

State of California

HEALTH AND SAFETY CODE

(Chapter 60, Statutes of 1939)

**DIVISION 38. DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

(Note: Division 38 (relating to Department of Toxic Substances Control, commencing with Section 58000), as set forth in Sec. 146 of Governor's Reorganization Plan No. 1 of 1991, has not been formally codified by statutory enactment.)

58000. There is, in the California Environmental Protection Agency, the Department of Toxic Substances Control.

58001. As used in this division:

(a) "Department" means the Department of Toxic Substances Control.

(b) "Director" means the Director of Toxic Substances Control.

58002. The Department of Toxic Substances Control is under the control of an executive officer known as the Director of Toxic Substances Control, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. The director shall receive the annual salary provided by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

58002.5. The Governor may appoint a deputy to the director. The deputy director shall hold office at the pleasure of the director, and shall receive a salary fixed by the director with the approval of the Department of Personnel Administration.

58003. The director shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

58004. The department succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the Toxic Substances Control Program of the State Department of Health Services, including, but not limited to, those powers and duties specified in Chapter 6.5 (commencing with Section 25100),

Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with section 25299.10), Chapter 6.8 (commencing with Section 25300), Chapter 6.91 (commencing with Section 25410), Chapter 6.92 (commencing with Section 25420), Chapter 6.95 (commencing with Section 25500), and Chapter 6.97 (commencing with Section 25550) of Division 20.

58004.5. (a) The department succeeds to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of the Office of Environmental Health Hazard Assessment with regard to the Environmental Quality Assessment Act of 1986 (Chapter 6.98 (commencing with Section 25570)).

(b) The Director of Toxic Substances Control may expend the unexpended balance of any funds available for expenditure by the Director of Environmental Health Hazard Assessment in connection with the performance of the functions of the Director of Environmental Health Hazard Assessment in carrying out the Environmental Quality Assessment Act of 1986.

(c) All officers and employees of the Office of Environmental Health Hazard Assessment who are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function in carrying out the Environmental Quality Assessment Act of 1986 shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Department of Toxic Substances Control, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempted from civil service.

(d) The department shall have possession and control of all records, papers, offices, equipment, supplies, money, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, and land or other property, real or personal, held for the benefit or use of the Office of Environmental Health Hazard Assessment for purposes of the functions transferred to the department to subdivision (a).

(e) Any regulation adopted before January 1, 2003, by the Office of Environmental Health Hazard Assessment or its predecessors, relating to carrying out the Environmental Quality Assessment Act of 1986, as specified in subdivision (a), that are in effect on January 1, 2003, shall remain in effect on and after January 1, 2003, and are enforceable by the department

until readopted, amended, or repealed by the department.

(Added by Stats. 2002, Ch. 626, Sec. 9. Effective January 1, 2003. Note: This section relates to Division 38, as set forth in Sec. 146 of Governor's Reorganization Plan No. 1 of 1991, which has not been officially codified by statutory enactment.)

58005. The department may use the unexpended balance of funds available for use in connection with the performance of the functions of the State Department of Health Services to which the department of succeeds pursuant to Section 58004.

58006. All officers and employees of the State Department of Health Services who, on the effective date of this section, are performing any duty, power, purpose, responsibility, or jurisdiction to which the department of succeeds, who are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the department by Section 58004 shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempted from civil service.

58007. The department shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the State Department of Health Services for the performance of the functions transferred to the department by Section 58004.

58008. All officers or employees of the department employed after the effective date of this section shall be appointed by the director.

58009. The department may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

(a) To enforce its rules and regulations.

(b) To enjoin and abate nuisances related to matters within its jurisdiction which are dangerous to health.

(c) To compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to matters within its jurisdiction.

(d) On matters within its jurisdiction, to protect and preserve the public health. The department may defend all actions and proceedings involving its powers and duties. In all actions and proceedings, the department shall sue and be sued under the name of the Department of Toxic Substances Control.

58010. The department may abate public nuisances related to matters within its jurisdiction.

58011. The department may advise all local health authorities, and, when in its judgment the public health is menaced by matters within its jurisdiction, the department shall control and regulate their actions.

58012. (a) The department may adopt and enforce rules and regulations for the execution of its duties.

(b) All regulations previously adopted by the State Department of Health Services or its predecessors relating to functions performed by the Toxic Substances Control Program of the State Department of Health Services, and in effect immediately preceding the effective date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director.

58013. Notwithstanding any other provision of law, the department shall submit all of its rules and regulations on matters related to statutory responsibilities delegated to or enforced by local health departments, except emergency rules and regulations, to the California Conference of Local Health Officers for review and comment prior to adoption. If the department determines it to be appropriate to implement the proposed rules and regulations or parts thereof, contrary to the recommendations of the conference, the department shall make a public finding summarizing the reasons for acting contrary to those recommendations.

58014. (a) When a dispute arises as to the interpretation or enforcement of the adopted rules and regulations of the department which are being enforced by a city, city and county, county,

or district, a request for clarification or interpretation may be submitted to the department. The department shall make a determination of the proper interpretation and required enforcement thereof when so requested by a party to the dispute.

(b) In making its determination, the department may conduct a hearing, at which time all interested parties may present comments or arguments relative to the dispute.

(c) Determinations of the department made pursuant to this section shall be transmitted to the concerned local agency and the involved party within 60 days after the receipt of the request. The determination of the department shall be binding upon the local agency and the party subject to the rules and regulations of the department, except insofar as the matter may be subject to judicial review.

58015. (a) The department shall annually compile and publish the laws relating to the use, handling, transportation, storage, and disposal of hazardous materials, including, but not limited to, hazardous wastes, flammable materials, corrosives, explosives, pesticides, and radioactive materials together with laws relating to administration, enforcement, and emergency response. The compilation shall reflect the amendments, additions, and deletions enacted each year.

(b) The department may contract with the Legislative Counsel to prepare the compilation of laws required by subdivision (a) and with the Department of General Services to print and distribute the compilation. Copies of the compilation shall be distributed at cost.

(c) It is the intent of the Legislature to appropriate revenues received from the distribution of the compilation to the department for carrying out the purposes of this section.

58016. With the approval of the Department of Finance, and for use in the furtherance of the work of the Department of Toxic Substances Control, the director may accept the following:

(a) Grants of interest in real property.

(b) Gifts of money from public agencies or from organizations or associations organized for scientific, educational, or charitable purposes.

58017. (a) The department may perform any of the following activities relating to the protection, preservation, and advancement of public health:

(1) Studies.

(2) Demonstrations of innovative methods.

(3) Evaluations of existing projects.

(4) Provision of training programs.

(5) Dissemination of information.

(b) In performing an activity specified in subdivision (a), the department may do any of the following:

(1) Perform the activity directly.

(2) Enter into contracts, cooperative agreements, or other agreements for the performance of the activity.

(3) Apply for and receive grants for the performance of the activity.

(4) Award grants for the performance of the activity.

58018. (a) Notwithstanding any other provision of law, the department, by rule or regulation, may provide for the issuance and renewal on a two-year basis of licenses, certificates of registration, or other indicia of authority issued pursuant to Division 20 (commencing with Section 25000) by the department or any agency in the department.

(b) The department may, by rule or regulation, set the fee for the two-year license, certificate of registration, or other indicia, not to exceed twice the annual fee for issuance or renewal set by statute.