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

Financial Responsibility Rulemaking (R-02-05) 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).

The changes are not more stringent or broader in scope than the corresponding federal regulations. 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 the Office of Administrative Law (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.

Forms are referenced throughout article 8, of chapters 14 and 15. These forms were meant to incorporate the required language found in 40 CFR 264.151. However, the existing forms do not include all of the required language. Since the forms were incorporated by reference, owners and operators of hazardous waste facilities were not able to comply with both title 22 and 40 CFR requirements. Existing title 22 language and the additional 40 CFR language are incorporated into a new section, 66264.151, that is analogous to 40 CFR 264.151. Although analogous, this new section also includes minor corrections and changes to the 40 CFR 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.

The Rulemaking was filed with OAL on November 18, 2005. OAL has 30 working days to review the rulemaking. The 30 day review period should end on January 5, 2006.