

**Assembly Bill No. 709**

\_\_\_\_\_

Passed the Assembly August 25, 2002

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate August 21, 2002

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day of \_\_\_\_\_, 2002, at \_\_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to add Sections 48022 and 48022.5 to the Public Resources Code, relating to solid waste, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

AB 709, Wayne. Codisposal sites: cleanup.

The California Integrated Waste Management Act of 1989 requires the California Integrated Waste Management Board to initiate a program for the cleanup of solid waste disposal sites and for cleanup of solid waste at codisposal sites where no responsible party is available to pay for timely remediation, and where cleanup is needed to protect public health and safety or the environment. In developing and implementing the program, the board is required to consult with enforcement agencies and California regional water quality control boards.

This bill would require the board, in consultation with the State Water Resources Control Board and the Department of Toxic Substances Control, to develop, on or before June 30, 2003, protocols to be utilized by the board and the local enforcement agencies for site investigation and characterization of hazardous substances at burn dump sites, as defined.

The bill would require the board to use the protocols to investigate and characterize hazardous substances at a site whenever it receives an application for funding under the site cleanup program.

The bill would prescribe a protocol to be used by the board, the department, the State Water Resources Control Board, and the appropriate California regional water quality control board in determining which entity may provide remediation oversight on cleanup projects.

The bill would authorize the board to require the placement of environmental restrictions on any burn dump site property on which any solid waste or residual is left in place.

The bill would require the board to enter into an agreement, on or before March 30, 2003, with the department, relating to the funding of any activities of the department appropriately conducted pursuant to these provisions. The board's activities in



compliance with these provisions would be funded with allocations from the Solid Waste Disposal Site Cleanup Trust Fund, a continuously appropriated fund in the State Treasury. Thus, the bill would make an appropriation by requiring additional payments to be made from that continuously appropriated fund.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 48022 is added to the Public Resources Code, to read:

48022. The Legislature finds and declares all of the following:

(a) Pursuant to the legal framework and definitions pertaining to solid waste contained in this division, the board and the local enforcement agencies have general authority and responsibility for responding to environmental conditions at solid waste disposal sites to ensure protection of the public health and safety and the environment.

(b) The definitions of “solid waste,” “solid waste disposal,” and “solid waste landfill” establish some of the parameters for the general authority and responsibility of the board and the local enforcement agencies.

(c) The Solid Waste Disposal and Codisposal Site Cleanup Program established under this article establishes a mechanism for funding the cleanup of solid waste disposal sites and the solid waste at codisposal sites under specified conditions and circumstances.

(d) A burn dump site is a solid waste disposal site and, as such, is a site that is eligible for funding pursuant to the program, provided all other criteria for program eligibility are met.

(e) Pursuant to the Health and Safety Code, the Department of Toxic Substances Control has general jurisdiction, authority, and responsibility regarding hazardous substance release sites.

(f) Pursuant to the Water Code, the State Water Resources Control Board and the regional water quality control boards have general jurisdiction, authority, and responsibility regarding protection of the waters of the state, including, but not limited to, solid waste and hazardous waste discharges.



(g) Most burn dump sites impact multiple media. Burn dump sites usually contain hazardous substances and, therefore, most can be characterized generally as hazardous substance release sites. Burn dump sites also contain predominantly solid waste and, therefore, can be characterized generally as solid waste disposal sites. Some burn dump sites impact, or have the potential to impact, waters of the state.

(h) Burn dump sites are presumed to be solid waste disposal sites, subject to the general authority and responsibility of the board and the local enforcement agencies. In addition to this general presumption, it is the intent of the Legislature to require that the procedures set forth in Section 48022.5 be followed to ensure that hazardous substances and hazardous wastes at burn dump sites are adequately characterized and safely managed and remediated in consultation with, or under the direct oversight of, the department or the appropriate regional water quality control board, or both.

SEC. 2. Section 48022.5 is added to the Public Resources Code, to read:

48022.5. (a) For the purposes of this section, the following terms have the following meanings, unless the context clearly requires otherwise:

(1) “Burn dump site” means a solid waste disposal site that meets all of the following conditions:

(A) Was operated prior to 1972.

(B) Is closed.

(C) Prior to closure, was a site where open burning was conducted.

(2) “Department” means the Department of Toxic Substances Control.

(3) “Regional board” means a California regional water quality control board.

(4) “Remediation oversight agency” means the entity responsible for environmental oversight on a burn dump site remediation project.

(5) “Sensitive land use” means either of the following:

(A) Use for residences, schools, day care facilities, hospitals and hospices, and other facilities or structures that have a high density of occupation on a daily basis.



(B) Use as a park, golf course, or any other, similar open-space area that is made available for public use, when the park, golf course, or open-space area has a potential for human exposure to hazardous substances.

(b) On or before June 30, 2003, the department, in consultation with the board and the State Water Resources Control Board, shall develop protocols to be utilized by the board and the local enforcement agencies for site investigation and characterization of hazardous substances at burn dump sites.

(1) The protocols shall include, but need not be limited to, both of the following items:

(A) Sampling and analysis protocols to be utilized by the board and the local enforcement agencies for site investigation and characterization of hazardous substances at burn dump sites.

(B) Appropriate abatement measures for nonsensitive land uses.

(2) In addition, the protocols may include either or both of the following items:

(A) Cleanup guidelines, levels, or thresholds for one or more typical constituents of concern based on nonsensitive land uses.

(B) Specifications for confirmation sampling on partial and complete clean-closed sites.

(c) Whenever the board receives an application for funding under this article for a burn dump site, the board shall use the protocols developed by the department under subdivision (b) to investigate and characterize hazardous substances at the site.

(d) Once sufficient site information is available, the board shall notify the department and the appropriate regional board of the board's interest in providing funding and remediation oversight for the site.

(e) For a nonsensitive land use site, the board shall proceed as the remediation oversight agency, following the notification required under subdivision (d), unless the department or regional board requests a site consultation meeting under subdivision (g).

(f) For an existing or proposed sensitive land use site, the board shall request a site consultation meeting under subdivision (g).

(g) For sites with existing or proposed sensitive land uses or water quality impacts, or where otherwise requested by the department or a regional board, the board, the department, the State Water Resources Control Board, and the appropriate regional



board shall hold a site consultation meeting to determine which agency will provide remediation oversight. If, following a review of the site information, the department or a regional board requests to provide remediation oversight, that request shall be granted. If the department or a regional board does not request to provide remediation oversight, remediation oversight of the site shall remain with the board. In cases where the board requested the meeting, the determination of remediation oversight agency shall be made within 30 days of the board's request for the meeting.

(h) The board may require the imposition of an environmental restriction on any burn dump site where solid waste or residuals from the burning of solid waste is left in place. The environmental restriction shall meet the requirements described in Section 1471 of the Civil Code, and the restrictions shall run with the land.

(i) On or before March 30, 2003, the board and the department shall enter into an agreement relating to the funding of any activities of the department appropriately conducted pursuant to this section.

(j) Nothing in this section is intended to limit the authority of the board, the department, the State Water Resources Control Board, or a regional board pursuant to other provisions of law.

(k) Nothing in this section is intended to preclude any qualifying entity from applying for and receiving funding assistance under any other provision of law.



Approved \_\_\_\_\_, 2002

\_\_\_\_\_  
*Governor*

