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### **FINANCIAL RESPONSIBILITY RULEMAKING (R-02-05)**

The Financial Responsibility Rulemaking (R-02-05) was filed with the Office of Administrative Law (OAL) on November 18, 2005. On December 19, 2005, OAL approved the rulemaking and it became effective immediately.

The Rulemaking adopts technical and minor changes to California Code of Regulations, title 22, articles 7 and 8 of chapters 14 and 15, and articles 1 and 5 of chapter 45. These changes allow the analogous title 22 sections to more closely parallel the federal regulations governing financial assurance requirements under “Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities” and “Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities” (40 Code of Federal Regulations parts 264 and 265, subpart H – Financial Requirements). The Department of Toxic Substances Control (DTSC) is removing references to the use of forms and adopting a new section, 66264.151, which incorporates the language previously contained in the forms and found in 40 Code of Federal Regulations section 264.151 (40 CFR 264.151).

Health and Safety Code section 25159 requires DTSC to revise its regulations as necessary to maintain authorization to administer the RCRA program in lieu of the U.S. EPA. Section 25159.1 requires OAL to deem such regulations as non-substantive for the purposes of section 100 of California Code Regulations, title 1.

#### **Specific Changes Incorporated into this Rulemaking:**

This Rulemaking incorporates changes to sections 66264.115, 66264.120, 66264.143, 66264.145, 66264.147, 66265.115, 66265.120, 66265.143, 66265.145, 66265.147, 67450.13, 67450.30, and 67450.49 and adopts a new section, 66264.151.

The Financial Responsibility forms formerly referenced throughout article 8, in both chapters 14 and 15 were meant to incorporate the language found in 40 CFR 264.151. However, the forms did not include all of the required language. Existing title 22 language and the analogous 40 CFR language are incorporated into a new section, 66264.151, that is analogous to 40 CFR 264.151. This new section also includes minor corrections and changes to the 40 CFR 264.151 text to achieve regulatory consistency with title 22.

Certain subsections within existing sections 66264.143, 66264.145, 66264.147, 66265.143, 66265.145, and 66265.147 were renumbered to correspond to the analogous subsections within 40 CFR sections 264.143, 264.145, 264.147, 265.143, 265.145 and 265.147.