

CHAPTER 11
ENVIRONMENTAL CRIMES INVESTIGATION PROGRAM
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CHAPTER 11

ENVIRONMENTAL CRIMES INVESTIGATION PROGRAM

1. GENERAL.

a. Mission. The primary mission of the Environmental Crimes Investigation Program (ECIP) is to investigate and reduce the illegal transportation and disposal of hazardous waste within the Department's jurisdiction. The secondary mission of this program is to assist allied agencies with transportation-related environmental crimes (EC) investigations. The goal of the Department's ECIP is to increase recognition of EC as a threat to public safety and to encourage and support enforcement of environmental statutes as they relate to commercial transportation of hazardous waste.

b. Authority. The Department has statutory authority to enforce specific provisions of the California Health and Safety Code (HSC) related to the transportation and disposal of hazardous waste. This authority is contained in Section 2401.1 of the California Vehicle Code (CVC), with corresponding authority found in 25180(b) and (d) HSC. In addition, Section 25180(d) HSC requires authorized agencies to, "exercise their enforcement authority in such a manner that generators, transporters, and operators of storage, treatment, transfer, and disposal facilities are treated equally and consistently with regard to the same types of violations."

c. Environmental Crime Defined. An EC is an act, which violates an environmental protection statute, which has a potential to cause harm to ecological or biological systems, with or without intent.

2. POLICY.

a. Program Staffing. The ECIP is staffed at the discretion of each field Division commander. The ECIP staff will report to either the Commercial Enforcement Unit or the Investigative Services Unit.

b. Investigation Protocol.

(1) Investigations shall not solely include the enforcement of general hazardous materials transportation regulations, but must also involve the illegal transportation, disposal, or discharge of hazardous waste.

(2) Due to the legal complexities and specialized evidentiary considerations, investigations concerning the illegal transportation and disposal of hazardous

waste should normally be handled by ECIP investigators. All EC investigations shall be conducted in a manner consistent with departmental policy and the provisions of Sections 2401.1 CVC and 25180 HSC.

(3) Personnel not assigned to ECIP should refrain from taking enforcement action related to Section 2401.1 CVC. Due to the complexity of hazardous waste laws, employees who become aware of illegal transportation or disposal of hazardous waste should contact their Division ECIP investigator.

(4) Environmental Crimes Investigation Program staff shall not investigate hazardous waste incidents occurring outside of the Department's jurisdiction, unless requested by an allied agency where the requesting agency is the lead investigator, and the investigation is transportation-related. Before participating in an investigation which occurred within an allied agency's jurisdiction, ECIP staff shall obtain approval from the appropriate Division commander or their designee.

3. RESPONSIBILITIES.

a. Field Divisions. Field Divisions shall ensure appropriate administrative controls are maintained. A Division coordinator shall be assigned by the Division commander and shall be responsible for the overall direction and coordination of EC investigations within their Division.

b. Environmental Crimes Investigation Program Staff. The ECIP staff may communicate directly with Commercial Vehicle Section (CVS) staff to obtain technical assistance. The ECIP staff are responsible for the following:

(1) Conducting and coordinating departmental EC investigations within their Division.

(2) Maintaining communication with allied agencies having hazardous waste oversight.

(3) Providing appropriate training and relevant information concerning the illegal transportation or disposal of hazardous waste.

(4) Notifying CVS, via e-mail, of hazardous waste investigations, in order to obtain a departmental tracking number.

(5) Developing and utilizing procedures relative to the gathering, sampling, analyzing, storing, and preserving of evidence.

(6) Establishing case tracking procedures for coordinating with prosecutors to track the progress of cases on a monthly basis.

(7) Collecting, packaging, and booking evidence in accordance with Highway Patrol Manual 70.1, Evidence Manual. Hazardous waste samples shall be collected by a hazardous materials technician, specialist, or ECIP staff trained in sample collection procedures, personal protective equipment, and required safety precautions.

c. Commercial Vehicle Section. Commercial Vehicle Section will:

(1) Provide departmental EC tracking numbers to ECIP staff involved in cases that meet the definition of an EC.

(2) Assist ECIP staff with guidance regarding appropriate EC training.

(3) Provide oversight of the Hazardous Substance Account (HSA) and coordinate any expenditures and deposits with Fiscal Management Section (FMS).

4. PROCEDURES.

a. Division Coordinators. Division coordinators shall ensure EC cases fall within the criteria established by the HSC, Division 20, Miscellaneous Health and Safety Provisions, Chapter 6.5, Hazardous Waste Control, Sections 25100-25259.

b. Obtaining Case Numbers. Obtain an EC case number from CVS for cases meeting at least one of the criteria below:

(1) Hazardous Waste Spill or Leak. The investigator must provide an Office of Emergency Services incident number and the appropriate HSC section.

(2) Illegal Disposal of Hazardous Waste. The investigator must provide an allied agency (e.g., California Department of Toxic Substance Control, County Health Department) case number and the appropriate HSC section.

(3) Roadside Investigations. The investigation must consist of an appropriate HSC violation. The investigator shall provide applicable copies of all related documentation pertaining to the investigation (e.g., CHP 216, Arrest -- Investigation Report; CHP 407F, Driver/Vehicle Examination Report).

c. Review. Pending review of the submitted documents by CVS, the investigator will be notified of the EC case number.

5. SPECIAL ACTIVITIES.

a. Hazardous Waste Task Force Meetings. The ECIP staff are encouraged to participate in local or regional hazardous waste task force meetings when such involvement is consistent with departmental responsibilities and the authority contained in Section 2401.1 CVC.

b. Specialized Training. The following are required EC training courses:

(1) Hazardous Materials Investigations; California Specialized Training Institute (CSTI) course; 40 hours.

(2) Advanced Environmental Crimes Training Program; CSTI course; 80 hours.

6. HAZARDOUS SUBSTANCE ACCOUNT.

a. General. Commercial Vehicle Section is responsible for administering the HSA, as defined in Section 25192(a) HSC. The HSA was created to manage the Department's share of any fines or penalties assessed as a result of an EC case. The Department is statutorily entitled to a portion of any civil and criminal penalties collected for violations of the Hazardous Waste Control Act as specified in Section 25192 HSC. Pursuant to Section 25192(a)(3) HSC, expenditures of this account may only be used for enforcement of provisions contained in Chapter 6.5, Hazardous Waste Control (25100 – 25259), of the HSC.

b. Incoming Funds.

(1) Funds may be deposited into the HSA only when the investigation and settlement meets the aforementioned criteria and the EC case number has been assigned by CVS. Cases with EC numbers issued prior to 2018 must be resubmitted for review and must obtain a new EC case number, to ensure compliance with this policy and the HSC.

(2) Funds received as a result of EC investigations shall be forwarded to FMS, Cashiering Unit, via the weekly CHP 230, Transmittal Record. A copy of the supporting documentation shall be attached to each check submitted for deposit. Additionally, copies of the check(s), the CHP 230, and supporting documentation shall be forwarded to CVS.

(a) Prior to the deposit of funds into the HSA, the investigator shall submit electronic copies of all related investigation documentation, the form of payment, and the associated CHP 230, to CVS. On the CHP 230, funds for the HSA shall be indicated in Section 11, with a notation "Hazardous

Substance Account,” and the specific EC case number issued by CVS for the case.

(b) Violators may be ordered to pay hazardous reimbursement/restitution costs incurred by the Department during the course of the investigation, or as a result of violations of the Business and Professions Code, the CVC, or Title 13 of the California Code of Regulations. These costs shall be indicated in Section 12 of the CHP 230.

(c) For example, a California Highway Patrol EC investigation results in a local prosecutor filing criminal charges against a party for the illegal disposal of hazardous waste. The defendant was ordered by the court to pay a penalty of \$15,000 and restitution of \$26,000, for investigative costs. In accordance with Section 25192 of the HSC, and departmental policy, \$15,000 would be indicated under Section 11, “Other,” of the CHP 230 and deposited into the HSA. Twenty-six thousand dollars would be indicated under Section 12, “Hazardous reimbursement/restitution,” of the CHP 230, for deposit into the General Fund.

c. Expenditure Procedures.

(1) With prior approval from CVS, travel expenses incurred by ECIP personnel shall be paid through the HSA. Travel shall be documented using the California Automated Travel Expense Reimbursement System (CalATERS) Global. All travel expenses will be funded through the HSA, Program Cost Account (PCA) number 94245. It is imperative that all CalATERS Global documents reference the HSA, PCA number 94245, on the approval signature page of the CalATERS Global document. The CalATERS Global documents shall be reviewed and approved by a supervisor/manager and forwarded to CVS no later than 10 days following the completion of travel. The CalATERS Global documents will be forwarded to FMS by CVS.

(2) Specialized Supplies and Equipment. The ECIP staff should contact CVS to procure supplies not available from the supply services catalog. With CVS approval, HSA funds may be utilized to obtain equipment not available from the supply services catalog.

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