 treatability study sample complies with all of the
18 following:

19 (1) The treatability study sample complies with all
20 shipping requirements of the Department of
21 Transportation, United States Postal Service, or any other
22 applicable shipping requirements, and, at a minimum, is
23 accompanied by all of the following information:

24 (A) The name, mailing address, telephone number,
25 and Environmental Protection Agency identification
26 number, if available, of the generator of the treatability
27 study sample or the agent of the generator.

28 (B) The name, address, telephone number, and EPA
29 number, if available, of the facility that will perform the
30 treatability study.

31 (C) The quantity of the treatability study sample.

32 (D) The date of shipment.

33 (E) A description of the treatability study sample,
34 including its California waste code.

35 (2) The treatability study sample is shipped to a
36 laboratory or testing facility which has a hazardous waste
37 facilities permit issued pursuant to Section 25200, is
38 exempt from state hazardous waste facilities permitting
39 requirements pursuant to Section 25158.3, or, if located in
40 another state, is authorized by that state or the



1 Environmental Protection Agency to conduct
2 treatability studies or is exempted pursuant to subsection
3 (f) of Section 261.4 of Title 40 of the Code of Federal
4 Regulations.

5 (f) A generator or the agent of the generator exempt
6 pursuant to this section shall maintain the following
7 records for three years after completion of the treatability
8 study and shall, if requested by the department before
9 the end of three years, retain the records for up to an
10 additional five years:

11 (1) Copies of shipping documents.

12 (2) A copy of the contract with the facility conducting
13 the treatability study.

14 (3) Documentation showing the amount of waste
15 shipped, the name and address of the laboratory or testing
16 facility that received the waste, the date the shipment
17 was made, and the final disposition of unused portions of
18 samples and residues.

19 (g) The department may grant an application, on a
20 case-by-case basis, following the submittal of information
21 pursuant to subdivision (h) for an exemption from this
22 chapter for treatability study samples that exceed the
23 quantity limits specified in subdivision (b), for up to an
24 additional 500 kilograms of hazardous waste that is not
25 extremely hazardous waste, one kilogram of extremely
26 hazardous waste, and 250 kilograms of soil, water, or
27 debris contaminated with extremely hazardous waste, to
28 conduct a further treatability study evaluation, if the
29 department finds that the exemption is necessary based
30 on any of the following:

31 (1) There has been an equipment or mechanical
32 failure during the conduct of a treatability study
33 rendering the treatability study sample unsuited for
34 study.

35 (2) There is a need to repeat a portion of a previously
36 conducted treatability study.

37 (3) There is a need to study and analyze alternative
38 techniques within a treatability study, and these multiple
39 techniques required greater total sample size.



1 (4) The treatability study design cannot produce
2 verifiable results without greater quantities of a sample.

3 (h) A generator applying for an exemption pursuant
4 to subdivision (g) shall submit all of the following
5 information in writing to the department:

6 (1) The reason why the generator or agent of the
7 generator requires an additional quantity of a treatability
8 study sample for the treatability study.

9 (2) The quantity of the treatability study sample for
10 which the exemption is requested.

11 (3) Documentation accounting for all samples of
12 treatability study samples from the waste stream that
13 have previously been sent for, or undergone, treatability
14 studies, including the dates of each previous treatability
15 study sample, the quantity of each previous treatability
16 study sample, the laboratory or testing facility to which
17 each treatability study sample was shipped, what
18 treatability studies were conducted on each treatability
19 study sample shipped, and the results of each treatability
20 study.

21 (4) If the generator cites paragraph (1) of subdivision
22 (g) as the basis for the exemption, information regarding
23 the reasons for the failure or breakdown and what
24 procedures or improvements have been made to protect
25 against further breakdowns.

26 (5) If the generator cites paragraph (3) of subdivision
27 (g) as the basis for the exemption, a description of the
28 proposed technique or techniques to be evaluated.

29 (i) This section shall become inoperative on the
30 effective date of the regulations specified in Section
31 25158.4 and, as of the following January 1 after that date,
32 is repealed, unless a later enacted statute, which becomes
33 effective on or before that January 1, deletes or extends
34 the dates on which it becomes inoperative and is
35 repealed.

36 SEC. 2. Section 25158.3 of the Health and Safety Code
37 is amended to read:

38 25158.3. (a) Except as provided in subdivision (b),
39 this chapter, and the regulations adopted pursuant to this
40 chapter, do not apply to any treatability study sample



1 undergoing a treatability study, and those activities of the
2 laboratory or testing facility, including transportable
3 treatment units, conducting a treatability study, that are
4 activities exclusively devoted to, and in support of, the
5 treatability study conducted on a treatability study
6 sample, if all of the following conditions are met:

7 (1) Not less than 45 days before conducting the
8 treatability study, the facility notifies the department in
9 writing, that it intends to conduct a treatability study
10 pursuant to this section.

11 (2) The laboratory or testing facility conducting the
12 treatment study has an Environmental Protection
13 Agency identification number.

14 ~~(3) Not more than a total of 250 kilograms of~~
15 ~~treatability study samples are subjected to initiation of~~
16 ~~treatment in all treatability studies in any single day.~~

17 ~~(4) The quantity of treatability study samples stored at~~
18 ~~the facility for the purpose of evaluation in treatability~~
19 ~~studies does not exceed 400 kilograms, the total of which~~
20 ~~may include not more than 200 kilograms of soil, water,~~
21 ~~or debris contaminated with extremely hazardous waste~~
22 ~~or one kilogram of extremely hazardous waste. This~~
23 ~~quantity limitation does not include either of the~~
24 ~~following:~~

25 ~~(A) Treatability study residues.~~

26 ~~(B) Treatment materials, including nonhazardous~~
27 ~~solid waste, added to treatability study samples as~~
28 ~~received hazardous waste. (A) Not more than a total of~~
29 ~~10,000 kilograms of “as received” media contaminated~~
30 ~~with nonacutely hazardous waste, 2,500 kilograms of~~
31 ~~media contaminated with acutely hazardous waste, or 250~~
32 ~~kilograms of other “as received” hazardous waste may be~~
33 ~~subject to initiation of treatment in all treatability studies~~
34 ~~in any single day.~~

35 ~~(B) For purposes of this paragraph and paragraph (4),~~
36 ~~“as received” means the quantity of the media or waste,~~
37 ~~as defined in Section 25124, as received in the shipment~~
38 ~~from the generator or the treatability study sample~~
39 ~~collector.~~



1 (4) *The quantity of “as received” hazardous waste*
2 *stored at the facility for the purpose of evaluations of*
3 *treatability studies does not exceed 10,000 kilograms, the*
4 *total of which may include not more than 2,500 kilograms*
5 *of media contaminated with acutely hazardous waste,*
6 *1,000 kilograms of nonacutely hazardous waste other than*
7 *contaminated media, and one kilogram of acutely*
8 *hazardous waste. The quantity limitations of this*
9 *paragraph do not include treatment materials, including*
10 *solid waste, as defined in Section 40191 of the Public*
11 *Resources Code, added to “as received” hazardous waste.*

12 (5) *Not more than 90 days have elapsed since the*
13 *treatability study for the treatability study sample was*
14 *completed, or not more than one year; or, in the case of*
15 *a treatability study involving bioremediation, two years,*
16 *has elapsed since the generator or treatability study*
17 *sample collector shipped the treatability study sample to*
18 *the laboratory or testing facility, whichever date first*
19 *occurs. Not more than 500 kilograms of treated material*
20 *from a particular hazardous waste stream from*
21 *treatability studies may be stored for future evaluation up*
22 *to five years from the date of the initial receipt. Any*
23 *quantities of materials so stored shall be counted against*
24 *the total storage limit for the facility.*

25 (6) *The treatability study does not involve the*
26 *placement of hazardous waste on the land, incineration,*
27 *or the open burning of hazardous waste.*

28 (7) *The facility maintains records for three years*
29 *following completion of each study that shows*
30 *compliance with the treatment rate limits and the storage*
31 *time and quantity limits. All of the following specific*
32 *information shall be included for each treatability study*
33 *conducted:*

34 (A) *The name, address, and Environmental*
35 *Protection Agency identification number of the*
36 *generator or agent of the generator of each treatability*
37 *study sample.*

38 (B) *The date the treatability study sample was*
39 *received.*



- 1 (C) The quantity of treatability study sample
2 accepted.
- 3 (D) The quantity of treatability study samples in
4 storage each day.
- 5 (E) The date the treatment study was initiated and the
6 amount of treatability study samples introduced to
7 treatment each day.
- 8 (F) The date the treatability study was concluded.
- 9 (G) The date any unused treatability study sample or
10 residues generated from the treatability study were
11 returned to the generator or the agent of the generator
12 or, if sent to a designated facility, the name of the facility
13 and the Environmental Protection Agency identification
14 number.
- 15 (8) The facility keeps, onsite, a copy of the treatability
16 study contract and all shipping papers associated with the
17 transport of treatability study samples to and from the
18 facility for a period ending three years from the
19 completion date of each treatability study.
- 20 (9) The facility prepares and submits a report to the
21 department not later than March 15 of each year that
22 estimates the number of studies and the amount of waste
23 expected to be used in treatability studies during the
24 current year, and includes all of the following information
25 for the previous calendar year:
- 26 (A) The name, address, and Environmental
27 Protection Agency identification number of the facility
28 conducting the treatability studies.
- 29 (B) The numbers of, and types, by process, of
30 treatability studies conducted.
- 31 (C) The names and addresses of persons for whom
32 studies have been conducted, including their
33 Environmental Protection Agency identification
34 numbers.
- 35 (D) The total quantity of hazardous waste in storage
36 each day.
- 37 (E) The quantity and types of hazardous waste
38 subjected to treatability studies.
- 39 (F) When each treatability study was conducted.



1 (G) The final disposition of residues and unused
2 treatability study samples from each treatability study.

3 (10) The facility determines whether any unused
4 treatability study sample or residues generated by the
5 treatability study are hazardous waste that are subject to
6 this chapter or the regulations adopted pursuant to this
7 chapter, and, if so, the facility handles the unused
8 treatability study sample or residues in accordance with
9 this chapter and the regulations adopted pursuant to this
10 chapter, unless the residues and unused treatability study
11 samples are returned to the treatability study sample
12 originator, as specified in Section 25158.2.

13 (11) The facility notifies the department by letter
14 when the facility is no longer planning to conduct any
15 treatability studies at the site.

16 (12) All treatability studies shall be initiated within 60
17 days of the receipt of each treatability study sample.

18 (b) The requirements of subdivision (e) of Section
19 25162, and Sections 66262.50, 66262.52, and 66262.53 of
20 Title 22 of the California Code of Regulations, as those
21 sections read on January 1, 1993, shall apply to a sample
22 undergoing a treatability study, including those activities
23 of the laboratory or testing facility conducting the
24 treatability study.

25 (c) If a group of two or more transportable treatment
26 units are located at the same site, the requirements
27 specified in subdivision (a) apply to the entire group of
28 transportable treatment units collectively as if the group
29 were one unit.

30 (d) This section shall become inoperative on the
31 effective date of the regulations specified in Section
32 25158.4 and, as of the following January 1 after that date,
33 is repealed, unless a later enacted statute, which becomes
34 effective on or before that January 1, deletes or extends
35 the dates on which it becomes inoperative and is
36 repealed.

37 SEC. 3. Section 25158.4 of the Health and Safety Code
38 is amended to read:

39 25158.4. (a) The department shall adopt emergency
40 regulations pursuant to Chapter 3.5 (commencing with



1 Section 11340) of Part 1 of Division 3 of Title 2 of the
 2 Government Code regulating the management of
 3 treatability samples and the conduct of treatability
 4 studies, in accordance with Sections 25158.2 and 25158.3,
 5 as those sections read on January 1, ~~1993~~—1996. The
 6 adoption of these regulations is an emergency and the
 7 Office of Administrative Law shall consider the adoption
 8 of these regulations as necessary for the immediate
 9 preservation of the public peace, health and safety, and
 10 general welfare. The emergency regulations adopted
 11 pursuant to this section shall be repealed no more than
 12 120 days after the regulations take effect.

13 (b) On or before the date the emergency regulations
 14 specified in subdivision (a) are repealed, the department
 15 shall adopt regulations pursuant to Chapter 3.5
 16 (commencing with Section 11340) of Part 1 of Division 3
 17 of Title 2 of the Government Code regulating the
 18 management of treatability samples and the conduct of
 19 treatability studies, in accordance with Sections 25158.2
 20 and 25158.3, as those sections read on January 1, ~~1993~~—1996.

21 SEC. 4. No reimbursement is required by this act
 22 pursuant to Section 6 of Article XIII B of the California
 23 Constitution because the only costs that may be incurred
 24 by a local agency or school district will be incurred
 25 because this act creates a new crime or infraction,
 26 eliminates a crime or infraction, or changes the penalty
 27 for a crime or infraction, within the meaning of Section
 28 17556 of the Government Code, or changes the definition
 29 of a crime within the meaning of Section 6 of Article
 30 XIII B of the California Constitution.

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

