

AMENDED IN SENATE JULY 12, 2004

AMENDED IN SENATE JUNE 14, 2004

AMENDED IN ASSEMBLY MAY 6, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2701

Introduced by Assembly Members Runner and Campbell

February 20, 2004

An act to amend Sections 13144 and 13152 of, and to repeal Section 12847.5 of, the Food and Agricultural Code, to amend Sections ~~9795~~, ~~12812.2~~, *12812.2* and 12812.5 of the Government Code, to amend Sections 901, ~~25174~~, 25178, 25244.11, 25295, 25299.81, ~~25369~~, ~~25395.32~~ 25395.32, *39604*, 39607.5, 39619.5, 41712, 41865, 43101, 44011.6, 44100, 44104.5, 57007, and 115910 of, and to repeal Sections ~~39604~~, 39702.5, 43032, and 59019 of, the Health and Safety Code, to amend Section 14315 of the Penal Code, to amend Sections 42885.5; ~~42889.4~~ and ~~42889.5~~ and *42889.4* of, to add Chapter 4 (commencing with Section 71069) to Part 2 of Division 34 of, and to repeal Section 42889.1 of, the Public Resources Code, to amend Sections 7672, 7711 and 7712 of the Public Utilities Code, to amend Sections 13191, 13292, 13369, and 13385 of, and to repeal Sections 10782, 13192, 13198, and 13399.39 of, the Water Code, and to amend Section 4 of Chapter 435 of the Statutes of 1994, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 2701, as amended, Runner. Environmental protection: reports.

Existing law requires the California Environmental Protection Agency, and its boards, departments, and offices to prepare and submit to the Governor and the Legislature various reports containing specified information on the implementation and effectiveness of certain programs, policies, and projects to ensure the protection of natural resources in the state.

This bill would require the California Integrated Waste Management Board, in consultation with state agencies that are affected by the changes made by the bill, to develop and implement guidelines, by January 1, 2005, to provide and produce reports and other documentation, including guidance documents, fact sheets, and other publications and written materials, in the most efficient and environmentally sustainable manner possible. The bill would require the guidelines to include the distribution of reports and other documentation by electronic means and compact discs, information on posting reports and other documentation on state agency Web sites, and techniques for the production of reports and other documentation that will reduce and encourage the use of recycled goods, materials, and supplies, specified cost reduction options, and the distribution of a reasonable number of printed reports to ensure public access.

The bill would require the board, before February 1, 2005, to distribute the guidelines to all state agencies.

The bill would require the agency and its boards, departments, and offices, on and after February 1, 2005, to provide and produce reports and other documentation pursuant to these guidelines, and would require all state agencies, after June 1, 2005, to provide and produce reports and other documentation pursuant to these guidelines.

The bill would require each state agency, by April 30, 2005, to conduct a thorough review of each report that the state agency is required to submit to the Legislature and identify whether the report is a completed one-time report, an obsolete report, or a duplicative report that can be eliminated or modified.

The bill would revise and eliminate various existing reporting requirements for the agency and other state agencies.

(2) Existing law requires the Public Utilities Commission to adopt regulations by January 1, 1993, to reduce potential railroad hazards, including regulations concerning the transportation of hazardous or potentially hazardous commodities.



This bill would repeal the requirement that the commission adopt the regulations concerning the transportation of those hazardous commodities.

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

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

1 SECTION 1. Section 12847.5 of the Food and Agricultural
2 Code is repealed.

3 SEC. 2. Section 13144 of the Food and Agricultural Code is
4 amended to read:

5 13144. (a) The department shall establish specific numerical
6 values for water solubility, soil adsorption coefficient (Koc),
7 hydrolysis, aerobic and anaerobic soil metabolism, and field
8 dissipation. The values established by the department shall be at
9 least equal to those established by the Environmental Protection
10 Agency. The department ~~may~~ shall revise the numerical values
11 when the department finds that the revision is necessary to protect
12 the groundwater of the state. The numerical values established or
13 revised by the department shall always be at least as stringent as
14 the values being used by the Environmental Protection Agency at
15 the time the values are established or revised by the department.

16 (b) *On or before December 31, 2004, and updated at least*
17 *annually thereafter, the director shall post the following*
18 *information on the department's Web site for each pesticide*
19 *registered for agricultural use and during years that specific*
20 *numerical values are revised:*

21 (1) *A list of each active ingredient, other specified ingredient,*
22 *or degradation product of an active ingredient of a pesticide for*
23 *which there is a groundwater protection data gap.*

24 (2) *A list of each pesticide that contains an active ingredient,*
25 *other specified ingredients, or degradation product of an active*
26 *ingredient that is greater than one or more of the numerical values*
27 *established pursuant to subdivision (a), or is less than the*
28 *numerical value in the case of soil adsorption coefficient, in both*
29 *of the following categories:*

30 (A) *Water solubility or soil adsorption coefficient (Koc).*

31 (B) *Hydrolysis, aerobic soil metabolism, anaerobic soil*
32 *metabolism, or field dissipation.*



1 (3) For each pesticide listed pursuant to paragraph (2) for
2 which information is available, a list of the amount sold in
3 California during the most recent year for which sales information
4 is available and where and for what purpose the pesticide was
5 used, when this information is available in the pesticide use report.

6 (c) The department shall determine, to the extent possible, the
7 toxicological significance of the degradation products and other
8 specified ingredients identified pursuant to paragraph (2) of
9 subdivision (b).

10 SEC. 3. Section 13152 of the Food and Agricultural Code is
11 amended to read:

12 13152. (a) The department shall conduct ongoing soil and
13 groundwater monitoring of any pesticide whose continued use is
14 permitted pursuant to paragraph (3) of subdivision (d) of Section
15 13150.

16 (b) Any pesticide monitored pursuant to this section that is
17 determined, by review of monitoring data and any other relevant
18 data, to pollute the groundwaters of the state two years after the
19 director takes action pursuant to paragraph (3) of subdivision (d)
20 of Section 13150 shall be canceled unless the director has
21 determined that the adverse health effects of the pesticide are not
22 carcinogenic, mutagenic, teratogenic, or neurotoxic.

23 (c) The department shall maintain a statewide database of wells
24 sampled for pesticide active ingredients. All agencies shall submit
25 to the department, in a timely manner, the results of any well
26 sampling for pesticide active ingredients and the results of any
27 well sampling that detect any pesticide active ingredients.

28 (d) Not later than June 30, 1986, the director, the State
29 Department of Health Services, and the board shall jointly
30 establish minimum requirements for well sampling that will
31 ensure precise and accurate results. The requirements shall be
32 distributed to all agencies that conduct well sampling. All well
33 sampling conducted after December 1, 1986, shall meet the
34 minimum requirements established pursuant to this subdivision.

35 (e) The department shall post the following information on its
36 Web site, *updated no later than December 1 of each year*:

37 (1) The number of wells sampled for pesticide active
38 ingredients, the location of the wells from which the samples were
39 taken, the well numbers, if available, and the agencies responsible
40 for drawing and analyzing the samples.



1 (2) The number of well samples with detectable levels of
2 pesticide active ingredients, the location of the wells from which
3 the samples were taken, the well numbers, if available, and the
4 agencies responsible for drawing and analyzing the samples.

5 (3) An analysis of the results of well sampling described in
6 paragraphs (1) and (2), to determine the probable source of the
7 residues. The analysis shall consider factors such as the physical
8 and chemical characteristics of the pesticide, volume of use and
9 method of application of the pesticide, irrigation practices related
10 to use of the pesticide, and types of soil in areas where the pesticide
11 is applied.

12 (4) Actions taken by the director and the board to prevent
13 pesticides from migrating to groundwaters of the state.

14 ~~SEC. 4.—Section 9795 of the Government Code is amended to~~
15 ~~read:~~

16 ~~9795.—(a) (1) Any report required or requested by law to be~~
17 ~~submitted by a state or local agency to the members of either house~~
18 ~~of the Legislature generally, shall instead be submitted to the~~
19 ~~Legislative Counsel, the Secretary of the Senate, and the Chief~~
20 ~~Clerk of the Assembly, pursuant to Section 71070 of the Public~~
21 ~~Resources Code. Notice of receipt of the report shall also be~~
22 ~~recorded in the journal of the appropriate house or houses of the~~
23 ~~Legislature by the secretary or clerk of that house.~~

24 ~~(2) In addition to and as part of the information made available~~
25 ~~to the public in electronic form pursuant to Section 10248, the~~
26 ~~Legislative Counsel shall make available a list of the reports~~
27 ~~submitted by state and local agencies, as specified in paragraph~~
28 ~~(1). If the Legislative Counsel receives a request from a member~~
29 ~~of the public for a report contained in the list, the Legislative~~
30 ~~Counsel is not required to provide a copy of the report and may~~
31 ~~refer the requester to the state or local agency, as the case may be,~~
32 ~~that authored the report.~~

33 ~~(b) A state or local agency shall be deemed to have complied~~
34 ~~with paragraph (1) of subdivision (a) if the agency submits to the~~
35 ~~Legislative Counsel, the Secretary of the Senate, and the Chief~~
36 ~~Clerk of the Assembly each one hard and one electronic copy of~~
37 ~~the report required or requested.~~

38 ~~(c) This section shall not apply to reports required or requested~~
39 ~~by law to be directed to a committee or other specified entity~~
40 ~~within the Legislature.~~



1 ~~(d) No report shall be distributed to a Member of the~~
2 ~~Legislature unless specifically requested by that member.~~

3 ~~(e) Compliance with subdivision (a) shall be deemed to be full~~
4 ~~compliance with subdivision (c) of Section 10242.5.~~

5 ~~(f) For purposes of this section, "report" includes any study or~~
6 ~~audit.~~

7 ~~SEC. 5.—~~

8 *SEC. 4.* Section 12812.2 of the Government Code is amended
9 to read:

10 12812.2. (a) One of the deputies to the Secretary for
11 Environmental Protection authorized pursuant to Section 12812.1
12 shall be a deputy secretary for law enforcement and counsel, who,
13 subject to the direction and supervision of the secretary, shall have
14 the responsibility and authority to do all of the following:

15 (1) Develop a program to ensure that the boards, departments,
16 offices, and other agencies that implement laws or regulations
17 within the jurisdiction of the California Environmental Protection
18 Agency take consistent, effective, and coordinated compliance
19 and enforcement actions to protect public health and the
20 environment. The program shall include training and
21 cross-training of inspection and enforcement personnel of those
22 boards, departments, offices, or other agencies to ensure
23 consistent, effective, and coordinated enforcement.

24 (2) In consultation with the Attorney General, establish a
25 cross-media enforcement unit to assist a board, department, office,
26 or other agency that implements a law or regulation within the
27 jurisdiction of the California Environmental Protection Agency, to
28 investigate and prepare matters for enforcement action in order to
29 protect public health and the environment. The unit may inspect
30 and investigate a violation of a law or regulation within the
31 jurisdiction of the board, department, office, or other agency,
32 including a violation involving more than one environmental
33 medium and a violation involving the jurisdiction of more than one
34 board, department, office, or agency. The unit shall exercise its
35 authority consistent with the authority granted to the head of a
36 department pursuant to Article 2 (commencing with Section
37 11180) of Chapter 2 of Part 1.

38 (3) Refer a violation of a law or regulation within the
39 jurisdiction of a board, department, office, or other agency that
40 implements a law or regulation within the jurisdiction of the



1 California Environmental Protection Agency to the Attorney
2 General, a district attorney, or city attorney for the filing of a civil
3 or criminal action.

4 (4) Exercise the authority granted pursuant to paragraph (3)
5 only after providing notice to the board, department, office, or
6 other agency unless the secretary determines that notice would
7 compromise an investigation or enforcement action.

8 (b) Nothing in this section shall authorize the deputy secretary
9 for law enforcement and counsel to duplicate, overlap,
10 compromise, or otherwise interfere with an investigation or
11 enforcement action undertaken by a board, department, office, or
12 other agency that implements a law or regulation subject to the
13 jurisdiction of the California Environmental Protection Agency.

14 (c) The Environmental Protection Agency shall post on its Web
15 site, *updated no later than December 1 of each year*, the status of
16 the implementation of this section.

17 ~~SEC. 6.—~~

18 *SEC. 5.* Section 12812.5 of the Government Code is amended
19 to read:

20 12812.5. On or before March 1, 1994, the California
21 Environmental Protection Agency, using existing resources and in
22 consultation with other relevant agencies in state and local
23 government, shall do all of the following:

24 (a) Establish an environmental technologies clearinghouse,
25 which shall include, but not be limited to, maintaining information
26 on California-based environmental technology companies and
27 information on funding sources for environmental technology
28 endeavors and making this information available to interested
29 parties.

30 (b) Make available technical assistance within the California
31 Environmental Protection Agency to assist California-based
32 environmental technology companies to improve export
33 opportunities, and to enhance foreign buyers' awareness of, and
34 access to, environmental technologies and services offered by
35 California-based companies. The technical assistance may
36 include, but is not limited to, organizing and leading trade
37 missions, receiving reverse trade missions, referral services,
38 reviewing project opportunities, and notifying California-based
39 companies of export opportunities and trade shows.



1 (c) Perform research studies and solicit technical advice to
2 identify international market opportunities for California-based
3 environmental technology companies.

4 (d) Participate in federally and other nonstate funded technical
5 exchange programs, when appropriate, to increase foreign buyers'
6 interest in California's environmental technologies.

7 (e) Coordinate activities in state government, and with the
8 federal government and other countries' governments, to take
9 advantage of trade promotion and financial assistance
10 opportunities available to California-based environmental
11 technology companies.

12 ~~SEC. 7.—~~

13 SEC. 6. Section 901 of the Health and Safety Code is amended
14 to read:

15 901. (a) As used in this section:

16 (1) "Center" means the Children's Environmental Health
17 Center established pursuant to Section 900.

18 (2) "Office" means the Office of Environmental Health
19 Hazard Assessment.

20 (b) On or before June 30, 2001, the office shall review cancer
21 risk assessment guidelines for use by the office and the other
22 entities within the California Environmental Protection Agency to
23 establish cancer potency values or numerical health guidance
24 values that adequately address carcinogenic exposures to the fetus,
25 infants, and children.

26 (c) The review required by subdivision (b) shall include a
27 review of existing state and federal cancer risk guidelines, as well
28 as new information on carcinogenesis, and shall consider the
29 extent to which those guidelines address risks from exposures
30 occurring early in life.

31 (d) The review required by subdivision (b) shall also include,
32 but not be limited to, all of the following:

33 (1) The development of criteria for identifying carcinogens
34 likely to have a greater impact if exposures occur early in life.

35 (2) The assessment of methodologies used in existing
36 guidelines to address early-in-life exposures.

37 (3) The construction of a database of animal studies to evaluate
38 increases in risks from short-term early-in-life exposures.

39 (e) On or before June 30, 2004, the office shall finalize and
40 publish children's cancer guidelines that shall be protective of



1 children's health. These guidelines shall be revised and updated as
2 needed by the office.

3 (f) (1) On or before December 31, 2002, the office shall
4 publish a guidance document, for use by the Department of Toxic
5 Substances Control and other state and local environmental and
6 public health agencies, to assess exposures and health risks at
7 existing and proposed schoolsites. The guidance document shall
8 include, but not be limited to, all of the following:

9 (A) Appropriate child-specific routes of exposure unique to the
10 school environment, in addition to those in existing exposure
11 assessment models.

12 (B) Appropriate available child-specific numerical health
13 effects guidance values, and plans for the development of
14 additional child-specific numerical health effects guidance values.

15 (C) The identification of uncertainties in the risk assessment
16 guidance, and those actions that should be taken to address those
17 uncertainties.

18 (2) The office shall consult with the Department of Toxic
19 Substances Control and the State Department of Education in the
20 preparation of the guidance document required by paragraph (1)
21 to ensure that it provides the information necessary for these two
22 agencies to meet the requirements of Sections 17210.1 and
23 17213.1 of the Education Code.

24 (g) On or before January 1, 2002, the office, in consultation
25 with the appropriate entities within the California Environmental
26 Protection Agency, shall identify those chemical contaminants
27 commonly found at schoolsites and determined by the office to be
28 of greatest concern based on criteria that identify child-specific
29 exposures and child-specific physiological sensitivities. On or
30 before December 31, 2002, and annually thereafter, the office shall
31 publish and make available to the public and to other state and local
32 environmental and public health agencies and school districts,
33 numerical health guidance values for five of those chemical
34 contaminants identified pursuant to this subdivision until the
35 contaminants identified have been exhausted.

36 (h) On and after January 1, 2002, and biennially thereafter, the
37 center shall report to the Legislature and the Governor on the
38 implementation of this section as part of the report required by
39 subdivision (d) of Section 900. The report shall include, but not be
40 limited to, information on revisions or modifications made by the



1 office and other entities within the California Environmental
2 Protection Agency to cancer potency values and other numerical
3 health guidance values in order to be protective of children's
4 health. The report shall also describe the use of the revised health
5 guidance values in the programs and activities of the office and the
6 other boards and departments within the California Environmental
7 Protection Agency.

8 (i) Nothing in this section relieves any entity within the
9 California Environmental Protection Agency of complying with
10 Chapter 3.5 (commencing with Section 11340) of Part 2 of
11 Division 3 of Title 2 of the Government Code, to the extent that
12 chapter is applicable to the entity on or before July 19, 2000, or
13 January 1, 1998.

14 ~~SEC. 8. Section 25174 of the Health and Safety Code is~~
15 ~~amended to read:~~

16 ~~25174. (a) There is in the General Fund the Hazardous Waste~~
17 ~~Control Account, which shall be administered by the director. In~~
18 ~~addition to any other money that may be deposited in the~~
19 ~~Hazardous Waste Control Account, pursuant to statute, all of the~~
20 ~~following amounts shall be deposited in the account:~~

21 ~~(1) The fees collected pursuant to Sections 25174.1, 25205.2,~~
22 ~~25205.5, 25205.15, and 25205.16.~~

23 ~~(2) The fees collected pursuant to Section 25187.2, to the~~
24 ~~extent that those fees are for the oversight of corrective action~~
25 ~~taken under this chapter.~~

26 ~~(3) Any interest earned upon the money deposited in the~~
27 ~~Hazardous Waste Control Account.~~

28 ~~(4) Any money received from the federal government pursuant~~
29 ~~to the federal act.~~

30 ~~(5) Any reimbursements for funds expended from the~~
31 ~~Hazardous Waste Control Account for services provided by the~~
32 ~~department pursuant to this chapter, including, but not limited to,~~
33 ~~the reimbursements required pursuant to Sections 25201.9 and~~
34 ~~25205.7.~~

35 ~~(b) The funds deposited in the Hazardous Waste Control~~
36 ~~Account may be appropriated by the Legislature, for expenditure~~
37 ~~as follows:~~

38 ~~(1) To the department for the administration and~~
39 ~~implementation of this chapter.~~



1 ~~(2) To the department for allocation to the State Board of~~
2 ~~Equalization to pay refunds of fees collected pursuant to Sections~~
3 ~~43051 and 43053 of the Revenue and Taxation Code.~~

4 ~~(3) To the department for the costs of performance or review of~~
5 ~~analyses of past, present, or potential environmental public health~~
6 ~~effects related to toxic substances, including extremely hazardous~~
7 ~~waste, as defined in Section 25115, and hazardous waste, as~~
8 ~~defined in Section 25117.~~

9 ~~(4) (A) To the office of the Attorney General for the support~~
10 ~~of the Toxic Substance Enforcement Program in the office of the~~
11 ~~Attorney General, in carrying out the purposes of this chapter.~~

12 ~~(B) Notwithstanding subdivision (c), expenditures for the~~
13 ~~purposes of this paragraph shall not be subject to an interagency~~
14 ~~or interdepartmental agreement.~~

15 ~~(C) On or before October 1 of each year, the Attorney General~~
16 ~~shall report to the Legislature on the expenditure of any funds~~
17 ~~appropriated to the office of the Attorney General for the~~
18 ~~preceding fiscal year pursuant to this paragraph and subdivision~~
19 ~~(e) of Section 25173.6. The report shall include all of the~~
20 ~~following:~~

21 ~~(i) A description of cases resolved by the office of the Attorney~~
22 ~~General through settlement or court order, including the monetary~~
23 ~~benefit to the department and the state.~~

24 ~~(ii) A description of injunctions or other court orders benefiting~~
25 ~~the people of the state.~~

26 ~~(iii) A description of any cases in which the Attorney General's~~
27 ~~Toxic Substance Enforcement Program is representing the~~
28 ~~department or the state against claims by defendants or responsible~~
29 ~~parties.~~

30 ~~(iv) A description of other pending litigation handled by the~~
31 ~~Attorney General's Toxic Substance Enforcement Program.~~

32 ~~(D) Nothing in subparagraph (C) shall require the Attorney~~
33 ~~General to report on any confidential or investigatory matter.~~

34 ~~(5) To the department, on and after July 1, 1999, for~~
35 ~~administration and implementation of Chapter 6.11 (commencing~~
36 ~~with Section 25404):~~

37 ~~(e) Except for the appropriation to the office of the Attorney~~
38 ~~General pursuant to paragraph (4) of subdivision (b), expenditures~~
39 ~~from the Hazardous Waste Control Account for support of state~~
40 ~~agencies other than the department shall, upon appropriation by~~



1 the Legislature to the department, be subject to an interagency or
2 interdepartmental agreement between the department and the state
3 agency receiving the support.

4 (d) Notwithstanding this chapter, or Part 22 (commencing with
5 Section 43001) of Division 2 of the Revenue and Taxation Code,
6 for any fees, surcharges, fines, penalties, and funds which are
7 required to be deposited into the Hazardous Waste Control
8 Account or the Toxic Substances Control Account, the
9 department, with the approval of the Secretary for Environmental
10 Protection, may take any of the following actions:

11 (1) Assume responsibility for, or enter into a contract with a
12 private party or with another public agency, other than the State
13 Board of Equalization, for the collection of any fees, surcharges,
14 fines, penalties and funds described in subdivision (a) or otherwise
15 described in this chapter or Chapter 6.8 (commencing with Section
16 25300), for deposit into the Hazardous Waste Control Account or
17 the Toxic Substances Control Account.

18 (2) Administer, or by mutual agreement, contract with a private
19 party or another public agency, for the making of those
20 determinations and the performance of functions that would
21 otherwise be the responsibility of the State Board of Equalization
22 pursuant to this chapter, Chapter 6.8 (commencing with Section
23 25300), or Part 22 (commencing with Section 43001) of Division
24 2 of the Revenue and Taxation Code, if those activities and
25 functions for which the State Board of Equalization would
26 otherwise be responsible become the responsibility of the
27 department or, by mutual agreement, the contractor selected by the
28 department.

29 (e) If, pursuant to subdivision (c), the department, or a private
30 party or another public agency, pursuant to a contract with the
31 department, performs the determinations and functions that would
32 otherwise be the responsibility of the State Board of Equalization,
33 the department shall be responsible for ensuring that persons who
34 are subject to the fees specified in subdivision (c) have equivalent
35 rights to public notice and comment, and procedural and
36 substantive rights of appeal, as afforded by the procedures of the
37 State Board of Equalization pursuant to Part 22 (commencing with
38 Section 43001) of Division 2 of the Revenue and Taxation Code.
39 Final responsibility for the administrative adjustment of fee rates
40 and the administrative appeal of any fees or penalty assessments



1 ~~made pursuant to this section may only be assigned by the~~
2 ~~department to a public agency.~~

3 ~~(f) If, pursuant to subdivision (e), the department, or a private~~
4 ~~party or another public agency, pursuant to a contract with the~~
5 ~~department, performs the determinations and functions that would~~
6 ~~otherwise be the responsibility of the State Board of Equalization,~~
7 ~~the department shall have equivalent authority to make collections~~
8 ~~and enforce judgments as provided to the State Board of~~
9 ~~Equalization pursuant to Part 22 (commencing with Section~~
10 ~~43001) of Division 2 of the Revenue and Taxation Code. Unpaid~~
11 ~~amounts, including penalties and interest, shall be a perfected and~~
12 ~~enforceable state tax lien in accordance with Section 43413 of the~~
13 ~~Revenue and Taxation Code.~~

14 ~~(g) The department, with the concurrence of the Secretary for~~
15 ~~Environmental Protection, shall determine which administrative~~
16 ~~functions should be retained by the State Board of Equalization,~~
17 ~~administered by the department, or assigned to another public~~
18 ~~agency or private party pursuant to subdivisions (e), (f), and (g).~~

19 ~~(h) The department may adopt regulations to implement~~
20 ~~subdivisions (e) to (h), inclusive.~~

21 ~~(i) The Director of Finance, upon request of the director, may~~
22 ~~make a loan from the General Fund to the Hazardous Waste~~
23 ~~Control Account to meet cash needs. The loan shall be subject to~~
24 ~~the repayment provisions of Section 16351 of the Government~~
25 ~~Code and the interest provisions of Section 16314 of the~~
26 ~~Government Code.~~

27 ~~(j) The department shall establish, within the Hazardous Waste~~
28 ~~Control Account, a reserve of at least one million dollars~~
29 ~~(\$1,000,000) each year to ensure that all programs funded by the~~
30 ~~Hazardous Waste Control Account will not be adversely affected~~
31 ~~by any revenue shortfalls.~~

32 ~~(k) When the department prepares the annual report required~~
33 ~~by Section 10359 of the Public Contract Code, the department~~
34 ~~shall, in addition to providing the information required by that~~
35 ~~section, include all of the following information:~~

36 ~~(1) The source of funding for each contract.~~

37 ~~(2) The statutory authorization, if applicable, for each contract.~~

38 ~~SEC. 9.—~~

39 ~~SEC. 7. Section 25178 of the Health and Safety Code is~~
40 ~~amended to read:~~



1 25178. On or before January 1 of each odd-numbered year,
2 the department shall post on its Web site, at a minimum, all of the
3 following:

4 (a) The status of the regulatory and program developments
5 required pursuant to legislative mandates.

6 (b) (1) The status of the hazardous waste facilities permit
7 program that shall include all of the following information:

8 (A) A description of the final hazardous waste facilities permit
9 applications received.

10 (B) The number of final hazardous waste facilities permits
11 issued to date.

12 (C) The number of final hazardous waste facilities permits yet
13 to be issued.

14 (D) A complete description of the reasons why the final
15 hazardous waste facilities permits yet to be issued have not been
16 issued.

17 (2) For purposes of paragraph (1), “hazardous waste facility”
18 means a facility that uses a land disposal method, as defined in
19 subdivision (d) of Section 25179.2, and that disposes of wastes
20 regulated as hazardous waste pursuant to the federal act.

21 (c) The status of the hazardous waste facilities siting program.

22 (d) The status of the hazardous waste abandoned sites program.

23 (e) A summary of enforcement actions taken by the department
24 pursuant to this chapter and any other actions relating to hazardous
25 waste management.

26 (f) Summary data on annual quantities and types of hazardous
27 waste generated, transported, treated, stored, and disposed.

28 (g) Summary data regarding onsite and offsite disposition of
29 hazardous waste.

30 (h) Research activity initiated by the department.

31 (i) Regulatory action by other agencies relating to hazardous
32 waste management.

33 (j) A revised listing of recyclable materials showing any
34 additions or deletions to the list prepared pursuant to Section
35 25175 that have occurred since the last report.

36 (k) Any other data considered pertinent by the department to
37 hazardous waste management.

38 (l) The information specified in subdivision (c) of Section
39 25161, paragraph (4) of subdivision (a) of Section 25197.1,



1 subdivision (c) of Section 25354, and Sections 25334.7, and
2 25356.5.

3 (m) A status report on the cleanup of the McColl Hazardous
4 Waste Disposal Site in Orange County.

5 ~~SEC. 10.—~~

6 *SEC. 8.* Section 25244.11 of the Health and Safety Code is
7 amended to read:

8 25244.11. The department shall, report to the Governor and
9 the Legislature, including the Chairpersons of the Senate
10 Committee on Appropriations, Assembly Committee on Ways and
11 Means, Joint Legislative Budget Committee, and Assembly
12 Committee on Economic Development and New Technologies, on
13 the status, funding, and results of all demonstration and research
14 projects awarded grants during a year when grant funds are made
15 available.

16 This report shall include recommendations for legislation and
17 shall identify those state and federal economic and financial
18 incentives which can best accelerate and maximize the research,
19 development, and demonstration of hazardous waste reduction,
20 recycling, and treatment technologies.

21 ~~SEC. 11.—~~

22 *SEC. 9.* Section 25295 of the Health and Safety Code is
23 amended to read:

24 25295. (a) (1) Any unauthorized release which escapes
25 from the secondary containment, or from the primary
26 containment, if no secondary containment exists, increases the
27 hazard of fire or explosion, or causes any deterioration of the
28 secondary containment of the underground tank system shall be
29 reported by the owner or operator to the local agency designated
30 pursuant to Section 25283 within 24 hours after the release has
31 been detected or should have been detected. A full written report
32 shall be transmitted by the owner or operator of the underground
33 tank system to the local agency within five working days of the
34 occurrence of the release. The report shall describe the nature and
35 volume of the unauthorized release, any corrective or remedial
36 actions undertaken, and any further corrective or remedial actions,
37 including investigative actions, which will be needed to clean up
38 the unauthorized release and abate the effects of the release and a
39 time schedule for implementing these actions.



1 (2) The local agency shall review the permit whenever there
2 has been an unauthorized release or when it determines that the
3 underground tank system is unsafe. In determining whether to
4 modify or terminate the permit, the local agency shall consider the
5 age of the tank, the methods of containment, the methods of
6 monitoring, the feasibility of any required repairs, the
7 concentration of the hazardous substances stored in the tank, the
8 severity of potential unauthorized releases, and the suitability of
9 any other long-term preventive measures which would meet the
10 requirements of this chapter.

11 ~~(b) The board shall continuously post on its Web site a report~~
12 *(b) The board shall continuously post and update on its Web site*
13 *a report of all unauthorized releases, indicating for each*
14 *unauthorized release the site name, the hazardous substances, and*
15 *the actions release the responsible party, the site name, the*
16 *hazardous substance, the quantity of the unauthorized release if*
17 *known, and the actions taken to abate the problem.*

18 (c) The reporting requirements imposed by this section are in
19 addition to any requirements which may be imposed by Sections
20 13271 and 13272 of the Water Code.

21 ~~SEC. 12.—~~

22 *SEC. 10.* Section 25299.81 of the Health and Safety Code is
23 amended to read:

24 25299.81. (a) Except as provided in subdivisions (b) and (c),
25 this chapter shall remain in effect only until January 1, 2011, and
26 as of that date is repealed, unless a later enacted statute, which is
27 enacted before January 1, 2011, deletes or extends that date.

28 (b) Notwithstanding subdivision (a), Article 1 (commencing
29 with Section 25299.10), Article 2 (commencing with Section
30 25299.11), and Article 4 (commencing with Section 25299.36)
31 shall not be repealed and shall remain in effect on January 1, 2011.

32 (c) The repeal of certain portions of this chapter does not
33 terminate any of the following rights, obligations, or authorities,
34 or any provision necessary to carry out these rights and
35 obligations:

36 (1) The filing and payment of claims against the fund,
37 including the costs specified in subdivisions (c), (e), and (h) of
38 Section 25299.51, and claims for commingled plumes, as
39 specified in Article 11 (commencing with Section 25299.90), until



1 the moneys in the fund are exhausted. Upon exhaustion of the
2 fund, any remaining claims shall be invalid.

3 (2) The repayment of loans, outstanding as of January 1, 2011,
4 due and payable to the board.

5 (3) The recovery of moneys reimbursed to a claimant to which
6 the claimant is not entitled, or the resolution of any cost recovery
7 action.

8 (4) The collection of unpaid fees that are imposed pursuant to
9 Article 5 (commencing with Section 25299.40), as that article read
10 on December 31, 2010, or have become due before January 1,
11 2011, including any interest or penalties that accrue before, on, or
12 after January 1, 2011, associated with those unpaid fees.

13 (d) The board shall continuously post, ~~on its Web site and~~
14 ~~update on its Web site~~, information that describes the status of the
15 fund and shall make recommendations, when appropriate, to
16 improve the efficiency of the program.

17 ~~SEC. 13. Section 25369 of the Health and Safety Code is~~
18 ~~amended to read:~~

19 ~~25369. The department shall establish an abandoned site~~
20 ~~program to survey counties where abandoned site surveys have not~~
21 ~~been completed. As part of the program, the department shall do~~
22 ~~all of the following:~~

23 (a) ~~Develop protocols and procedures for conducting an~~
24 ~~abandoned site survey of rural unsurveyed counties. These~~
25 ~~protocols shall address all types of sites likely to be found in these~~
26 ~~counties, including, but not limited to, crop duster airstrips,~~
27 ~~abandoned mining operations, pesticide formulators and~~
28 ~~manufacturers, abandoned wells, oil exploration and extraction,~~
29 ~~wood treatment plants, land disposal sites, and scrap metal~~
30 ~~operations.~~

31 (b) ~~Notify the California regional water quality control boards,~~
32 ~~the Department of Fish and Game, local health officers, county~~
33 ~~directors of environmental health, county agricultural~~
34 ~~commissioners, and state and federal land management agencies~~
35 ~~of the abandoned site program. Notifications shall consist of the~~
36 ~~following:~~

37 (1) ~~Explanation of the abandoned site program.~~

38 (2) ~~Description of the California Superfund Program,~~
39 ~~including the availability of state funds for cleaning up abandoned~~



1 ~~hazardous waste sites, and that discovery of a site does not impose~~
2 ~~liability for cleanup.~~

3 ~~(3) Provide a copy of the program's protocols and procedures~~
4 ~~outlining sites the state is attempting to identify.~~

5 ~~(4) Request that, as part of each respective agency's duties, it~~
6 ~~report to the state abandoned site program any suspected~~
7 ~~abandoned waste site.~~

8 ~~(5) Request that each participating agency, as a part of its~~
9 ~~regular activities, notify the department of sites identified in~~
10 ~~writing at least quarterly.~~

11 ~~(e) Prepare an inventory of suspected abandoned hazardous~~
12 ~~substance release sites.~~

13 ~~(d) Contact the owners and occupants of suspected abandoned~~
14 ~~sites.~~

15 ~~(e) Maintain individual records for each suspected abandoned~~
16 ~~site.~~

17 ~~(f) Develop a methodology for screening sites identified.~~

18 ~~(g) Conduct a field assessment of those sites which the~~
19 ~~screening procedures specified in subdivision (f) indicate require~~
20 ~~this assessment.~~

21 ~~(h) Rank the assessed sites, in order of priority, as presenting a~~
22 ~~potential hazard to public health or the environment consistent~~
23 ~~with Section 25356 or regulations adopted pursuant to that section.~~

24 ~~SEC. 14.—~~

25 *SEC. 11.* Section 25395.32 of the Health and Safety Code is
26 amended to read:

27 25395.32. On or before January 10 of each year when a loan
28 under this article is made or repaid during the previous fiscal year,
29 the secretary shall report to the Joint Legislative Budget
30 Committee and to the chairs of the appropriate policy committees
31 of the Senate and the Assembly, and shall post on the Internet web
32 site of the agency, all of the following:

33 (a) The number and dollar amount of loans approved pursuant
34 to Section 25395.21, the number and dollar amount of those loans
35 that have been repaid, and, the number and dollar amount of those
36 loans that are in default.

37 (b) The number and dollar amount of loans waived pursuant to
38 subdivision (f) of Section 25395.21.

39 (c) The number and dollar amount of loans approved pursuant
40 to Section 25395.23, the number and dollar amount of those loans



1 that have been repaid, and the number and dollar amount of those
2 loans that are in default.

3 (d) The number of preliminary endangerment assessments
4 completed pursuant to agreements entered into under this article.

5 (e) The number of sites where necessary response actions have
6 been completed pursuant to agreements entered into under this
7 article.

8 ~~SEC. 15.— Section 39604 of the Health and Safety Code is~~
9 ~~repealed.~~

10 ~~SEC. 16.—~~

11 *SEC. 12. Section 39604 of the Health and Safety Code is*
12 *amended to read:*

13 39604. (a) The state board shall ~~submit to the Governor and~~
14 ~~the Legislature, not later than January 1, 1985, and every two years~~
15 ~~thereafter, a biennial report post on its Web site, at a minimum by~~
16 *January 1 of each odd-numbered year, information on air quality*
17 *conditions and trends statewide and on the status and effectiveness*
18 *of state and local air quality programs.*

19 (b) The ~~report~~ *data* shall include, but not be limited to, all of the
20 following:

21 (1) A review of air quality trends in each air basin over the most
22 recent five-calendar-year period for which a complete data record
23 is available.

24 (2) A statement of the number of violations of air quality
25 standards that occurred in each air basin over the most recent two
26 calendar years for which a complete data record is available, and
27 a comparison of the number of violations to those in prior years.

28 (3) A listing of any changes in state ambient air quality
29 standards adopted by the board over the previous two calendar
30 years.

31 (4) A summary of the results of research projects concluded
32 during the previous two years, the status of current research
33 projects, and the conduct of the research program pursuant to
34 Section 39703.

35 (5) A summary of any actions taken by the state board to
36 assume the powers of districts under Section 39808.

37 (6) A summary of the effects of any significant federal actions
38 over the previous two years that have affected state air quality or
39 air quality programs.



1 (7) A summary of the status of the state implementation plan
2 for achieving and maintaining ambient air quality standards.

3 (8) A summary of the state board's actions in the previous two
4 calendar years to control toxic air pollutants pursuant to Chapter
5 3.5 (commencing with Section 39650).

6 (9) A summary of actions of the state board in controlling
7 emissions from motor vehicles during the previous two-year
8 period.

9 (10) A summary of significant actions taken by districts to
10 control emissions from nonvehicular sources during the previous
11 two-year period. This summary shall not include a district by
12 district analysis for each district in the state, but shall include an
13 overall analysis.

14 ~~(11) A list of recommendations for legislation or~~
15 ~~administrative actions to resolve specific air quality problems in~~
16 ~~the state.~~

17 *SEC. 13.* Section 39607.5 of the Health and Safety Code is
18 amended to read:

19 39607.5. (a) The state board shall develop, and adopt in a
20 public hearing a methodology for use by districts to calculate the
21 value of credits issued for emission reductions from stationary,
22 mobile, indirect, and areawide sources, including those issued
23 under market-based incentive programs, when those credits are
24 used interchangeably.

25 (b) In developing the methodology, the state board shall do all
26 of the following:

27 (1) Ensure that the methodology results in the maintenance and
28 improvement of air quality consistent with this division.

29 (2) Allow those credits to be used in a market-based incentive
30 program adopted pursuant to Section 39616 that requires annual
31 reductions in emissions through declining annual allocations, and
32 allow the use of all of those credits, including those from a
33 market-based incentive program, to meet other stationary or
34 mobile source requirements that do not expressly prohibit that use.

35 (3) Ensure that the methodology does not do any of the
36 following:

37 (A) Result in the crediting of air emissions that already have
38 been identified as emission reductions necessary to achieve state
39 and federal ambient air quality standards.



1 (B) Provide for an additional discount of credits solely as a
2 result of emission reduction credits trading if a district already has
3 discounted the credit as part of its process of identifying and
4 granting those credits to sources.

5 (C) Otherwise provide for double-counting emission
6 reductions.

7 (4) Consult with, and consider the suggestions of, the public
8 and all interested parties, including, but not limited to, the
9 California Air Pollution Control Officers Association and all
10 affected regulated entities.

11 (5) Ensure that any credits, whether they are derived from
12 stationary, mobile, indirect, or areawide sources, shall be
13 permanent, enforceable, quantifiable, and surplus.

14 (6) Ensure that any credits derived from a market-based
15 incentive program adopted pursuant to Section 39616 are
16 permanent, enforceable, quantifiable, and are in addition to any
17 required controls, unless those credits otherwise comply with
18 paragraph (2).

19 (7) Consider all of the following factors:

20 (A) How long credits should be valid.

21 (B) Whether, and which, banking opportunities may exist for
22 credits.

23 (C) How to provide flexibility to sources seeking to use credits
24 so that they remain interchangeable and negotiable until used.

25 (D) How to ensure a viable trading process for sources wishing
26 to trade credits consistent with this section.

27 (E) How to ensure that, if credits may be used within and
28 between adjacent districts or air basins where sources are in
29 proximity to one another, the use occurs while maintaining and
30 improving air quality in both districts or air basins.

31 (c) If necessary, the state board shall periodically update the
32 methodology as it applies to future transactions.

33 (d) The state board shall periodically review each district's
34 emission reduction and credit trading programs to ensure that the
35 programs comply with the methodology developed pursuant to
36 this section.

37 ~~SEC. 17.~~

38 (e) *The state board shall post on its Web site, at a minimum by*
39 *January 1 each year, actions taken by the state board to implement*
40 *this section.*



1 *SEC. 14.* Section 39619.5 of the Health and Safety Code is
2 amended to read:

3 39619.5. The state board shall develop and conduct an
4 expanded and revised program of monitoring of airborne fine
5 particles smaller than 2.5 microns in diameter (PM 2.5). The
6 program shall be designed to accomplish all of the following:

7 (a) The monitoring method selected shall be capable of
8 accurately representing the spectrum of compounds that comprise
9 PM 2.5 in the atmosphere of regions where monitoring is
10 conducted, including nitrates and other inorganic compounds, as
11 well as carbonaceous materials.

12 (b) To the extent feasible, the state board shall consider
13 approved federal particulate methods in selecting a monitoring
14 method for the program.

15 (c) The monitoring network used in the program shall site
16 monitors so as to characterize population exposure, background
17 conditions, and transport influence, and attain any other objective
18 identified by the state board as necessary to understand conditions
19 and to provide information for the development of control
20 strategies.

21 (d) Portable monitors shall be used in locations not now
22 monitored for PM 10, but where elevated PM 2.5 might be
23 expected.

24 (e) During the initial two years of expanded monitoring, PM
25 2.5 monitoring shall be done at one or more of the highest level PM
26 10 sites in any region that violates the federal ambient air quality
27 standard for PM 10, to enable a determination of the correlation
28 between levels of PM 10 and PM 2.5.

29 (f) In regions where ambient source characterization studies for
30 PM 2.5 have not been completed, the state board shall work with
31 the district to develop and conduct those studies.

32 ~~SEC. 18.—~~

33 (g) *The state board shall place on its Web site, updated at a*
34 *minimum January 1 of each year, the status and results of the*
35 *airborne fine particulate air pollution monitoring program.*

36 *SEC. 15.* Section 39702.5 of the Health and Safety Code is
37 repealed.

38 ~~SEC. 19.—~~

39 *SEC. 16.* Section 41712 of the Health and Safety Code is
40 amended to read:



1 41712. (a) For purposes of this section, the following terms
2 have the following meaning:

3 (1) “Consumer product” means a chemically formulated
4 product used by household and institutional consumers, including,
5 but not limited to, detergents; cleaning compounds; polishes; floor
6 finishes; cosmetics; personal care products; home, lawn, and
7 garden products; disinfectants; sanitizers; aerosol paints; and
8 automotive specialty products; but does not include other paint
9 products, furniture coatings, or architectural coatings.

10 (2) “Health benefit product” means an antimicrobial product
11 registered with the Environmental Protection Agency.

12 (3) “Maximum feasible reduction in volatile organic
13 compounds emitted” means at least a 60-percent reduction in the
14 emissions of volatile organic compounds resulting from the use of
15 aerosol paints, calculated with respect to the 1989 baseline year,
16 including acetone in that baseline year.

17 (4) “Medical expert” means a physician, including a
18 pediatrician, a microbiologist, or a scientist involved in research
19 related to infectious disease and infection control.

20 (b) The state board shall adopt regulations to achieve the
21 maximum feasible reduction in volatile organic compounds
22 emitted by consumer products, if the state board determines that
23 adequate data exists to establish both of the following:

24 (1) The regulations are necessary to attain state and federal
25 ambient air quality standards.

26 (2) The regulations are commercially and technologically
27 feasible and necessary.

28 (c) A regulation shall not be adopted which requires the
29 elimination of a product form.

30 (d) The state board shall not adopt regulations pursuant to
31 subdivision (b) unless the regulations are technologically and
32 commercially feasible, and necessary to carry out this division.
33 The state board shall consider the effect that the regulations
34 proposed for health benefit products will have on the efficacy of
35 those products in killing or inactivating agents of infectious
36 diseases such as viruses, bacteria, and fungi, and the impact the
37 regulations will have on the availability of health benefit products
38 to California consumers.

39 (e) Prior to adopting regulations pursuant to this section
40 governing health benefit products, the state board shall consider



1 any recommendations received from federal, state, or local public
2 health agencies and medical experts in the field of public health.

3 (f) A district shall adopt no regulation pertaining to
4 disinfectants, nor any regulation pertaining to a consumer product
5 that is different than any regulation adopted by the state board for
6 that purpose.

7 (g) A consumer product manufactured prior to each effective
8 date specified in regulations adopted by the state board pursuant
9 to this section that applies to that consumer product may be sold,
10 supplied, or offered for sale for a period of three years from the
11 specified effective date if the date of manufacture or a
12 representative date code is clearly displayed on the product at the
13 point of sale. An explanation of the date code shall be filed with
14 the state board.

15 (h) (1) It is the intent of the Legislature that, prior to January
16 1, 2000, air pollution control standards affecting the formulation
17 of aerosol adhesives and limiting emissions of reactive organic
18 compounds resulting from the use of aerosol adhesives be set
19 solely by the state board to ensure uniform standards applicable on
20 a statewide basis.

21 (2) The Legislature recognizes that the current state board
22 volatile organic compound (VOC) limit for aerosol adhesives is 75
23 percent by weight. Effective January 1, 1997, the state board's
24 75-percent standard shall apply to all uses of aerosol adhesives,
25 including consumer, industrial, and commercial uses, and any
26 district regulations limiting the VOC content of, or emissions
27 from, aerosol adhesives, are null and void. After that date, a district
28 may adopt and enforce the state board's 75-percent standard for
29 aerosol adhesives, or a subsequently adopted state board standard,
30 in the same manner as a district regulation limiting the issuance of
31 air contaminants.

32 (3) Notwithstanding any other provision of this section, on and
33 after January 1, 2000, a district may adopt and enforce a regulation
34 setting an emission standard or standards for VOC emissions for
35 the use of aerosol adhesives that is more stringent than the
36 standards adopted by the state board.

37 (i) (1) It is the intent of the Legislature that air pollution
38 control standards affecting the formulation of aerosol paints and
39 limiting the emissions of volatile organic compounds resulting
40 from the use of aerosol paints be set solely by the state board to



1 ensure uniform standards applicable on a statewide basis. A
2 district shall not adopt or enforce any regulation regarding the
3 volatile organic compound content of, or emissions from, aerosol
4 paints until the state board has adopted a regulation regarding
5 those paints, and any district regulation shall not be different than
6 the state board regulation. A district may observe and enforce a
7 state board regulation regarding aerosol paints in the same manner
8 as a district regulation limiting the issuance of air contaminants.
9 This subdivision shall not apply to any district that has adopted a
10 rule or regulation regarding aerosol paints pursuant to an order of
11 a federal court, until the federal court has authorized the district to
12 observe and enforce the state board regulation in lieu of the district
13 regulation.

14 (2) The state board shall adopt regulations requiring the
15 maximum feasible reduction in volatile organic compounds
16 emitted from the use of aerosol paints. The regulations shall
17 establish final limits and require full compliance, and shall
18 establish interim limits prior to that date resulting in reductions in
19 reactive organic compounds.

20 (3) The state board shall conduct a public hearing on the
21 technological or commercial feasibility of achieving full
22 compliance with the final limits. If the state board determines that
23 a 60-percent reduction in emissions of reactive organic
24 compounds from the use of aerosol paints is not technologically or
25 commercially feasible, the state board may grant an extension of
26 time not to exceed five years. During any extension of time, the
27 most stringent interim limits shall be applicable. Any regulation
28 adopted by the state board shall include a provision authorizing the
29 time extension and requiring a public hearing on technological or
30 commercial feasibility consistent with this subdivision. The state
31 board shall seek to ensure that the final limits for aerosol paints
32 established pursuant to this subdivision do not become federally
33 enforceable prior to the effective date established by the state
34 board for these limits, including any extension granted under this
35 subdivision.

36 (4) Reductions required for aerosol paints under this
37 subdivision are not intended to apply to any other consumer
38 product.

39 (j) The state board shall not adopt a regulation pertaining to
40 disinfectants any sooner than December 1, 2003.



1 (k) The state board shall comply with its volatile organic
2 compound emission reduction obligations under the 1994 State
3 Implementation Plan, or any amendments thereto, and shall ensure
4 that there is no loss of emission reductions as a result of its
5 compliance with subdivision (j).

6 ~~SEC. 20.—~~

7 *SEC. 17.* Section 41865 of the Health and Safety Code is
8 amended to read:

9 41865. (a) This section shall be known, and may be cited, as
10 the Connelly-Areias-Chandler Rice Straw Burning Reduction Act
11 of 1991.

12 (b) As used in this section:

13 (1) “Sacramento Valley Air Basin” means the area designated
14 by the state board pursuant to Section 39606.

15 (2) “Air pollution control council” means the Sacramento
16 Valley Basinwide Air Pollution Control Council authorized
17 pursuant to Section 40900.

18 (3) “Conditional rice straw burning permit” means a permit to
19 burn granted pursuant to subdivisions (f) and (h).

20 (4) “Allowable acres to be burned” means the number of acres
21 that may be burned pursuant to subdivision (c).

22 (5) “Department” means the Department of Food and
23 Agriculture.

24 (6) “Maximum fall burn acres” means the maximum amount
25 of rice acreage that may be burned from September 1 to December
26 31, inclusive, of each year.

27 (7) “Maximum spring burn acres” means the maximum
28 amount of rice acreage that may be burned from January 1 to May
29 31 of the following year, inclusive.

30 (c) Notwithstanding Section 41850, rice straw burning in
31 counties in the Sacramento Valley Air Basin shall be phased down,
32 as follows:

33 (1) From 1998 to 2000, the maximum spring and fall burn acres
34 shall be the following number of acres planted prior to September
35 1 of each year:

37 Year	Maximum Fall Burn Acres	Maximum Spring Burn Acres
38 1998	90,000	110,000
39 1999	90,000	110,000
40 2000	90,000	110,000



1 (2) Notwithstanding paragraph (1), any of the 90,000 acres
2 allocated in the fall that are not burned may be added to the
3 maximum spring burn acres, provided that the maximum spring
4 burn acres does not exceed 160,000 acres.

5 (3) Notwithstanding paragraph (1), the maximum acres burned
6 between January 1, 1998, and August 31, 1998, shall be limited so
7 that the total acres burned between September 1, 1997, and August
8 31, 1998, do not exceed 38 percent of the total acres planted prior
9 to September 1, 1997.

10 (4) In 2001 and thereafter, the maximum annual burn acres
11 shall be the number of acres prescribed in subdivision (i), subject
12 to subdivisions (f) and (h).

13 (d) The number of allowable acres to be burned each day shall
14 be determined by the state board and the air pollution control
15 officers in the Sacramento Valley Air Basin and equitably
16 allocated among rice growers in accordance with the annual
17 agricultural burning plan adopted by the air pollution control
18 council and approved by the state board.

19 (e) On or before September 1, 2000, the state board, in
20 consultation with the department and the air pollution control
21 council, shall adopt regulations consistent with the criteria
22 provided in subdivisions (f) and (h). On or before September 1,
23 1996, an advisory group shall be established by the state board and
24 the department to assist in the adoption of those regulations.

25 (f) Commencing September 1, 2001, the county air pollution
26 control officers in the Sacramento Valley Air Basin may grant
27 conditional rice straw burning permits once the county agricultural
28 commissioner has determined that the applicant has met the
29 conditions specified in subdivision (h). The county agricultural
30 commissioner shall be responsible for all field inspections
31 associated with the issuance of conditional rice straw burning
32 permits. A conditional rice straw burning permit shall be valid for
33 only one burn, per field, per year.

34 (g) The county agricultural commissioner may charge the
35 applicant a fee not to exceed the costs incurred by the county
36 agricultural commissioner in making the determination specified
37 in subdivision (f). This subdivision shall be operative only until
38 January 1, 2009.

39 (h) If the terms and conditions for issuing conditional rice straw
40 burning permits specified in paragraphs (1) to (4), inclusive, are



1 met, a conditional rice straw burning permit may be issued unless
2 the state board and the department have jointly determined, based
3 upon an annual review process, that there are other economically
4 and technically feasible alternative means of eliminating the
5 disease that are not substantially more costly to the applicant. The
6 terms and conditions for issuing the conditional rice straw burning
7 permits are:

8 (1) The fields to be burned are specifically described.

9 (2) The applicant has not violated any provision of this section
10 within the previous three years.

11 (3) During the growing season, the county agricultural
12 commissioner has independently determined the significant
13 presence of a pathogen in an amount sufficient to constitute a rice
14 disease such as stem rot.

15 (4) The county agricultural commissioner makes a finding that
16 the existence of the pathogen as identified in paragraph (3) will
17 likely cause a significant, quantifiable reduction in yield in the
18 field to be burned during the current or next growing season. The
19 findings of the county agricultural commissioner shall be based on
20 recommendations adopted by the advisory group established
21 pursuant to subdivision (e).

22 (i) (1) The maximum annual number of acres burned in the
23 Sacramento Valley Air Basin pursuant to paragraph (4) of
24 subdivision (c) shall be the lesser of:

25 (A) The total of 25 percent of each individual applicant's
26 planted acres that year.

27 (B) A total of 125,000 acres planted in the Sacramento Valley
28 Air Basin.

29 (2) Each grower shall be eligible to burn up to 25 percent of the
30 grower's planted acres, as determined by the air pollution control
31 officers in the Sacramento Valley Air Basin and subject to the
32 maximum annual number of acres burned set forth in paragraph
33 (1), if the grower has met the criteria for a conditional rice straw
34 burning permit.

35 (3) The air pollution control council shall annually determine
36 which is the lesser of subparagraphs (A) and (B) of paragraph (1),
37 and shall determine the maximum percentage applicable to all
38 growers subject to the conditions set forth in subdivisions (f) and
39 (h).



1 (4) A grower who owns or operates 400 acres or less who has
2 met the criteria for the issuance of a conditional rice straw burning
3 permit may burn his or her entire acreage once every four years,
4 provided that the limit prescribed in paragraph (1) is not exceeded.

5 (5) Nothing in this subdivision shall permit an applicant to
6 transfer, sell, or trade any permission to burn granted pursuant to
7 this subdivision to another applicant or individual.

8 (j) The state board and the department shall jointly determine
9 if the allowable acres to be burned, as provided in subdivisions (c),
10 (f), and (h), may be exceeded due to extraordinary circumstances,
11 such as an act of God, that have an impact over a continuing
12 duration and make alternatives other than burning unusable.

13 (k) “Administrative burning” means burning of vegetative
14 materials along roads, in ditches, and on levees adjacent to or
15 within a rice field, or the burning of vegetative materials on rice
16 research facilities authorized by the county agricultural
17 commissioner, not to exceed 2,000 acres. Administrative burning
18 conducted in accordance with Section 41852 is not subject to this
19 section.

20 (l) (1) On or before September 1, 1992, the state board and the
21 department shall jointly establish an advisory committee
22 composed of 10 members to assist with the identification and
23 implementation of alternatives to rice straw burning. Members of
24 the committee shall be from the Sacramento Valley Air Basin, and
25 the committee shall consist of two rice growers, two
26 representatives from the environmental community, two health
27 officials, two county supervisors or their designees, one member
28 from the air pollution control council, and one member from the
29 business community with expertise in market or product
30 development. The committee shall meet at least annually. General
31 Fund moneys shall not be used to support the committee.

32 (2) The committee shall develop a list of priority goals for the
33 development of alternative uses of rice straw for the purpose of
34 developing feasible and cost-effective alternatives to rice straw
35 burning. These goals shall include, but not be limited to, research
36 on alternatives, economic incentives to encourage alternative uses,
37 and new product development.

38 (m) On or before September 1, 1998, the state board, in
39 consultation with the department, the advisory committee, and the
40 Trade and Commerce Agency, shall develop an implementation



1 plan and a schedule to achieve diversion of not less than 50 percent
2 of rice straw produced toward off-field uses by 2000. Off-field
3 uses may include, but are not limited to, the production of energy
4 and fuels, construction materials, pulp and paper, and livestock
5 feed.

6 (n) The Legislature hereby finds and declares as follows:

7 (1) Because of the requirements imposed by this section, rice
8 straw that was previously burned may present, as solid waste, a
9 new disposal problem.

10 (2) The state should assist local governments and growers in
11 diverting rice straw from landfills by researching and developing
12 diversion options.

13 (o) It is the intent of the Legislature that all feasible alternatives
14 to rice straw burning and options for diverting rice straw from
15 landfills be encouraged.

16 (p) This subdivision confirms that reductions in emissions
17 from rice straw burning qualify for air quality offsets, in
18 accordance with paragraphs (1) and (2).

19 (1) These credits shall meet the requirements specified in state
20 law and district rules and regulations, and shall comply with
21 applicable district banking rules established pursuant to Sections
22 40709 to 40713, inclusive. Districts are urged to establish banking
23 systems in accordance with Sections 40709 to 40713, inclusive.
24 The state board may adopt regulations to implement this
25 subdivision, including, but not limited to, consideration of the
26 seasonal and intermittent nature of rice straw burning emissions.
27 In developing the regulations, the state board shall consult with all
28 concerned parties. However, emission reduction credits that
29 would otherwise accrue from reductions in emissions from rice
30 straw burning shall not be affected or negated by the phasedown
31 of burning, as specified in subdivision (c).

32 (2) Reductions in emissions achieved in compliance with
33 subdivision (c) that are banked or used as credits shall not be
34 credited for purposes of attainment planning and progress towards
35 the attainment of any state or national ambient air quality standard
36 as required by state and federal law.

37 (q) (1) Any person who negligently or intentionally violates
38 any provision of this article is guilty of a misdemeanor and is
39 subject to a fine of not more than ten thousand dollars (\$10,000),
40 imprisonment in the county jail for not more than nine months, or



1 by both that fine and imprisonment. This subdivision applies only
2 to agricultural burning in the Sacramento Valley Air Basin.

3 (2) Any person who negligently or intentionally violates any
4 provision in this article is liable for a civil penalty of not more than
5 ten thousand dollars (\$10,000). This subdivision applies only to
6 agricultural burning in the Sacramento Valley Air Basin.

7 (r) Districts in the Sacramento Valley Air Basin shall impose
8 fees on growers to cover the cost of implementing this section
9 pursuant to Section 42311.

10 (s) To the extent that resources are available, the state board and
11 the agencies with jurisdiction over air quality within the
12 Sacramento Valley Air Basin shall do both of the following:

13 (1) Improve responses to citizen complaints, and, to the extent
14 feasible, immediately investigate and analyze smoke complaints
15 from the public to identify factors that contribute to complaints
16 and to develop better smoke control measures to be included in the
17 agricultural burning plan, keep a record of all complaints,
18 coordinate among other agencies on citizens' complaints, and
19 investigate the source of the pollution causing the complaint.

20 (2) Respond more quickly to requests for update from county
21 air pollution control officers to help maximize burning days when
22 meteorological conditions are best suited for smoke dispersion.

23 ~~SEC. 21.—~~

24 *SEC. 18.* Section 43032 of the Health and Safety Code is
25 repealed.

26 ~~SEC. 22.—~~

27 *SEC. 19.* Section 43101 of the Health and Safety Code is
28 amended to read:

29 43101. (a) The state board shall adopt and implement
30 emission standards for new motor vehicles for the control of
31 emissions from new motor vehicles that the state board finds to be
32 necessary and technologically feasible to carry out the purposes of
33 this division. Before adopting these standards, the state board shall
34 consider the impact of these standards on the economy of the state,
35 including, but not limited to, their effect on motor vehicle fuel
36 efficiency.

37 (b) The standards adopted pursuant to this section may be
38 applicable to motor vehicle engines, rather than to motor vehicles.

39 ~~SEC. 23.—~~



1 *SEC. 20.* Section 44011.6 of the Health and Safety Code is
2 amended to read:

3 44011.6. (a) The use of a heavy-duty motor vehicle that emits
4 excessive smoke is prohibited.

5 (b) (1) As expeditiously as possible, the state board shall
6 develop a test procedure for the detection of excessive smoke
7 emissions from heavy-duty diesel motor vehicles that is feasible
8 for use in an intermittent roadside inspection program. During the
9 development of the test procedure, the state board shall cooperate
10 with the Department of the California Highway Patrol in
11 conducting roadside inspections.

12 (2) The state board may also specify visual or functional
13 inspection procedures to determine the presence of tampering or
14 defective emissions control systems in heavy-duty diesel or
15 heavy-duty gasoline motor vehicles. However, visual or
16 functional inspection procedures for heavy-duty gasoline motor
17 vehicles shall not be more stringent than those prescribed for
18 heavy-duty gasoline motor vehicles subject to biennial inspection
19 pursuant to Section 44013.

20 (3) The chairperson of the state board shall appoint an ad hoc
21 advisory committee that shall include, but not be limited to,
22 representatives of heavy-duty engine manufacturers, carriers of
23 property for compensation using heavy-duty gasoline or
24 heavy-duty diesel motor vehicles, and the Department of the
25 California Highway Patrol. The advisory committee shall
26 cooperate with the state board to develop a test procedure pursuant
27 to this subdivision and shall advise the state board in developing
28 regulations to implement test procedures and inspection of
29 heavy-duty commercial motor vehicles.

30 (c) Any smoke testing procedures or smoke measuring
31 equipment, including any meter that measures smoke opacity or
32 density and any recorder that stores or records smoke opacity or
33 density measurements, used to test for compliance with this
34 section and regulations adopted pursuant to this section, shall
35 produce consistent and repeatable results. The requirements of this
36 subdivision shall be satisfied by the adoption of Society of
37 Automotive Engineers recommended practice J 1667,
38 “Snap-Acceleration Smoke Test Procedures for Heavy-Duty
39 Diesel Powered Vehicles.”



1 (d) (1) The smoke test standards and procedures adopted and
2 implemented pursuant to this section shall be designed to ensure
3 that no engine will fail the smoke test standards and procedures
4 when the engine is in good operating condition and is adjusted to
5 the manufacturer's specifications.

6 (2) In implementing this section, the state board shall adopt
7 regulations that ensure that there will be no false failures or that
8 ensure that the state board will remedy any false failures without
9 any penalty to the vehicle owner.

10 (e) The state board shall enforce the prohibition against the use
11 of heavy-duty motor vehicles that are determined to have
12 excessive smoke emissions and shall enforce any regulation
13 prohibiting the use of a heavy-duty motor vehicle determined to
14 have other emissions-related defects, using the test procedure
15 established pursuant to this section.

16 (f) The state board may issue a citation to the owner or operator
17 for any vehicle in violation of this section. The regulations may
18 require the operator of a vehicle to submit to a test procedure
19 adopted pursuant to subdivision (b) and this subdivision, and may
20 specify that refusal to so submit is an admission constituting proof
21 of a violation, and shall require that, when a citation has been
22 issued, the owner of a vehicle in violation of the regulations shall,
23 within 45 days, correct every deficiency specified in the citation.

24 (g) The department may develop criteria for one or more
25 classes of smog check stations capable of determining compliance
26 with regulations adopted pursuant to this section and may
27 authorize those stations to issue certificates of compliance to
28 vehicles in compliance with the regulations. The department may
29 contract for the operation of smog check stations for heavy-duty
30 motor vehicles pursuant to this subdivision, and only heavy-duty
31 motor vehicles may be inspected at those stations.

32 (h) In addition to the corrective action required by this section,
33 the owner of a motor vehicle in violation of this section is subject
34 to a civil penalty of not more than one thousand five hundred
35 dollars (\$1,500) per day for each day that the vehicle is in
36 violation. The state board may adopt a schedule of reduced civil
37 penalties to be applied in cases where violations are corrected in
38 an expeditious manner. However, the schedule of reduced civil
39 penalties shall not apply where there have been repeated incidents
40 of emissions control system tampering. All civil penalties imposed



1 pursuant to this subdivision shall be collected by the state board
2 and deposited in the Vehicle Inspection and Repair Fund. Funds in
3 the Vehicle Inspection and Repair Fund, when appropriated by the
4 Legislature, shall be available to the state board and the
5 Department of the California Highway Patrol for the conduct of
6 intermittent roadside inspections of heavy-duty motor vehicles
7 pursuant to this section.

8 (i) Following the adoption of regulations pursuant to this
9 section, the state board may commence inspecting heavy-duty
10 motor vehicles. With the concurrence of the Department of the
11 California Highway Patrol, these inspections may be conducted in
12 conjunction with the safety and weight enforcement activities of
13 the Department of the California Highway Patrol, or at other
14 locations selected by the state board or the Department of the
15 California Highway Patrol. Inspection locations may include
16 private facilities where fleet vehicles are serviced or maintained.
17 The state board and the Department of the California Highway
18 Patrol may conduct these inspections either cooperatively or
19 independently, and the state board may contract for assistance in
20 the conduct of these inspections.

21 (j) The state board shall inform the Department of the
22 California Highway Patrol whenever a vehicle owner cited
23 pursuant to this section fails to take a required corrective action or
24 to pay a civil penalty levied pursuant to subdivisions (h) and (k)
25 in a timely manner. Following notice and opportunity for an
26 administrative hearing pursuant to subdivision (n), the state board
27 may request the Department of the California Highway Patrol to
28 remove the vehicle from service and order the vehicle to be stored.
29 Upon notification from the state board of payment of any civil
30 penalties imposed under subdivision (h) and storage and related
31 charges, the vehicle shall be released to the owner or designee.
32 Upon release of the vehicle, the owner or designee shall correct
33 every deficiency specified in any citation to that owner with
34 respect to the vehicle.

35 (k) In addition to the corrective action required by subdivision
36 (f), and in addition to the civil penalty imposed by subdivision (h),
37 the owner of a motor vehicle cited by the state board pursuant to
38 this section shall pay a civil penalty of three hundred dollars (\$300)
39 per citation; except that this penalty shall not apply to the first
40 citation for any schoolbus. All civil penalties imposed pursuant to



1 this subdivision shall be collected by the state board and deposited
2 in the Diesel Emission Reduction Fund, which fund is hereby
3 created. Funds in the Diesel Emission Reduction Fund, when
4 appropriated by the Legislature, shall be available to the State
5 Energy Resources Conservation and Development Commission
6 for research, development, and demonstration programs
7 undertaken pursuant to Section 25617 of the Public Resources
8 Code.

9 (l) The state board shall adopt regulations that afford an owner
10 cited under this section an opportunity for an administrative
11 hearing consistent with, but not limited to, all of the following: (1)
12 any owner cited under this section may request an administrative
13 hearing within 45 days following either personal receipt or
14 certified mail receipt of the citation; (2) if the owner fails to request
15 an administrative hearing within 45 days, the citation shall be
16 deemed a final order and not subject to review by any court or
17 agency; (3) if the owner requests an administrative hearing and
18 fails to seek review by administrative mandamus pursuant to
19 Section 1094.5 of the Code of Civil Procedure within 60 days after
20 the mailing of the administrative hearing decision, the decision
21 shall be deemed a final order and not subject to review by any other
22 court or agency; and (4) the 45-day period may be extended by the
23 administrative hearing officer for good cause.

24 (m) Following exhaustion of the review procedures provided
25 for in subdivision (l), the state board may apply to the Superior
26 Court of Sacramento County for a judgment in the amount of the
27 civil penalty. The application, which shall include a certified copy
28 of the final order of the administrative hearing officer, shall
29 constitute a sufficient showing to warrant the issuance of the
30 judgment.

31 ~~SEC. 24.~~

32 *SEC. 21.* Section 44100 of the Health and Safety Code is
33 amended to read:

34 44100. The Legislature hereby finds and declares as follows:

35 (a) Emission reduction programs based on market principles
36 have the potential to provide equivalent or superior environmental
37 benefits when compared to existing controls at a lower cost to the
38 citizens of California than traditional emission control
39 requirements.



1 (b) Several studies have demonstrated that a small percentage
2 of light-duty vehicles contribute disproportionately to the on-road
3 emissions inventory. Programs to reduce or eliminate these excess
4 emissions can significantly contribute to the attainment of the
5 state’s air quality goals.

6 (c) Programs to accelerate fleet turnover can enhance the
7 effectiveness of the state’s new motor vehicle standards by
8 bringing more low-emission vehicles into the on-road fleet earlier.

9 (d) The California State Implementation Plan for Ozone (SIP),
10 adopted November 15, 1994, and submitted to the Environmental
11 Protection Agency, calls for added reductions in reactive organic
12 gases (ROG) and oxides of nitrogen (NO_x) from light-duty
13 vehicles by the year 2010. One of the more market-oriented
14 approaches reflected in the SIP, known as the M-1 strategy, calls
15 for accelerating the retirement of older light-duty vehicles in the
16 South Coast Air Quality Management District to achieve the
17 following emission reductions:

18	Emissions, TPD (tons per day)	
19	Year	(ROG + NO _x)
20	1999	9
21	2002	14
22	2005	20
23	2007	22
24	2010	25

25
26
27 (e) A program for achieving those and more emission
28 reductions should be based on the following principles:

29 (1) *If the program receives adequate funding, the first two years*
30 *should include a thorough assessment of the costs and short-term*
31 *and long-term emission reduction benefits of the program,*
32 *compared with other emission reduction programs for light-duty*
33 *vehicles, which shall be reflected in a report and recommendations*
34 *by the state board to the Governor and the Legislature on*
35 *strategies and funding needs for meeting the emission reduction*
36 *requirements of the M-1 strategy of the 1994 SIP for the years 1999*
37 *to 2010, inclusive.*

38 (2) The program should first contribute to the achievement of
39 the emission reductions required by the inspection and
40 maintenance program and the M-1 strategy of the 1994 SIP, and



1 should permit the use of mobile source emission reduction credits
2 for other purposes currently authorized by the state board or a
3 district. Remaining credits may be used to achieve other emission
4 reductions, including those required by the 1994 SIP, in a manner
5 consistent with market-based strategies. Emission credits shall not
6 be used to offset emission standards or other requirements for new
7 vehicles, except as authorized by the state board.

8 ~~(2)~~

9 (3) Participation by the vehicle owner shall be entirely
10 voluntary and the program design should be sensitive to the
11 concerns of car collectors and to consumers for whom older
12 vehicles provide affordable transportation.

13 ~~(3)~~

14 (4) The program design shall provide for real, surplus, and
15 quantifiable emission reductions, based on an evaluation of the
16 purchased vehicles, taking into account factors that include
17 per-mile emissions, annual miles driven, remaining useful life of
18 retired vehicles, and emissions of the typical or average
19 replacement vehicle, as determined by the state board. The
20 program shall ensure that there is no double counting of emission
21 credits among the various vehicle removal programs.

22 ~~(4)~~

23 (5) The program should specify the emission reductions
24 required and then utilize the market to ensure that these reductions
25 are obtained at the lowest cost.

26 ~~(5)~~

27 (6) The program should be privately operated. It should utilize
28 the experience and expertise gained from past successful
29 programs. Existing entities that are authorized by, contracted with,
30 or otherwise sanctioned by a district and approved by the state
31 board and the United States Environmental Protection Agency
32 shall be fully utilized for purposes of implementing this article.
33 Nothing in this paragraph restricts the Department of Consumer
34 Affairs from selecting qualified contractors to operate or
35 administer any program specified pursuant to this chapter.

36 ~~(6)~~

37 (7) The program should be designed insofar as possible to
38 eliminate any benefit to any participants from vehicle tampering
39 and other forms of cheating. To the extent that tampering and other
40 forms of cheating might be advantageous, the program design



1 shall include provisions for monitoring the occurrence of
2 tampering and other forms of cheating.

3 ~~(7)~~

4 (8) Emission credits should be expressed in pounds or other
5 units, and their value should be set by the marketplace. Any
6 contract between a public entity and a private party for the
7 purchase of emission credits should be based on a price per pound
8 which reflects the market value of the credit at its time of purchase.
9 Emission reductions required by the M-1 and other strategies of
10 the 1994 SIP shall be accomplished by competitive bid among
11 private businesses solicited by the oversight agency designated
12 pursuant to Section 44105.

13 ~~SEC. 25.—~~

14 *SEC. 22.* Section 44104.5 of the Health and Safety Code is
15 amended to read:

16 44104.5. (a) The regulations adopted pursuant to
17 subdivision (a) of Section 44101 shall include a plan to guide the
18 execution of the first two years of the program, to assess the results,
19 and to formulate recommendations. The plan shall also verify
20 whether the light-duty vehicle scrapping program included in the
21 state implementation plan adopted on November 15, 1994, can
22 reasonably be expected to yield the required emissions reductions
23 at reasonable cost-effectiveness. Scrapping of any vehicles under
24 this program for program development or testing or for generating
25 emission reductions to be credited against the M-1 strategy of the
26 1994 SIP may proceed before the state board adopts the
27 regulations pursuant to subdivision (a) of Section 44101 or the
28 plan required by this subdivision. The emission credits assigned to
29 these vehicles shall be adjusted as necessary to ensure that those
30 credits are consistent with the credits allowed under the
31 regulations adopted pursuant to Section 44101. The plan shall
32 include a baseline study, for the geographical area or areas
33 representative of those to be targeted by this program and by
34 measure M-1 in the SIP, of the current population of vehicles by
35 model year and market value and the current turnover rate of
36 vehicles, and other factors that may be essential to assessing
37 program effectiveness, cost-effectiveness, and market impacts of
38 the program.

39 ~~SEC. 26.—~~



1 ***(b) At the end of each of the two calendar years after the***
2 ***adoption of the program plan, if the program receives adequate***
3 ***funding, the state board, in consultation with the department, shall***
4 ***adopt and publish a progress report evaluating each year of the***
5 ***program. These reports shall address the following topics for those***
6 ***vehicles scrapped to achieve both the M-1 SIP objectives and those***
7 ***vehicles scrapped or repaired to generate mobile-source emission***
8 ***reduction credits used for other purposes:***

9 ***(1) The number of vehicles scrapped or repaired by model year.***

10 ***(2) The measured emissions of the scrapped or repaired***
11 ***vehicles tested during the report period, using suitable inspection***
12 ***and maintenance test procedures.***

13 ***(3) Costs of the vehicles in terms of amounts paid to sellers, the***
14 ***costs of repair, and the cost-effectiveness of scrapping and repair***
15 ***expressed in dollars per ton of emissions reduced.***

16 ***(4) Administrative and testing costs for the program.***

17 ***(5) Assessments of the replacement vehicles or replacement***
18 ***travel by model year or emission levels, as determined from***
19 ***interviews, questionnaires, diaries, analyses of vehicle***
20 ***registrations in the study region, or other methods as appropriate.***

21 ***(6) Assessments of the net emission benefits of scrapping in the***
22 ***year reported, considering the scrapped vehicles, the replacement***
23 ***vehicles, the effectiveness of repair, and other effects of the***
24 ***program on the mix of vehicles and use of vehicles in the***
25 ***geographic area of the program, including in-migration of other***
26 ***vehicles into the area and any tendencies to increased market value***
27 ***of used vehicles and prolonged useful life of existing vehicles, if***
28 ***any.***

29 ***(7) Assessments of whether the M-1 strategy of the 1994 SIP***
30 ***can reasonably be expected to yield the required emission***
31 ***reductions.***

32 ***(c) Not later than June 30, 1999, and every three years***
33 ***thereafter, if the programs receive adequate funding, the state***
34 ***board, in consultation with the department, shall evaluate the***
35 ***performance of the programs specified in Article 9 (commencing***
36 ***with Section 44090) and this article and, based on that evaluation,***
37 ***report to the Governor and Legislature. The report shall evaluate***
38 ***the overall performance of the program, including its***
39 ***cost-effectiveness in terms of dollars per ton of credited or reduced***
40 ***emissions, description of the methods and procedures to assure***



1 *that the emission reductions are real, surplus, and quantifiable, the*
2 *extent of the market for eligible vehicles, a recommendation for an*
3 *appropriate allocation of expenditures between removal or repair*
4 *of vehicles that reflects the relative cost-effectiveness of the*
5 *options, and any other recommendation for improving the*
6 *effectiveness of these programs. This report shall also contain all*
7 *of the following:*

8 *(1) Identification of procedures for distinguishing the emission*
9 *reductions attributed to scrapping for the purpose of generating*
10 *emission reductions credits and scrapping that occurs or would*
11 *have occurred as a result of the inspection and maintenance*
12 *program managed by the Department of Consumer Affairs and*
13 *other programs.*

14 *(2) A projection of the emissions reductions and*
15 *cost-effectiveness that might be realized by scrapping or repairing*
16 *light-duty vehicles through the year 2010, considering changes*
17 *expected in the vehicle fleet and likely impacts of scrapping or*
18 *repair on the mix and emissions of vehicles.*

19 *(3) A comparison of the effectiveness of scrapping, repair, or*
20 *upgrade to other programs for light-duty vehicles.*

21 *(4) A recommended scrapping program, or other more*
22 *cost-effective means, for continuing to achieve the emissions*
23 *reductions required by the M-1 strategy of the 1994 State*
24 *Implementation Plan, considering likely emission reductions in*
25 *the attainment year costs, cost-effectiveness, issues of monitoring*
26 *and verification, and status of the Environmental Protection*
27 *Agency's approval of the state's 1994 SIP.*

28 *SEC. 23.* Section 57007 of the Health and Safety Code is
29 amended to read:

30 57007. (a) The agency, and the offices, boards, and
31 departments within the agency, shall institute quality government
32 programs to achieve increased levels of environmental protection
33 and the public's satisfaction through improving the quality,
34 efficiency, and cost-effectiveness of the state programs that
35 implement and enforce state and federal environmental protection
36 statutes. These programs shall be designed to increase the level of
37 environmental protection while expediting decisionmaking and
38 producing cost savings. The secretary shall create an advisory
39 group comprised of state and local government, business,
40 environmental, and consumer representatives experienced in



1 quality management to provide guidance in that effort. The
2 secretary shall develop a model quality management program that
3 local agencies charged with implementing air quality, water
4 quality, toxics, solid waste, and hazardous waste laws and
5 regulations may use at their discretion.

6 (b) The agency, and each board, department, and office within
7 the agency, shall submit a biennial report to the Governor and
8 Legislature, in accordance with the requirements of Chapter 4
9 (commencing with Section 71069) of Part 2 of the Division 34 of
10 the Public Resources Code, no later than December 1 with respect
11 to the previous fiscal year, reporting on the extent to which these
12 state agencies have attained their performance objectives, and on
13 their continuous quality improvement efforts.

14 (c) Nothing in this section abrogates any collective bargaining
15 agreement or interferes with any established employee rights.

16 (d) For purposes of this section, “quality government
17 program” means all of the following:

18 (1) A process for obtaining the views of employees, the
19 regulated community, the public, environmental organizations,
20 and governmental officials with regard to the performance, vision,
21 and needs of the agency implementing the quality government
22 program.

23 (2) A process for developing measurable performance
24 objectiveness using the views of the persons and organizations
25 specified in paragraph (1).

26 (3) Processes for continually improving quality and for
27 training agency personnel, using the information obtained from
28 implementing paragraphs (1) and (2).

29 ~~SEC. 27.~~

30 *SEC. 24.* Section 59019 of the Health and Safety Code is
31 repealed.

32 ~~SEC. 28.~~

33 *SEC. 25.* Section 115910 of the Health and Safety Code is
34 amended to read:

35 115910. (a) On or before the 15th day of each month, each
36 health officer shall submit to the board a survey documenting all
37 beach postings and closures resulting from implementation of
38 Section 115915 that occurred during the preceding month. The
39 survey shall, at a minimum, include the following information:



- 1 (1) Identification of the beaches in each county subject to
2 testing conducted pursuant to Section 115885 and the amount and
3 types of monitoring conducted at each beach.
- 4 (2) Identification of the geographic location, areal extent, and
5 type of action taken for each incident of posting or closure
6 conducted pursuant to Section 115915. Geographic location and
7 areal extent shall be noted in sufficient detail to determine on a
8 common map, or by latitude and longitude, the approximate
9 boundaries of the affected beaches.
- 10 (3) Identification of the standards exceeded and the causes and
11 sources of the pollution, if known. Exceeded standards shall be
12 identified with sufficient particularity to determine which types of
13 tests and biological indicators were used to determine that an
14 exceeded standard exists. Causes of pollution shall be identified
15 with sufficient particularity to determine what substances, in
16 addition to any water carrying the substances, were responsible for
17 the exceeded standard. Sources shall be identified with sufficient
18 particularity to determine the most specific geographical origin of
19 the pollution sources available to the health officer at the time of
20 the posting or closure.
- 21 (b) Surveys conducted pursuant to subdivision (a) shall be in a
22 specific format established by the board on or before February 1,
23 2001. The board shall make the format easily accessible to the
24 health officer through means that will enable the health officer to
25 most effectively carry out the requirements of this section and
26 enable the board to develop consistent, statewide data concerning
27 the effect and status of beach postings and closures in a particular
28 calendar year.
- 29 (c) On or before the 30th day of each month, the board shall
30 make available to the public the information provided by the health
31 officers. Based upon the data provided pursuant to subdivision (a),
32 the report shall, at a minimum, include the location and duration
33 of each beach closure and the suspected sources of the
34 contamination that caused the closure, if known.
- 35 (d) The board shall continuously post *and update* on its Web
36 site information documenting the beach posting and closure data
37 provided to the board by the health officers including the location
38 and duration of each beach closure and the suspected sources of the
39 contamination that caused the closure, if known.
- 40 ~~SEC. 29.—~~



1 SEC. 26. Section 14315 of the Penal Code is amended to read:
2 14315. Not later than 36 months after the date when this title
3 may be implemented, as specified in Section 14314, the secretary
4 shall submit a report to the Governor and the Legislature in
5 accordance with the requirements of Chapter 4 (commencing with
6 Section 71069) of Part 2 of Division 34 of the Public Resources
7 Code, describing shall post on the agency's Web site, updated no
8 later than July 1, annually, a description of the operation and
9 accomplishments of the training programs and the environmental
10 enforcement and prosecution projects funded by this title. The
11 commission shall prepare the section of the report pertaining to the
12 course of instruction authorized in Section 14304 and submit it to
13 the secretary for inclusion in the report.

14 ~~SEC. 30.—~~

15 SEC. 27. Section 42885.5 of the Public Resources Code is
16 amended to read:

17 42885.5. (a) The board shall adopt a five-year plan, which
18 shall be updated every two years, to establish goals and priorities
19 for the waste tire program and each program element.

20 (b) On or before July 1, 2001, and every two years thereafter,
21 the board shall submit the adopted five-year plan to the appropriate
22 policy and fiscal committees of the Legislature. The board shall
23 include, in the plan, programmatic and fiscal issues including, but
24 not limited to, the hierarchy used by the board to maximize
25 productive uses of waste and used tires and the performance
26 objectives and measurement criteria used by the board to evaluate
27 the success of its waste and used tire recycling program.
28 Additionally, the plan shall describe each program element's
29 effectiveness, based upon performance measures developed by the
30 board, including, but not limited to, the following:

31 (1) Enforcement and regulations relating to the storage of
32 waste and used tires.

33 (2) Cleanup, abatement, or other remedial action related to
34 waste tire stockpiles throughout the state.

35 (3) Research directed at promoting and developing alternatives
36 to the landfill disposal of waste tires.

37 (4) Market development and new technology activities for used
38 tires and waste tires.

39 (5) The waste and used tire hauler program and manifest
40 system.



1 (6) A description of the grants, loans, contracts, and other
2 expenditures proposed to be made by the board under the tire
3 recycling program.

4 (7) Until June 30, 2006, the grant program authorized under
5 Section 42872.5 to encourage the use of rubberized asphalt
6 concrete technology in public works projects.

7 (c) The board shall base the budget for the California Tire
8 Recycling Act and program funding on the plan.

9 (d) The plan may not propose financial or other support that
10 promotes, or provides for research for the incineration of tires.

11 ~~SEC. 31.—~~

12 *SEC. 28.* Section 42889.1 of the Public Resources Code is
13 repealed.

14 ~~SEC. 32.—~~

15 *SEC. 29.* Section 42889.4 of the Public Resources Code is
16 amended to read:

17 42889.4. If ~~new~~ facilities are permitted to burn tires in the
18 previous calendar year, the State Air Resources Board, in
19 conjunction with air pollution control districts and air quality
20 management districts, shall post on its Web site, *updated* on or
21 before July 1 of the subsequent year, information summarizing the
22 types and quantities of air emissions, if any, from those facilities.

23 ~~SEC. 33.—~~

24 *SEC. 30.* Chapter 4 (commencing with Section 71069) is
25 added to Part 2 of Division 34 of the Public Resources Code, to
26 read:

27

28 CHAPTER 4. REPORT AND INFORMATION MANAGEMENT

29

30 71069. The Legislature finds and declares the following:

31 (a) It is the policy of the state to conserve and protect its natural
32 resources.

33 (b) Over 1,400 reports are submitted annually to the
34 Legislature and the Governor, costing up to ten thousand dollars
35 (\$10,000) per report for printing and distribution.

36 (c) The California Environmental Protection Agency has
37 historically submitted over 60 reports annually to the Legislature
38 and the Governor. The agency's boards, departments, and offices
39 submit over 300 additional reports and studies, not including the



1 hundreds of guidance documents, fact sheets and other printed
2 materials produced.

3 (d) Submitting reports to the Legislature and Governor
4 electronically, by compact disc, and posting the reports on state
5 agency Web sites would greatly improve economic efficiency and
6 environmental sustainability through minimized consumption of
7 paper and printing materials, while reducing the economic and
8 environmental costs associated with the production, distribution,
9 and storage of printed reports.

10 (e) Access to the World Wide Web is continually expanding for
11 the private sector and the general public. Providing reports
12 electronically on state agency Web sites would grant greater
13 accessibility to these reports and allow for greater sharing of
14 knowledge and data with Californians and other information
15 seekers. In some instances, a printed copy of a report is necessary.
16 In those instances, economic efficiency and environmental
17 sustainability can still be realized through various resource
18 conservation efforts.

19 (f) Current law mandates state agencies to purchase recycled
20 content products and materials, including printing and writing
21 paper. There are also proven techniques and materials that are
22 environmentally and economically preferable, and are widely
23 available for use of all document production.

24 71069.5. For purposes of this chapter “board” means the
25 California Integrated Waste Management Board.

26 71070. (a) On or before January 1, 2005, the board, in
27 consultation with the state agencies affected by the changes made
28 by the act of the 2003–04 Regular Session of the Legislature
29 adding this chapter, shall develop and implement guidelines, to
30 provide and produce reports and other documentation, including
31 guidance documents, fact sheets, and other publications and
32 written materials, in the most efficient and environmentally
33 sustainable manner possible.

34 (b) The guidelines shall include, ~~but not be limited to,~~ all of the
35 following:

36 (1) Distribution of reports and other documentation by
37 electronic means and compact discs.

38 (2) Information on posting reports and other documentation on
39 state agency Web sites.



1 (3) Techniques for the production of reports and other
2 documentation that will reduce waste and encourage the use of
3 recycled goods, materials, and supplies.

4 (4) The cost reduction options specified in Section 7550.1 of
5 the Government Code.

6 (5) Distribution of a reasonable number of printed reports to
7 ensure public access.

8 (c) On or before February 1, 2005, the board shall distribute the
9 guidelines to each state agency.

10 71071. (a) On and after February 1, 2005, the California
11 Environmental Protection Agency and its boards, departments,
12 and offices shall provide and produce reports and other
13 documentation pursuant to the guidelines established in Section
14 71070.

15 (b) On and after June 1, 2005, all state agencies not otherwise
16 subject to subdivision ~~(b)~~(a) shall provide and produce reports and
17 other documentation pursuant to the guidelines established in
18 Section 71070.

19 71073. On or before April 30, 2005, each state agency shall
20 conduct a thorough review of each report that the state agency is
21 required to submit to the Legislature. During this review, the state
22 agency shall identify whether the report is a completed one-time
23 report, an obsolete report, or a duplicative report that can be
24 eliminated or modified.

25 ~~SEC. 34.—~~

26 71074. *Any reporting requirements imposed by this chapter*
27 *do not supersede a reporting requirement in any other provision of*
28 *law.*

29 *SEC. 31.* Section 7672 of the Public Utilities Code is amended
30 to read:

31 7672. For purposes of this article, “hazardous material”
32 means either of the following:

33 (a) A hazardous material, as defined in Section 171.8 of Title
34 49 of the Code of Federal Regulations.

35 (b) A hazardous material, as defined in Section 25501 of the
36 Health and Safety Code.

37 ~~SEC. 35.—~~

38 *SEC. 32.* Section 7711 of the Public Utilities Code is amended
39 to read:



1 7711. On or before July 1, 1992, and on or before July 1
2 annually thereafter, the commission shall report to the Legislature
3 on sites on railroad lines in the state it finds to be hazardous. The
4 report shall include, but not be limited to, information on all of the
5 following:

6 (a) A list of all railroad derailment accident sites in the state on
7 which accidents have occurred within at least the previous five
8 years. The list shall describe the nature and probable causes of the
9 accidents, if known, and shall indicate whether the accidents
10 occurred at or near sites that the commission, pursuant to
11 subdivision (b), has determined pose a local safety hazard.

12 (b) A list of all railroad sites in the state that the commission,
13 pursuant to Section 20106 of Title 49 of the United States Code,
14 determines pose a local safety hazard. The commission may
15 submit in the annual report the list of railroad sites submitted in the
16 immediate prior year annual report, and may amend or revise that
17 list from the immediate prior year as necessary. Factors that the
18 commission shall consider in determining a local safety hazard
19 may include, but need not be limited to, all of the following:

20 (1) The severity of grade and curve of track.

21 (2) The value of special skills of train operators in negotiating
22 the particular segment of railroad line.

23 (3) The value of special railroad equipment in negotiating the
24 particular segment of railroad line.

25 (4) The types of commodities transported on or near the
26 particular segment of railroad line.

27 (5) The hazard posed by the release of the commodity into the
28 environment.

29 (6) The value of special railroad equipment in the process of
30 safely loading, transporting, storing, or unloading potentially
31 hazardous commodities.

32 (7) The proximity of railroad activity to human activity or
33 sensitive environmental areas.

34 (c) In determining which railroad sites pose a local safety
35 hazard pursuant to subdivision (b), the commission shall consider
36 the history of accidents at or near the sites. The commission shall
37 not limit its determination to sites at which accidents have already
38 occurred, but shall identify potentially hazardous sites based on
39 the criteria enumerated in subdivision (b) and all other criteria that
40 the commission determines influence railroad safety. The



1 commission shall also consider whether any local safety hazards
2 at railroad sites have been eliminated or sufficiently remediated to
3 warrant removal of the site from the list required under subdivision
4 (b).

5 ~~SEC. 36.~~

6 *SEC. 33.* Section 7712 of the Public Utilities Code is amended
7 to read:

8 7712. On or before January 1, 1993, the commission shall
9 adopt regulations, based on its findings and not inconsistent with
10 federal law. The commission may amend or revise the regulations
11 as necessary thereafter, to reduce the potential railroad hazards
12 identified in Section 7711. In adopting the regulations, the
13 commission shall consider at least all of the following:

14 (a) Establishing special railroad equipment standards for trains
15 operated on railroad sites identified as posing a local safety hazard
16 pursuant to subdivision (b) of Section 7711. These standards may
17 include, but need not be limited to, standards for all of the
18 following:

- 19 (1) Sizes, numbers, and configurations of locomotives.
- 20 (2) Brakes.

21 (b) Establishing special train operating standards for trains
22 operated over railroad sites identified as posing a local safety
23 hazard pursuant to subdivision (b) of Section 7711. These
24 standards may include, but need not be limited to, standards for all
25 of the following:

- 26 (1) Length, weight, and weight distribution of trains.
- 27 (2) Speeds and accelerations of trains.
- 28 (3) Hours of allowable travel.

29 (c) Establishing special training, personnel, and performance
30 standards for operators of trains that travel on railroad sites
31 identified as posing a local safety hazard pursuant to subdivision
32 (b) of Section 7711.

33 (d) Establishing special inspection and reporting standards for
34 trains operated on railroad sites identified as posing a local safety
35 hazard pursuant to subdivision (b) of Section 7711.

36 ~~SEC. 37.~~

37 *SEC. 34.* Section 10782 of the Water Code is repealed.

38 ~~SEC. 38.~~

39 *SEC. 35.* Section 13191 of the Water Code is amended to read:



1 13191. The state board shall convene an advisory group or
2 groups to assist in the evaluation of program structure and
3 effectiveness as it relates to the implementation of the
4 requirements of Section 303(d) of the Clean Water Act (33 U.S.C.
5 1313(d)), and applicable federal regulations and monitoring and
6 assessment programs. The advisory group or groups shall be
7 comprised of persons concerned with the requirements of Section
8 303(d) of the Clean Water Act. The state board shall provide public
9 notice on its website of any meetings of the advisory group or
10 groups and, upon the request of any party shall mail notice of the
11 time and location of any meeting of the group or groups. The board
12 shall also ensure that the advisory group or groups meet in a
13 manner that facilitates the effective participation of the public and
14 the stakeholder participants.

15 ~~SEC. 39.—~~

16 *SEC. 36.* Section 13192 of the Water Code is repealed.

17 ~~SEC. 40.—~~

18 *SEC. 37.* Section 13198 of the Water Code is repealed.

19 ~~SEC. 41.—~~

20 *SEC. 38.* Section 13292 of the Water Code is amended to read:

21 13292. (a) It is the responsibility of the state board to provide
22 guidance to the regional boards in matters of procedure, as well as
23 policy and regulation. In order to ensure that regional boards are
24 providing fair, timely, and equal access to all participants in
25 regional board proceedings, the state board shall undertake a
26 review of the regional boards' public participation procedures. As
27 part of the review process, and upon request by the state board, the
28 regional boards shall solicit comments from participants in their
29 proceedings. Upon completion of the review, the state board shall
30 report to the Legislature, in accordance with the requirements of
31 Chapter 4 (commencing with 71069) of Part 2 of Division 34 of
32 the Public Resources Code, regarding its findings and include
33 recommendations to improve regional board public participation
34 processes.

35 (b) (1) The state board shall provide annual training to
36 regional board members to improve public participation
37 procedures at the regional level.

38 (2) Paragraph (1) shall be implemented only during fiscal years
39 for which funding is provided for the purposes of that paragraph
40 in the annual Budget Act or in another statute.



1 ~~SEC. 42.~~—

2 *SEC. 39.* Section 13369 of the Water Code is amended to read:

3 13369. (a) (1) The state board, in consultation with the
4 regional boards, the California Coastal Commission, and other
5 appropriate state agencies and advisory groups, as necessary, shall
6 prepare a detailed program for the purpose of implementing the
7 state's nonpoint source management plan. The board shall address
8 all applicable provisions of the Clean Water Act, including Section
9 319 (33 U.S.C. Sec. 1329), as well as Section 6217 of the federal
10 Coastal Zone Act Reauthorization Amendments of 1990 (16
11 U.S.C. Sec. 1455b), and this division in the preparation of this
12 detailed implementation program.

13 (2) (A) The program shall include all of the following
14 components:

15 (i) Nonregulatory implementation of best management
16 practices.

17 (ii) Regulatory-based incentives for best management
18 practices.

19 (iii) The adoption and enforcement of waste discharge
20 requirements that will require the implementation of best
21 management practices.

22 (B) In connection with its duties under this subdivision to
23 prepare and implement the state's nonpoint source management
24 plan, the state board shall develop, on or before February 1, 2001,
25 guidance to be used by the state board and the regional boards for
26 the purpose of describing the process by which the state board and
27 the regional boards will enforce the state's nonpoint source
28 management plan, pursuant to this division.

29 (C) The adoption of the guidance developed pursuant to this
30 section is not subject to Chapter 3.5 (commencing with Section
31 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

32 (b) Notwithstanding Section 7550.5 of the Government Code,
33 and in consultation with the California Coastal Commission and
34 other appropriate agencies, as necessary, the state board, on or
35 before December 31 of each year, shall submit to the Legislature,
36 and make available to the public, in accordance with the
37 requirements of Chapter 4 (commencing with Section 71069) of
38 Part 2 of Division 34 of the Public Resources Code, both of the
39 following:



1 (1) Copies of all state and regional board reports that contain
2 information related to nonpoint source pollution and that the state
3 or regional boards were required to prepare in the previous fiscal
4 year pursuant to Sections 303, 305(b), and 319 of the Clean Water
5 Act (33 U.S.C. Secs. 1313, 1315(b), and 1329), Section 6217 of
6 the federal Coastal Zone Act Reauthorization Amendments of
7 1990 (16 U.S.C. Sec. 1455b), related regulations, and this
8 division.

9 (2) A summary of information related to nonpoint source
10 pollution that is set forth in the reports described pursuant to
11 paragraph (1) including, but not limited to, summaries of both of
12 the following:

13 (A) Information that is related to nonpoint source pollution and
14 that is required to be included in reports prepared pursuant to
15 Section 305(b) of the Clean Water Act (33 U.S.C. 1315(b)).

16 (B) Information that is required to be in reports prepared
17 pursuant to Section 319(h)(11) of the Clean Water Act (33 U.S.C.
18 Sec. 1329(h)(11)).

19 ~~SEC. 43.—~~

20 *SEC. 40.* Section 13385 of the Water Code is amended to read:

21 13385. (a) Any person who violates any of the following
22 shall be liable civilly in accordance with this section:

23 (1) Section 13375 or 13376.

24 (2) Any waste discharge requirements or dredged or fill
25 material permit issued pursuant to this chapter or any water quality
26 certification issued pursuant to Section 13160.

27 (3) Any requirements established pursuant to Section 13383.

28 (4) Any order or prohibition issued pursuant to Section 13243
29 or Article 1 (commencing with Section 13300) of Chapter 5, if the
30 activity subject to the order or prohibition is subject to regulation
31 under this chapter.

32 (5) Any requirements of Section 301, 302, 306, 307, 308, 318,
33 401, or 405 of the Clean Water Act, as amended.

34 (6) Any requirement imposed in a pretreatment program
35 approved pursuant to waste discharge requirements issued under
36 Section 13377 or approved pursuant to a permit issued by the
37 administrator.

38 (b) Civil liability may be imposed by the superior court in an
39 amount not to exceed the sum of both of the following:



1 (1) Twenty-five thousand dollars (\$25,000) for each day in
2 which the violation occurs.

3 (2) Where there is a discharge, any portion of which is not
4 susceptible to cleanup or is not cleaned up, and the volume
5 discharged but not cleaned up exceeds 1,000 gallons, an additional
6 liability not to exceed twenty-five dollars (\$25) multiplied by the
7 number of gallons by which the volume discharged but not cleaned
8 up exceeds 1,000 gallons.

9 The Attorney General, upon request of a regional board or the
10 state board, shall petition the superior court to impose the liability.

11 (c) Civil liability may be imposed administratively by the state
12 board or a regional board pursuant to Article 2.5 (commencing
13 with Section 13323) of Chapter 5 in an amount not to exceed the
14 sum of both of the following:

15 (1) Ten thousand dollars (\$10,000) for each day in which the
16 violation occurs.

17 (2) Where there is a discharge, any portion of which is not
18 susceptible to cleanup or is not cleaned up, and the volume
19 discharged but not cleaned up exceeds 1,000 gallons, an additional
20 liability not to exceed ten dollars (\$10) multiplied by the number
21 of gallons by which the volume discharged but not cleaned up
22 exceeds 1,000 gallons.

23 (d) For purposes of subdivisions (b) and (c), the term
24 “discharge” includes any discharge to navigable waters of the
25 United States, any introduction of pollutants into a publicly owned
26 treatment works, or any use or disposal of sewage sludge.

27 (e) In determining the amount of any liability imposed under
28 this section, the regional board, the state board, or the superior
29 court, as the case may be, shall take into account the nature,
30 circumstances, extent, and gravity of the violation or violations,
31 whether the discharge is susceptible to cleanup or abatement, the
32 degree of toxicity of the discharge, and, with respect to the
33 violator, the ability to pay, the effect on its ability to continue its
34 business, any voluntary cleanup efforts undertaken, any prior
35 history of violations, the degree of culpability, economic benefit
36 or savings, if any, resulting from the violation, and other matters
37 that justice may require. At a minimum, liability shall be assessed
38 at a level that recovers the economic benefits, if any, derived from
39 the acts that constitute the violation.



1 (f) (1) Except as provided in paragraph (2), for the purposes of
2 this section, a single operational upset that leads to simultaneous
3 violations of more than one pollutant parameter shall be treated as
4 a single violation.

5 (2) (A) For the purposes of subdivisions (h) and (i), a single
6 operational upset in a wastewater treatment unit that treats
7 wastewater using a biological treatment process shall be treated as
8 a single violation, even if the operational upset results in violations
9 of more than one effluent limitation and the violations continue for
10 a period of more than one day, if all of the following apply:

11 (i) The discharger demonstrates all of the following:

12 (I) The upset was not caused by wastewater treatment operator
13 error and was not due to discharger negligence.

14 (II) But for the operational upset of the biological treatment
15 process, the violations would not have occurred nor would they
16 have continued for more than one day.

17 (III) The discharger carried out all reasonable and immediately
18 feasible actions to reduce noncompliance with the applicable
19 effluent limitations.

20 (ii) The discharger is implementing an approved pretreatment
21 program, if so required by federal or state law.

22 (B) Subparagraph (A) only applies to violations that occur
23 during a period for which the regional board has determined that
24 violations are unavoidable, but in no case may that period exceed
25 30 days.

26 (g) Remedies under this section are in addition to, and do not
27 supersede or limit, any other remedies, civil or criminal, except
28 that no liability shall be recoverable under Section 13261, 13265,
29 13268, or 13350 for violations for which liability is recovered
30 under this section.

31 (h) (1) Notwithstanding any other provision of this division,
32 and except as provided in subdivisions (j), (k), and (l), a mandatory
33 minimum penalty of three thousand dollars (\$3,000) shall be
34 assessed for each serious violation.

35 (2) For the purposes of this section, a “serious violation”
36 means any waste discharge that violates the effluent limitations
37 contained in the applicable waste discharge requirements for a
38 Group II pollutant, as specified in Appendix A to Section 123.45
39 of Title 40 of the Code of Federal Regulations, by 20 percent or
40 more or for a Group I pollutant, as specified in Appendix A to



1 Section 123.45 of Title 40 of the Code of Federal Regulations, by
2 40 percent or more.

3 (i) (1) Notwithstanding any other provision of this division,
4 and except as provided in subdivisions (j), (k), and (l), a mandatory
5 minimum penalty of three thousand dollars (\$3,000) shall be
6 assessed for each violation whenever the person does any of the
7 following four or more times in any period of six consecutive
8 months, except that the requirement to assess the mandatory
9 minimum penalty shall not be applicable to the first three
10 violations:

11 (A) Violates a waste discharge requirement effluent limitation.

12 (B) Fails to file a report pursuant to Section 13260.

13 (C) Files an incomplete report pursuant to Section 13260.

14 (D) Violates a toxicity effluent limitation contained in the
15 applicable waste discharge requirements where the waste
16 discharge requirements do not contain pollutant-specific effluent
17 limitations for toxic pollutants.

18 (2) For the purposes of this section, a “period of six
19 consecutive months” means the period commencing on the date
20 that one of the violations described in this subdivision occurs and
21 ending 180 days after that date.

22 (j) Subdivisions (h) and (i) do not apply to any of the following:

23 (1) A violation caused by one or any combination of the
24 following:

25 (A) An act of war.

26 (B) An unanticipated, grave natural disaster or other natural
27 phenomenon of an exceptional, inevitable, and irresistible
28 character, the effects of which could not have been prevented or
29 avoided by the exercise of due care or foresight.

30 (C) An intentional act of a third party, the effects of which
31 could not have been prevented or avoided by the exercise of due
32 care or foresight.

33 (D) (i) The operation of a new or reconstructed wastewater
34 treatment unit during a defined period of adjusting or testing, not
35 to exceed 90 days for a wastewater treatment unit that relies on a
36 biological treatment process and not to exceed 30 days for any
37 other wastewater treatment unit, if all of the following
38 requirements are met:

39 (I) The discharger has submitted to the regional board, at least
40 30 days in advance of the operation, an operations plan that



1 describes the actions the discharger will take during the period of
2 adjusting and testing, including steps to prevent violations and
3 identifies the shortest reasonable time required for the period of
4 adjusting and testing, not to exceed 90 days for a wastewater
5 treatment unit that relies on a biological treatment process and not
6 to exceed 30 days for any other wastewater treatment unit.

7 (II) The regional board has not objected in writing to the
8 operations plan.

9 (III) The discharger demonstrates that the violations resulted
10 from the operation of the new or reconstructed wastewater
11 treatment unit and that the violations could not have reasonably
12 been avoided.

13 (IV) The discharger demonstrates compliance with the
14 operations plan.

15 (V) In the case of a reconstructed wastewater treatment unit,
16 the unit relies on a biological treatment process that is required to
17 be out of operation for at least 14 days in order to perform the
18 reconstruction, or the unit is required to be out of operation for at
19 least 14 days and, at the time of the reconstruction, the cost of
20 reconstructing the unit exceeds 50 percent of the cost of replacing
21 the wastewater treatment unit.

22 (ii) For the purposes of this section, “wastewater treatment
23 unit” means a component of a wastewater treatment plant that
24 performs a designated treatment function.

25 (2) (A) Except as provided in subparagraph (B), a violation of
26 an effluent limitation where the waste discharge is in compliance
27 with either a cease and desist order issued pursuant to Section
28 13301 or a time schedule order issued pursuant to Section 13300,
29 if all of the following requirements are met:

30 (i) The cease and desist order or time schedule order is issued
31 after January 1, 1995, but not later than July 1, 2000, specifies the
32 actions that the discharger is required to take in order to correct the
33 violations that would otherwise be subject to subdivisions (h) and
34 (i), and the date by which compliance is required to be achieved
35 and, if the final date by which compliance is required to be
36 achieved is later than one year from the effective date of the cease
37 and desist order or time schedule order, specifies the interim
38 requirements by which progress towards compliance will be
39 measured and the date by which the discharger will be in
40 compliance with each interim requirement.



- 1 (ii) The discharger has prepared and is implementing in a
2 timely and proper manner, or is required by the regional board to
3 prepare and implement, a pollution prevention plan that meets the
4 requirements of Section 13263.3.
- 5 (iii) The discharger demonstrates that it has carried out all
6 reasonable and immediately feasible actions to reduce
7 noncompliance with the waste discharge requirements applicable
8 to the waste discharge and the executive officer of the regional
9 board concurs with the demonstration.
- 10 (B) Subdivisions (h) and (i) shall become applicable to a waste
11 discharge on the date the waste discharge requirements applicable
12 to the waste discharge are revised and reissued pursuant to Section
13 13380, unless the regional board does all of the following on or
14 before that date:
 - 15 (i) Modifies the requirements of the cease and desist order or
16 time schedule order as may be necessary to make it fully consistent
17 with the reissued waste discharge requirements.
 - 18 (ii) Establishes in the modified cease and desist order or time
19 schedule order a date by which full compliance with the reissued
20 waste discharge requirements shall be achieved. For the purposes
21 of this subdivision, the regional board may not establish this date
22 later than five years from the date the waste discharge
23 requirements were required to be reviewed pursuant to Section
24 13380. If the reissued waste discharge requirements do not add
25 new effluent limitations or do not include effluent limitations that
26 are more stringent than those in the original waste discharge
27 requirements, the date shall be the same as the final date for
28 compliance in the original cease and desist order or time schedule
29 order or five years from the date that the waste discharge
30 requirements were required to be reviewed pursuant to Section
31 13380, whichever is earlier.
 - 32 (iii) Determines that the pollution prevention plan required by
33 clause (ii) of subparagraph (A) is in compliance with the
34 requirements of Section 13263.3 and that the discharger is
35 implementing the pollution prevention plan in a timely and proper
36 manner.
- 37 (3) A violation of an effluent limitation where the waste
38 discharge is in compliance with either a cease and desist order
39 issued pursuant to Section 13301 or a time schedule order issued



1 pursuant to Section 13300 or Section 13308, if all of the following
2 requirements are met:

3 (A) The cease and desist order or time schedule order is issued
4 on or after July 1, 2000, and specifies the actions that the
5 discharger is required to take in order to correct the violations that
6 would otherwise be subject to subdivisions (h) and (i).

7 (B) The regional board finds that, for one of the following
8 reasons, the discharger is not able to consistently comply with one
9 or more of the effluent limitations established in the waste
10 discharge requirements applicable to the waste discharge:

11 (i) The effluent limitation is a new, more stringent, or modified
12 regulatory requirement that has become applicable to the waste
13 discharge after the effective date of the waste discharge
14 requirements and after July 1, 2000, new or modified control
15 measures are necessary in order to comply with the effluent
16 limitation, and the new or modified control measures cannot be
17 designed, installed, and put into operation within 30 calendar days.

18 (ii) New methods for detecting or measuring a pollutant in the
19 waste discharge demonstrate that new or modified control
20 measures are necessary in order to comply with the effluent
21 limitation and the new or modified control measures cannot be
22 designed, installed, and put into operation within 30 calendar days.

23 (iii) Unanticipated changes in the quality of the municipal or
24 industrial water supply available to the discharger are the cause of
25 unavoidable changes in the composition of the waste discharge,
26 the changes in the composition of the waste discharge are the cause
27 of the inability to comply with the effluent limitation, no
28 alternative water supply is reasonably available to the discharger,
29 and new or modified measures to control the composition of the
30 waste discharge cannot be designed, installed, and put into
31 operation within 30 calendar days.

32 (iv) The discharger is a publicly owned treatment works
33 located in Orange County that is unable to meet effluent
34 limitations for biological oxygen demand, suspended solids, or
35 both, because the publicly owned treatment works meets all of the
36 following criteria:

37 (I) Was previously operating under modified secondary
38 treatment requirements pursuant to Section 301(h) of the Clean
39 Water Act (33 U.S.C. Sec. 1311(h)).



1 (II) Did vote on July 17, 2002, not to apply for a renewal of the
2 modified secondary treatment requirements.

3 (III) Is in the process of upgrading its treatment facilities to
4 meet the secondary treatment standards required by Section
5 301(b)(1)(B) of the Clean Water Act (33 U.S.C. Sec.
6 1311(b)(1)(B)).

7 (C) The regional board establishes a time schedule for bringing
8 the waste discharge into compliance with the effluent limitation
9 that is as short as possible, taking into account the technological,
10 operational, and economic factors that affect the design,
11 development, and implementation of the control measures that are
12 necessary to comply with the effluent limitation. For the purposes
13 of this subdivision, the time schedule may not exceed five years in
14 length, except that the time schedule may not exceed 10 years in
15 length for the upgrade described in subparagraph (B)(iv)(III). If
16 the time schedule exceeds one year from the effective date of the
17 order, the schedule shall include interim requirements and the
18 dates for their achievement. The interim requirements shall
19 include both of the following:

20 (i) Effluent limitations for the pollutant or pollutants of
21 concern.

22 (ii) Actions and milestones leading to compliance with the
23 effluent limitation.

24 (D) The discharger has prepared and is implementing in a
25 timely and proper manner, or is required by the regional board to
26 prepare and implement, a pollution prevention plan pursuant to
27 Section 13263.3.

28 (k) In lieu of assessing all or a portion of the mandatory
29 minimum penalties pursuant to subdivisions (h) and (i) against a
30 POTW serving a small community, as defined by subdivision (b)
31 of Section 79084, the state board or the regional board may elect
32 to require the POTW to spend an equivalent amount towards the
33 completion of a compliance project proposed by the POTW, if the
34 state or regional board finds all of the following:

35 (1) The compliance project is designed to correct the violations
36 within five years.

37 (2) The compliance project is in accordance with the
38 enforcement policy of the state board.

39 (3) The POTW has demonstrated that it has sufficient funding
40 to complete the compliance project.



1 (l) (1) In lieu of assessing penalties pursuant to subdivision (h)
2 or (i), the state board or regional board, with the concurrence of the
3 discharger, may direct a portion of the penalty amount to be
4 expended on a supplemental environmental project in accordance
5 with the enforcement policy of the state board. If the penalty
6 amount exceeds fifteen thousand dollars (\$15,000), the portion of
7 the penalty amount that may be directed to be expended on a
8 supplemental environmental project may not exceed fifteen
9 thousand dollars (\$15,000) plus 50 percent of the penalty amount
10 that exceeds fifteen thousand dollars (\$15,000).

11 (2) For the purposes of this section, a “supplemental
12 environmental project” means an environmentally beneficial
13 project that a person agrees to undertake, with the approval of the
14 regional board, that would not be undertaken in the absence of an
15 enforcement action under this section.

16 (3) This subdivision applies to the imposition of penalties
17 pursuant to subdivision (h) or (i) on or after January 1, 2003,
18 without regard to the date on which the violation occurs.

19 (m) The Attorney General, upon request of a regional board or
20 the state board, shall petition the appropriate court to collect any
21 liability or penalty imposed pursuant to this section. Any person
22 who fails to pay on a timely basis any liability or penalty imposed
23 under this section shall be required to pay, in addition to that
24 liability or penalty, interest, attorneys’ fees, costs for collection
25 proceedings, and a quarterly nonpayment penalty for each quarter
26 during which the failure to pay persists. The nonpayment penalty
27 shall be in an amount equal to 20 percent of the aggregate amount
28 of the person’s penalty and nonpayment penalties that are unpaid
29 as of the beginning of the quarter.

30 (n) (1) Subject to paragraph (2), funds collected pursuant to
31 this section shall be deposited in the State Water Pollution Cleanup
32 and Abatement Account.

33 (2) (A) Notwithstanding any other provision of law, moneys
34 collected for a violation of a water quality certification in
35 accordance with paragraph (2) of subdivision (a) or for a violation
36 of Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341) in
37 accordance with paragraph (5) of subdivision (a) shall be
38 deposited in the Waste Discharge Permit Fund and separately
39 accounted for in that fund.



1 (B) The funds described in subparagraph (A) shall be expended
 2 by the state board, upon appropriation by the Legislature, to assist
 3 regional boards, and other public agencies with authority to clean
 4 up waste or abate the effects of the waste, in cleaning up or abating
 5 the effects of the waste on waters of the state or for the purposes
 6 authorized in Section 13443.

7 ~~(e) The state board shall report information on its Web site~~

8 (o) *The state board shall continuously report and update*
 9 *information on its Web site, regarding its enforcement activities.*

10 The information shall include all of the following:

11 (1) A compilation of the number of violations of waste
 12 discharge requirements in the previous calendar year, including
 13 stormwater enforcement violations.

14 (2) A record of the formal and informal compliance and
 15 enforcement actions taken for each violation, *including storm*
 16 *water enforcement actions.*

17 (3) An analysis of the effectiveness of current enforcement
 18 policies, including mandatory minimum penalties.

19 ~~(4) A record of the formal and informal compliance and~~
 20 ~~enforcement actions taken for each violation, including~~
 21 ~~stormwater enforcement action.~~

22 (p) The amendments made to subdivisions (f), (h), (i) and (j)
 23 during the second year of the 2001–02 Regular Session apply only
 24 to violations that occur on or after January 1, 2003.

25 ~~SEC. 44.—~~

26 *SEC. 41.* Section 13399.39 of the Water Code is repealed.

27 ~~SEC. 45.—~~

28 *SEC. 42.* Section 4 of Chapter 435 of the Statutes of 1994 is
 29 amended to read:

30 Sec. 4. The Department of Toxic Substances Control shall
 31 provide information on its Web site biennially on its progress in
 32 implementing the pilot program established by Chapter 6.85
 33 (commencing with Section 25396) of Division 20 of the Health
 34 and Safety Code, as added by Section 2 of this act. The information
 35 shall describe the activities which the department has taken during
 36 the past two years in implementing the pilot program, list the sites
 37 that have been selected for response action and the sites that have
 38 been issued a certificate of completion under the program,
 39 evaluate its effectiveness in expediting the cleanup of selected
 40 sites, and compare its effectiveness with that of the voluntary



1 cleanup “walk-in” program that the department administers
2 pursuant to Chapter 6.5 (commencing with Section 25100) of, and
3 Chapter 6.8 (commencing with Section 25300) of, Division 20 of
4 the Health and Safety Code.

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