



## CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

TAX POLICY BUREAU

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[www.cdtfa.ca.gov](http://www.cdtfa.ca.gov)GAVIN NEWSOM  
GovernorAMY TONG  
Secretary, Government Operations AgencyNICOLAS MADUROS  
Director

March 28, 2024

Dear Interested Party:

Enclosed is the Discussion Paper on whether to adopt proposed amendments to Hazardous Substances Tax Regulations 3000, *Generator of Hazardous Waste*, and 3021, *Relief from Liability*, and new Hazardous Substances Tax Regulation 3001, *Generation and Handling of Hazardous Waste Fee Operative on and after January 1, 2022*, through the regular rulemaking process. We would like to invite you to discuss the issue and present any additional suggestions or comments. Accordingly, an interested parties meeting is scheduled as follows:

**April 18, 2024**  
**at 10:00 a.m.**  
**(Microsoft Teams)**

You may join us on your computer or mobile app through [Microsoft Teams](#) or by calling 1-916-535-0987 and then entering the phone conference identification number 829 812 915#. You are also welcome to submit your written suggestions or comments, including any proposed regulatory language, to me at the address or fax number in this letterhead or via email at [BTFD-BTC.InformationRequests@cdtfa.ca.gov](mailto:BTFD-BTC.InformationRequests@cdtfa.ca.gov) by May 3, 2024. Copies of the materials you submit may be provided to other interested parties; therefore, please ensure your comments do not contain confidential information. Please feel free to publish this information on your website or distribute it to others who may be interested in participating in the meeting or presenting their suggestions or comments.

If you are interested in other Business Taxes Committee topics refer to the CDTFA webpage at (<http://www.cdtfa.ca.gov/taxes-and-fees/business-taxes-committee.htm>) for copies of discussion papers and calendars of current and prior issues.

Thank you for your consideration. We look forward to your participation. Should you have any questions, please contact Business Taxes Committee team member Robert Wilke at 1-916-309-5302.

Sincerely,

A handwritten signature in cursive script that reads "Aimee Olhiser".

Aimee Olhiser, Chief  
Tax Policy Bureau  
Business Tax and Fee Division

AO:rsw

Enclosures

## DISCUSSION PAPER

### Hazardous Substances Tax Regulations 3000, *Generator of Hazardous Waste*,

### 3001, *Generation and Handling of Hazardous Waste Fee Operative on and after January 1, 2022*, and 3021, *Relief from Liability*

#### Issue

Whether the California Department of Tax and Fee Administration (Department) should propose to adopt amendments to Hazardous Substances Tax Regulations 3000, *Generator of Hazardous Waste*, and 3021, *Relief from Liability*, and new Hazardous Substances Tax Regulation 3001, *Generation and Handling of Hazardous Waste Fee Operative on and after January 1, 2022*, through the regular rulemaking process. The amendments and new regulation implement, interpret, and make specific the amendments made to the Hazardous Substances Tax Law (HSTL) (Rev. & Tax. Code (RTC) section 43001 et seq.) and chapter 6.5, Hazardous Waste Control Law, of division 20 of the Health and Safety Code (HSC) by Senate Bill No. (SB) 158 (Stats. 2021, ch. 73).

#### Background

Specified hazardous waste fees imposed by the HSC are administered and collected pursuant to the HSTL, including the generator fee imposed by former HSC section 25205.5 (originally enacted by SB 2014 (Stats. 1998, ch. 737)) and the generation and handling fee imposed by new HSC section 25205.5 (enacted by SB 158). (RTC section 43053.) The HSTL was originally administered and enforced by the State Board of Equalization (Board). The Board adopted Regulation 3000 in 1999 to implement, interpret, and make specific the collection of the generator fee imposed by former HSC section 25205.5 under the HSTL. The Board also adopted Regulation 3021 in 2003 to implement, interpret, and make specific the provisions of RTC section 43159, which provides, “If the board finds that a person’s failure to make a timely return or payment is due to the person’s reasonable reliance on written advice from the board, the person may be relieved of the taxes imposed or administered under [the HSTL] and any penalty or interest added thereto.”

Prior to the amendments made by SB 158, subdivision (a) of former HSC section 25205.5 provided that every generator of hazardous waste was required to pay the Board a specified generator fee for each generator site that generated five or more tons of hazardous waste for each calendar year, or portion thereof, unless the generator had paid a facility fee or received a credit, as specified in HSC section 25205.2, for each specific site, for the calendar year for which the generator fee is due. Subdivision (b) of former HSC section 25025.5 established a tiered rate system so that the amount of the generator fee imposed on each ton of hazardous waste increased when the hazardous waste generated, per site, each calendar year exceeded specified thresholds. Also, former HSC section 25205.5 provided that the generator fee shall be paid in accordance with the HSTL.

In addition, former RTC section 43152.7 provided that the generator fee was due and payable on the last day of the second month following the end of the calendar year. Former RTC section 43152.7 required the generator fee to be offset by any fees paid by the generator for the preceding calendar year for a local hazardous waste management program conducted by a local agency pursuant to a memorandum of understanding with the Department of Toxic Substances Control (DTSC). Also, prior to the amendments made by SB 158, former RTC section 43152.7

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required every generator subject to the generator fee to file an annual return with the Board and pay the Board the proper amount of generator fee due.

Regulation 3000 defines the term “generator,” as used in former HSC section 25205.5, and provides examples of specific persons that are included in that definition. Regulation 3000 defines the term “site or onsite,” as used in in former HSC section 25205.5. Regulation 3000 clarifies the reporting period of the return on which hazardous waste is required to be reported under former RTC section 43152.7. Regulation 3000 clarifies that where hazardous waste is commingled with non-hazardous waste and manifested as hazardous waste, the entire mixture constitutes hazardous waste for purposes of the generator fee. Finally, the regulation lists persons and types of waste that are exempt from the generator fee under the HSC.

Regulation 3021 provides, in part, that a person may be relieved from the liability for the payment of the taxes or fees required to be collected pursuant to the HSTL, including any penalties and interest added to the taxes or fees, when that liability resulted from the failure to make a timely return or a payment and such failure was found by the Board to be due to reasonable reliance on written advice given by the Board as described in Regulation 4902. Regulation 3021 further specifies that the fees and taxes collected pursuant to the HSTL include the Hazardous Substance Taxes (Disposal Fee, Environmental Fee, Facility Fee, Generator Fee and Activity Fee), Childhood Lead Poisoning Prevention Fee and Occupational Lead Poisoning Prevention Fee.

Government Code (GC) section 15570.22 transferred the administration and collection of the hazardous waste fees collected pursuant to the HSTL from the Board to the Department, operative July 1, 2017. Also, GC section 15570.24 and RTC section 20 generally provide that any references to the Board in the HSTL, the hazardous waste fees administered and collected pursuant to the HSTL, and any regulations implementing the HSTL mean the Department, unless the context clearly requires otherwise.

On July 12, 2021, the Legislature enacted SB 158. As relevant here, SB 158 amended former HSC section 25205.5, which imposed the generator fee, so that it would be repealed on January 1, 2022. SB 158 added new HSC section 25205.5 to impose a new generation and handling fee, operative on January 1, 2022. SB 158 amended former RTC section 43152.7 so that it would be inoperative on July 1, 2022, and repealed on January 1, 2023. SB 158 also added new RTC section 43152.7, which became operative on July 1, 2022, to specify how the new generation and handling fee shall be reported and paid to the Department. Furthermore, SB 158 made other minor revisions to the HSC and HSTL, including replacing references to the Board with reference to the Department in RTC section 43053, former HSC section 25205.5, and former RTC section 43152.7.

*Generation and Handling Fee on and after January 1, 2022*

Subdivision (a)(1) of new HSC section 25205.5 provides that a generator of hazardous waste shall pay to the Department a generation and handling fee for each generator site that generates an amount equal to, or more than, five tons for each calendar year, or portion of the calendar year.

Subdivision (a)(2) specifies that for the 2022–23 fiscal year, the generation and handling fee rate shall be forty-nine dollars and twenty-five cents (\$49.25) for each ton or fraction of a ton of

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hazardous waste generated in calendar year 2021 and subdivision (a)(3) specifies that commencing July 1, 2023, the fee rates established pursuant to HSC section 25205.5.01 shall apply.

Subdivision (a)(4) provides that for purposes of calculating the amount of the generation and handling fee, a generator of hazardous waste that is issued a hazardous waste facilities permit from DTSC and that pays the annual facility fee, as specified in HSC section 25205.2, may deduct, from the amount of hazardous waste otherwise subject to this subdivision that is generated per calendar year, the amount of hazardous waste that is stored, bulked, or transferred solely through the location of the permitted hazardous waste facility and that is in route to another facility that is authorized to do any of the following:

(A) Manage the hazardous waste for reclamation and recovery, including fuel blending before energy recovery at another site.

(B) Manage the hazardous waste through destruction methods or treatment before disposal at another site.

(C) Manage the hazardous waste by any form of treatment.

(D) Dispose of the hazardous waste.

Subdivision (c) of new HSC section 25205.5 provides that the generation and handling fee shall be paid in accordance with the HSTL.

HSC sections 25174.8, 25205.5, subdivision (b), and 25205.5.1 provide exemptions or exclusions from the generation and handling fee. Also, DTSC is the agency that regulates hazardous waste in California and has the authority to adopt regulations to implement, interpret, and make specific those HSC sections.

Subdivision (a) of new RTC section 43152.7 provides that the generation and handling fee is due and payable in two equal installments, on or before November 30 and February 28 of each fiscal year. Subdivision (b) of new RTC section 43152.7 provides that every generator subject to the generation and handling fee shall file an annual return, accompanying the second installment payment required pursuant to subdivision (a), in the form prescribed by the Department, and pay the proper amount of fee due. Also, subdivision (b) of new RTC section 43152.7, as amended by Assembly Bill No. (AB) 203 (Stats. 2022, ch. 60), specifies that the return shall be filed with the Department using electronic media. However, new RTC section 43152.7, unlike former RTC section 43152.7, does not allow an offset for any fees paid by the generator for the preceding calendar year for a local hazardous waste management program conducted by a local agency.

RTC section 43053, as amended by SB 158, provides that the generation and handling fee imposed pursuant to HSC section 25205.5 shall be administered and collected by the Department in accordance with the HSTL. Also, RTC section 43501 authorizes the Department to prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of the HSTL.

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**Discussion**

*Proposed Amendments to Regulation 3000, Generator of Hazardous Waste*

Subdivision (a) of Regulation 3000 provides that the regulation applies to the collection of the generator fee imposed pursuant to HSC section 25205.5. To avoid any potential confusion as to whether Regulation 3000 applies to the generator fee or generation and handling fee, the Department determined that it is necessary to expressly clarify that the provisions of Regulation 3000 apply only to the generator fee imposed pursuant to former HSC section 25205.5. Therefore, the Department proposes to change the title of Regulation 3000 from “Generator of Hazardous Waste” to “Generator of Hazardous Waste Fee Operative Prior to January 1, 2022,” reformat the first sentence in subdivision (a) as subdivision (a)(1) and the rest of subdivision (a) as subdivision (a)(2), amend the first sentence in reformatted subdivision (a)(1) to specify that its provisions apply to the collection of the generator fee imposed pursuant to HSC section 25205.5 “prior to January 1, 2022,” and add a new second sentence to reformatted subdivision (a)(1) to clarify that Regulation 3001 (discussed below) applies to the collection of the generation and handling fee imposed pursuant to HSC section 25205.5 as added by section 55 of SB 158, on and after January 1, 2022. The Department also proposes non-substantive amendments to make the regulation’s citations consistent with the format prescribed by the California Style Manual, delete two unnecessary acronyms, and replace a reference to the Department of Toxic Substances Control with the acronym DTSC. (See Exhibit 1.)

*Proposed Amendments to Regulation 3021, Relief from Liability*

Regulation 3021 provides that a person may be relieved from the liability for the payment of the taxes or fees required to be collected pursuant to the HSTL, including any penalties and interest added to the taxes or fees, when that liability resulted from the failure to make a timely return or a payment and such failure was found by the board to be due to reasonable reliance on written advice given by the board as described in Regulation 4902. It further specifies that the fees and taxes collected pursuant to the HSTL include the Hazardous Substance Taxes (Disposal Fee, Environmental Fee, Facility Fee, Generator Fee and Activity Fee), Childhood Lead Poisoning Prevention Fee, and Occupational Lead Poisoning Prevention Fee. To avoid any potential confusion as to whether the provisions of Regulation 3021 apply to the generation and handling fee, the Department determined that it is necessary to add a reference to the generation and handling fee to Regulation 3021. Therefore, the Department proposes to add “Generation and Handling Fee” between “Facility Fee” and “Generator Fee” in the second paragraph of Regulation 3021. The Department proposes to replace “board” with “Department” in the first paragraph because the reference to the Board in RTC section 43159 means the Department pursuant to GC section 15570.24 and RTC section 20. The Department also proposes non-substantive amendments to make the regulation’s citations consistent with the format prescribed by the California Style Manual. (See Exhibit 2.)

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*Proposed Regulation 3001, Generation and Handling of Hazardous Waste Fee Operative on and after January 1, 2022*

To avoid any potential confusion, the Department also determined that it is necessary to adopt a new regulation to clarify the administration and enforcement of the generation and handling fee imposed by new HSC section 25205.5 under the HSTL. Therefore, the Department proposes to adopt new Regulation 3001 to be included in chapter 8 of division 2 of title 18 of the California Code of Regulations through the regular rulemaking process. (See Exhibit 3.)

Scope

To avoid any potential confusion as to whether proposed Regulation 3001 applies to the generator fee or generation and handling fee, the Department determined that it is necessary to expressly clarify that the provisions of proposed Regulation 3001 apply to the generation and handling fee imposed by new HSC section 25205.5, on and after the January 1, 2022. Therefore, subdivision (a) clarifies that Regulation 3001's provisions apply to the collection of the generation and handling fee imposed pursuant to HSC section 25205.5, as added by section 55 of SB 158, on and after January 1, 2022. It also clarifies that Regulation 3000 applies to the collection of the generator fee imposed pursuant to HSC section 25205.5 prior to January 1, 2022.

Definitions

To avoid potential confusion about the meaning of the key terms used in Regulation 3001, the Department determined that it is necessary for subdivision (b) to clarify the meaning of key terms used in the regulation. Therefore, subdivision (b)(1) of proposed Regulation 3001 defines "Department" to mean the California Department of Tax and Fee Administration. Subdivision (b)(2) of the regulation also clarifies that the terms "disposal," "facility," "generator," "hazardous waste," "site," and "treatment" have the same meaning as set forth in HSC section 25205.1 and any regulations adopted by DTSC or any successor implementing, interpreting, or making specific the definition of any of these terms in HSC section 25205.1. This is because the definitions in HSC section 25205.1 apply to new HSC section 25205.5 and DTSC has authority to adopt regulations that clarify the meaning of the definitions in HSC section 25205.1, not the Department.

Generation and Handling Fee

To avoid potential confusion about the application of the generation and handling fee, the Department determined that it is necessary for Regulation 3001 to incorporate the provisions of subdivisions (a)(1) and (4) of new HSC section 25205.5 that impose the fee and provide a deduction from the fee, and it is necessary for Regulation 3001 to provide notice that division 20 of the HSC provides exemptions and exclusions from the fee. Therefore, subdivision (c)(1) of proposed Regulation 3001 provides that unless an exemption or exclusion applies pursuant to division 20 of the HSC or any regulations adopted by DTSC or any successor implementing, interpreting, or making specific division 20 of the HSC, a generator of hazardous waste shall pay

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to the Department a generation and handling fee for each generator site that generates five tons or more of hazardous waste in a calendar year, or portion of a calendar year. Subdivision (c)(1) provides that the fee rate applies to each ton or fraction of a ton of hazardous waste generated at a generator site in a calendar year or portion of a calendar year. Also, subdivision (c)(2) provides that for purposes of calculating the amount of the generation and handling fee, a generator of hazardous waste that is issued a hazardous waste facilities permit from DTSC or any successor and that pays the annual facility fee, as specified in HSC section 25205.2, may deduct, from the amount of hazardous waste generated per calendar year, the amount of hazardous waste that is stored, bulked, or transferred solely through the location of the permitted hazardous waste facility and that is en route to another facility that is authorized to do any of the following:

- (A) Manage the hazardous waste for reclamation and recovery, including fuel blending before energy recovery at another site.
- (B) Manage the hazardous waste through destruction methods or treatment before disposal at another site.
- (C) Manage the hazardous waste by any form of treatment.
- (D) Dispose of the hazardous waste.

Payment and Return Due Date

To avoid potential confusion about the reporting and payment of the generation and handling fee under the HSTL, the Department determined that it is necessary for Regulation 3001 to incorporate and clarify the provision of new RTC section 43152.7. Therefore, subdivision (d) of proposed Regulation 3001 specifies that the generation and handling fee imposed on hazardous waste generated in a calendar year or portion of a calendar year is due and payable in two equal installments. Subdivision (d)(1) also clarifies that the first payment is due on or before November 30 of the calendar year following the calendar year in which the hazardous waste was generated. The second payment is due on or before February 28 of the calendar year following the calendar year in which the first payment was due. Subdivision (d)(2) clarifies that every generator subject to the generation and handling fee shall electronically file an annual return on or before February 28 of the calendar year following the calendar year in which the first payment was due through the Department's online services portal via its website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov). Subdivision (d) also includes an example to illustrate that a generator required to pay the generation and handling fee for hazardous waste generated in calendar year 2022 shall pay one half of the generation and handling fee due on or before November 30, 2023, and shall pay the second half of the generation and handling fee due on or before February 28, 2024. The generator must electronically file a return through the Department's online services portal via its website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) for the hazardous waste generated in calendar year 2022 on or before February 28, 2024.

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Penalty

The Department also determined that it is necessary for Regulation 3001 to encourage timely compliance with the payment and return filing requirements in new RTC section 43152.7. Therefore, subdivision (e) of proposed Regulation 3001 clarifies that any generator who fails to timely pay the generation and handling fee, or any required portion thereof, or fails to timely file an annual return, will be subject to penalties and interest pursuant to RTC section 43155.

*Exemptions for the Generation and Handling Fee*

The Department notes that its purpose for proposing Regulation 3001 is to implement the HSTL provisions applicable to the generation and handling fee pursuant to the authority of RTC section 43501. While the Department recognizes that Regulation 3000 provides guidance with respect to persons and hazardous waste that were either exempt or excluded from the generator fee, the Department determined that such guidance is outside the scope of proposed Regulation 3001. The Department, in coordination with DTSC, plans to continue to provide references to the common exemptions and exclusions from the generation and handling fee, as specified in division 20 of the HSC or any regulations adopted by DTSC or any successor implementing, interpreting, or making specific division 20 of the HSC, in its Hazardous Substances (Waste) Fee Guide (<https://www.cdtfa.ca.gov/taxes-and-fees/haz-sub-fee.htm>).

**Summary**

The Department proposes to adopt the amendments to Regulations 3000 and 3021, and new Regulation 3001, through the regular rulemaking process.

We welcome any comments, suggestions, and input from interested parties regarding this issue. We also invite interested parties to participate in the April 18, 2024, interested parties meeting. The deadline for interested parties to provide their written submissions regarding this discussion paper will be May 3, 2024.

Prepared by the Tax Policy Bureau, Business Tax and Fee Division  
Current as of 03/05/24



**Proposed Text of California Code of Regulations**

**Title 18. Public Revenues**

**Division 2. California Department of Tax and Fee Administration – Business Taxes**

**Chapter 8. Hazardous Substances Tax**

**Section 3000. Generator of Hazardous Waste**

Regulation 3000. Generator of Hazardous Waste Fee Operative Prior to January 1, 2022.

(a) Scope.

(1) The provisions contained herein shall apply to the collection of the generator fee imposed pursuant to Health and Safety Code section 25205.5 prior to January 1, 2022. California Code of Regulations, title 18, section 3001 applies to the collection of the generation and handling fee imposed pursuant to Health and Safety Code section 25205.5, as added by section 55 of Senate Bill No. 158 (Stats. 2021, ch. 73), on and after January 1, 2022.

(2) Regulations concerning the manifesting of hazardous waste, enforcement of hazardous waste management requirements and standards, and other regulatory activities conducted by the Department of Toxic Substances Control (DTSC) are contained in title 22 of the California Code of Regulations. Nothing in this section shall grant any benefit or exemption to a generator, subject a generator to any duty or liability, or infer that any person is or is not a generator, except for the purpose of determining whether a person is subject to, or exempted from, the generator fee.

(b) Definitions.

(1) “Generator” means any person, by site, whose act or process produces hazardous waste or causes hazardous waste to become subject to regulatory control by a government agency authorized to regulate hazardous waste. If more than one person is liable for the same generator fee for the same load of hazardous waste, that liability shall be joint and several. A generator includes, but is not limited to:

(A) a person identified on a hazardous waste manifest as the generator and whose Environmental Protection Agency identification number is listed on that manifest, if that identifying information was provided by that person or by an agent or employee of that person;

(B) except as provided in subdivision (b)(1)(G) below, a person who cleans up a release of hazardous waste caused by another, including a property owner who cleans up contamination caused by a tenant or lessee and an owner or lessee who cleans up property contaminated by a previous owner or lessee;

(C) a person who contracts with an environmental cleanup company to clean up property;

(D) a person who places hazardous waste into repositories at the same site where the waste was generated, including but not limited to, a site or portion of a site that has been

designated as a corrective action management unit by the DTSC; however, a person will not be considered the generator of hazardous waste if the person removes hazardous waste (for example, contaminated soil or groundwater) from a site, treats it at the same site until it is non-hazardous, and returns it to the same location from which it was removed at the site;

(E) a person who excavates contaminated soil that is hazardous waste during cleanup activities, regardless of whether the soil became contaminated over a period of time or when the property was under the control of another person;

(F) any person who is expressly identified as a generator pursuant to the Health and Safety Code or title 22 of the California Code of Regulations.

(G) Notwithstanding subdivisions (b)(1)(A) through (b)(1)(F) above, “generator” does not include an entity such as an environmental cleanup company or an emergency response contractor, when that entity, pursuant to contract, cleans up a release of hazardous waste for another person, unless the entity is identified on a hazardous waste manifest as the generator as described in subdivision (b)(1)(A) above.

(2) “Site or onsite” means the location at which hazardous waste is generated. Contiguous properties, divided by public or private right-of-way, may be considered one site, provided entry to and exit from the properties are gained by traveling across, as opposed to going along, the right-of-way.

**(c) Reporting Period During Which Hazardous Waste is Generated.**

If the hazardous waste remains permanently at the site where it was generated, the generation of the waste shall be reported on the generator fee return for the calendar year during which the waste was produced or first brought subject to regulation. If the hazardous waste is removed from the site where it was generated, the generation of the waste shall be reported on the generator fee return for the calendar year during which the waste was removed from the site.

**(d) Commingled Waste.**

Where hazardous waste is commingled with non-hazardous waste and manifested on a hazardous waste manifest, the entire mixture constitutes hazardous waste.

**(e) Exemptions from the Generator Fee.**

The following persons and waste are exempt from the generator fee:

(1) Facilities. A hazardous waste facility that pays the facility fee pursuant to Health and Safety Code section 25205.2 for the site for which the facility fee is paid. However, fees paid pursuant to Health and Safety Code section 25205.14 for permit-by-rule, conditional authorization or conditional exemption are not facility fees, and therefore sites paying such fees are also liable for the generator fee.

(2) Government Cleanups. Hazardous wastes which result when a government agency, or its contractor, removes or remedies a release of hazardous waste in the state caused by another person, or natural disaster. A government agency that produces hazardous waste as a result of its normal operations, including but not limited to accidental releases that occur in the course

of normal operations, or as part of a cleanup of a release of hazardous waste it caused, is subject to the fee. However, the government agency is not subject to the fee if the release of hazardous waste is caused by the public during public use of services provided by the government agency as part of its governmental activities, such as the providing of sewer service or roads used by the public.

(3) Household Hazardous Waste. Hazardous waste generated or disposed of by a public agency, or by any person under an agreement with a public agency, operating a household hazardous waste facility in the state pursuant to division 20, chapter 6.5, article 10.8 of the Health and Safety Code (commencing with section 25218), including hazardous waste received from conditionally exempt small quantity commercial generators, authorized pursuant to Health and Safety Code section 25218.3.

(4) Local Vector Control. Hazardous waste generated or disposed of by local vector control agencies which have entered into a cooperative agreement pursuant to Health and Safety Code section 116180, or by county agricultural commissioners, if the hazardous wastes result from their control or regulatory activities and if they comply with the requirements of division 20, chapter 6.5 of the Health and Safety Code and regulations adopted pursuant to that code.

(5) Load Checking Program. Hazardous waste disposed of, or submitted for disposal or treatment, by any person, which is discovered and separated from solid waste as part of a load checking program.

(6) Recycled Used Motor Oil. Used oil which is removed from a motor vehicle and which is subsequently recycled by a recycler permitted pursuant to article 13 (commencing with section 25250) of chapter 6.5, division 20 of the Health and Safety Code. "Motor vehicle" includes locomotives, vessels and self-propelled, off-road equipment, whether or not the equipment moves or is permitted to move on public highways.

(7) Hazardous Waste Recycled and Used Onsite. Hazardous waste which is recycled, used onsite, and not transferred offsite.

(8) Aqueous Waste. Aqueous waste treated in a treatment unit operating, or which subsequently operates, pursuant to a permit by rule, conditional authorization or conditional exemption. However, hazardous waste generated by the treatment process is subject to the generator fee.

(9) Underground Storage Tank. Hazardous waste generated during the removal of an underground storage tank if the generator of the waste acquired land for the sole purpose of owner-occupied single-family residential use, without actual or constructive notice or knowledge that there was a tank containing hazardous waste on or under the property.

(10) Waste Imported from Outside California. On and after January 1, 1996, no generator fee is due concerning any hazardous waste imported into this state from other states, territories, or possessions of the United States for purposes of treatment, recycling or disposal, and no generator fee is due concerning non-RCRA hazardous waste imported into this state from any source for purposes of treatment, recycling or disposal.

(11) Banks and Financial Institutions. A bank or financial institution that pays an “in lieu” tax, pursuant to article XIII, section 27 of the California Constitution (codified as Revenue and Taxation Code section 23182), is not subject to the generator fee for hazardous waste which is generated during an activity performed by, or in a business conducted by, the bank or a department or division of the bank, regardless of whether the activity or business is directly related to banking.

(12) Insurance Companies. An insurance company that pays an “in lieu” tax, pursuant to article XIII, section 28 of the California Constitution (codified as Revenue and Taxation Code section 12204), is not subject to the generator fee for hazardous waste which is generated during an activity performed by, or in a business conducted by, the insurance company or a department or division of the insurance company, regardless of whether the activity or business is directly related to providing insurance.

(13) Exempt Waste. A waste is not subject to the generator fee if it is exempt from regulation or classification as a hazardous waste under chapter 6.5 of division 20 of the Health and Safety Code (commencing with section 25100) or the regulations promulgated thereunder. A waste is exempt from regulation or classification as a hazardous waste for purposes of this paragraph if the waste is exempt from all provisions of chapter 6.5 of division 20 of the Health and Safety Code and the regulations promulgated thereunder, except those provisions which are necessary in order for DTSC to make or rescind the determination that the waste is exempt from regulation or classification as a hazardous waste, or to compensate DTSC for making or rescinding such a determination.

Note: Authority cited: Section 43501, Revenue and Taxation Code. Reference: Sections 25174.7, 25205.1(e), 25205.5, 25205.22 and 25250.24, Health and Safety Code; and Sections 43152.7 and 43152.15, Revenue and Taxation Code.

**Proposed Text of California Code of Regulations**

**Title 18. Public Revenues**

**Division 2. California Department of Tax and Fee Administration – Business Taxes**

**Chapter 8. Hazardous Substances Tax**

**Section 3021, Relief From Liability**

Regulation 3021. Relief From Liability.

A person may be relieved from the liability for the payment of the taxes or fees required to be collected pursuant to the Hazardous Substances Tax Law, part 22 (commencing with section 43001) of division 2 of the Revenue and Taxation Code, including any penalties and interest added to the taxes or fees, when that liability resulted from the failure to make a timely return or a payment and such failure was found by the Department to be due to reasonable reliance on written advice given by the Department as described in California Code of Regulations, title 18, section 4902.

The fees and taxes collected pursuant to the Hazardous Substances Tax Law include the Hazardous Substance Taxes (Disposal Fee, Environmental Fee, Facility Fee, Generation and Handling Fee, Generator Fee and Activity Fee), Childhood Lead Poisoning Prevention Fee and Occupational Lead Poisoning Prevention Fee.

NOTE: Authority cited: Section 43501, Revenue and Taxation Code. Reference: Section 43159, Revenue and Taxation Code.

**Proposed Text of California Code of Regulations**

**Title 18. Public Revenues**

**Division 2. California Department of Tax and Fee Administration –  
Business Taxes**

**Chapter 8. Hazardous Substances Tax**

**Section 3001. Generation and Handling of Hazardous Waste Fee Operative on and after  
January 1, 2022**

*(A new regulation to be added to the California Code of Regulations.)*

Regulation 3001. Generation and Handling of Hazardous Waste Fee Operative on and after January 1, 2022.

(a) Scope.

The provisions contained in this regulation shall apply to the collection of the generation and handling fee imposed pursuant to Health and Safety Code section 25205.5, as added by section 55 of Senate Bill No. 158 (Stats. 2021, ch. 73), on and after January 1, 2022. California Code of Regulations, title 18, section (Regulation) 3000 applies to the collection of the generator fee imposed pursuant to Health and Safety Code section 25205.5 prior to January 1, 2022.

(b) Definitions.

(1) “Department” means the California Department of Tax and Fee Administration.

(2) The terms “disposal,” “facility,” “generator,” “hazardous waste,” “site,” and “treatment” shall have the same meaning as set forth in Health and Safety Code section 25205.1 and any regulations adopted by the Department of Toxic Substances Control (DTSC) or any successor implementing, interpreting, or making specific the definition of any of these terms in Health and Safety Code section 25205.1.

(c) Generation and Handling Fee.

(1) Unless an exemption or exclusion applies pursuant to division 20 of the Health and Safety Code or any regulations adopted by the DTSC or any successor implementing, interpreting, or making specific division 20 of the Health and Safety Code, a generator of hazardous waste shall pay to the Department a generation and handling fee for each generator site that generates five tons or more of hazardous waste in a calendar year, or portion of a calendar year. The fee rate applies to each ton or fraction of a ton of hazardous waste generated at a generator site in a calendar year or portion of a calendar year.

(2) For purposes of calculating the amount of the generation and handling fee, a generator of hazardous waste that is issued a hazardous waste facilities permit from the DTSC or any successor and that pays the annual facility fee, as specified in Health and Safety Code section 25205.2, may deduct, from the amount of hazardous waste generated per calendar year, the

amount of hazardous waste that is stored, bulked, or transferred solely through the location of the permitted hazardous waste facility and that is en route to another facility that is authorized to do any of the following:

- (A) Manage the hazardous waste for reclamation and recovery, including fuel blending before energy recovery at another site.
- (B) Manage the hazardous waste through destruction methods or treatment before disposal at another site.
- (C) Manage the hazardous waste by any form of treatment.
- (D) Dispose of the hazardous waste.

(d) The generation and handling fee imposed on hazardous waste generated in a calendar year or portion of a calendar year is due and payable in two equal installments.

(1) The first payment is due on or before November 30 of the calendar year following the calendar year in which the hazardous waste was generated. The second payment is due on or before February 28 of the calendar year following the calendar year in which the first payment was due.

(2) Every generator subject to the generation and handling fee shall electronically file an annual return on or before February 28 of the calendar year following the calendar year in which the first payment was due through the Department's online services portal via its website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov).

Example. A generator required to pay the generation and handling fee for hazardous waste generated in calendar year 2022 shall pay one half of the generation and handling fee due on or before November 30, 2023, and shall pay the second half of the generation and handling fee due on or before February 28, 2024. The generator must electronically file a return through the Department's online services portal via its website at [www.cdtfa.ca.gov](http://www.cdtfa.ca.gov) for the hazardous waste generated in calendar year 2022 on or before February 28, 2024.

(e) Any generator who fails to timely pay the generation and handling fee, or any required portion thereof, or fails to timely file an annual return, will be subject to penalties and interest pursuant to Revenue and Taxation Code section 43155.

Note: Authority: Section 43501, Revenue and Taxation Code. Reference: Sections 25205.1 and 25205.5, Health and Safety Code; and Sections 43053, 43155 and 43152.7, Revenue and Taxation Code.