

ASSEMBLY BILL

No. 1359

Introduced by Assembly Member Parra

February 23, 2007

An act to amend Section 25250.19 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1359, as introduced, Parra. Hazardous materials: dielectric mineral oil.

Existing law exempts used oil meeting certain specifications from regulation by the Department of Toxic Substances Control. A generator is required to test and certify that the used oil meets those specifications before transportation from the generator location.

This bill would provide that a generator of dielectric fluid from oil-filled equipment is not required to test the dielectric fluid for specified purity levels before transporting the fluid if the generator demonstrates through prior tests, that dielectric fluid subject to similar operations conditions did not exhibit the characteristic of toxicity.

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

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

- 1 SECTION 1. Section 25250.19 of the Health and Safety Code
- 2 is amended to read:
- 3 25250.19. (a) (1) A used oil recycler shall test all recycled
- 4 oil in accordance with paragraph (2), prior to transportation from
- 5 the recycling facility, pursuant to applicable methods in the

1 Environmental Protection Agency Document No. Solid Waste 846
2 or any equivalent alternative method approved or required by the
3 department, and shall ensure and certify the oil as being in
4 compliance with the standards specified in paragraph (3) of
5 subdivision (a) of Section 25250.1.

6 (2) The used oil recycler shall test the recycled oil for
7 compliance with the purity standards set forth in subparagraph (B)
8 of paragraph (3) of subdivision (a) of Section 25250.1, and for any
9 other hazardous characteristics or constituents for which testing
10 is required in the permit issued by the department for the used oil
11 recycling facility. The permit shall require testing for compliance
12 with the purity standards set forth in subparagraph (B) of paragraph
13 (3) of subdivision (a) of Section 25250.1. The permit may also
14 require testing for other hazardous characteristics and constituents
15 only if the department finds, based upon evidence in the record,
16 all of the following:

17 (A) There is a reasonable expectation that the recycled oil may
18 exhibit the hazardous characteristic or contain the hazardous
19 constituent at a level that would cause it to be hazardous waste if
20 the recycled oil were a waste, taking into consideration at least all
21 of the following factors:

22 (i) The conditions included in the facility's permit limiting the
23 wastes that may be accepted at the facility and the conditions
24 requiring testing of the wastes accepted at the facility.

25 (ii) The types of wastes that historically have been accepted by
26 the facility or similar facilities and the types of wastes that the
27 facility can reasonably be expected to accept in the future, including
28 any new products or constituents.

29 (iii) Previous test results of recycled oil produced by the facility
30 indicating the presence, or lack of the presence, of the constituent
31 or characteristic at a level that would cause it to be hazardous waste
32 if the recycled oil were a waste.

33 (iv) The treatment technologies and methods authorized in the
34 facility's permit for production of the recycled oil and the extent
35 to which those treatment technologies and methods remove or
36 reduce the constituents or characteristics from the wastes accepted
37 by the facility; and

38 (B) The hazardous characteristic or constituent cannot
39 reasonably be expected to be present in products produced from
40 crude oil similar to the recycled oil products produced by the

1 facility at levels that would cause the product produced from crude
2 oil to be a hazardous waste if it were a waste.

3 (3) Records of tests performed pursuant to this subdivision and
4 a copy of each form completed pursuant to Section 25250.18 shall
5 be maintained for three years and are subject to audit and
6 verification by the department or the board. The department shall
7 perform an audit and verification on a periodic basis. The
8 department may charge a reasonable fee for this activity.

9 (b) (1) A generator claiming that used oil is exempted from
10 regulation pursuant to paragraph (1) of subdivision (b) of Section
11 25250.1 shall ensure that all used oil for which the exemption is
12 claimed has been tested and certified as being in compliance with
13 the standards specified in paragraph (1) of subdivision (b) of
14 Section 25250.1, prior to transportation from the generator location.
15 A generator lawfully recycling its own oil shall ensure that all
16 recycled oil has been tested and certified as being in compliance
17 with the requirements specified in paragraph (2) of subdivision
18 (b) of Section 25250.1. Records of tests performed and a copy of
19 each form completed pursuant to Section 25250.18 shall be
20 maintained for three years and are subject to audit and verification
21 by the department, the unified program agency, or the board.

22 (2) *Testing to meet the requirements in subparagraph (B) of*
23 *paragraph (1) of subdivision (b) of Section 25250.1 is not required*
24 *for dielectric fluid from oil-filled electrical equipment if the*
25 *generator of the dielectric fluid can demonstrate through prior*
26 *test results that the dielectric fluid subject to similar operating*
27 *conditions did not exhibit the characteristic of toxicity as set forth*
28 *in Section 66261.24 of Title 22 of the California Code of*
29 *Regulations.*

30 (c) Used oil recyclers identified in subdivision (a) and generators
31 identified in subdivision (b) shall record in an operating log and
32 retain for three years the information specified in paragraphs (1)
33 to (5), inclusive, of subdivision (a) of Section 25250.18 on each
34 shipment of recycled or exempted oil.

35 (d) Operating logs required in subdivision (c) are subject to
36 audit and verification by the department, the unified program
37 agency, or the board.

38 (e) (1) If oil produced at a used oil recycling facility in this
39 state meets the standards of purity set forth in subparagraph (B)
40 of paragraph (3) of subdivision (a) of Section 25250.1 and is not

1 hazardous due to the presence of any characteristic or constituent
2 for which the department has made a finding required by
3 subparagraphs (A) and (B) of paragraph (2) of subdivision (a), but
4 the oil is hazardous due to the presence of another constituent or
5 characteristic, the facility operator shall not be subject to any
6 penalty pursuant to this chapter for failing to manage the oil as a
7 hazardous waste, unless both of the following apply:

8 (A) While the oil was onsite at the facility, the operator of the
9 facility knew, or reasonably should have known, that the oil failed
10 to meet those criteria.

11 (B) The facility operator failed to take action to manage the oil
12 as a hazardous waste when the oil was determined to be hazardous.

13 (2) The department may exercise its authority, including, but
14 not limited to, the issuance of an order, to a used oil recycling
15 facility pursuant to Section 25187, to ensure that oil subject to this
16 subdivision is managed as a hazardous waste pursuant to this
17 chapter.

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