

AMENDED IN SENATE AUGUST 28, 2002

AMENDED IN SENATE JUNE 13, 2002

AMENDED IN ASSEMBLY APRIL 23, 2002

AMENDED IN ASSEMBLY APRIL 8, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2770

**Introduced by Assembly Members ~~Matthews and Bogn~~ Member
*Matthews***

February 25, 2002

~~An act to amend Sections 40124, 40180, 40192, 40194, 40201, 40901, 41780.1, 41781, 41781.2, 41783, 41783.1, and 41821.5 of, and to add Sections 40005, 40107, 40117, 40507.2, 40512, 40513, 40514, 40515, and 41783.2 to, the Public Resources Code, relating to solid waste. An act to amend Sections 40194 and 40201 of, and to add Sections 40117 and 40507.1 to, the Public Resources Code, relating to solid waste and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2770, as amended, Matthews. Solid waste: conversion technologies: ~~alternative fuels.~~

Existing law, *the California Integrated Waste Management Act*, requires the California Integrated Waste Management Board to administer state programs to recycle solid waste, plastic trash bags, plastic packaging containers, waste tires, newsprint, and other specified materials. *Existing law provides for an external scientific peer review process to review the scientific basis of a regulation or policy proposed*

by the agencies, boards, and departments within the California Environmental Protection Agency.

~~This bill would add and modify certain definitions relating to solid waste define the term “gasification” for purposes of the act. The bill would revise the definition of the term “solid waste facility” to include a gasification facility, and would revise the definition of the term “transformation” to exclude gasification. The bill would require the board to include, as part of the annual report required to be submitted by the board to the Legislature on or before March 1, 2003, a report on new and emerging conversion technologies, including, but not limited to, noncombustion thermal technologies, including gasification and pyrolysis, chemical technologies such as acid hydrolysis or distillation, and specified biological technologies. The bill would require the report to be subject to a specified external scientific peer review process and to consult with the State Energy Resources Conservation and Development Commission and other state, federal, or international governmental agencies in preparing the report.~~

~~The bill would appropriate \$1,500,000 from the Integrated Waste Management Account to the board to prepare the report.~~

~~The bill would require a specified report of the board to include, on and after a specified date, information relating to waste conversion technology.~~

~~The bill would require the board to establish programs for the research, demonstration, evaluation, and promotion of new and emerging technologies that can convert residual solid waste materials into new sources of energy, alternative fuels, chemicals, and other products, including specified program elements. The bill would revise certain definitions and reporting requirements in existing law to include the programs.~~

~~The bill would require the board to convene an Interagency Conversion Technologies and Biomass Task Force for the purpose of coordinating state agency activities related to the development and use in the state of conversion technologies for the production of energy, alternative fuels, chemicals, and other products.~~

~~The bill would authorize any city, county, or regional agency source reduction and recycling element or annual report submitted to the board after January 1, 1995, to include in a 50% diversion requirement imposed under existing law, not more than 10% diversion through sending residual solid waste from which recyclable materials have been~~



~~substantially diverted or removed to a permitted conversion facility, if certain conditions are met.~~

~~The bill would require conversion facility operators to submit to counties information on the amounts, in tonnage, of solid waste sent by each jurisdiction or region for handling at each conversion facility. The bill would require each county to submit related periodic reports to the cities within the county, to any regional agency of which it is a member agency, and to the board.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

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

1 ~~SECTION 1.—Section 40005 is added to the Public Resources~~

2 *SECTION 1. Section 40117 is added to the Public Resources*
3 *Code, to read:*

4 *40117. “Gasification” means a technology that uses a*
5 *noncombustion thermal process to convert solid waste to a clean*
6 *burning fuel for the purpose of generating electricity, and that, at*
7 *minimum, meets all of the following criteria:*

8 *(a) The technology does not use air or oxygen in the conversion*
9 *process, except ambient air to maintain temperature control.*

10 *(b) The technology produces no discharges of air contaminants*
11 *or emissions, including greenhouse gases, as defined in*
12 *subdivision (g) of Section 42801.1 of the Health and Safety Code.*

13 *(c) The technology produces no discharges to surface or*
14 *groundwaters of the state.*

15 *(d) The technology produces no hazardous waste.*

16 *(e) To the maximum extent feasible, the technology removes all*
17 *recyclable materials and marketable green waste compostable*
18 *materials from the solid waste stream prior to the conversion*
19 *process and the owner or operator of the facility certifies that those*
20 *materials will be recycled or composted.*

21 *(f) The facility where the technology is used is in compliance*
22 *with all applicable laws, regulations, and ordinances.*

23 *(g) The facility certifies to the board that any local agency*
24 *sending solid waste to the facility is in compliance with this*
25 *division and has reduced, recycled, or composted solid waste to the*
26 *maximum extent feasible, and the board makes a finding that the*



1 *local agency has diverted at least 30 percent of all solid waste*
2 *through source reduction, recycling, and composting.*

3 *SEC. 2. Section 40194 of the Public Resources Code is*
4 *amended to read:*

5 40194. "Solid waste facility" includes a solid waste transfer
6 or processing station, a composting facility, *a gasification facility,*
7 a transformation facility, and a disposal facility.

8 *SEC. 3. Section 40201 of the Public Resources Code is*
9 *amended to read:*

10 40201. "Transformation" means incineration, pyrolysis,
11 distillation, ~~gasification,~~ or biological conversion other than
12 composting. "Transformation" does not include composting,
13 *gasification,* or biomass conversion.

14 *SEC. 4. Section 40507.1 is added to the Public Resources*
15 *Code, to read:*

16 40507.1. (a) *As part of the annual report required to be*
17 *submitted by the board to the Legislature pursuant to Section*
18 *40507 on or before March 1, 2003, the board shall include a report*
19 *on new and emerging conversion technologies, including, but not*
20 *limited to, noncombustion thermal technologies, including*
21 *gasification and pyrolysis, chemical technologies such as acid*
22 *hydrolysis or distillation, and biological technologies, other than*
23 *composting, such as enzyme hydrolysis. The board shall only*
24 *evaluate those conversion technologies that provide demonstrated*
25 *environmental benefits over the transformation and disposal of*
26 *solid waste.*

27 (b) *The report required by subdivision (a) shall contain all of*
28 *the following:*

29 (1) *Specific and discrete definitions and descriptions of each*
30 *conversion technology evaluated.*

31 (2) *A description and evaluation of the life-cycle environmental*
32 *and public health impacts of each conversion technology in*
33 *comparison to those environmental and public health impacts*
34 *from the transformation and disposal of solid waste.*

35 (3) *A description and evaluation of the technical performance*
36 *characteristics, feedstocks, emissions, and residues used by each*
37 *conversion technology and identification of the cleanest, least*
38 *polluting conversion technologies.*

39 (4) *A description and evaluation of the impacts on the recycling*
40 *and composting markets as a result of each conversion technology.*



1 (c) The board shall require that the report be subject to an
2 external scientific peer review process conducted pursuant to
3 Section 57004 of the Health and Safety Code.

4 (d) The board shall consult with the State Energy Resources
5 Conservation and Development Commission and other state,
6 federal, or international governmental agencies in preparing the
7 report required by this section.

8 SEC. 5. The sum of one million five hundred thousand dollars
9 (\$1,500,000) is hereby appropriated from the Integrated Waste
10 Management Account to the California Integrated Waste
11 Management Board for purposes of preparing the report required
12 by Section 40507.1 of the Health and Safety Code.

13 Code, to read:

14 ~~40005. The Legislature hereby finds and declares that it is the~~
15 ~~intent of the Legislature to develop a framework for local~~
16 ~~jurisdictions and companies that is conducive to developing~~
17 ~~conversion facilities in California that manage residual solid waste~~
18 ~~from which recyclable materials have been substantially diverted~~
19 ~~or removed, and which are otherwise destined for landfills. It is the~~
20 ~~further intent of the Legislature to establish a program for the~~
21 ~~research, demonstration, evaluation, and promotion of new and~~
22 ~~emerging technologies that can convert postrecycled materials~~
23 ~~otherwise destined for landfills into new sources of energy,~~
24 ~~alternative fuels, chemicals, and other products.~~

25 SEC. 2. Section 40107 is added to the Public Resources Code,
26 to read:

27 40107. “Bioreactor landfill” means a municipal solid waste
28 landfill unit where liquids or air, in addition to leachate and gas
29 condensate, is injected in a controlled manner into the waste mass
30 to accelerate or enhance the biostabilization of the waste.

31 SEC. 3. Section 40117 is added to the Public Resources Code,
32 to read:

33 40117. “Conversion” means the processing, through
34 noncombustion thermal means, chemical means, or biological
35 means, other than composting, of residual solid waste from which
36 marketable, recyclable materials have been substantially diverted
37 or removed, or both, to produce products, including, but not
38 limited to, electricity, alternative fuels, chemicals, or other
39 products that meet quality standards for use in the marketplace,
40 with a minimum amount of residuals remaining after processing.



1 ~~SEC. 4. Section 40124 of the Public Resources Code is~~
2 ~~amended to read:~~

3 ~~40124. (a) “Diversion” means activities that reduce or~~
4 ~~eliminate the amount of solid waste from solid waste disposal for~~
5 ~~purposes of this division, including Article 1 (commencing with~~
6 ~~Section 41780) of Chapter 6.~~

7 ~~(b) “Diversion” may also include transformation, as~~
8 ~~authorized under Section 41783, biomass conversion, as~~
9 ~~authorized under Section 41783.1, and conversion, as authorized~~
10 ~~under Section 41783.2.~~

11 ~~SEC. 5. Section 40180 of the Public Resources Code is~~
12 ~~amended to read:~~

13 ~~40180. “Reecyle” or “reecycling” means the process of~~
14 ~~collecting, sorting, cleansing, treating, and reconstituting~~
15 ~~materials that would otherwise become solid waste, and returning~~
16 ~~them to the economic mainstream in the form of raw material for~~
17 ~~new, reused, or reconstituted products which meet the quality~~
18 ~~standards necessary to be used in the marketplace. “Reecycling”~~
19 ~~does not include transformation, as defined in Section 40201,~~
20 ~~biomass conversion, as defined in Section 40106, or conversion,~~
21 ~~as defined in Section 40117, except as authorized under Section~~
22 ~~41783, 41783.1, or 41783.2.~~

23 ~~SEC. 6. Section 40192 of the Public Resources Code is~~
24 ~~amended to read:~~

25 ~~40192. (a) Except as provided in subdivisions (b) and (c),~~
26 ~~“solid waste disposal” or “disposal” means the final deposition~~
27 ~~of solid wastes onto land, into the atmosphere, or into the waters~~
28 ~~of the state.~~

29 ~~(b) Except as provided in Part 2 (commencing with Section~~
30 ~~40900), for purposes of Part 2 (commencing with Section 40900),~~
31 ~~“disposal” means the management of solid waste through landfill~~
32 ~~disposal or transformation at a permitted solid waste facility, and~~
33 ~~the solid waste handled at a conversion facility in excess of the~~
34 ~~amount that may be counted as diversion under Section 41783.2.~~

35 ~~(c) For purposes of Chapters 16 (commencing with Section~~
36 ~~42800) and 19 (commencing with Section 42950) of Part 3, Part~~
37 ~~4 (commencing with Section 43000), Part 5 (commencing with~~
38 ~~Section 45000), Part 6 (commencing with Section 45030), and~~
39 ~~Chapter 2 (commencing with Section 47900) of Part 7, “solid~~



1 waste disposal” or “disposal” means the final deposition of solid
2 wastes onto land.

3 ~~SEC. 7. Section 40194 of the Public Resources Code is~~
4 ~~amended to read:~~

5 ~~40194. “Solid waste facility” includes a solid waste transfer~~
6 ~~or processing station, a composting facility, a conversion facility,~~
7 ~~a transformation facility, and a disposal facility.~~

8 ~~SEC. 8. Section 40201 of the Public Resources Code is~~
9 ~~amended to read:~~

10 ~~40201. “Transformation” means the incineration of solid~~
11 ~~waste. “Transformation” does not include composting,~~
12 ~~conversion, or biomass conversion.~~

13 ~~SEC. 9. Section 40507.2 is added to the Public Resources~~
14 ~~Code, to read:~~

15 ~~40507.2. (a) The board shall include all of the following in~~
16 ~~the annual report required under Section 40507:~~

17 ~~(1) A summary of the status of the conversion industry,~~
18 ~~including, but not limited to, a list of facilities granted permits.~~

19 ~~(2) A report on each facility’s contribution to the diversion of~~
20 ~~materials from landfills.~~

21 ~~(3) An evaluation of the effects of allowing diversion credit for~~
22 ~~conversion technologies.~~

23 ~~(b) This section shall become operative on January 1 following~~
24 ~~the date that the first conversion facility granted a permit by the~~
25 ~~board has been operational for three years.~~

26 ~~SEC. 10. Section 40512 is added to the Public Resources~~
27 ~~Code, to read:~~

28 ~~40512. The board may establish a program for the research,~~
29 ~~demonstration, evaluation, and promotion of new and emerging~~
30 ~~technologies that can convert residual solid waste materials from~~
31 ~~which recyclable materials have been substantially diverted or~~
32 ~~removed, or both, into new sources of energy, alternative fuels,~~
33 ~~chemicals, and other products. Program elements shall include all~~
34 ~~of the following:~~

35 ~~(a) Evaluation of new and emerging technologies based on~~
36 ~~criteria established by the board.~~

37 ~~(b) Research on the compatibility of residuals from solid waste~~
38 ~~with different conversion technologies.~~



1 ~~(c) Research on environmental and economic benefits and~~
2 ~~costs of conversion compared with landfill disposal, recycling,~~
3 ~~and composting.~~

4 ~~(d) Development of a grant program for small-scale conversion~~
5 ~~projects.~~

6 ~~(e) Educational symposia and workshops.~~

7 ~~SEC. 11. Section 40513 is added to the Public Resources~~
8 ~~Code, to read:~~

9 ~~40513. The board may establish a program for the research,~~
10 ~~demonstration, evaluation, and promotion of landfill~~
11 ~~gas-to-energy projects, bioreactor landfills, and other~~
12 ~~technologies to enhance the environmental and energy recovery of~~
13 ~~wastes that are disposed of in landfill facilities and cannot~~
14 ~~otherwise be diverted. Program elements shall include all of the~~
15 ~~following:~~

16 ~~(a) Evaluation of new and emerging technologies for solid~~
17 ~~waste landfills based on criteria established by the board.~~

18 ~~(b) Development of a grant or loan program for landfill~~
19 ~~gas-to-energy and bioreactor landfill projects.~~

20 ~~(c) Participation in a Landfill Gas-to-Energy Task Force with~~
21 ~~the United States Environmental Protection Agency, the State~~
22 ~~Energy Resources Conservation and Development Commission,~~
23 ~~the State Air Resources Board, and the State Water Resources~~
24 ~~Control Board.~~

25 ~~SEC. 12. Section 40514 is added to the Public Resources~~
26 ~~Code, to read:~~

27 ~~40514. (a) The board shall convene an Interagency~~
28 ~~Conversion Technologies and Biomass Task Force for the purpose~~
29 ~~of coordinating state agency activities related to the development~~
30 ~~and use in the state of conversion technologies for the production~~
31 ~~of energy, alternative fuels, chemicals, and other products. The~~
32 ~~task force shall have all of the following goals:~~

33 ~~(1) Encouraging and supporting the diversion of agricultural,~~
34 ~~municipal, and forestry biomass residuals to productive uses such~~
35 ~~as energy, alternative fuels, and other products.~~

36 ~~(2) Improving environmental quality.~~

37 ~~(3) Providing for job creation and local economic~~
38 ~~development.~~

39 ~~(4) Increasing market-based options for the use of biomass and~~
40 ~~post-recycled solid waste.~~



1 ~~(b) The task force shall be comprised of one representative~~
2 ~~from each of the following state entities:~~

- 3 ~~(1) Environmental Protection Agency.~~
- 4 ~~(2) Resources Agency.~~
- 5 ~~(3) The board.~~
- 6 ~~(4) State Air Resources Board.~~
- 7 ~~(5) State Energy Resources Conservation and Development~~
8 ~~Commission.~~
- 9 ~~(6) Department of Forestry and Fire Protection.~~
- 10 ~~(7) Department of Food and Agriculture.~~
- 11 ~~(8) Technology, Trade, and Commerce Agency.~~
- 12 ~~(9) California Pollution Control Financing Authority.~~
- 13 ~~(10) California Consumer Power and Conservation Financing~~
14 ~~Authority.~~

15 ~~(c) On or before July 1, 2004, the task force shall submit a~~
16 ~~report to the Environmental Protection Agency and the~~
17 ~~Legislature providing recommendations regarding, but not~~
18 ~~necessarily limited to, all of the following:~~

- 19 ~~(1) Coordination of state agency activities pertaining to~~
20 ~~conversion technologies and biomass.~~
- 21 ~~(2) Streamlining of permitting processes without lessening~~
22 ~~environmental or public health and safety standards.~~
- 23 ~~(3) Funding for technology development.~~
- 24 ~~(4) Funding for additional research on lifecycle cost-benefit~~
25 ~~analyses and technical issues.~~

26 ~~SEC. 13. Section 40515 is added to the Public Resources~~
27 ~~Code, to read:~~

28 ~~40515. The board shall adopt regulations, in consultation with~~
29 ~~any affected agencies, for state approval of bioreactor landfill~~
30 ~~projects, as allowed under Part 258 of Title 40 of the Code of~~
31 ~~Federal Regulations.~~

32 ~~SEC. 14. Section 40901 of the Public Resources Code is~~
33 ~~amended to read:~~

34 ~~40901. (a) The following shall apply with regard to the~~
35 ~~preparation, revision, and implementation of source reduction and~~
36 ~~recycling elements pursuant to this part:~~

- 37 ~~(1) To determine solid waste amounts in the base year and in the~~
38 ~~first locally adopted source reduction and recycling element,~~
39 ~~cities, counties, and regional agencies shall quantify all solid waste~~
40 ~~generated. For the purposes of this requirement, solid waste~~



1 ~~generated is equal to existing disposal plus existing diversion,~~
2 ~~unless modification to these amounts is required pursuant to~~
3 ~~Section 41801.5.~~

4 ~~(2) To determine solid waste amounts in subsequent elements,~~
5 ~~and for the purposes of determining whether the diversion~~
6 ~~requirements of Section 41780 have been met, cities, counties, and~~
7 ~~regional agencies shall report the amounts of solid waste disposed~~
8 ~~of at permitted disposal facilities and handled at conversion~~
9 ~~facilities. For these purposes, cities, counties, and regional~~
10 ~~agencies are not required to quantify the amounts of solid waste~~
11 ~~that have been diverted from disposal through recycling or~~
12 ~~composting, except for solid waste handled at a conversion facility~~
13 ~~and diversion that results from recycling and composting~~
14 ~~programs that are operated or funded by cities, counties, or~~
15 ~~regional agencies.~~

16 ~~(3) For revisions of the documents specified in Sections 41032,~~
17 ~~41033, 41050, 41070, 41072, 41200, 41260, 41350, 41352,~~
18 ~~41370, 41372, 41400, 41402, and 41460, cities, counties, and~~
19 ~~regional agencies shall follow the procedures identified in~~
20 ~~paragraph (2).~~

21 ~~(b) Cities and counties that choose to form a regional agency~~
22 ~~are not required to revise source reduction and recycling elements~~
23 ~~that complete at the time of the formation of the regional agency.~~
24 ~~Any revisions that needed to reflect program and other changes~~
25 ~~caused by the formation of a regional agency shall be reflected in~~
26 ~~the revised source reduction and recycling element submitted by~~
27 ~~the regional agency at the time of the five-year revision.~~

28 ~~SEC. 15. Section 41780.1 of the Public Resources Code is~~
29 ~~amended to read:~~

30 ~~41780.1. (a) Notwithstanding any other requirement of this~~
31 ~~part, for the purposes of determining the amount of solid waste that~~
32 ~~a regional agency is required to divert from disposal through~~
33 ~~source reduction, recycling, and composting to meet the diversion~~
34 ~~requirements of Section 41780, the regional agency shall use the~~
35 ~~solid waste disposal projections in the source reduction and~~
36 ~~recycling elements of the regional agency's member agencies. The~~
37 ~~method prescribed in Section 41780.2 shall be used to determine~~
38 ~~the maximum amount of disposal allowable to meet the diversion~~
39 ~~requirements of Section 41780.~~



1 ~~(b) Notwithstanding any other requirement of this part, for the~~
2 ~~purposes of determining the amount of solid waste that a city or~~
3 ~~county is required to divert from disposal through source~~
4 ~~reduction, recycling, and composting to meet the diversion~~
5 ~~requirements of Section 41780, the city or county shall use the~~
6 ~~solid waste disposal projections in the source reduction and~~
7 ~~recycling elements of the city or county. The method prescribed in~~
8 ~~Section 41780.2 shall be used to determine the maximum amount~~
9 ~~of disposal allowable to meet the diversion requirements of~~
10 ~~Section 41780.~~

11 ~~(c) To determine achievement of the diversion requirements of~~
12 ~~Section 41780 in 1995 and in the year 2000, projections of disposal~~
13 ~~amounts from the source reduction and recycling elements shall be~~
14 ~~adjusted to reflect annual increases or decreases in population and~~
15 ~~other factors affecting the waste stream, as determined by the~~
16 ~~board. By January 1, 1994, the board shall study the factors that~~
17 ~~affect the generation and disposal of solid waste and shall develop~~
18 ~~a standard methodology and guidelines to be used by cities,~~
19 ~~counties, and regional agencies in adjusting disposal projections~~
20 ~~as required by this section.~~

21 ~~(d) The amount of additional diversion required to be achieved~~
22 ~~by a regional agency to meet the diversion requirements of Section~~
23 ~~41780 shall be equal to the sum of the diversion requirements of~~
24 ~~its member agencies. To determine the maximum amount of~~
25 ~~disposal allowable for the regional agency to meet the diversion~~
26 ~~requirements of Section 41780, the maximum amount of disposal~~
27 ~~allowable for each member agency shall be added together to yield~~
28 ~~the agency disposable maximum.~~

29 ~~SEC. 16. Section 41781 of the Public Resources Code is~~
30 ~~amended to read:~~

31 ~~41781. (a) Except as provided in Sections 41781.1 and~~
32 ~~41781.2, for the purpose of determining the base rate of solid waste~~
33 ~~from which diversion requirements shall be calculated, "solid~~
34 ~~waste" includes only the following:~~

35 ~~(1) The amount of solid waste generated within a local agency's~~
36 ~~jurisdiction, the types and quantities of that were disposed of at a~~
37 ~~permitted disposal facility as of January 1, 1990. Nothing in this~~
38 ~~section requires local agencies to perform waste characterization~~
39 ~~in addition to the waste characterization requirements established~~
40 ~~under Sections 41030, 41031, 41330, 41331, and 41332.~~



1 ~~(2) The amount of solid waste diverted from disposal through~~
2 ~~source reduction, recycling, or composting.~~

3 ~~(b) For the purposes of this section, “solid waste” does not~~
4 ~~include any solid waste that would not normally be disposed of at~~
5 ~~a disposal facility.~~

6 ~~(c) For the purposes of this chapter, the amount of solid waste~~
7 ~~from which the required reductions are measured shall be the~~
8 ~~amount of solid waste existing on January 1, 1990, with future~~
9 ~~adjustments for increases or decreases in the quantity of waste~~
10 ~~caused only by changes in population or changes in the number or~~
11 ~~size of governmental, industrial, or commercial operations in the~~
12 ~~jurisdiction.~~

13 ~~SEC. 17. Section 41781.2 of the Public Resources Code is~~
14 ~~amended to read:~~

15 ~~41781.2. (a) (1) It is the intent of the Legislature in enacting~~
16 ~~this section not to require cities, counties, and regional agencies to~~
17 ~~revise source reduction and recycling elements prior to their~~
18 ~~submittal to the board for review and approval, except as the~~
19 ~~elements would otherwise be required to be revised by the board~~
20 ~~pursuant to this part. Pursuant to Sections 41801.5 and 41811.5,~~
21 ~~compliance with this section shall be determined by the board~~
22 ~~when source reduction and recycling elements are submitted to the~~
23 ~~board pursuant to Section 41791.5. However, any city or county~~
24 ~~may choose to revise its source reduction and recycling element or~~
25 ~~any of its components prior to board review of the source reduction~~
26 ~~and recycling element for the purpose of complying with this~~
27 ~~section.~~

28 ~~(2) It is further the intent of the Legislature in enacting this~~
29 ~~section to ensure that compliance with the diversion requirements~~
30 ~~of Section 41780 shall be accurately determined based upon a~~
31 ~~correlation between solid waste that was disposed of at permitted~~
32 ~~disposal facilities and diversion claims that are subsequently made~~
33 ~~for that solid waste.~~

34 ~~(b) For the purposes of this section, the following terms have~~
35 ~~the following meaning:~~

36 ~~(1) “Action by a city, county, regional, or local governing~~
37 ~~body” means franchise or contract conditions, rate or fee~~
38 ~~schedules, zoning or land use decisions, disposal facility permit~~
39 ~~conditions, or activities by a waste hauler, recycler, or disposal~~
40 ~~facility operator acting on behalf of a city, county, regional agency,~~



1 or local governing body, or other action by the local governing
2 body if the local government action is specifically related to the
3 claimed diversion:

4 (2) “Scrap metal” includes ferrous metals, nonferrous metals,
5 aluminum scrap, other metals, and auto bodies, but does not
6 include aluminum cans, steel cans, or bimetal cans.

7 (3) “Inert solids” includes rock, concrete, brick, sand, soil,
8 fines, asphalt, and unsorted construction and demolition waste.

9 (4) “Agricultural wastes” includes solid wastes of plant and
10 animal origin, which result from the production and processing of
11 farm or agricultural products, including manures, orchard and
12 vineyard prunings, and crop residues, which are removed from the
13 site of generation for solid waste management. Agriculture refers
14 to SIC Codes 011 to 0291, inclusive.

15 (e) For purposes of determining the base amount of solid waste
16 from which the diversion requirements of this article shall be
17 calculated, “solid waste” does not include the diversion of
18 agricultural wastes; inert solids, including inert solids used for
19 structural fill; discarded, white-coated, major appliances; and
20 scrap metals; unless all of the following criteria are met:

21 (1) The city, county, or regional agency demonstrates that the
22 material was diverted from a permitted disposal facility through an
23 action by the city, county, or regional agency that specifically
24 resulted in the diversion.

25 (2) The city, county, or regional agency demonstrates that,
26 prior to January 1, 1990, the solid waste that is claimed to have
27 been diverted was disposed of at a permitted disposal facility in the
28 quantity being claimed as diversion. If historical disposal data is
29 not available, that demonstration may be based upon information
30 available to the city, county, or regional agency that substantiates
31 a reasonable estimate of disposal quantities that is as accurate as
32 is feasible in the absence of historical disposal data.

33 (3) The city, county, or regional agency is implementing, and
34 will continue to implement, source reduction, recycling, and
35 composting programs, as described in its source reduction and
36 recycling element.

37 (d) If a city, county, or regional agency source reduction and
38 recycling element submitted pursuant to this chapter includes the
39 diversion of any of the wastes specified in subdivision (c) for years
40 preceding the year commencing January 1, 1990, that diversion



1 shall not apply to the diversion requirements of Section 41780,
2 unless the criteria in subdivision (c) are met.

3 (c) If a city, county, or regional agency source reduction and
4 recycling element submitted pursuant to this chapter does not
5 contain information sufficient for the city, county, or regional
6 agency to demonstrate to the board whether the criteria in
7 subdivision (c) have been met, the city, county, or regional agency
8 may provide additional information following board review of the
9 source reduction and recycling element pursuant to Section
10 41791.5. In providing the additional information, Sections
11 41801.5 and 41811.5 shall apply.

12 (f) In demonstrating whether the requirements of paragraph (1)
13 of subdivision (c) have been met, the city, county, or regional
14 agency shall submit information to the board on local government
15 programs that are specifically related to the claimed diversion.

16 SEC. 18. Section 41783 of the Public Resources Code is
17 amended to read:

18 41783. For any city, county, or regional agency source
19 reduction and recycling element or annual report submitted to the
20 board after January 1, 1995, the 50 percent diversion requirement
21 specified in paragraph (2) of subdivision (a) of Section 41780 may
22 include not more than 10 percent through transformation, as
23 defined in Section 40201, if all of the following conditions are met:

24 (a) The transformation project is in compliance with Sections
25 21151.1 and 44150 of this code and Section 42315 of the Health
26 and Safety Code.

27 (b) The transformation project uses front-end methods or
28 programs to remove all recyclable materials from the waste stream
29 prior to transformation to the maximum extent feasible.

30 (c) The ash or other residue generated from the transformation
31 project is routinely tested at least once quarterly, or on a more
32 frequent basis as determined by the agency responsible for
33 regulating the testing and disposal of the ash or residue, and,
34 notwithstanding Section 25143.5 of the Health and Safety Code,
35 if hazardous wastes are present, the ash or residue is sent to a class
36 1 hazardous waste disposal facility.

37 (d) The board holds a public hearing in the city, county, or
38 regional agency jurisdiction within which the transformation
39 project is proposed, and, after the public hearing, the board makes



1 both of the following findings, based upon substantial evidence on
2 the record:

3 (1) The city, county, or regional agency is, and will continue to
4 be, effectively implementing all feasible source reduction,
5 recycling, and composting measures.

6 (2) The transformation project will not adversely affect public
7 health and safety or the environment.

8 (c) The transformation facility is permitted and operational on
9 or before January 1, 1995.

10 (f) The city, county, or regional agency does not include
11 biomass conversion, as authorized pursuant to Section 47183.1, or
12 conversion, as authorized under Section 41783.2, in its source
13 reduction and recycling element or annual report.

14 SEC. 19. Section 41783.1 of the Public Resources Code is
15 amended to read:

16 41783.1. (a) For any city, county, or regional agency source
17 reduction and recycling element or annual report submitted to the
18 board after January 1, 1995, the 50 percent diversion requirement
19 specified in paragraph (2) of subdivision (a) of Section 41780 may
20 include not more than 10 percent through biomass conversion if
21 all of the following conditions are met:

22 (1) The biomass conversion project exclusively processes
23 biomass.

24 (2) The biomass conversion project is in compliance with all
25 applicable air quality laws, rules, and regulations.

26 (3) The ash or other residue from the biomass conversion
27 project is regularly tested to determine if it is hazardous waste and,
28 if it is determined to be hazardous waste, the ash or other residue
29 is sent to a class 1 hazardous waste disposal facility.

30 (4) The board determines, at a public hearing, based upon
31 substantial evidence in the record, that the city, county, or regional
32 agency is, and will continue to be, effectively implementing all
33 feasible source reduction, recycling, and composting measures.

34 (5) The city, county, or regional agency does not include
35 transformation, as authorized pursuant to Section 41783, or
36 conversion, as authorized under Section 41783.2, in its annual
37 report or source reduction and recycling element.

38 (b) The maximum amount of biomass conversion that a city,
39 county, or regional agency may include as diversion for purposes
40 of meeting the requirements of Section 41780 shall be equal to 10



1 percent of the amount of solid waste it generated in the year being
2 measured.

3 ~~SEC. 20.—Section 41783.2 is added to the Public Resources~~
4 ~~Code, to read:~~

5 ~~41783.2. (a) For any city, county, or regional agency source~~
6 ~~reduction and recycling element or annual report submitted to the~~
7 ~~board after January 1, 1995, the 50 percent diversion requirement~~
8 ~~specified in paragraph (2) of subdivision (a) of Section 41780 may~~
9 ~~include not more than 10 percent diversion by sending residual~~
10 ~~solid waste from which marketable, recyclable materials have~~
11 ~~been substantially diverted or removed to a permitted conversion,~~
12 ~~as defined in Section 40117, facility, if all of the following~~
13 ~~conditions are met:~~

14 ~~(1) The conversion project is in compliance with Sections~~
15 ~~21151.1 and 44150 of this code and Section 42315 of the Health~~
16 ~~and Safety Code.~~

17 ~~(2) Any residue generated from the project is routinely tested~~
18 ~~at least once quarterly, or on a more frequent basis as determined~~
19 ~~by the agency responsible for regulating the testing and disposal~~
20 ~~of the residue, and, notwithstanding Section 25143.5 of the Health~~
21 ~~and Safety Code, if hazardous wastes are present, the residue is~~
22 ~~sent to a class 1 hazardous waste disposal facility.~~

23 ~~(3) The board finds that all of the following apply:~~

24 ~~(A) The jurisdiction continues to implement the recycling and~~
25 ~~diversion programs included in the jurisdiction's source reduction~~
26 ~~and recycling element or its modified annual report.~~

27 ~~(B) The facility complements the existing recycling and~~
28 ~~diversion infrastructure and is converting solid waste that was~~
29 ~~previously disposed.~~

30 ~~(C) The facility maintains or enhances environmental benefits.~~

31 ~~(D) The facility maintains or enhances the economic~~
32 ~~sustainability of the local integrated waste management system.~~

33 ~~(E) The city, county, or regional agency does not include~~
34 ~~transformation, as authorized under Section 41783, or biomass~~
35 ~~conversion, as authorized under Section 41783.1, in its annual~~
36 ~~report or its source reduction and recycling element.~~

37 ~~(b) The maximum amount of conversion that a city, county, or~~
38 ~~regional agency may include as diversion for purposes of meeting~~
39 ~~the requirements of Section 41780 shall be equal to 10 percent of~~
40 ~~the amount of solid waste it generated in the year being measured.~~



1 ~~(c) Beginning three years after a conversion facility has been~~
2 ~~issued a permit by the board and is operational, that board may~~
3 ~~annually evaluate, and increase or decrease, on a case-by-case~~
4 ~~basis, the amount of diversion credit that can be claimed by a~~
5 ~~jurisdiction that sends materials to that facility. Any increase in~~
6 ~~diversion credit, beyond the initial maximum of 10 percent~~
7 ~~diversion, shall not apply to the 50 percent diversion requirement~~
8 ~~specified in paragraph (2) of subdivision (a) of Section 41780. The~~
9 ~~board shall evaluate and report on the results of implementing this~~
10 ~~section, in accordance with the report required under Section~~
11 ~~40507.2.~~

12 ~~SEC. 21. Section 41821.5 of the Public Resources Code is~~
13 ~~amended to read:~~

14 ~~41821.5. (a) Disposal facility operators shall submit to~~
15 ~~counties information from periodic tracking surveys on the~~
16 ~~disposal tonnages by jurisdiction or region of origin that are~~
17 ~~disposed of at each disposal facility. To enable disposal facility~~
18 ~~operators to provide that information, solid waste handlers and~~
19 ~~transfer station operators shall provide information to disposal~~
20 ~~facility operators on the origin of the solid waste that they deliver~~
21 ~~to the disposal facility.~~

22 ~~(b) Recycling and composting facilities shall submit periodic~~
23 ~~information to counties on the types and quantities of materials~~
24 ~~that are disposed of, sold to end users, or that are sold to exporters~~
25 ~~or transporters for sale outside of the state, by county of origin.~~
26 ~~When materials are sold or transferred by one recycling or~~
27 ~~composting facility to another, for other than an end use of the~~
28 ~~material or for export, the seller or transferor of the material shall~~
29 ~~inform the buyer or transferee of the county of origin of the~~
30 ~~materials. The reporting requirements of this subdivision do not~~
31 ~~apply to entities that sell the byproducts of a manufacturing~~
32 ~~process.~~

33 ~~(c) Conversion facility operators shall submit to counties~~
34 ~~information on the amounts, in tonnage, of solid waste sent by each~~
35 ~~jurisdiction or region of origin for handling at each conversion~~
36 ~~facility. To enable conversion facility operators to provide that~~
37 ~~information to counties, solid waste handlers and transfer station~~
38 ~~operators shall provide information to conversion facility~~
39 ~~operators on the origin of the solid waste that they deliver to the~~
40 ~~conversion facility. Information on the origin of the solid waste~~



1 ~~received by the conversion facility shall include, but need not be~~
2 ~~limited to, evidence supporting a showing that the waste conforms~~
3 ~~to Section 41783.2.~~

4 ~~(d) Each county shall submit periodic reports to the cities~~
5 ~~within the county, to any regional agency of which it is a member~~
6 ~~agency, and to the board, on the amounts of solid waste disposed~~
7 ~~by jurisdiction or region of origin, as specified in subdivision (a),~~
8 ~~on the categories and amounts of solid waste diverted to recycling~~
9 ~~and composting facilities within the county or region, as specified~~
10 ~~in subdivision (b), and on the tonnages of solid waste sent for~~
11 ~~handling to each conversion facility, as specified under~~
12 ~~subdivision (e).~~

13 ~~(e) The board may adopt regulations pursuant to this section~~
14 ~~requiring practices and procedures that are reasonable and~~
15 ~~necessary to perform the periodic tracking surveys required by this~~
16 ~~section, and that provide a representative accounting of solid~~
17 ~~wastes that are handled, processed, or disposed. Those regulations~~
18 ~~or periodic tracking surveys approved by the board shall not~~
19 ~~impose an unreasonable burden on waste handling, processing, or~~
20 ~~disposal operations or otherwise interfere with the safe handling,~~
21 ~~processing, and disposal of solid waste.~~

