

AMENDED IN SENATE JUNE 13, 1995
AMENDED IN ASSEMBLY APRIL 17, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1540

Introduced by Assembly Member Weggeland

February 24, 1995

An act to ~~amend Sections 25158.2, 25158.3, and 25158.4 of~~ *repeal Sections 25158.2 and 25158.3 of, and to repeal and add Section 25158.4 of,* the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1540, as amended, Weggeland. ~~treatability—study samples~~ *Hazardous waste: treatability studies: regulations.*

(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~~ *is* a crime.

The Department of Toxic ~~Substance~~ *Substances* 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concerning the generation and management of treatability samples on or before the date these emergency regulations are repealed.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 *delete those provisions requiring the adoption by the department of emergency regulations regulating the management of treatability study samples and the conduct of treatability studies, and would, instead, require the department, on or before April 30, 1996, to adopt specified regulations for the management of treatability studies, as defined. 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.

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:~~ *repealed.*
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:~~
8 ~~(A) The application of a treatment process to a~~
9 ~~representative sample of hazardous waste to determine~~
10 ~~any of the following:~~
11 ~~(i) Whether the hazardous waste can be effectively~~
12 ~~treated by the treatment process employed in the~~
13 ~~treatability study.~~
14 ~~(ii) What pretreatment, if any, is required.~~
15 ~~(iii) The optimal conditions and processing techniques~~
16 ~~required to achieve the desired treatment.~~
17 ~~(iv) The efficiency of a treatment process for a specific~~
18 ~~hazardous waste or wastes.~~
19 ~~(v) The characteristics and volumes of residual from a~~
20 ~~particular treatment process.~~
21 ~~(B) Lines compatibility, corrosion, or other material~~
22 ~~compatibility studies.~~
23 ~~(2) "Treatability study sample" means a small~~
24 ~~quantity of hazardous waste, of no more than 400~~
25 ~~kilograms, which will be subject to a treatability study.~~
26 ~~(b) Any person who accumulates or stores treatability~~
27 ~~study samples shall contain those samples during~~



1 accumulation and storage in containers that are marked
2 clearly with the words “treatability study sample.” A
3 container holding a treatability study sample shall be in
4 a good, nonleaking condition and shall be labeled with all
5 of the following information:

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

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

9 (3) The name and address of the generator of the
10 treatability study sample.

11 (4) The date the treatability study sample was first
12 placed in the containers.

13 (c) Any person who generates a treatability study
14 sample for the purpose of conducting a treatability study
15 is not subject to this chapter with respect to that sample,
16 except for the requirements of subdivision (c) of Section
17 25162, or the regulations adopted pursuant to this
18 chapter, except for Sections 66262.50, 66262.52, and
19 66262.53 of Title 22 of the California Code of Regulations,
20 as those sections read on January 1, 1993, if the person
21 complies with the conditions specified in this section and
22 the treatability study sample meets any of the following
23 conditions:

24 (1) The treatability study sample is being collected
25 and prepared for transportation by the generator or the
26 agent of the generator.

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

30 (3) The treatability study sample is being transported
31 to the laboratory or testing facility for the purpose of
32 conducting a treatability study.

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

35 (1) The treatability study sample mass is not more
36 than 400 kilograms of any hazardous waste that is not an
37 extremely hazardous waste, one kilogram of extremely
38 hazardous waste, or 250 kilograms of soil, water, or debris
39 contaminated with extremely hazardous waste, for each



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

3 ~~(2) The treatability study sample is retained at the site~~
4 ~~of generation for not longer than one year and not more~~
5 ~~than 10 days elapse between when the treatability study~~
6 ~~sample is shipped to the laboratory or testing facility and~~
7 ~~when it is received at the laboratory or testing facility.~~

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

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

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

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

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

29 ~~(C) The quantity of the treatability study sample.~~

30 ~~(D) The date of shipment.~~

31 ~~(E) A description of the treatability study sample,~~
32 ~~including its California waste code.~~

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



1 ~~(f) of Section 261.4 of Title 40 of the Code of Federal~~
2 ~~Regulations.~~

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

9 ~~(1) Copies of shipping documents.~~

10 ~~(2) A copy of the contract with the facility conducting~~
11 ~~the treatability study.~~

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

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

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

33 ~~(2) There is a need to repeat a portion of a previously~~
34 ~~conducted treatability study.~~

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

38 ~~(4) The treatability study design cannot produce~~
39 ~~verifiable results without greater quantities of a sample.~~



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

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

7 ~~(2) The quantity of the treatability study sample for~~
8 ~~which the exemption is requested.~~

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

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

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

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

34 *SEC. 2. Section 25158.3 of the Health and Safety Code*
35 *is repealed.*

36 ~~25158.3. (a) Except as provided in subdivision (b),~~
37 ~~this chapter, and the regulations adopted pursuant to this~~
38 ~~chapter, do not apply to any treatability study sample~~
39 ~~undergoing a treatability study, and those activities of the~~
40 ~~laboratory or testing facility, including transportable~~



1 ~~treatment units, conducting a treatability study, that are~~
2 ~~activities exclusively devoted to, and in support of, the~~
3 ~~treatability study conducted on a treatability study~~
4 ~~sample, if all of the following conditions are met:~~

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

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

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

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

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

24 ~~(B) Treatment materials, including nonhazardous~~
25 ~~solid waste, added to treatability study samples as~~
26 ~~received hazardous waste.~~

27 ~~(5) Not more than 90 days have elapsed since the~~
28 ~~treatability study for the treatability study sample was~~
29 ~~completed, or not more than one year has elapsed since~~
30 ~~the generator or treatability study sample collector~~
31 ~~shipped the treatability study sample to the laboratory or~~
32 ~~testing facility, whichever date first occurs.~~

33 ~~(6) The treatability study does not involve the~~
34 ~~placement of hazardous waste on the land, incineration,~~
35 ~~or the open burning of hazardous waste.~~

36 ~~(7) The facility maintains records for three years~~
37 ~~following completion of each study that shows~~
38 ~~compliance with the treatment rate limits and the storage~~
39 ~~time and quantity limits. All of the following specific~~



1 ~~information shall be included for each treatability study~~
2 ~~conducted:~~

3 ~~(A) The name, address, and Environmental~~
4 ~~Protection Agency identification number of the~~
5 ~~generator or agent of the generator of each treatability~~
6 ~~study sample.~~

7 ~~(B) The date the treatability study sample was~~
8 ~~received.~~

9 ~~(C) The quantity of treatability study sample~~
10 ~~accepted.~~

11 ~~(D) The quantity of treatability study samples in~~
12 ~~storage each day.~~

13 ~~(E) The date the treatment study was initiated and the~~
14 ~~amount of treatability study samples introduced to~~
15 ~~treatment each day.~~

16 ~~(F) The date the treatability study was concluded.~~

17 ~~(G) The date any unused treatability study sample or~~
18 ~~residues generated from the treatability study were~~
19 ~~returned to the generator or the agent of the generator~~
20 ~~or, if sent to a designated facility, the name of the facility~~
21 ~~and the Environmental Protection Agency identification~~
22 ~~number.~~

23 ~~(8) The facility keeps, onsite, a copy of the treatability~~
24 ~~study contract and all shipping papers associated with the~~
25 ~~transport of treatability study samples to and from the~~
26 ~~facility for a period ending three years from the~~
27 ~~completion date of each treatability study.~~

28 ~~(9) The facility prepares and submits a report to the~~
29 ~~department not later than March 15 of each year that~~
30 ~~estimates the number of studies and the amount of waste~~
31 ~~expected to be used in treatability studies during the~~
32 ~~current year, and includes all of the following information~~
33 ~~for the previous calendar year:~~

34 ~~(A) The name, address, and Environmental~~
35 ~~Protection Agency identification number of the facility~~
36 ~~conducting the treatability studies.~~

37 ~~(B) The numbers of, and types, by process, of~~
38 ~~treatability studies conducted.~~

39 ~~(C) The names and addresses of persons for whom~~
40 ~~studies have been conducted, including their~~



1 ~~Environmental Protection Agency identification~~
2 ~~numbers.~~

3 ~~(D) The total quantity of hazardous waste in storage~~
4 ~~each day.~~

5 ~~(E) The quantity and types of hazardous waste~~
6 ~~subjected to treatability studies.~~

7 ~~(F) When each treatability study was conducted.~~

8 ~~(G) The final disposition of residues and unused~~
9 ~~treatability study samples from each treatability study.~~

10 ~~(10) The facility determines whether any unused~~
11 ~~treatability study sample or residues generated by the~~
12 ~~treatability study are hazardous waste that are subject to~~
13 ~~this chapter or the regulations adopted pursuant to this~~
14 ~~chapter, and, if so, the facility handles the unused~~
15 ~~treatability study sample or residues in accordance with~~
16 ~~this chapter and the regulations adopted pursuant to this~~
17 ~~chapter, unless the residues and unused treatability study~~
18 ~~samples are returned to the treatability study sample~~
19 ~~originator, as specified in Section 25158.2.~~

20 ~~(11) The facility notifies the department by letter~~
21 ~~when the facility is no longer planning to conduct any~~
22 ~~treatability studies at the site.~~

23 ~~(12) All treatability studies shall be initiated within 60~~
24 ~~days of the receipt of each treatability study sample.~~

25 ~~(b) The requirements of subdivision (c) of Section~~
26 ~~25162, and Sections 66262.50, 66262.52, and 66262.53 of~~
27 ~~Title 22 of the California Code of Regulations, as those~~
28 ~~sections read on January 1, 1993, shall apply to a sample~~
29 ~~undergoing a treatability study, including those activities~~
30 ~~of the laboratory or testing facility conducting the~~
31 ~~treatability study.~~

32 ~~(c) If a group of two or more transportable treatment~~
33 ~~units are located at the same site, the requirements~~
34 ~~specified in subdivision (a) apply to the entire group of~~
35 ~~transportable treatment units collectively as if the group~~
36 ~~were one unit.~~

37 ~~(d) This section shall become inoperative on the~~
38 ~~effective date of the regulations specified in Section~~
39 ~~25158.4 and, as of the following January 1 after that date,~~
40 ~~is repealed, unless a later enacted statute, which becomes~~



1 ~~effective on or before that January 1, deletes or extends~~
2 ~~the dates on which it becomes inoperative and is~~
3 ~~repealed.~~

4 *SEC. 3. Section 25158.4 of the Health and Safety Code*
5 *is repealed.*

6 ~~25158.4. (a) The department shall adopt emergency~~
7 ~~regulations pursuant to Chapter 3.5 (commencing with~~
8 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the~~
9 ~~Government Code regulating the management of~~
10 ~~treatability samples and the conduct of treatability~~
11 ~~studies, in accordance with Sections 25158.2 and 25158.3,~~
12 ~~as those sections read on January 1, 1993. The adoption of~~
13 ~~these regulations is an emergency and the Office of~~
14 ~~Administrative Law shall consider the adoption of these~~
15 ~~regulations as necessary for the immediate preservation~~
16 ~~of the public peace, health and safety, and general~~
17 ~~welfare. The emergency regulations adopted pursuant to~~
18 ~~this section shall be repealed no more than 120 days after~~
19 ~~the regulations take effect.~~

20 ~~(b) On or before the date the emergency regulations~~
21 ~~specified in subdivision (a) are repealed, the department~~
22 ~~shall adopt regulations pursuant to Chapter 3.5~~
23 ~~(commencing with Section 11340) of Part 1 of Division 3~~
24 ~~of Title 2 of the Government Code regulating the~~
25 ~~management of treatability samples and the conduct of~~
26 ~~treatability studies, in accordance with Sections 25158.2~~
27 ~~and 25158.3, as those sections read on January 1, 1993.~~

28 *SEC. 4. Section 25158.4 is added to the Health and*
29 *Safety Code, to read:*

30 *25158.4. (a) On or before April 30, 1996, the*
31 *department shall adopt regulations for the management*
32 *of treatability studies.*

33 *(b) The regulations that are adopted pursuant to*
34 *subdivision (a) shall be consistent with subdivisions (e)*
35 *and (f) of Section 261.4 of Title 40 of the Code of Federal*
36 *Regulations, as adopted pursuant to the federal act,*
37 *provided that the regulations may apply to hazardous*
38 *waste not regulated under the federal act, as well as to*
39 *hazardous waste subject to regulation under the federal*
40 *act.*



1 (c) The department shall amend the regulations
2 adopted pursuant to subdivision (a), to maintain
3 consistency with subdivisions (e) and (f) of Section 261.4
4 of Title 40 of the Code of Federal Regulations, as adopted
5 pursuant to the federal act.

6 (d) For purposes of this section, 'treatability study'
7 shall have the same meaning as in Section 260.10 of Title
8 40 of the Code of Federal Regulations, as adopted
9 pursuant to the federal act.

10 ~~25158.2. (a) For purposes of this section and Section~~
11 ~~25158.3, the following terms have the following meaning:~~

12 ~~(1) "Treatability study" means either of the following,~~
13 ~~but does not include the commercial treatment or~~
14 ~~disposal of hazardous waste:~~

15 ~~(A) The application of a treatment process to a~~
16 ~~representative sample of hazardous waste to determine~~
17 ~~any of the following:~~

18 ~~(i) Whether the hazardous waste can be effectively~~
19 ~~treated by the treatment process employed in the~~
20 ~~treatability study.~~

21 ~~(ii) What pretreatment, if any, is required.~~

22 ~~(iii) The optimal conditions and processing techniques~~
23 ~~required to achieve the desired treatment.~~

24 ~~(iv) The efficiency of a treatment process for a specific~~
25 ~~hazardous waste or wastes.~~

26 ~~(v) The characteristics and volumes of residual from a~~
27 ~~particular treatment process.~~

28 ~~(B) Lines compatibility, corrosion, or other material~~
29 ~~compatibility studies.~~

30 ~~(2) "Treatability study sample" means a small~~
31 ~~quantity of hazardous waste, of not more than any of the~~
32 ~~following, whichever is greater:~~

33 ~~(A) Ten thousand kilograms of media contaminated~~
34 ~~with nonacutely hazardous waste, 1,000 kilograms of~~
35 ~~nonacutely hazardous waste which is other than~~
36 ~~contaminated media, one kilogram of acutely hazardous~~
37 ~~waste, or 2,500 kilograms of media contaminated with~~
38 ~~acutely hazardous waste, for each process being~~
39 ~~evaluated for each generated hazardous waste stream.~~



1 ~~(B) The mass of each sample shipment does not~~
2 ~~exceed 10,000 kilograms. The 10,000 kilograms quantity~~
3 ~~may be all media contaminated with nonacute hazardous~~
4 ~~waste, or may include 2,500 kilograms of media~~
5 ~~contaminated with acute hazardous waste, 1,000~~
6 ~~kilograms of hazardous waste, and one kilogram of acute~~
7 ~~hazardous waste.~~

8 ~~(C) The quantities specified in subdivision (e) of~~
9 ~~Section 261.4 of Title 40 of the Code of Federal~~
10 ~~Regulations, as adopted pursuant to the federal act.~~

11 ~~(3) “Acutely hazardous waste” has the same meaning~~
12 ~~as defined in Sections 261.31, 261.32, and 261.33 of Title 40~~
13 ~~of the Code of Federal Regulations and “nonacutely~~
14 ~~hazardous waste” means a hazardous waste which is not~~
15 ~~an acutely hazardous waste.~~

16 ~~(4) “Media” means groundwater, surface water, soils,~~
17 ~~and debris.~~

18 ~~(b) Any person who accumulates or stores treatability~~
19 ~~study samples shall contain those samples during~~
20 ~~accumulation and storage in containers that are marked~~
21 ~~clearly with the words “treatability study sample.” A~~
22 ~~container holding a treatability study sample shall be in~~
23 ~~a good, nonleaking condition and shall be labeled with all~~
24 ~~of the following information:~~

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

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

28 ~~(3) The name and address of the generator of the~~
29 ~~treatability study sample.~~

30 ~~(4) The date the treatability study sample was first~~
31 ~~placed in the containers.~~

32 ~~(e) Any person who generates a treatability study~~
33 ~~sample for the purpose of conducting a treatability study~~
34 ~~is not subject to this chapter with respect to that sample,~~
35 ~~except for the requirements of subdivision (e) of Section~~
36 ~~25162, or the regulations adopted pursuant to this~~
37 ~~chapter, except for Sections 66262.50, 66262.52, and~~
38 ~~66262.53 of Title 22 of the California Code of Regulations,~~
39 ~~as those sections read on January 1, 1993, if the person~~
40 ~~complies with the conditions specified in this section and~~



1 ~~the treatability study sample meets any of the following~~
2 ~~conditions:~~

3 ~~(1) The treatability study sample is being collected~~
4 ~~and prepared for transportation by the generator or the~~
5 ~~agent of the generator.~~

6 ~~(2) The treatability study sample is being accumulated~~
7 ~~or stored by the generator or the agent of the generator~~
8 ~~prior to transportation to a laboratory or testing facility.~~

9 ~~(3) The treatability study sample is being transported~~
10 ~~to the laboratory or testing facility for the purpose of~~
11 ~~conducting a treatability study.~~

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

14 ~~(1) The treatability study sample mass is not more~~
15 ~~than than 10,000 kilograms of media contaminated with~~
16 ~~nonacutely hazardous waste, 1,000 kilograms of~~
17 ~~nonacutely hazardous waste which is other than~~
18 ~~contaminated media, one kilogram of acutely hazardous~~
19 ~~waste, or 2,500 kilograms of media contaminated with~~
20 ~~acutely hazardous waste, for each process being~~
21 ~~evaluated for each generated hazardous waste stream.~~

22 ~~(2) The treatability study sample is retained at the site~~
23 ~~of generation for not longer than one year, or, in the case~~
24 ~~of a treatability study involving bioremediation, two~~
25 ~~years, and not more than 10 days elapse between when~~
26 ~~the treatability study sample is shipped to the laboratory~~
27 ~~or testing facility and when it is received at the laboratory~~
28 ~~or testing facility.~~

29 ~~(3) The generator or the agent of the generator retains~~
30 ~~responsibility for the recycling or disposal of the~~
31 ~~treatability study sample or its residues after the~~
32 ~~treatability study is completed.~~

33 ~~(e) Each treatability study sample shall be packaged so~~
34 ~~that it will not leak, spill, or vaporize from its packaging~~
35 ~~during shipment and may be transported only if the~~
36 ~~treatability study sample complies with all of the~~
37 ~~following:~~

38 ~~(1) The treatability study sample complies with all~~
39 ~~shipping requirements of the Department of~~
40 ~~Transportation, United States Postal Service, or any other~~



1 applicable shipping requirements, and, at a minimum, is
2 accompanied by all of the following information:

3 (A) The name, mailing address, telephone number,
4 and Environmental Protection Agency identification
5 number, if available, of the generator of the treatability
6 study sample or the agent of the generator.

7 (B) The name, address, telephone number, and EPA
8 number, if available, of the facility that will perform the
9 treatability study.

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

11 (D) The date of shipment.

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

14 (2) The treatability study sample is shipped to a
15 laboratory or testing facility which has a hazardous waste
16 facilities permit issued pursuant to Section 25200, is
17 exempt from state hazardous waste facilities permitting
18 requirements pursuant to Section 25158.3, or, if located in
19 another state, is authorized by that state or the
20 Environmental Protection Agency to conduct
21 treatability studies or is exempted pursuant to subsection
22 (f) of Section 261.4 of Title 40 of the Code of Federal
23 Regulations.

24 (f) A generator or the agent of the generator exempt
25 pursuant to this section shall maintain the following
26 records for three years after completion of the treatability
27 study and shall, if requested by the department before
28 the end of three years, retain the records for up to an
29 additional five years:

30 (1) Copies of shipping documents.

31 (2) A copy of the contract with the facility conducting
32 the treatability study.

33 (3) Documentation showing the amount of waste
34 shipped, the name and address of the laboratory or testing
35 facility that received the waste, the date the shipment
36 was made, and the final disposition of unused portions of
37 samples and residues.

38 (g) The department may grant requests, on a
39 case-by-case basis, following the submittal of information
40 pursuant to subdivision (h) for an exemption from this



~~1 chapter for treatability study samples that exceed the
2 quantity limits specified in subdivision (b), for up to an
3 additional 5,000 kilograms of media contaminated with
4 nonacutely hazardous waste, 500 kilograms of nonacutely
5 hazardous waste, 2,500 kilograms of media contaminated
6 with acutely hazardous waste, or one kilogram of acutely
7 hazardous waste, subject to the following:~~

~~8 (1) In response to requests for authorization to ship,
9 store, or conduct treatability studies on additional
10 quantities in advance of commencing treatability studies,
11 the department may consider the following factors:~~

~~12 (A) The nature of the technology.~~

~~13 (B) The type of process, such as batch versus
14 continuous.~~

~~15 (C) The size of the unit undergoing testing,
16 particularly in relation to scale-up considerations.~~

~~17 (D) The time and quantity of material required to
18 reach steady state operating conditions.~~

~~19 (E) Test design considerations, such as mass balance
20 calculations.~~

~~21 (2) In response to requests for authorization to ship,
22 store, or conduct treatability studies on additional
23 quantities after initiation or completion of initial
24 treatability studies, the department finds that the
25 exemption is necessary, based on any of the following
26 factors:~~

~~27 (A) There has been an equipment or mechanical
28 failure during the conduct of a treatability study
29 rendering the treatability study sample unsuited for
30 study.~~

~~31 (B) There is a need to repeat a portion of a previously
32 conducted treatability study.~~

~~33 (C) There is a need to study and analyze alternative
34 techniques within a treatability study, and these multiple
35 techniques required greater total sample size.~~

~~36 (D) The treatability study design cannot produce
37 verifiable results without greater quantities of a sample.~~

~~38 (h) A generator applying for an exemption pursuant
39 to subdivision (g) shall submit all of the following
40 information in writing to the department:~~



1 ~~(1) The reason why the generator or agent of the~~
2 ~~generator requires an additional quantity of a treatability~~
3 ~~study sample for the treatability study.~~

4 ~~(2) The quantity of the treatability study sample for~~
5 ~~which the exemption is requested.~~

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

16 ~~(4) If the generator cites paragraph (1) of subdivision~~
17 ~~(g) as the basis for the exemption, information regarding~~
18 ~~the reasons for the failure or breakdown and what~~
19 ~~procedures or improvements have been made to protect~~
20 ~~against further breakdowns.~~

21 ~~(5) If the generator cites paragraph (3) of subdivision~~
22 ~~(g) as the basis for the exemption, a description of the~~
23 ~~proposed technique or techniques to be evaluated.~~

24 ~~SEC. 2. Section 25158.3 of the Health and Safety Code~~
25 ~~is amended to read:~~

26 ~~25158.3. (a) Except as provided in subdivision (b),~~
27 ~~this chapter, and the regulations adopted pursuant to this~~
28 ~~chapter, do not apply to any treatability study sample~~
29 ~~undergoing a treatability study, and those activities of the~~
30 ~~laboratory or testing facility, including transportable~~
31 ~~treatment units, conducting a treatability study, that are~~
32 ~~activities exclusively devoted to, and in support of, the~~
33 ~~treatability study conducted on a treatability study~~
34 ~~sample, if all of the following conditions are met:~~

35 ~~(1) Not less than 45 days before conducting the~~
36 ~~treatability study, the facility notifies the department in~~
37 ~~writing, that it intends to conduct a treatability study~~
38 ~~pursuant to this section.~~



1 ~~(2) The laboratory or testing facility conducting the~~
2 ~~treatment study has an Environmental Protection~~
3 ~~Agency identification number.~~

4 ~~(3) (A) Not more than a total of 10,000 kilograms of~~
5 ~~“as received” media contaminated with nonacutely~~
6 ~~hazardous waste, 2,500 kilograms of media contaminated~~
7 ~~with acutely hazardous waste, or 250 kilograms of other~~
8 ~~“as received” hazardous waste may be subject to~~
9 ~~initiation of treatment in all treatability studies in any~~
10 ~~single day.~~

11 ~~(B) For purposes of this paragraph and paragraph (4),~~
12 ~~“as received” means the quantity of the media or waste,~~
13 ~~as defined in Section 25124, as received in the shipment~~
14 ~~from the generator or the treatability study sample~~
15 ~~collector.~~

16 ~~(4) The quantity of “as received” hazardous waste~~
17 ~~stored at the facility for the purpose of evaluations of~~
18 ~~treatability studies does not exceed 10,000 kilograms, the~~
19 ~~total of which may include 10,000 kilograms of media~~
20 ~~contaminated with nonacutely hazardous waste, not~~
21 ~~more than 2,500 kilograms of media contaminated with~~
22 ~~acutely hazardous waste, 1,000 kilograms of nonacutely~~
23 ~~hazardous waste other than contaminated media, and~~
24 ~~one kilogram of acutely hazardous waste. The quantity~~
25 ~~limitations of this paragraph do not include treatment~~
26 ~~materials, including solid waste, as defined in Section~~
27 ~~40191 of the Public Resources Code, added to “as~~
28 ~~received” hazardous waste.~~

29 ~~(5) Not more than 90 days have elapsed since the~~
30 ~~treatability study for the treatability study sample was~~
31 ~~completed, or not more than one year, or, in the case of~~
32 ~~a treatability study involving bioremediation, two years,~~
33 ~~has elapsed since the generator or treatability study~~
34 ~~sample collector shipped the treatability study sample to~~
35 ~~the laboratory or testing facility, whichever date first~~
36 ~~occurs. Not more than 500 kilograms of treated material~~
37 ~~from a particular hazardous waste stream from~~
38 ~~treatability studies may be stored for future evaluation up~~
39 ~~to five years from the date of the initial receipt. Any~~



1 ~~quantities of materials so stored shall be counted against~~
2 ~~the total storage limit for the facility.~~

3 ~~(6) The treatability study does not involve the~~
4 ~~placement of hazardous waste on the land, incineration,~~
5 ~~or the open burning of hazardous waste.~~

6 ~~(7) The facility maintains records for three years~~
7 ~~following completion of each study that shows~~
8 ~~compliance with the treatment rate limits and the storage~~
9 ~~time and quantity limits. All of the following specific~~
10 ~~information shall be included for each treatability study~~
11 ~~conducted:~~

12 ~~(A) The name, address, and Environmental~~
13 ~~Protection Agency identification number of the~~
14 ~~generator or agent of the generator of each treatability~~
15 ~~study sample.~~

16 ~~(B) The date the treatability study sample was~~
17 ~~received.~~

18 ~~(C) The quantity of treatability study sample~~
19 ~~accepted.~~

20 ~~(D) The quantity of treatability study samples in~~
21 ~~storage each day.~~

22 ~~(E) The date the treatment study was initiated and the~~
23 ~~amount of treatability study samples introduced to~~
24 ~~treatment each day.~~

25 ~~(F) The date the treatability study was concluded.~~

26 ~~(G) The date any unused treatability study sample or~~
27 ~~residues generated from the treatability study were~~
28 ~~returned to the generator or the agent of the generator~~
29 ~~or, if sent to a designated facility, the name of the facility~~
30 ~~and the Environmental Protection Agency identification~~
31 ~~number.~~

32 ~~(8) The facility keeps, onsite, a copy of the treatability~~
33 ~~study contract and all shipping papers associated with the~~
34 ~~transport of treatability study samples to and from the~~
35 ~~facility for a period ending three years from the~~
36 ~~completion date of each treatability study.~~

37 ~~(9) The facility prepares and submits a report to the~~
38 ~~department not later than March 15 of each year that~~
39 ~~estimates the number of studies and the amount of waste~~
40 ~~expected to be used in treatability studies during the~~



1 ~~current year, and includes all of the following information~~
2 ~~for the previous calendar year:~~

3 ~~(A) The name, address, and Environmental~~
4 ~~Protection Agency identification number of the facility~~
5 ~~conducting the treatability studies.~~

6 ~~(B) The numbers of, and types, by process, of~~
7 ~~treatability studies conducted.~~

8 ~~(C) The names and addresses of persons for whom~~
9 ~~studies have been conducted, including their~~
10 ~~Environmental Protection Agency identification~~
11 ~~numbers.~~

12 ~~(D) The total quantity of hazardous waste in storage~~
13 ~~each day.~~

14 ~~(E) The quantity and types of hazardous waste~~
15 ~~subjected to treatability studies.~~

16 ~~(F) When each treatability study was conducted.~~

17 ~~(G) The final disposition of residues and unused~~
18 ~~treatability study samples from each treatability study.~~

19 ~~(10) The facility determines whether any unused~~
20 ~~treatability study sample or residues generated by the~~
21 ~~treatability study are hazardous waste that are subject to~~
22 ~~this chapter or the regulations adopted pursuant to this~~
23 ~~chapter, and, if so, the facility handles the unused~~
24 ~~treatability study sample or residues in accordance with~~
25 ~~this chapter and the regulations adopted pursuant to this~~
26 ~~chapter, unless the residues and unused treatability study~~
27 ~~samples are returned to the treatability study sample~~
28 ~~originator, as specified in Section 25158.2.~~

29 ~~(11) The facility notifies the department by letter~~
30 ~~when the facility is no longer planning to conduct any~~
31 ~~treatability studies at the site.~~

32 ~~(12) All treatability studies shall be initiated within 60~~
33 ~~days of the receipt of each treatability study sample.~~

34 ~~(b) The requirements of subdivision (c) of Section~~
35 ~~25162, and Sections 66262.50, 66262.52, and 66262.53 of~~
36 ~~Title 22 of the California Code of Regulations, as those~~
37 ~~sections read on January 1, 1993, shall apply to a sample~~
38 ~~undergoing a treatability study, including those activities~~
39 ~~of the laboratory or testing facility conducting the~~
40 ~~treatability study.~~



1 ~~(c) If a group of two or more transportable treatment~~
2 ~~units are located at the same site, the requirements~~
3 ~~specified in subdivision (a) apply to the entire group of~~
4 ~~transportable treatment units collectively as if the group~~
5 ~~were one unit.~~

6 ~~SEC. 3. Section 25158.4 of the Health and Safety Code~~
7 ~~is amended to read:~~

8 ~~25158.4. (a) The department may adopt regulations~~
9 ~~consistent with Sections 25158.2 and 25158.3 for the~~
10 ~~management of treatability study samples.~~
11 ~~Notwithstanding Sections 25158.2 and 25258.3, the~~
12 ~~department may amend those regulations, provided that~~
13 ~~the standards adopted by the department are not less~~
14 ~~restrictive than those adopted by the Environmental~~
15 ~~Protection Agency pursuant to the federal act.~~

16 ~~(b) Sections 25158.2 and 25158.3 shall become~~
17 ~~inoperative on the effective date of any regulations~~
18 ~~adopted by the department pursuant to subdivision (a).~~

19 ~~SEC. 4.—~~

20 *SEC. 5.* No reimbursement is required by this act
21 pursuant to Section 6 of Article XIII B of the California
22 Constitution because the only costs that may be incurred
23 by a local agency or school district will be incurred
24 because this act creates a new crime or infraction,
25 eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section
27 17556 of the Government Code, or changes the definition
28 of a crime within the meaning of Section 6 of Article
29 XIII B of the California Constitution.

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

