SENATE BILL No. 39

Introduced by Senator Denham

June 9, 2009

An act to amend Sections 68055.1, and 68055.2 of, and to repeal Sections 66799.22 and 66799.40 of, the Government Code, to amend Sections 18909, 25141.6, 25143.12, 25150, 25197.2, 25201.1, 25213, 25214.8.13, 25214.10.1, 25218.9, 25218.10, 25244.6, 25244.15.1, 25250.1, 25250.15, 25250.18, 25250.19, 33459.1, 39762, 39763, 41705, 41805.5, and 41865.5 of the Health and Safety Code, to amend Sections 10507.5, 12153, 12164.5, 12165, 12166, 12167, 12167.1, 12200, 12207, 12211, 12215, 12217, 12301, 12310, and 12320 of the Public Contract Code, to amend Sections 40051, 40054, 40059.1, 40062, 40063, 40106, 40117, 40127, 40130, 40131, 40145, 40148, 40150.2, 40183, 40184, 40194, 40910, 40911, 40912, 40913, 40950, 40972, 40973, 40974, 40975, 41030, 41031, 41032, 41033, 41220, 41300, 41330, 41331, 41332, 41333, 41420, 41510, 41720, 41721.5, 41733, 41734, 41750, 41770, 41780.05, 41780.1, 41781.1, 41781.2, 41781.3, 41782, 41783, 41783.1, 41784, 41786, 41787, 41787.1, 41787.2, 41787.3, 41787.4, 41790, 41791, 41791.1, 41791.2, 41791.5, 41794, 41800, 41801, 41801.5, 41802, 41810, 41810.1, 41811, 41811.5, 41812, 41813, 41820.5, 41820.6, 41821, 41821.1, 41821.2, 41821.3, 41821.5, 41821.6, 41822, 41825, 41850, 41850.5, 41851, 41903, 41956, 42000, 42002, 42005, 42007, 42012, 42013, 42014, 42015, 42019, 42020, 42023.1, 42023.3, 42023.4, 42023.5, 42023.6, 42024, 42106, 42171, 42172, 42240, 42241.5, 42244, 42244.5, 42245, 42252, 42291, 42291.5, 42292, 42293, 42294, 42295, 42296, 42297, 42301, 42310, 42310.1, 42310.2, 42310.3, 42320, 42321, 42322, 42323, 42325, 42326, 42327, 42330, 42356.1, 42359.7, 42410, 42411, 42414, 42415, 42441, 42443, 42450, 42461, 42463, 42464, 42465, 42474, 42475, 42475.2, 42475.4, 42476,

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45981, and 45982 of the Revenue and Taxation Code, and to amend Section 31560 of the Vehicle Code, relating to integrated waste management.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as introduced, Denham. Integrated waste management: transfer of authority.

The California Integrated Waste Management Act of 1989, administered by the California Integrated Waste Management Board, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient cost-effective manner to conserve water, energy, and other natural resources.

This bill would abolish the board and transfer all of its authority, duties, powers, purposes, responsibilities, and jurisdiction to the Department of Conservation and the Department of Toxic Substances Control, as described.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

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

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

SECTION 1. Section 66799.22 of the Government Code is repealed.

~~66799.22. The board may do all of the following:~~

~~(a) Enter into loan guarantee agreements with owners or operators of solid waste landfills operating solid waste disposal facilities on or after January 1, 1988, pursuant to a solid waste facilities permit issued pursuant to Article 2 (commencing with Section 66796.30) of Chapter 3.~~

~~(b) Enter into contracts which the board determines to be necessary to carry out its powers and duties pursuant to this chapter.~~

~~(c) Provide grants, pursuant to Section 66799.40, to cities, counties, or local agencies with responsibility for waste management for local programs to help prevent the disposal of hazardous wastes at solid waste disposal sites, including, but not limited to, programs to manage household hazardous waste. These grants shall not exceed, in any one fiscal year, more than 20 percent of the total revenues deposited, or anticipated to be deposited, in the account during the same fiscal year.~~

~~(d) Fix reasonable fees and charges for loan guarantees and revise, from time-to-time, these fees and charges.~~

SEC. 2. Section 66799.40 of the Government Code is repealed.

~~66799.40. The board may make grants of funds in the account to a city, county, or local agency with responsibility for waste management for any of the following purposes related to the safe operation, closure, and maintenance of solid waste landfills operating on or after January 1, 1988:~~

~~(a) Support for establishing collection systems to ensure that hazardous waste, including, but not limited to, household hazardous waste, is not improperly disposed of in a solid waste landfill.~~

~~(b) Payment of the local costs of waste control and enforcement programs that help prevent the disposal of hazardous wastes in solid waste landfills.~~

~~(c) If a city, county, or local agency with responsibility for waste management has already funded the type of program described in subdivision (a) or (b) locally, the board shall award a minimum grant of funds from the account to reimburse that city, county, or local agency for the actual cost of the local program in that fiscal year or 20 percent of the fees generated or anticipated to be generated in the city, county, or local agency into the account during the same fiscal year, whichever is less. This subdivision does not limit the authority of the board to award grants of funds from the account in excess of, or in addition to, the minimum grant amounts set forth in this subdivision, in accordance with the grant criteria established pursuant to Section 66799.23.~~

SEC. 3. Section 68055.1 of the Government Code is amended to read:

68055.1. Unless the context otherwise requires, the definitions as set forth in this section govern the construction of this chapter.

(a) "Public place" means any area that is used or held out for the use of the public whether owned and operated by public or

private interests, but not including indoor areas. "Indoor area" means any enclosed area covered with a roof and protected from moisture and wind.

(b) "Drive-in restaurant" means a restaurant that sells food products for immediate consumption on or near a location at which parking facilities are provided for the use of patrons in consuming the products purchased at the restaurant.

(c) "Fast food outlet" means a restaurant that sells food products primarily on a "takeout" or "to go" basis.

(d) "Grocery stores" includes, but is not limited to, convenience markets that sell groceries.

(e) "Shopping centers" means a group of two or more stores that maintain a common parking lot for patrons of those stores.

~~(f) "Board" means the State Solid Waste Management Board.~~

~~(g)~~

(f) "Litter" means all improperly discarded waste material, including, but not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling, or manufacturing.

~~(h)~~

(g) "Solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes.

SEC. 4. Section 68055.2 of the Government Code is amended to read:

68055.2. Litter receptacles shall be placed in all public places in the state, including, but not limited to, the following:

(a) Drive-in restaurants and fast food outlets.

(b) Gasoline service stations.

(c) Shopping centers.

(d) Grocery stores.

(e) Boat launching and takeout areas.

(f) Boat moorage and fueling stations.

(g) Public piers.

(h) Parks and campgrounds.

(i) Beaches.

(j) Outdoor parking lots which have a capacity of 50 or more automobiles and which are contiguous to the public places listed in this section.

The ~~board~~ *Department of Conservation* may further define "public place" by specifying in its regulations particular types of places that are subject to the requirements of this section.

Litter receptacles need be placed in such public places only during times such places, or events held at them, are open to the public.

SEC. 5. Section 18909 of the Health and Safety Code is amended to read:

18909. (a) "Building standard" means any rule, regulation, order, or other requirement, including any amendment or repeal of that requirement, that specifically regulates, requires, or forbids the method of use, properties, performance, or types of materials used in the construction, alteration, improvement, repair, or rehabilitation of a building, structure, factory-built housing, or other improvement to real property, including fixtures therein, and as determined by the commission.

(b) Except as provided in subdivision (d), "building standard" includes architectural and design functions of a building or structure, including, but not limited to, number and location of doors, windows, and other openings, stress or loading characteristics of materials, and methods of fabrication, clearances, and other functions.

(c) "Building standard" includes a regulation or rule relating to the implementation or enforcement of a building standard not otherwise governed by statute, but does not include the adoption of procedural ordinances by a city or other public agency relating to civil, administrative, or criminal procedures and remedies available for enforcing code violations.

(d) "Building standard" does not include any safety regulations that any state agency is authorized to adopt relating to the operation of machinery and equipment used in manufacturing, processing, or fabricating, including, but not limited to, warehousing and food processing operations, but not including safety regulations relating to permanent appendages, accessories, apparatus, appliances, and equipment attached to the building as a part thereof, as determined by the commission.

(e) "Building standard" does not include temporary scaffoldings and similar temporary safety devices and procedures that are used in the erection, demolition, moving, or alteration of buildings.

(f) "Building standard" does not include any regulation relating to the internal management of a state agency.

(g) "Building standard" does not include any regulation, rule, order, or standard that pertains to mobilehomes, manufactured homes, commercial coaches, special purpose commercial coaches, or recreational vehicles.

(h) "Building standard" does not include any regulation, rule, or order or standard that pertains to a mobilehome park, as defined by Section 18214, or special occupancy park, as defined by Section 18862.43, except that "building standard" includes the construction of permanent buildings and plumbing, electrical, and fuel gas equipment and installations within permanent buildings in a mobilehome park or special occupancy park. For purposes of this subdivision, "permanent building" means any permanent structure constructed in the mobilehome park or special occupancy park that is a permanent facility under the control and ownership of the park operator.

(i) "Building standard" does not include any regulation, rule, order, or standard that pertains to mausoleums regulated under Part 5 (commencing with Section 9501) of Division 8.

(j) "Building standard" does not include any regulation adopted by the ~~California Integrated Waste Management Board, the~~ Department of Toxic Substances Control, the Occupational Safety and Health Standards Board, or the State Water Resources Control Board concerning the discharge of waste to land or the treatment, transfer, storage, resource recovery, disposal, or recycling of the waste.

SEC. 6. Section 25141.6 of the Health and Safety Code is amended to read:

25141.6. In any case where the department proposes to make a determination that a waste meets one or more of the criteria and guidelines for the identification of hazardous wastes adopted pursuant to Section 25141, but that it is not necessary to manage the waste as a hazardous waste because the waste possesses mitigating physical and chemical characteristics that render it insignificant as a hazard to human health, safety, or the environment, the department shall issue a public notice of that

proposed determination. The public notice shall be electronically posted on the department's Internet home page at least 30 days before the determination becomes final and shall also be sent to all of the following:

(a) The Chairperson of the California Environmental Policy Council.

~~(b) The California Integrated Waste Management Board.~~

~~(c)~~

(b) The State Water Resources Control Board.

~~(d)~~

(c) Any person who requests the public notice.

~~(e)~~

(d) Any solid waste enforcement agency or California regional water quality control board, the jurisdiction of which the department knows will be affected by the determination.

SEC. 7. Section 25143.12 of the Health and Safety Code is amended to read:

25143.12. Notwithstanding any other provision of law, debris that is contaminated only with crude oil or any of its fractions is exempt from regulation under this chapter if all of the following conditions are met:

(a) The debris consists exclusively of wood, paper, textile materials, concrete rubble, metallic objects, or other solid manufactured objects.

(b) The debris is not subject to regulation as a hazardous waste or used oil under federal law.

(c) The debris does not contain any free liquids, as determined by the paint filter test specified in the regulations adopted by the department.

(d) The debris, if not contaminated with crude oil or any of its fractions, would not be regulated as a hazardous waste under this chapter or the regulations adopted pursuant to this chapter.

(e) The debris is not a container or tank that is subject to regulation as hazardous waste under this chapter or the regulations adopted pursuant to this chapter.

(f) The debris is disposed of in a composite lined portion of a waste management unit that is classified as either a Class I or Class II waste management unit in accordance with Article 3 (commencing with Section 2530) of Chapter 15 of Division 3 of Title 23 of the California Code of Regulations, the disposal is made

in accordance with the applicable requirements of the California regional water quality control board and the ~~California Integrated Waste Management Board~~ *department*, and, if the waste management unit is a Class II landfill, it is sited, designed, constructed, and operated in accordance with the minimum standards applicable on or after October 9, 1993, to new or expanded municipal solid waste landfills, that are contained in Part 258 (commencing with Section 258.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations, as those regulations read on January 1, 1996.

SEC. 8. Section 25150 of the Health and Safety Code is amended to read:

25150. (a) The department shall adopt, and revise when appropriate, standards and regulations for the management of hazardous wastes to protect against hazards to the public health, to domestic livestock, to wildlife, or to the environment.

(b) The department and the local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) of Section 25180 shall apply the standards and regulations adopted pursuant to subdivision (a) to the management of hazardous waste.

(c) Except as provided in subdivision (d), the department may limit the application of the standards and regulations adopted or revised pursuant to subdivision (a) at facilities operating pursuant to a hazardous waste facilities permit or other grant of authorization issued by the department in any manner that the department determines to be appropriate, including, but not limited to, requiring these facilities to apply for, and receive, a permit modification prior to the application of the standards and regulations.

(d) The department shall not adopt or revise standards and regulations which result in the imposition of any requirement for the management of a RCRA waste that is less stringent than a corresponding requirement adopted by the Environmental Protection Agency pursuant to the federal act.

(e) The department shall adopt, and revise when appropriate, regulations for the recycling of hazardous waste to protect against hazards to the public health, domestic livestock, wildlife, or to the environment, and to encourage the best use of natural resources.

(f) Before the adoption of regulations, the department shall notify all agencies of interested local governments, including, but not limited to, certified unified program agencies, local governing

bodies, local planning agencies, local health authorities, local building inspection departments, the Department of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Fish and Game, the Department of Industrial Relations, the Division of Industrial Safety, the State Air Resources Board, the State Water Resources Control Board, the State Fire Marshal, regional water quality control boards, the State Building Standards Commission, *and* the Office of Environmental Health Hazard Assessment~~, and the California Integrated Waste Management Board~~.

SEC. 9. Section 25197.2 of the Health and Safety Code is amended to read:

25197.2. (a) The department shall establish a statewide Hazardous Waste Strike Force which shall consist of a representative from each of the following agencies:

(1) The Department of Transportation.

(2) The Department of Industrial Relations.

(3) The Department of Food and Agriculture.

(4) The State Water Resources Control Board.

(5) The State Air Resources Board.

(6) The Department of the California Highway Patrol.

(7) The Office of the State Fire Marshal in the Department of Forestry and Fire Protection.

~~(8) The California Integrated Waste Management Board.~~

~~(9)~~

(8) The Department of Fish and Game.

~~(10)~~

(9) The Office of Emergency Services.

~~(11)~~

(10) The Department of Toxic Substances Control.

~~(12)~~

(11) The Attorney General.

~~(13)~~

(12) The Department of Pesticide Regulation.

(b) The director, or the director's designee, shall direct and coordinate the activities of the Hazardous Waste Strike Force.

(c) The Hazardous Waste Strike Force shall do all of the following:

(1) Recommend standardized programs among the agencies represented on the Hazardous Waste Strike Force for the purposes

of uniformly enforcing state hazardous waste statutes and regulations and reporting violators of these statutes and regulations.

(2) Recommend programs to publicize and improve the statewide telephone number established pursuant to paragraph (5) of subdivision (b) of Section 25197.1.

(3) Recommend local and regional programs to report information concerning violations of this chapter and any other hazardous waste statutes and regulations.

SEC. 10. Section 25201.1 of the Health and Safety Code is amended to read:

25201.1. (a) A solid waste facility, as defined in Section 40194 of the Public Resources Code, or any recycling facility, that accepts and processes empty aerosol cans and de minimis quantities of nonempty aerosol cans collected as an incidental part of the collection of empty cans for recycling, is exempt from the requirement to obtain a hazardous waste facilities permit or other authorization from the department for purposes of conducting that activity if both of the following conditions are met:

(1) The nonempty aerosol cans are from products that are normally intended for household use and were generated by households.

(2) The city, county, or regional agency in the area that the facility serves provides educational information to the public on the safe collection and recycling or disposal of empty and nonempty aerosol cans that encourages, to the maximum extent feasible, the separation and recycling of empty aerosol cans through such programs as curbside, dropoff, and buy-back recycling programs, and the diversion of nonempty aerosol cans into household hazardous waste collection programs. Issues of compliance with this subdivision shall be determined by the ~~California Integrated Waste Management Board~~ *department* or by the appropriate local enforcement agency.

(b) This section is not intended to alter the obligation to manage as a hazardous waste any nonempty aerosol cans that meet the requirements of Section 25117, and that are not subject to the exemption provided in this section.

(c) Nothing in this section exempts a solid waste facility that engages in an activity that requires a hazardous waste facility permit, other than the acceptance and processing of empty aerosol cans and de minimis quantities of nonempty aerosol cans as an

incidental part of the collection of empty cans for recycling, from the requirement of obtaining a hazardous waste facilities permit.

SEC. 11. Section 25213 of the Health and Safety Code is amended to read:

25213. (a) To implement subdivision (c) of Section 25212, the department shall, based on reasonably available information, develop a statewide list of appliance recyclers, used appliance dealers, solid waste facilities, metal scrapyards, and others who may remove, or do business with those who remove, from major appliances, materials that require special handling. The department shall notify persons on the list of the requirements of this chapter and the steps that will be required to be taken to comply with this chapter.

(b) The department shall transmit a copy of the Appliance Recycling Guide, published by the ~~California Integrated Waste Management Board~~ *department*, and any other materials determined to be necessary by the department to ensure compliance with this chapter, to the following persons and agencies:

(1) Persons who apply for a generator identification number indicating that they are involved with any activities regulated pursuant to this article.

(2) The local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.

(c) The department shall transmit the generator identification number of any person identified pursuant to paragraph (1) of subdivision (b) and the statewide list developed pursuant to subdivision (a) to the appropriate local officers and agencies authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.

SEC. 12. Section 25214.8.13 of the Health and Safety Code is amended to read:

25214.8.13. Each manufacturer shall individually, or collectively with other manufacturers, do all of the following:

(a) Collect, handle, and arrange for the appropriate management of out-of-service mercury-added thermostats in compliance with this chapter and the regulations adopted pursuant to this chapter.

(b) On and after July 1, 2009, provide collection bins for out-of-service mercury-added thermostat collection to wholesalers at a cost not to exceed twenty-five dollars ($25).

(c) On and after July 1, 2009, make collection bins available at no cost for out-of-service mercury-added thermostats to any local governmental agency that requests a collection bin for use at household hazardous waste collection facilities or household hazardous waste events.

(d) Either arrange for pick up of the collection bins, or pay for the costs of shipping the collection bins provided pursuant to subdivisions (b) and (c) for proper handling and recycling.

(e) From July 1, 2009, to December 31, 2011, inclusive, undertake education and outreach efforts, including, but not limited to, all of the following:

(1) A public service announcement promoting the proper management of out-of-service mercury-added thermostats. Copies of the public service announcement shall be provided to the department ~~and the California Integrated Waste Management Board~~ for their use and promotion.

(2) The establishment of a public Internet Web site. Templates of educational materials shall be posted on the Internet Web site that are in a form and format that can be easily downloaded. A link to the Internet Web site shall be provided to the department ~~and the California Integrated Waste Management Board~~.

(3) Methods used to engage other stakeholders such as waste, demolition, heating, ventilation, and air-conditioning organizations, as well as appropriate state agencies and local governments to secure support and participation to encourage the proper management of out-of-service mercury-added thermostats throughout California.

(4) Strategies to work with California utilities participating in demand response programs involving the replacement of thermostats to encourage their participation in the collection and proper management of out-of-service mercury-added thermostats. These strategies may include the inclusion of an educational insert in their customers' utility bills.

(5) Contacting wholesalers in California and encouraging their support and participation in educating their customers on the proper management of out-of-service mercury-added thermostats.

(6) Strategies used to encourage support and participation by retailers and other outlets to educate consumers on the proper management of out-of-service mercury-added thermostats.

(f) On or before July 1, 2009, develop, and update as necessary, educational and other outreach materials aimed at heating, ventilation, and air-conditioning contractors, demolition contractors, and their associations, municipal utility districts, and homeowners. Those materials shall be made available to participating retailers, all wholesalers, and household hazardous waste programs. These materials shall include, but are not limited to, one or more of the following:

(1) Signage that is prominently displayed and easily visible to the consumer and contractors.

(2) Written materials and templates of materials for reproduction by retailers and wholesalers to be provided to the consumer at the time of purchase, delivery, or both purchase and delivery of a thermostat. The materials shall include information on the prohibition of improper disposal of mercury-added thermostats, the proper management of out-of-service mercury-added thermostats, and the locations of collection opportunities.

(3) Advertising or other promotional materials, or both, that include references to the collection opportunities.

(4) Materials to be used in direct communications with the consumer and contractor at the time of purchase.

(g) Provide incentives and education to contractors, service technicians, and homeowners to encourage the return of out-of-service mercury-added thermostats to established collection locations.

(h) Encourage the purchase of programmable thermostats that comply with Part 6 (commencing with Section 100) of Title 24 of the California Building Standards Code and that qualify for the Energy Star program of the federal Environmental Protection Agency, as replacements for mercury-added thermostats.

(i) On or before April 1, 2010, and on or before April 1 annually thereafter, submit an annual report to the department covering the one-year period ending December 31st of the previous calendar year. Each report shall be posted on the manufacturer's or program's Internet Web site. The annual report shall include all of the following:

(1) The number of out-of-service mercury-added thermostats collected in California during the previous calendar year.

(2) The estimated total amount of mercury contained in the collected out-of-service mercury-added thermostats.

(3) An evaluation of the effectiveness of the program.

(4) Commencing with the report due April 1, 2013, a comparison to the performance requirements for collection established pursuant to subdivision (b) of Section 25214.8.17.

(5) An accounting of the program administrative costs, including a copy of Internal Revenue Service Form 990 for a nonprofit organization's program. For a for-profit organization's program, the manufacturer, or group of manufacturers operating a program, shall submit independently audited financial statements detailing revenues and a full accounting of administrative costs incurred.

(6) A description of the outreach strategies employed to increase participation and collection rates.

(7) Examples of outreach and educational materials used.

(8) Names and locations of all participating collection locations.

(9) The number of out-of-service mercury-added thermostats collected at each collection location.

(10) The Internet Web site address where the annual report may be viewed online.

(11) A description of how the collected out-of-service mercury-added thermostats were managed.

(12) Modifications that the manufacturer is proposing to make in its collection and recycling program.

SEC. 13. Section 25214.10.1 of the Health and Safety Code is amended to read:

25214.10.1. (a) For purposes of this section, the following definitions shall apply:

(1) "Electronic device" means a video display device, as defined in subdivision ~~(t)~~ *(u)* of Section 42463 of the Public Resources Code, with a screen size of greater than four inches.

(2) "Covered electronic device," "manufacturer," and "retailer" have the same meaning as those terms are defined in Section 42463 of the Public Resources Code.

(b) The department shall adopt regulations that identify electronic devices that the department determines are presumed to be, when discarded, a hazardous waste pursuant to this chapter.

(c) (1) Except as provided in subdivision (e), a manufacturer of an electronic device that is identified in the regulations adopted by the department shall send a notice in accordance with the schedule specified in subparagraph (A) or (B), as applicable, of paragraph (3), to any retailer that sells that electronic device

manufactured by the manufacturer. The notice shall identify the electronic device, and shall inform the retailer that the electronic device is a covered electronic device and is subject to a fee in accordance with subdivision (d).

(2) A manufacturer subject to this subdivision shall also send a copy of the notice to the State Board of Equalization.

(3) The notice required by this subdivision shall be sent in accordance with the following schedule:

(A) On or before October 1, 2004, the manufacturer shall send a notice covering any electronic device manufactured by that manufacturer that is identified in the regulations adopted by the department on or before July 1, 2004, that identify the electronic devices that the department determines are presumed to be, when discarded, a hazardous waste pursuant to this chapter.

(B) On or before April 1, 2005, and on or before every April 1 of each year thereafter, the manufacturer shall send a notice covering any electronic device manufactured by that manufacturer identified in the regulations adopted by the department pursuant to subdivision (b) on or before December 31 of the prior year.

(4) If a retailer sells a refurbished covered electronic device, the manufacturer is required to comply with the notice requirement of this subdivision only if the manufacturer directly supplies the refurbished covered electronic device to the retailer.

(d) (1) Except as provided in subdivision (e), a covered electronic device that is identified in the regulations adopted, on or before July 1, 2004, by the department, that identify electronic devices that the department determines are presumed to be, when discarded, a hazardous waste pursuant to this chapter shall, on and after January 1, 2005, be subject to Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code, including the fee imposed pursuant to Section 42464 of the Public Resources Code.

(2) Except as provided in subdivision (e), a covered electronic device identified in the regulations adopted by the department, pursuant to subdivision (b), shall, on and after July 1 of the year subsequent to the year in which the covered electronic device is first identified in the regulations, be subject to Chapter 8.5 (commencing with Section 42460) of Part 3 of Division 30 of the Public Resources Code, including the fee imposed pursuant to Section 42464 of the Public Resources Code.

(e) (1) If the manufacturer of an electronic device that is identified in the regulations adopted by the department pursuant to subdivision (b) obtains the concurrence of the department that an electronic device, when discarded, would not be a hazardous waste, in accordance with procedures set forth in Section 66260.200 of Title 22 of the California Code of Regulations, the electronic device shall cease to be a covered electronic device and shall cease to be subject to subdivisions (c) and (d) on the first day of the quarter that begins not less than 30 days after the date that the department provides the manufacturer with a written nonhazardous concurrence for the electronic device pursuant to this subdivision. A manufacturer shall notify each retailer, to which that manufacturer has sold a covered electronic device, that the device has been determined pursuant to this subdivision to be nonhazardous and is no longer subject to a covered electronic recycling fee.

(2) No later than 10 days after the date that the department issues a written nonhazardous concurrence to the manufacturer, the department shall do both of the following:

(A) Post on the department's Web site a copy of the nonhazardous concurrence, including, but not limited to, an identification and description of the electronic device to which the concurrence applies.

(B) Send a copy of the nonhazardous concurrence, including, but not limited to, an identification and description of the electronic device to which the concurrence applies, to the ~~California Integrated Waste Management Board and the~~ State Board of Equalization.

(f) Notwithstanding Section 42474 of the Public Resources Code, a fine or penalty shall not be assessed on a retailer who unknowingly sells, or offers for sale, in this state a covered electronic device for which the covered electronic waste recycling fee has not been collected or paid, if the failure to collect the fee was due to the failure of the State Board of Equalization to inform the retailer that the electronic device was subject to the fee.

SEC. 14. Section 25218.9 of the Health and Safety Code is amended to read:

25218.9. On or before October 1 of each year, a public agency, or its contractor, operating a household hazardous waste collection facility shall submit to the CUPA, or, in those jurisdictions where

there is no CUPA, to the officer or agency authorized pursuant to subdivision (f) of Section 25404.3 to implement and enforce the requirements of this chapter listed in paragraph (1) of subdivision (c) of Section 25404, a copy of the completed ~~California Integrated Waste Management Board Form~~ *department Form* 303, which is required to be submitted to ~~that board~~ *the department* for the prior fiscal year pursuant to regulations adopted by ~~that board~~ *the department*. The completed ~~California Integrated Waste Management Board~~ Form 303 shall also be submitted to the department until (1) regulations promulgated by the Secretary for Environmental Protection establishing a unified program information collection and reporting system and standards are effective, (2) the regulations require a statewide data base system that will enable the department and the public to obtain the required information from all CUPAs or the authorized officers or agencies, and (3) the statewide data base system is in place and fully operational.

SEC. 15. Section 25218.10 of the Health and Safety Code is amended to read:

25218.10. The department ~~and the California Integrated Waste Management Board~~ shall ~~jointly~~ develop and maintain a data base of all household hazardous waste collection events, facilities, and programs within the state. The department ~~and the California Integrated Waste Management Board~~ shall ~~both~~ maintain that information~~, as a cooperative effort,~~ and shall make information from the data base available to the public upon request. However, the department ~~and the California Integrated Waste Management Board~~ shall implement this section only to the extent that funds are appropriated therefor by the Legislature.

SEC. 16. Section 25244.6 of the Health and Safety Code is amended to read:

25244.6. The department, in consultation with the State Water Resources Control Board~~,~~ *and* the State Air Resources Board~~, and the California Waste Management Board~~, shall do all of the following:

(a) Implement a program to research, develop, and demonstrate hazardous waste reduction, recycling, and treatment technologies at appropriate locations throughout the state.

(b) On or before January 1, 1987, and, in consultation with industry and interested parties, adopt criteria for selecting projects

which would receive grants to pay for the construction of equipment which would be used to demonstrate hazardous waste reduction, recycling, or treatment technologies. The criteria shall include provisions which require that, in assessing each project, the department consider the feasibility of the project's particular technology, the research and technical spinoffs likely to be generated by the project, the degree to which the findings of the projects can be disseminated and evaluated for replication elsewhere, and the consistency of, and contributions of, the project to the state's hazardous waste management program.

(c) Using the criteria adopted pursuant to subdivision (b), select projects to receive grants to construct equipment which would be used to demonstrate hazardous waste reduction, recycling, or treatment technologies. A grant issued by the department pursuant to this section is not subject to Chapter 2 (commencing with Section 10290) of Part 2 *of Division 2* of the Public Contract Code, including, but not limited to, Section 10295 of the Public Contract Code, or Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code. The department shall select projects which also meet at least one of the following requirements:

(1) The project has onsite, as well as offsite potential, for the reduction, recycling, or treatment of hazardous waste.

(2) The project has the potential to benefit, or be utilized by, small businesses.

(3) The project is applicable to a range of industries.

SEC. 17. Section 25244.15.1 of the Health and Safety Code is amended to read:

25244.15.1. (a) The California Source Reduction Advisory Committee is hereby created and consists of the following members:

(1) The Executive Director of the State Air Resources Board, as an ex officio member.

(2) The Executive Director of the State Water Resources Control Board, as an ex officio member.

(3) The Director of Toxic Substances Control, as an ex officio member.

~~(4) The Executive Director of the Integrated Waste Management Board, as an ex officio member.~~

~~(5)~~

(4) The Chairperson of the California Environmental Policy Council established pursuant to Section 71017 of the Public Resources Code, as an ex officio member.

~~(6)~~

(5) Ten public members with experience in source reduction as appointed by the department. These public members shall include all of the following:

(A) Two representatives of local governments from different regions of the state.

(B) One representative of a publicly owned treatment works.

(C) Two representatives of industry.

(D) One representative of small business.

(E) One representative of organized labor.

(F) Two representatives of statewide environmental advocacy organizations.

(G) One representative of a statewide public health advocacy organization.

~~(7)~~

(6) The department may appoint up to two additional public members with experience in source reduction and detailed knowledge of one of the priority categories of generators selected in accordance with Section 25244.17.1.

(b) The advisory committee shall select one member to serve as chairperson.

(c) The members of the advisory committee shall serve without compensation, but each member, other than officials of the state, shall be reimbursed for all reasonable expenses incurred in the performance of his or her duties, as authorized by the department.

(d) The advisory committee shall meet at least semiannually to provide a public forum for discussion and deliberation on matters pertaining to the implementation of this chapter.

(e) The advisory committee's responsibilities shall include, but not be limited to, the following:

(1) Reviewing and providing consultation and guidance in the preparation of the work plan required by Section 25244.22.

(2) Evaluating the performance and progress of the department's source reduction program.

(3) Making recommendations to the department concerning program activities and funding priorities, and legislative changes, if needed.

(f) The advisory committee established by this section shall be in existence until April 15, 2002, by which date the department shall, in consultation with the advisory committee, evaluate the role and activities of the advisory committee and determine if the committee is beneficial to the implementation of this article. On and after April 15, 2002, the advisory committee shall continue to exist and operate to the extent that the department, in consultation with the advisory committee, determines the advisory committee continues to be beneficial to the operation of the department's source reduction programs.

SEC. 18. Section 25250.1 of the Health and Safety Code is amended to read:

25250.1. (a) As used in this article, the following terms have the following meaning:

(1) (A) "Used oil" means all of the following:

(i) Oil that has been refined from crude oil, or any synthetic oil, that has been used, and, as a result of use or as a consequence of extended storage, or spillage, has been contaminated with physical or chemical impurities.

(ii) Material that is subject to regulation as used oil under Part 279 (commencing with Section 279.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(B) Examples of used oil are spent lubricating fluids that have been removed from an engine crankcase, transmission, gearbox, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine; industrial oils, including compressor, turbine, and bearing oil; hydraulic oil; metalworking oil; refrigeration oil; and railroad drainings.

(C) "Used oil" does not include any of the following:

(i) Oil that has a flashpoint below 100 degrees Fahrenheit or that has been mixed with hazardous waste, other than minimal amounts of vehicle fuel.

(ii) (I) Wastewater, the discharge of which is subject to regulation under either Section 307(b) (33 U.S.C. Sec. 1317(b)) or Section 402 (33 U.S.C. Sec. 1342) of the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), including wastewaters at facilities that have eliminated the discharge of wastewater, contaminated with de minimis quantities of used oil.

(II) For purposes of this clause, "de minimis quantities of used oil" are small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations, or small amounts of oil lost to the wastewater treatment system during washing or draining operations.

(III) This exception does not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases or to used oil recovered from wastewaters.

(iii) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(iv) Oil that contains polychlorinated biphenyls (PCBs) at a concentration of 5 ppm or greater.

(v) (I) Oil containing more than 1000 ppm total halogens, which shall be presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in Subpart D (commencing with Section 261.30) of Part 261 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(II) A person may rebut the presumption specified in subclause (I) by demonstrating that the used oil does not contain hazardous waste, including, but not limited to, in the manner specified in subclause (III).

(III) The presumption specified in subclause (I) is rebutted if it is demonstrated that the used oil that is the source of total halogens at a concentration of more than 1000 ppm is solely either household waste, as defined in Section 261.4(b)(1) of Title 40 of the Code of Federal Regulations, or is collected from conditionally exempt small quantity generators, as defined in Section 261.5 of Title 40 of the Code of Federal Regulations. Nothing in this subclause authorizes any person to violate the prohibition specified in Section 25250.7.

~~(2) "Board" means the California Integrated Waste Management Board.~~

~~(3)~~

(2) (A) "Recycled oil" means any oil that meets all of the following requirements specified in clauses (i) to (iii), inclusive:

(i) Is produced either solely from used oil, or is produced solely from used oil that has been mixed with one or more contaminated petroleum products or oily wastes, other than wastes listed as hazardous under the federal act, provided that if the resultant

mixture is subject to regulation as a hazardous waste under Section 279.10(b)(2) of Title 40 of the Code of Federal Regulations, the mixture is managed as a hazardous waste in accordance with all applicable hazardous waste regulations, and the recycled oil produced from the mixture is not subject to regulation as a hazardous waste under Section 279.10(b)(2) of Title 40 of the Code of Federal Regulations. If the oily wastes with which the used oil is mixed were recovered from a unit treating hazardous wastes that are not oily wastes, these recovered oily wastes are not excluded from being considered as oily wastes for purposes of this section or Section 25250.7.

(ii) The recycled oil meets one of the following requirements:

(I) The recycled oil is produced by a generator lawfully recycling its oil.

(II) The recycled oil is produced at a used oil recycling facility that is authorized to operate pursuant to Section 25200 or 25200.5 solely by means of one or more processes specifically authorized by the department. The department may not authorize a used oil recycling facility to use a process in which used oil is mixed with one or more contaminated petroleum products or oily wastes unless the department determines that the process to be authorized for mixing used oil with those products or wastes will not substantially contribute to the achievement of compliance with the specifications of subparagraph (B).

(III) The recycled oil is produced in another state, and the used oil recycling facility where the recycled oil is produced, and the process by which the recycled oil is produced, are authorized by the agency authorized to implement the federal act in that state.

(iii) Has been prepared for reuse and meets all of the following standards:

(I) The oil meets the standards of purity set forth in subparagraph (B).

(II) If the oil was produced by a generator lawfully recycling its oil or the oil is lawfully produced in another state, the oil is not hazardous pursuant to the criteria adopted by the department pursuant to Section 25141 for any characteristic or constituent other than those listed in subparagraph (B).

(III) The oil is not mixed with any waste listed as a hazardous waste in Part 261 (commencing with Section 261.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(IV) The oil is not subject to regulation as a hazardous waste under the federal act.

(V) If the oil was produced lawfully at a used oil recycling facility in this state, the oil is not hazardous pursuant to any characteristic or constituent for which the department has made the finding required by subparagraph (B) of paragraph (2) of subdivision (a) of Section 25250.19, except for one of the characteristics or constituents identified in the standards of purity set forth in subparagraph (B).

(B) The following standards of purity are in effect for recycled oil, in liquid form, unless the department, by regulation, establishes more stringent standards:

(i) Flashpoint: minimum standards set by the American Society for Testing and Materials for the recycled products. However, recycled oil to be burned for energy recovery shall have a minimum flashpoint of 100 degrees Fahrenheit.

(ii) Total lead: 50 mg/kg or less.

(iii) Total arsenic: 5 mg/kg or less.

(iv) Total chromium: 10 mg/kg or less.

(v) Total cadmium: 2 mg/kg or less.

(vi) Total halogens: 3000 mg/kg or less. However, recycled oil shall be demonstrated by testing to contain not more than 1000 mg/kg total halogens listed in Appendix VIII of Part 261 (commencing with Section 261.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(vii) Total polychlorinated biphenyls (PCBs): less than 2 mg/kg.

(C) Compliance with the specifications of subparagraph (B) or with the requirements of clauses (iv) and (v) of subparagraph (B) of paragraph (1) shall not be met by blending or diluting used oil with crude or virgin oil, or with a contaminated petroleum product or oily waste, except as provided in subclause (II) of clause (ii) of subparagraph (A), and shall be determined in accordance with the procedures for identification and listing of hazardous waste adopted in regulations by the department. Persons authorized by the department to recycle oil shall maintain records of volumes and characteristics of incoming used oil and outgoing recycled oil and documentation concerning the recycling technology utilized to demonstrate to the satisfaction of the department or other enforcement agencies that the recycling has been achieved in compliance with this subdivision.

(D) This paragraph does not apply to oil that is to be disposed of or used in a manner constituting disposal.

~~(4)~~

(3) "Used oil recycling facility" means a facility that reprocesses or re-refines used oil.

~~(5)~~

(4) "Used oil storage facility" means a storage facility, as defined in subdivision (b) of Section 25123.3, that stores used oil.

~~(6)~~

(5) "Used oil transfer facility" means a transfer facility, as defined in subdivision (a) of Section 25123.3, that meets the qualifications to be a storage facility, for purposes of Section 25123.3.

~~(7)~~

(6) (A) For purposes of this section and Section 25250.7 only, "contaminated petroleum product" means a product that meets all of the following conditions:

(i) It is a hydrocarbon product whose original intended purpose was to be used as a fuel, lubricant, or solvent.

(ii) It has not been used for its original intended purpose.

(iii) It is not listed in Subpart D (commencing with Section ~~251.30)~~ *261.30)* of Part 261 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(iv) It has not been mixed with a hazardous waste other than another contaminated petroleum product.

(B) Nothing in this section or Section 25250.7 shall be construed to affect the exemptions in Section 25250.3, or to subject contaminated petroleum products that are not hazardous waste to any requirements of this chapter.

(b) Unless otherwise specified, used oil that meets either of the following conditions is not subject to regulation by the department:

(1) The used oil has not been treated by the generator of the used oil, the generator claims the used oil is exempt from regulation by the department, and the used oil meets all of the following conditions:

(A) The used oil meets the standards set forth in subparagraph (B) of paragraph (3) of subdivision (a).

(B) The used oil is not hazardous pursuant to the criteria adopted by the department pursuant to Section 25141 for any characteristic

or constituent other than those listed in subparagraph (B) of paragraph (3) of subdivision (a).

(C) The used oil is not mixed with any waste listed as a hazardous waste in Part 261 (commencing with Section 261.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

(D) The used oil is not subject to regulation as either hazardous waste or used oil under the federal act.

(E) The generator of the used oil has complied with the notification requirements of subdivision (c) and the testing and recordkeeping requirements of Section 25250.19.

(F) The used oil is not disposed of or used in a manner constituting disposal.

(2) The used oil meets all the requirements for recycled oil specified in paragraph (3) of subdivision (a), the requirements of subdivision (c), and the requirements of Section 25250.19.

(c) Used oil recycling facilities and generators lawfully recycling their own used oil that are the first to claim that recycled oil meets the requirements specified in paragraph (2) of subdivision (b) shall maintain an operating log and copies of certification forms, as specified in Section 25250.19. Any person who generates used oil, and who claims that the used oil is exempt from regulation pursuant to paragraph (1) of subdivision (b), shall notify the department, in writing, of that claim and shall comply with the testing and recordkeeping requirements of Section 25250.19 prior to its reuse. In any action to enforce this article, the burden is on the generator or recycling facility, whichever first claimed that the used oil or recycled oil meets the standards and criteria, and on the transporter or the user of the used oil or recycled oil, whichever has possession, to prove that the oil meets those standards and criteria.

(d) Used oil shall be managed in accordance with the requirements of this chapter and any additional applicable requirements of Part 279 (commencing with Section 279.1) of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations.

SEC. 19. Section 25250.15 of the Health and Safety Code is amended to read:

25250.15. (a) Any person operating a refuse removal vehicle or a curbside collection vehicle used to collect or transport used

oil which has been generated as a household waste or as part of a curbside recycling program, as defined by the ~~board~~ *department*, is exempt from the requirements of Sections 25160 and ~~25250.8~~ *25160.2*, and subdivision (a) of Section 25163 of this code and Chapter 2.5 (commencing with Section 2500) of Division 2 of, Division 14.1 (commencing with Section 32000) of, and subdivision (g) of Section 34500 of, the Vehicle Code.

(b) Refuse removal and other curbside collection operations exempted under subdivision (a) are also exempt from permit requirements pursuant to Article 9 (commencing with Section 25200), if the storage location meets all applicable hazardous waste generator, container, and tank requirements, except for the generator fee requirement specified in subdivision (d).

(c) Used oil collected pursuant to this section shall be deemed to be generated by the storage location upon receipt.

(d) Used oil collected pursuant to this section is exempt from the generator fee imposed pursuant to Section 25205.5.

SEC. 20. Section 25250.18 of the Health and Safety Code is amended to read:

25250.18. (a) Any person who transports recycled oil or oil exempted pursuant to paragraph (1) of subdivision (b) of Section 25250.1 shall maintain with each shipment a certification form, provided by the department, which contains all of the following information:

(1) The name and address of the used oil recycling facility or generator claiming the oil meets the requirements of Section 25250.1.

(2) The name and address of the facility receiving the shipment.

(3) The quantity of oil delivered.

(4) The date of shipment or delivery.

(5) A cross-reference to the records and documentation required under Section 25250.1.

(b) Certification forms required in subdivision (a) shall be maintained for three years and are subject to an audit and verification by the department ~~or the board~~.

SEC. 21. Section 25250.19 of the Health and Safety Code is amended to read:

25250.19. (a) (1) A used oil recycler shall test all recycled oil in accordance with paragraph (2), prior to transportation from the recycling facility, pursuant to applicable methods in the

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

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

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

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

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

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

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

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

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

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

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

(2) Testing to meet the requirements in subparagraph (B) of paragraph (1) of subdivision (b) of Section 25250.1 is not required for dielectric fluid, derived from highly refined petroleum mineral oil, from oil-filled electrical equipment if the generator of the dielectric fluid has certified based on prior test results that the dielectric fluid from similar equipment subject to similar operating conditions did not exhibit the characteristic of toxicity as set forth in Section 66261.24 of Title 22 of the California Code of Regulations. A certification statement shall accompany each shipment of used oil that the generator claims is exempted. Records of prior tests on which the certification is based shall be maintained with the certification by the generator and are subject to audit and verification by the department~~,~~ *or* the unified program agency~~, or the board~~.

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

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

(e) (1) If oil produced at a used oil recycling facility in this state meets the standards of purity set forth in subparagraph (B) of paragraph (3) of subdivision (a) of Section 25250.1 and is not hazardous due to the presence of a characteristic or constituent for which the department has made a finding required by subparagraphs (A) and (B) of paragraph (2) of subdivision (a), but the oil is hazardous due to the presence of another constituent or characteristic, the facility operator shall not be subject to a penalty pursuant to this chapter for failing to manage the oil as a hazardous waste, unless both of the following apply:

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

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

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

SEC. 22. Section 33459.1 of the Health and Safety Code is amended to read:

33459.1. (a) (1) An agency may take any actions that the agency determines are necessary and that are consistent with other state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to the conditions specified in subdivision (b). Unless an administering agency has been designated under Section 25262, the agency shall request cleanup guidelines from the department or the California regional water quality control board before taking action to remedy or remove a release. The department or the California regional water quality control board shall respond to the agency's request to provide cleanup guidelines within a reasonable period of time. The agency shall thereafter submit for approval a cleanup or remedial action plan to the department or the California regional water quality control board before taking action to remedy or

remove a release. The department or the California regional water quality control board shall respond to the agency's request for approval of a cleanup or remedial action plan within a reasonable period of time.

(2) The agency shall provide the department and local health and building departments, the California regional water quality control board, with notification of any cleanup activity pursuant to this section at least 30 days before the commencement of the activity. If an action taken by an agency or a responsible party to remedy or remove a release of a hazardous substance does not meet, or is not consistent with, a remedial action plan or cleanup plan approved by the department or the California regional water quality control board, the department or the California regional water quality control board that approved the cleanup or remedial action plan may require the agency to take, or cause the taking of, additional action to remedy or remove the release, as provided by applicable law. If an administering agency for the site has been designated under Section 25262, any requirement for additional action may be imposed only as provided in Sections 25263 and 25265. If methane or landfill gas is present, the agency shall obtain written approval from the ~~California Integrated Waste Management Board~~ *department* prior to taking that action.

(b) Except as provided in subdivision (c), an agency may take the actions specified in subdivision (a) only under one of the following conditions:

(1) There is no responsible party for the release identified by the agency.

(2) A party determined by the agency to be a responsible party for the release has been notified by the agency or has received adequate notice from the department, a California regional water quality control board, the Environmental Protection Agency, or other governmental agency with relevant authority and has been given 60 days to respond and to propose a remedial action plan and schedule, and the responsible party has not agreed within an additional 60 days to implement a plan and schedule to remedy or remove the release that is acceptable to the agency and that has been found by the agency to be consistent, to the maximum extent possible, with the priorities, guidelines, criteria, and regulations contained in the National Contingency Plan and published pursuant

to Section 9605 of Title 42 of the United States Code for similar releases, situations, or events.

(3) The party determined by the agency to be the responsible party for the hazardous substance release entered into an agreement with the agency to prepare a remedial action plan for approval by the department, the California regional water quality control board, or the appropriate local agency and to implement the remedial action plan in accordance with an agreed schedule, but failed to prepare the remedial action plan, failed to implement the remedial action plan in accordance with the agreed schedule, or otherwise failed to carry out the remedial action in an appropriate and timely manner. Any action taken by the agency pursuant to this paragraph shall be consistent with any agreement between the agency and the responsible party and with the requirements of the state or local agency that approved or will approve the remedial action plan and is overseeing or will oversee the preparation and implementation of the remedial action plan.

(c) Subdivision (b) does not apply to either of the following agencies:

(1) An agency taking actions to investigate or conduct feasibility studies concerning a release.

(2) An agency taking the actions specified in subdivision (a) if the agency determines that conditions require immediate action.

(d) An agency may designate a local agency in lieu of the department or the California regional water quality control board to review and approve a cleanup or remedial action plan and to oversee the remediation or removal of hazardous substances from a specific hazardous substance release site in accordance with the following conditions:

(1) The local agency may be so designated if it is designated as the administering agency under Section 25262. In that event, the local agency, as the administering agency, shall conduct the oversight of the remedial action in accordance with Chapter 6.65 (commencing with Section 25260) *of Division 20* and all provisions of that chapter shall apply to the remedial action.

(2) The local agency may be so designated if cleanup guidelines were requested from a California regional water quality control board, and the site is an underground storage tank site subject to Chapter 6.7 (commencing with Section 25280) of Division 20, the local agency has been certified as a certified unified program

agency pursuant to Section 25404.1, the State Water Resources Control Board has entered into an agreement with the local agency for oversight of those sites pursuant to Section 25297.1, the local agency determines that the site is within the guidelines and protocols established in, and pursuant to, that agreement, and the local agency consents to the designation.

(3) A local agency may not consent to the designation by an agency unless the local agency determines that it has adequate staff resources and the requisite technical expertise and capabilities available to adequately supervise the remedial action.

(4) (A) Where a local agency has been designated pursuant to paragraph (2), the department or a California regional water quality control board may require that a local agency withdraw from the designation, after providing the agency with adequate notice, if both of the following conditions are met:

(i) The department or a California regional water quality control board determines that an agency's designation of a local agency was not consistent with paragraph (2), or makes one of the findings specified in subdivision (d) of Section 101480.

(ii) The department or a California regional water quality control board determines that it has adequate staff resources and capabilities available to adequately supervise the remedial action, and assumes that responsibility.

(B) Nothing in this paragraph prevents a California regional water quality control board from taking any action pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(5) Where a local agency has been designated pursuant to paragraph (2), the local agency may, after providing the agency with adequate notice, withdraw from its designation after making one of the findings specified in subdivision (d) of Section 101480.

(e) To facilitate redevelopment planning, the agency may require the owner or operator of any site within a project area to provide the agency with all existing environmental information pertaining to the site, including the results of any Phase I or subsequent environmental assessment, as defined in Section 25200.14, any assessment conducted pursuant to an order from, or agreement with, any federal, state or local agency, and any other environmental assessment information, except that which is determined to be privileged. The person requested to furnish the information shall be required only to furnish that information as

may be within their possession or control, including actual knowledge of information within the possession or control of any other party. If environmental assessment information is not available, the agency may require the owner of the property to conduct an assessment in accordance with standard real estate practices for conducting phase I or phase II environmental assessments.

SEC. 23. Section 39762 of the Health and Safety Code is amended to read:

39762. (a) (1) The Agricultural Biomass Utilization Account is hereby created in the Department of Food and Agriculture Fund.

(2) The sum of two million dollars ($2,000,000) is hereby appropriated from the General Fund to the Agricultural Biomass Utilization Account for expenditure for the purposes identified in subdivision (b).

(b) The account shall be administered by the department, in consultation with the State Air Resources Board and the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control*, for the purpose of providing grants to persons that utilize agricultural biomass as a means of avoiding landfill use, preventing air pollution, and enhancing environmental quality.

(c) Moneys in the account shall include moneys transferred from the General Fund pursuant to subdivision (a) and any moneys solicited by the secretary from other sources.

(d) The secretary shall actively solicit funds from other federal, state, and private sources with the goal of initially supplementing and eventually supplanting the appropriation from the General Fund made pursuant to subdivision (a).

(e) The department may implement similar grant programs for other commodity groups that are used for the purposes set forth in paragraphs (1) to (6), inclusive, of subdivision (e) of Section 39763.

(f) The department shall not utilize more than 7 percent of the funds described in subdivision (a) for the administration of the account.

SEC. 24. Section 39763 of the Health and Safety Code is amended to read:

39763. (a) The funds appropriated by paragraph (2) of subdivision (a) of Section 39762, less administrative costs, shall be dedicated for grants to persons that utilize rice straw.

(b) Grants shall be provided pursuant to this chapter in a manner to be determined by the department, and shall include, but shall not be limited to, grants on a per-ton basis and a per-project basis.

(c) On or before July 1 of each year, the secretary shall set the per-ton grant level in an amount of not less than twenty dollars ($20) per ton of rice straw so utilized.

(d) Grants shall not be provided pursuant to this section for the purchase of any rice straw for which a tax credit has been claimed pursuant to Section 17052.10 of the Revenue and Taxation Code.

(e) A per-ton grant may be provided pursuant to this chapter only if the applicant is the "end-user" of agricultural biomass. For purposes of this subdivision, "end user" means a person who uses agricultural biomass for any of the following purposes:

(1) Processing.

(2) Generating energy.

(3) Manufacturing.

(4) Exporting.

(5) Preventing erosion.

(6) Any other environmentally sound purpose, excluding open-field burning, as determined to be appropriate by the department.

(f) Criteria to be considered by the department in determining whether to award a grant pursuant to this chapter shall include, but shall not be limited to, the following:

(1) Quantity of biomass to be utilized.

(2) Whether the proposed use offers other environmental or public policy benefits, including but not limited to, landfill avoidance, pollution prevention, electrical generation, and sustainability.

(3) The degree to which the proposed grant would assist in moving the commodity group toward an eventual free market utilization of biomass without the assistance of government.

(g) The secretary shall select grant recipients in consultation with the State Air Resources Board, the ~~Integrated Waste Management Board~~ *Department of Toxic Substances Control*, and the advisory committee created pursuant to subdivision (*l*) of Section 41865 from a list of potential grantees recommended by the Department of Food and Agriculture.

SEC. 25. Section 41705 of the Health and Safety Code, as amended by Section 144 of Chapter 664 of the Statutes of 2002, is amended to read:

41705. (a) Section 41700 does not apply to odors emanating from any of the following:

(1) Agricultural operations necessary for the growing of crops or the raising of fowl or animals.

(2) Operations that produce, manufacture, or handle compost, as defined in Section 40116 of the Public Resources Code, if the odors emanate directly from the compost facility or operations.

(3) Operations that compost green material or animal waste products derived from agricultural operations, and that return similar amounts of the compost produced to that same agricultural operations source, or to an agricultural operations source owned or leased by the owner, parent company, or subsidiary conducting the composting operation. The composting operation may produce an incidental amount of compost not exceeding 2,500 cubic yards of compost, which may be given away or sold annually.

(b) If a district receives a complaint pertaining to an odor emanating from a compost operation exempt from Section 41700 pursuant to paragraph (2) or (3) of subdivision (a), that is subject to the jurisdiction of an enforcement agency under Division 30 (commencing with Section 40000) of the Public Resources Code, the district shall, within 24 hours or by the next working day, refer the complaint to the enforcement agency.

(c) This section shall become inoperative on April 1, 2003, unless the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control* adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) of Section 43209.1 of the Public Resources Code on or prior to that date.

SEC. 26. Section 41705 of the Health and Safety Code, as amended by Section 145 of Chapter 664 of the Statutes of 2002, is amended to read:

41705. (a) Section 41700 shall not apply to odors emanating from agricultural operations necessary for the growing of crops or the raising of fowl or animals.

(b) This section shall become operative on April 1, 2003, unless the ~~California Integrated Waste Management Board~~ *Department*

of Toxic Substances Control adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) of Section 43209.1 of the Public Resources Code on or prior to that date.

SEC. 27. Section 41805.5 of the Health and Safety Code is amended to read:

41805.5. (a) Except as provided in subdivisions (b) and (c), the operator of a solid waste disposal site shall submit to the district on or before July 1, 1987, a solid waste air quality assessment test report that contains all of the following:

(1) Test results to determine if there is any underground landfill gas migration beyond the solid waste disposal site's perimeter.

(2) Analyses for specified air contaminants in the ambient air adjacent to the solid waste disposal site to determine the effect of the site on air quality.

(3) Chemical characterization test results to determine the composition of gas streams immediately above the solid waste disposal site, or immediately above the solid waste disposal site and within the solid waste disposal site, as appropriate, as determined by the district.

(4) Any other information that the district board requires, by emergency regulation.

The solid waste air quality assessment test report shall be prepared in accordance with the guidelines developed by the state board pursuant to subdivision (d).

(b) The operator of an inactive solid waste disposal site shall complete and submit the screening questionnaire, developed pursuant to subdivision (e), to the district on or before November 1, 1986, unless the operator is required to submit a report containing the same information specified in subdivision (a) pursuant to a federal, state, or district order, or unless exempted pursuant to subdivision (c). The district shall evaluate the submitted screening questionnaires in accordance with the guidelines developed pursuant to subdivision (e) and shall determine whether the operator of the site is required to submit all, or a portion of, the information required to be reported in a solid waste air quality assessment test report. The district shall notify the operator in writing on or before January 1, 1987, of the information identified in subdivision (a) to be submitted for the site. After receiving this notification, the operator of the inactive solid waste disposal site

shall submit a solid waste air quality assessment test report containing the required information on or before January 1, 1988, to the district.

(c) A district may exempt from subdivisions (a) and (b) a solid waste disposal site or inactive solid waste disposal site that has accepted or now contains only inert and nondecomposable solids. To receive an exemption, the operator of the site shall submit, on or before November 1, 1986, a copy of all permits, all waste discharge requirements pertinent to the site, and any other data necessary for the district to determine whether an exemption should be granted to the site.

(d) On or before February 1, 1987, the state board, in coordination with the districts, shall develop and publish test guidelines for the solid waste air quality assessment report specifying the air contaminants to be tested for and identifying acceptable testing, analytical, and reporting methods to be employed in completing the report.

(e) On or before October 1, 1986, the state board, in coordination with the districts, shall develop and publish a screening questionnaire for inactive solid waste disposal sites and guidelines for evaluating the questionnaire by the districts pursuant to subdivision (b). The screening questionnaire and guidelines shall require an inactive solid waste disposal site to be evaluated based on the nature and age of materials in the site, the quantity of materials in the site, the size of the site, and other appropriate factors. The guidelines for evaluating the screening questionnaire shall require a district to weigh heavily the proximity of the site to residences, schools, and other sensitive areas, and to pay particular attention to potential adverse impacts on facilities such as hospitals and schools, and on residential areas, within one mile of the site's perimeter.

(f) A district may reevaluate the status of a solid waste disposal site, including sites exempted pursuant to subdivision (c), and require the operator to submit or revise a solid waste air quality assessment test report after January 1, 1987. The district shall give written notification to the operator of the solid waste disposal site that a solid waste air quality assessment test report is to be submitted, or that the existing report is to be revised, and the date by which the report is to be submitted.

(g) A district shall evaluate any solid waste air quality assessment test reports submitted pursuant to subdivisions (a), (b), and (f), and determine if the report's testing, analytical, and reporting methods comply with the guidelines developed pursuant to subdivision (d). If the district determines that the solid waste air quality assessment test report complies with the guidelines, it shall evaluate the data. If the district determines, after evaluation of the report and consultation with the state department and the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control*, that levels of one or more specified air contaminants pose a health risk to human beings or a threat to the environment, the district shall take appropriate remedial action.

(h) If a district determines that a solid waste air quality assessment test report does not comply with the guidelines developed pursuant to subdivision (d), the district shall provide the operator of the site with a written notice specifying the inadequacies of the report and shall require the operator to correct the deficiencies and resubmit the report by a date determined by the district.

(i) For the purpose of this section, the following definitions apply:

(1) "Inactive solid waste disposal site" means a solid waste disposal site that has not received any solid waste for disposal after January 1, 1984.

(2) "Landfill gas" means any untreated, raw gas derived through a natural process from the decomposition of organic waste deposited in a solid waste disposal site or from the evolution of volatile species in the waste.

(3) "Operator" means the person who operates or manages, or who has operated or managed, the solid waste disposal site. If the operator of the solid waste disposal site no longer exists, or is unable, as determined by the district, to comply with the requirements of this section, "operator" means any person who owns or who has owned the solid waste disposal site.

(4) "Perimeter" means the outer boundary of the entire solid waste disposal site property.

(5) "Solid waste disposal site" means a place, location, tract of land, area, or premises in use, or which has been used, for the landfill disposal of solid waste, as defined in Section 40191 of the

Public Resources Code, or hazardous waste, as defined in Section 40141 of the Public Resources Code, or both.

(6) "Specified air contaminants" means substances determined to be air contaminants by the state board in coordination with the districts. The state board and the districts shall consider determining the following compounds to be air contaminants for purposes of this paragraph: benzene, chloroethene, 1,2-dibromoethane, 1,2-dichloroethane benzyl chloride, chlorobenzene, dichlorobenzene, 1,1-dichloroethene, dichloromethane, formaldehyde, hydrogen sulfide, tetrachloroethylene, tetrachloromethane, toluene, 1,1,1-trichloroethan e, trichloroethylene, trichloromethane, xylene, and any other substance deemed appropriate by the state board or a district.

SEC. 28. Section 41865.5 of the Health and Safety Code is amended to read:

41865.5. ~~Notwithstanding Section 7550.5 of the Government Code, on~~ *On* or before January 1, 2001, the State Air Resources Board, in consultation with the Department of Food and Agriculture, and in cooperation with the State Energy Resources Conservation and Development Commission and the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control*, shall prepare and submit to the Legislature recommendations for ensuring consistency and predictability in the supply of rice straw for cost-effective uses, including, but not limited to, recommendations for methods of harvesting, storing, and distributing rice straw for off-field uses. Off-field uses may include, but are not limited to, the production of energy and fuels, construction materials, pulp and paper, and livestock feed.

SEC. 29. Section 10507.5 of the Public Contract Code is amended to read:

10507.5. It is the intent of the Legislature to encourage the procurement of recycled paper products by the University of California by developing guidelines to encourage the procurement of recycled paper products where suitable for the uses intended and where the quality is equal and the price is equal or less than nonrecycled paper products. It is also the intent of the Legislature that the regents report annually to the Legislature, the Governor, and the California Integrated Waste Management Board *or its successor department*, commencing January 1, 1991, on the

percentage of the total dollar amount of recycled paper products purchased or procured under this article.

SEC. 30. Section 12153 of the Public Contract Code is amended to read:

12153. The Legislature finds and declares all of the following:

(a) It is the policy of the state to conserve and protect resources for future citizens as well as the current population of the state.

(b) It is in the best interest of the people of the state that the state alter its perception of solid waste to instead look upon this waste as resources that can be recovered and reused.

(c) It is in the best interest of reducing the increasing burden on communities disposing of the state's solid waste for the state to take a role in developing an integrated state solid waste management policy, which includes source reduction, recycling, composting, market development, incineration, and landfills. Since recycling is a necessary component of this policy, the state shall encourage the use of recycled products to ensure that the state's industries have sufficient and adequate markets for products regeneratively utilizing the state's solid waste as recycled resources.

(d) It is the policy of the state to encourage the expansion of businesses located in California and, to whatever extent possible, to look favorably on California businesses in the recycling industry, which include, but are not limited to, those California businesses that manufacture, distribute, or act as brokers for, recycled products.

(e) Market development is the key to moving beyond the uneven collection of recyclable materials to stable resource recovery and reuse. Because of existing local collection programs, significant quantities of recycled resources such as the following are today available for purchase: fine grades of paper, high-quality paper products, plastics, retreaded automobile tires, rerefined lubricating oil, reused automotive parts, reclaimed solvents, recycled asphalt, recycled concrete, carpet or geotextiles composed of recycled plastics, compost and ~~co-compost~~ *cocompost* products, and steel products.

(f) In making these findings, the Legislature declares that the policy and intent of this chapter is to set an example for the state and nation to encourage the purchase of products utilizing recycled resources.

(g) It is the intent of the Legislature, whenever economically feasible and as markets allow, to continually expand the policies of the state to utilize recycled resources in the daily operations of the state. This includes, but is not limited to, the procurement and purchase of recycled materials, the use of recycled resources in the performance of a service or project for the state, and the purchase of equipment used for the collection and sale of waste materials generated by the state.

(h) It is the intent of the Legislature that the Department of General Services work with all state departments, agencies, the Legislature, ~~the California Integrated Waste Management Board,~~ and the Department of Conservation to draft, establish, and implement policies that ensure the procurement and use of recycled resources.

(i) It is also the intent of the Legislature to encourage local public agencies and private companies to adopt policies to maximize the use of recycled resources.

SEC. 31. Section 12164.5 of the Public Contract Code is amended to read:

12164.5. (a) It is the intent of the Legislature that for the current state waste paper collection program, the ~~California Integrated Waste Management Board~~ *Department of Conservation* shall provide participating locations with public information awareness and training to state and legislative employees. Additionally, the ~~California Integrated Waste Management Board~~ *Department of Conservation* shall provide training for personnel, including but not limited to, state and buildings and grounds personnel, responsible for the collection of waste materials. This training shall include, but is not limited to, educating and training the personnel concerning the separation and collection of recyclable materials.

(b) It is also the intent of the Legislature that the ~~California Integrated Waste Management Board~~ *Department of Conservation* continue the current state waste paper collection program and use this program as a model to develop a plan for other waste materials generated by state and legislative employees.

~~(c) It is also the intent of the Legislature that the department, in consultation with the California Integrated Waste Management Board, shall submit a new recycling plan, which includes but is not limited to, the collection and sale of waste materials generated~~

~~by state and legislative employees. This plan shall be submitted to the appropriate legislative policy committees on or before August 31, 1990. The plan may be phased in utilizing those office facilities and collecting those waste materials most conducive to operation of a source separation program, but shall be fully implemented by June 1, 1991.~~

SEC. 32. Section 12165 of the Public Contract Code is amended to read:

12165. (a) ~~After implementing a recycling plan pursuant to subdivision (c) of Section 12164.5, the California Integrated Waste Management Board~~ *The Department of Conservation* shall establish, implement, and maintain a recycling plan for the Legislature, which may include all legislative offices and individual members' district offices; all state offices whether in state-owned buildings or leased facilities in Sacramento, Los Angeles, and San Francisco Counties; and in any other areas that the ~~board~~ *Department of Conservation* determines to be feasible. The plan shall include the provisions for the recycling of office paper, corrugated cardboard, newsprint, beverage containers (as defined in Section 14503 of the Public Resources Code), waste oil, and any other material at the discretion of the ~~board~~ *Department of Conservation*.

(b) ~~The collection program for each product and each location shall be reevaluated by the board on or before January 1, 1994. Subsequently, the board~~ *The Department of Conservation*, upon the determination that inclusion of any particular material type would result in a net revenue loss to the state, shall have the discretion to exclude that material from the program, and shall report its conclusions and recommendations to the Legislature. In determining the net revenue loss for the collection of a specified waste material, the ~~board~~ *Department of Conservation* shall include the avoided cost to dispose of the waste material. The plan shall provide either for the collection and sale of materials to private brokers, recycling plants, or nonprofit organizations, or the operation of these entities by the state, or a combination thereof. The plan shall be implemented at the earliest possible date.

(c) The ~~board~~ *Department of Conservation* shall provide participating locations with public awareness information and training to state and legislative employees, including, but not limited to, the proper separation and disposal of recyclable

resources. Additionally, the ~~board~~ *Department of Conservation* shall provide training for personnel, including, but not limited to, state buildings and grounds personnel, responsible for the collection of waste materials. This training shall include, but is not limited to, educating and training the personnel concerning the separation and collection of recyclable materials.

(d) No individual, group of individuals, state office, agency, or its employees shall establish a similar collection program or enter into agreement for a similar program unless approved by the ~~board~~ *Department of Conservation*.

SEC. 33. Section 12166 of the Public Contract Code is amended to read:

12166. The ~~California Integrated Waste Management Board~~ *Department of Conservation* may contract as necessary for the recycling of products which have been returned pursuant to Section 12165.

SEC. 34. Section 12167 of the Public Contract Code is amended to read:

12167. Revenues received from this plan or any other activity involving the collection and sale of recyclable materials in state and legislative offices located in state-owned and state-leased buildings, such as the sale of waste materials through recycling programs operated by the ~~California Integrated Waste Management Board~~ *Department of Conservation* or in agreement with the ~~board~~ *Department of Conservation*, shall be deposited in the ~~Integrated~~ *Conservation* Waste Management Account in the ~~Integrated~~ *Conservation* Waste Management Fund and ~~are hereby continuously appropriated to the board, without regard to fiscal years, until June 30, 1994, for the purposes of offsetting recycling program costs. On and after July 1, 1994, the funds in the Integrated Waste Management Account~~ may be expended by the ~~board~~ *Department of Conservation*, only upon appropriation by the Legislature, for the purpose of offsetting recycling program costs.

SEC. 35. Section 12167.1 of the Public Contract Code is amended to read:

12167.1. Notwithstanding Section 12167, upon approval by the ~~California Integrated Waste Management Board~~ *Department of Conservation*, revenues derived from the sale of recyclable materials by state agencies and institutions that do not exceed two

thousand dollars ($2,000) annually are hereby continuously appropriated, without regard to fiscal years, for expenditure by those state agencies and institutions for the purposes of offsetting recycling program costs. Revenues that exceed two thousand dollars ($2,000) annually shall be available for expenditure by those state agencies and institutions when appropriated by the Legislature. Information on the quantities of recyclable materials collected for recycling shall be provided to the ~~board~~ *Department of Conservation* on an annual basis according to a schedule determined by the ~~board~~ *Department of Conservation* and participating agencies.

SEC. 36. Section 12200 of the Public Contract Code is amended to read:

12200. For the purpose of this article, the following definitions shall apply:

~~(a) "Board" means the California Integrated Waste Management Board, as defined pursuant to Section 40110 of the Public Resources Code.~~

~~(b)~~

(a) "Business" includes bidders, contractors, and other interested parties that provide services to, or sell products to, the state.

~~(c)~~

(b) "Department" means the Department of General Services.

~~(d)~~

(c) "Director" means the Director of General Services.

~~(e)~~

(d) "Postconsumer material" means a finished material that would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes.

~~(f)~~

(e) "Product categories" include paper products, printing, and writing papers, compost, cocompost, or mulch, glass, oil, plastic, paint, tires, tire-derived products, antifreeze, and metal.

~~(g)~~

(f) "Purchase" means any contractual agreement that state agencies use to obtain goods or materials.

~~(h)~~

(g) "Recycled products" mean goods or materials that meet the requirements identified in Section 12209, including any good or

material that has been reused or refurbished without substantial alteration of its original form.

~~(i)~~

(h) "Reportable purchase" means the purchase of any goods or materials, with recycled content or not, that may be reported or categorized or classified within one of the product categories identified in Section 12207.

~~(j)~~

(i) "Reportable recycled product purchase" means the purchase of any goods or materials that meet the requirements identified in Section 12209, that may be reported or categorized or classified within one of the product categories identified in Section 12207, including any good or material that has been reused or refurbished without substantial alteration of its original form.

~~(k)~~

(j) "SABRC" means the State Agency Buy Recycled Campaign.

~~(l)~~

(k) "Secondary material" means fragments of finished products or finished products of a manufacturing process, that has converted a resource into a commodity of real economic value, but does not include excess virgin resources of the manufacturing process, such as fibers recovered from wastewater, trimmings of paper machine rolls, mill broke, plastic, or metal trimmings, or shavings, or other residue from a manufacturing process. Secondary material does not include postconsumer material, so that the secondary material plus the postconsumer material plus the virgin material adds up to 100 percent of the product.

~~(m)~~

(l) "State agency" means each entity identified in Section 11000 of the Government Code, and includes the California State University.

SEC. 37. Section 12207 of the Public Contract Code is amended to read:

12207. This article applies to the purchase of goods and materials from the following product categories:

(a) Paper products, including, but not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, and hanging files, building insulation and panels, corrugated boxes, tissue, and toweling.

(b) Printing and writing papers including, but not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications.

(c) Mulch, compost, and cocompost products including soil amendments, erosion controls, soil toppings, ground covers, weed suppressants, and organic materials used for water conservation.

(1) "Compost" means a product that meets the following requirements:

(A) It results from the controlled biological decomposition of organic materials, including, but not limited to, yard trimmings and wood byproducts that are separated from the municipal solid waste stream at the source of generation or at a centralized facility, or other source of organic materials.

(B) It is produced by a public or private supplier that is in compliance with the ~~board's~~ *Department of Conservation's* composting operations regulatory requirements.

(2) "Cocompost" means a product that meets the following requirements:

(A) It results from the controlled biological decomposition of a blend of organic materials, including, but not limited to, yard trimmings and wood byproducts that are separated from the municipal solid waste stream at the source of generation or at a centralized facility, and also including, but not limited to, biosolids or other comparable substitutes such as livestock, horse, or other animal manure, food residues, or fish processing byproducts.

(B) It is produced by a public or private supplier that is in compliance with the ~~board's~~ composting operations regulatory requirements *of the Department of Conservation*.

(3) "Mulch" means a product that meets the following requirements:

(A) It results from the mechanical breakdown (chipping and grinding) of materials, including, but not limited to, yard trimmings and wood byproducts that are separated from the municipal solid waste stream at the source of generation or at a centralized facility.

(B) It is produced by a public or private supplier that is in compliance with the ~~board's~~ *Department of Conservation's* composting operations regulatory requirements.

(d) Glass products including, but not limited to, windows, test tubes, beakers, laboratory or hospital supplies, fiberglass (insulation), reflective beads, tiles, construction blocks, desktop accessories, flat glass sheets, loose-grain abrasives, deburring media, liquid filter media, and containers.

(e) Lubricating oils including, but not limited to, any oil intended for use in a crankcase, transmission, engine, power steering, gearbox, differential chainsaw, transformer dielectric fluid, cutting, hydraulic, industrial, or automobile, bus, truck, vessel, plane, train, heavy equipment, or machinery powered by an internal combustion engine.

(f) (1) Plastic products including, but not limited to, printer or duplication cartridges, diskette, carpet, office products, plastic lumber, buckets, wastebaskets, containers, benches, tables, fencing, clothing, mats, packaging, signs, posts, binders, sheet, buckets, building products, garden hose, and trays.

(2) For purposes of this subdivision, "printer or duplication cartridges" has the same meaning as described in paragraph (2) of subdivision (f) of Section 12209.

(g) Paint, including, but not limited to, water-based paint, graffiti abatement, interior and exterior, and maintenance.

(h) Antifreeze, including recycled antifreeze, and antifreeze containing a bittering agent or made from polypropylene or other similar nontoxic substance.

(i) Tires including, but not limited to, truck and bus tires, and those used on fleet vehicles and passenger cars.

(j) Tire-derived products including, but not limited to, flooring, mats, wheelchair ramps, playground cover, parking bumpers, bullet traps, hoses, bumpers, truck bedliners, pads, walkways, tree ties, road surfacing, wheel chocks, rollers, traffic control products, mudflaps, and posts.

(k) Metal including, but not limited to, staplers, paper clips, steel furniture, desks, pedestals, scissors, jacks, rebar, pipe, plumbing fixtures, chairs, ladders, file cabinets, shelving, containers, lockers, sheet metal, girders, building and construction products, bridges, braces, nails, and screws.

SEC. 38. Section 12211 of the Public Contract Code is amended to read:

12211. (a) Each state agency shall report annually to the ~~board~~ *Department of Conservation* their progress in meeting the recycled

product purchasing requirements using the SABRC report format provided by the ~~board~~ *Department of Conservation*.

(b) On or before October 31 of each year, the department shall provide to the ~~board~~ *Department of Conservation* the following information:

(1) A list, by category, of individual reportable recycled products, materials, goods, and supplies that were available for purchase by state agencies from a statewide-use contract, agreement, or schedule during the previous fiscal year.

(2) A list, by category, of all reportable products, materials, goods, and supplies that were available for purchase by state agencies from a statewide-use contract, agreement, or schedule, including contract, agreement, or schedule tracking numbers, during the previous fiscal year.

(c) The ~~board~~ *Department of Conservation* shall annually provide an agency-specific report to the Legislature identifying all state agency SABRC reporting figures.

(d) Every three years, the ~~board~~ *Department of Conservation* shall provide, as part of the report described in subdivision (c), recommendations to the Legislature for changes necessary to increase the purchase of recycled content products, materials, goods, and supplies and improve SABRC program efficiency.

SEC. 39. Section 12215 of the Public Contract Code is amended to read:

12215. Each state agency may, at the discretion of the individual agency director or his or her designee, print a statement on recycled products selected by the agency director. This statement shall be determined by the department, in consultation with the ~~board~~ *Department of Conservation*, and shall be similar to the following: "Contains at least ____ percent postconsumer material."

SEC. 40. Section 12217 of the Public Contract Code is amended to read:

12217. (a) If at any time a requirement has not been met, the department, in consultation with the ~~board~~ *Department of Conservation*, shall review purchasing policies and shall make recommendations for immediate revisions to ensure that the recycled product purchasing requirements are met.

(b) In determining purchasing specifications, with the exception of any specifications that have been established to preserve the

public health and safety, all state purchasing specifications shall be established in a manner that results in the maximum state purchase of recycled products.

(c) If a recycled product, as defined in subdivision (h) of Section 12200, costs more than the same product made with virgin material, the state agency shall, if feasible, purchase fewer of those more costly products or apply the cost savings, if any, gained from buying other recycled products towards the purchase of those more costly products to meet the solid waste diversion goals of Section 41780 *of the Public Resources Code*.

(d) Each state agency shall establish purchasing practices that ensure the purchase of goods and materials that may be recycled or reused. Each state agency shall continue activities for the collection, separation, and recycling of recyclable materials and may appoint a recycling coordinator to assist in implementing this section.

(e) To assist the state in meeting the requirements of this article, each state agency, and the department, in consultation with the ~~board~~ *Department of Conservation*, may also establish recycled product-only bids, cooperative purchasing arrangements, or other mechanisms to meet the requirements for recycled products and to encourage the maximum state purchase of recycled products.

(f) The department, in consultation with the ~~board~~ *Department of Conservation*, shall review and revise the purchasing specifications used by state agencies in order to eliminate restrictive specifications and discrimination against the purchase of recycled products and to ensure that they are drafted in a manner that results in the maximum state purchase of recycled products. All contract provisions impeding the consideration of recycled products shall be deleted in favor of performance standards.

(g) Any state agency that is required to submit an SABRC report to the ~~board~~ *Department of Conservation*, pursuant to Section 12211, is subject to a review conducted by the ~~board~~ *Department of Conservation* or its designee.

SEC. 41. Section 12301 of the Public Contract Code is amended to read:

12301. The following definitions govern the interpretation of this chapter:

(a) "Department" means the Department of General Services.

~~(b) "Board" means the California Integrated Waste Management Board, as defined pursuant to Section 40110 of the Public Resources Code.~~

~~(c)~~

(b) "Recycled paper product" means all paper and woodpulp products containing postconsumer and secondary materials. "Postconsumer material" means a finished material that would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process. "Recycled paper product" means a paper product with not less than 50 percent, by fiber weight, consisting of secondary and postconsumer material with not less than 10 percent of fiber weight consisting of postconsumer material.

For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, and for other uncoated printing and writing papers, such as writing and office paper, book paper, cotton fiber paper containing 25 to 75 percent cotton fiber, and cover stock, the minimum content standard shall be no less than 20 percent of fiber weight of postconsumer materials beginning December 31, 1994. The minimum content standard shall be increased to 30 percent of fiber weight of postconsumer materials beginning on December 31, 1998.

~~(d)~~

(c) (1) Except as provided in paragraph (2), "recycled product" means all materials, goods, and supplies, excluding paper products, no less than 50 percent of the total weight of which consists of secondary and postconsumer material with not less than 10 percent of its total weight consisting of postconsumer material. A recycled product shall include any product that could have been disposed of as solid waste having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of its form. "Postconsumer material" means a finished

material that would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes postconsumer material, but does not include excess virgin resources of the manufacturing process.

(2) "Recycled product" also means other flat rolled steel products no less than 25 percent of the total weight of which consists of secondary and postconsumer material, with not less than 10 percent of total weight consisting of postconsumer material. Products made with flat rolled steel meeting these content percentages include, but are not limited to, automobiles, cans, appliances, and office furniture and supplies.

SEC. 42. Section 12310 of the Public Contract Code is amended to read:

12310. (a) On and after January 1, 1997, at least 50 percent of the total dollar amount of paper products purchased or procured by the Legislature shall be purchased as a recycled paper product, as defined in Section 12301. In addition, at least 25 percent of the total fine writing and printing paper purchased by the Legislature shall be recycled paper products, as defined in Section 12301.

If at any time the requirement for recycled products has not been met, the Legislature and the department, in consultation with the ~~board~~ *Department of Conservation*, shall review the procurement policies of the Legislature and shall make recommendations for immediate revisions to ensure that each requirement is met. Revisions include, but are not limited to, raising the purchasing preference and altering the requirements for each or all recycled products. The department, in consultation with the ~~board~~ *Department of Conservation*, shall present its conclusions and recommendations on these revisions of procurement policies to the Legislature in the department's biennial report ~~pursuant to Section 12225~~.

(b) When contracting with the Legislature for the sale of recycled paper products, the contractor shall certify in writing to the contracting officer or his or her representative, that the recycled paper products offered contain the minimum percentage of waste materials required by subdivision (c) of Section 12301. The contractor shall specify the minimum, if not the exact, percentage

of recycled product in the paper product, including both the secondary and postconsumer material content. This certification shall be furnished under penalty of perjury.

(c) The Legislature may, in consultation with the ~~board~~ *Department of Conservation*, print a symbol on paper products selected by the Legislature. The symbol shall be similar to the following:

Printed on recycled paper. This symbol shall be printed only on paper products meeting the definition of recycled paper products in Section 12301.

(d) This section shall not prevent the Legislature from using existing stocks of paper products.

SEC. 43. Section 12320 of the Public Contract Code is amended to read:

12320. (a) The Legislature shall require contractors to certify in writing to the contracting officer, or his or her representative, whether the materials, goods, or supplies offered contain the minimum percentage of recycled product required by subdivision (d) of Section 12301. The contractor shall specify the minimum, if not exact, percentage of recycled product in the product, both the secondary and postconsumer material content. This certification shall be furnished under penalty of perjury.

(b) The Legislature, in consultation with the department and the ~~board~~ *Department of Conservation*, shall review and revise the procurement specifications used by the Legislature in order to eliminate discrimination against the procurement or purchase of recycled products whenever quality of a recycled product is reasonably equal to the same product manufactured with virgin resources. In determining procurement specifications, with the exception of any specifications that have been established to preserve the public health and safety, all legislative procurement and purchasing specifications shall be established in a manner that results in the maximum legislative procurement and purchase of recycled products.

(c) The Legislature, in consultation with the ~~board~~ *Department of Conservation*, shall establish purchasing practices that ensure, to the maximum extent feasible, the purchase of materials, goods, and supplies that may be recycled or reused when discarded.

(d) The Legislature shall give purchase preference to recycled products when all of the following apply:

(1) The product meets applicable standards.

(2) The product can be substituted for a comparable nonrecycled product.

(3) The product costs no more than a comparable nonrecycled product.

(e) To encourage the use of postconsumer waste, the Legislature's specifications shall require recycled product contracts to be awarded to the bidder whose product contains the greater percentage of postconsumer material if the fitness and quality and price meet the requirements in subdivision (d) of Section 12301 and Section 12310.

(f) The Legislature shall set the following goals for purchases made by the Legislature or any individual or group of individuals purchasing on behalf of the Legislature:

(1) By January 1, 1991, at least 10 percent of legislative purchases are of recycled products.

(2) By January 1, 1993, at least 20 percent of legislative purchases are of recycled products.

(3) By January 1, 1995, at least 40 percent of legislative purchases are of recycled products.

(4) The goals specified in this subdivision shall be applied to the purchase by the Legislature of products described in subdivisions (b), (c), (d), (e), (f), and (g) of Section 12305 and shall be applied to the total dollar amount of the combined purchases of those products.

Each specified goal shall be met for each product listed pursuant to Section 12305. If at any time a goal has not been met, the Legislature and the department, in consultation with the ~~board~~ *Department of Conservation*, shall review procurement policies of the Legislature and shall make recommendations for immediate revisions to ensure that each goal is met. Revisions include, but are not limited to, raising the purchasing preference and altering the goals for all or each recycled product. The department, in consultation with the ~~board~~ *Department of Conservation*, shall present its conclusions and recommendations on these revisions of procurement policies to the Legislature in the department's annual report pursuant to Section 12225.

SEC. 44. Section 40051 of the Public Resources Code is amended to read:

40051. In implementing this division, the ~~board~~ *Department of Conservation, the Department of Toxic Substances Control,* and local agencies shall do both of the following:

(a) Promote the following waste management practices in order of priority:

(1) Source reduction.

(2) Recycling and composting.

(3) Environmentally safe transformation and environmentally safe land disposal, at the discretion of the city or county.

(b) Maximize the use of all feasible source reduction, recycling, and composting options in order to reduce the amount of solid waste that must be disposed of by transformation and land disposal. For wastes that cannot feasibly be reduced at their source, recycled, or composted, the local agency may use environmentally safe transformation or environmentally safe land disposal, or both of those practices.

SEC. 45. Section 40054 of the Public Resources Code is amended to read:

40054. This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the power of the Attorney General, on the request of the ~~board~~ *Department of Conservation, the Department of Toxic Substances Control,* the state water board, a regional water board, or upon his or her own motion, to bring an action in the name of the people of the State of California to enjoin any health hazard, pollution, or nuisance.

SEC. 46. Section 40059.1 of the Public Resources Code is amended to read:

40059.1. (a) The Legislature hereby finds and declares both of the following:

(1) In 1989, the Legislature enacted this division as the California Integrated Waste Management Act of 1989. One of the key provisions of this division is that each local agency has the responsibility for diverting 50 percent of all solid waste generated within the local agency by January 1, 2000.

(2) The public policy objective of the Legislature in enacting this section is to ensure that those local agencies that require an indemnity obligation retain their responsibility for implementing the diversion requirements of this division.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Indemnity obligation" means any indemnity obligation directly or indirectly related to the failure of a local agency to meet the solid waste diversion requirements imposed by Chapter 6 (commencing with Section 41780) of Part 2, that is expressly assumed by, or imposed upon, the solid waste enterprise, whether pursuant to ordinance, contract, franchise, license, permit, or other entitlement or right, for the benefit of the local agency.

(2) "Local agency" means any county, city, city and county, district, regional agency as defined in Section 40181, or other local government agency.

(c) Any provision, term, condition, or requirement contained in any ordinance, contract, franchise, license, permit, or other entitlement or right adopted, entered into, issued, or granted, as the case may be, by a local agency for solid waste collection and handling, including the recycling, processing, or composting of solid waste, or in any request for bids or proposals in connection with any such contract or franchise, that authorizes or requires the imposition of an indemnity obligation, shall, notwithstanding any such provision, term, condition, or requirement, be subject to all of the following restrictions:

(1) An indemnity obligation shall not be enforceable if the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* imposed penalty is based solely upon the failure of the local agency to establish and maintain a source reduction and recycling element pursuant to Chapter 2 (commencing with Section 41000) of Part 2, Chapter 3 (commencing with Section 41300) of Part 2, or Section 41750.1, as the case may be.

(2) Any ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* imposed penalty based upon a local agency's failure to meet the solid waste diversion requirements imposed by Chapter 6 (commencing with Section 41780) of Part 2, resulting in whole or in part from the solid waste enterprise's breach of contract or noncompliance with any other authorization, shall be apportioned in accordance with the percentage of fault of the local agency and the solid waste enterprise.

(3) For purposes of this section, a solid waste enterprise is not liable for the indemnity obligation to the extent that the solid waste enterprise's breach or noncompliance resulted from the action or failure to act of the local agency.

(4) No payment required or imposed pursuant to an indemnity obligation, whether required or imposed by ordinance, contract, franchise, license, permit, or other entitlement or right, may exceed that portion of any penalty assessed by the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* against the local agency that was caused by the solid waste enterprise's breach or noncompliance of an express obligation or requirement.

(5) No indemnity obligation shall be enforceable against a solid waste enterprise until the local agency has affirmatively sought, in good faith, all administrative relief available pursuant to Chapter 6 (commencing with Section 41780) and Chapter 7 (commencing with Section 41800) of Part 2, unless the local agency demonstrates good cause, based on substantial evidence in the record, for not pursuing that administrative relief. The solid waste enterprise shall cooperate, in good faith, with the local agency seeking that administrative relief and shall provide in writing to the local agency all known defenses to the imposition of penalties.

(d) Nothing in this section shall be construed to preclude either party from seeking any other remedy under law or equity.

(e) The provisions of this section are not subject to waiver, and any attempted waiver shall be null and void as against public policy.

(f) This section is not intended to do any of the following:

(1) Add to or expand the authority of local agencies to determine aspects of solid waste collection and handling pursuant to Section 40059.

(2) Alter the authority of business entities to collect or process materials that are not solid waste.

(3) Affect any contract right existing on the effective date of this section.

SEC. 47. Section 40062 of the Public Resources Code is amended to read:

40062. (a) Upon the request of any person furnishing any report, notice, application, plan, or other document required by this division, including any research or survey information requested by the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* for the purpose of implementing its programs, neither the ~~board~~ *Department of Conservation, the Department of Toxic Substances Control,* nor

an enforcement agency, in accordance with subdivisions (c) and (d), shall make available for inspection by the public any portion of the report, notice, application, plan, or other document that contains a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, that has been identified pursuant to subdivision (b).

(b) Any person furnishing information, as described in subdivision (a), to the ~~board~~ *Department of Conservation, the Department of Toxic Substances Control,* or an enforcement agency pursuant to this division shall, at the time of submission, identify all information which the person believes is a trade secret. Any information not identified by the person as a trade secret shall be made available to the public, unless exempted from disclosure by another provision of law.

(c) (1) With regard to information that has been identified as a trade secret pursuant to subdivision (b), the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control*, upon its own initiative, or upon receipt of a request for public information pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, shall determine whether any or all of the information has been properly identified as a trade secret. If the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* determines that the information is not a trade secret, the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* shall notify the person who furnished the information by certified mail.

(2) The person who furnished the information shall have 30 days from the date of receipt of the notice required by paragraph (1) to provide the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* with a complete justification and statement of the grounds on which the trade secret privilege is claimed. The justification and statement shall be submitted to the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* by certified mail.

(3) The ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* shall determine whether the information is protected as a trade secret within 15 days from the date of receipt of the justification and statement or, if no justification and statement is filed, within 45 days from the date

of the notice required by paragraph (1). The ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* shall notify the person who furnished the information and any party who has requested the information pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code of that determination by certified mail. If the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* has determined that the information is not protected as a trade secret, this final notice shall also specify a date, not sooner than 15 days from the date of the date of mailing of the final notice, when the information shall be available to the public.

(d) Except as provided in subdivision (c), the ~~board~~ *Department of Conservation, the Department of Toxic Substances Control,* or an enforcement agency may release information submitted and designated as a trade secret only to the following public agencies under the following conditions:

(1) To other public agencies in connection with the responsibilities of the ~~board~~ *Department of Conservation, the Department of Toxic Substances Control,* or an enforcement agency under this division or for use in making reports.

(2) To the state or any state agency in judicial review for enforcement proceedings involving the person furnishing the information.

(e) For the purpose of implementing this section, the disclosure of information shall be consistent with Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

SEC. 48. Section 40063 of the Public Resources Code is amended to read:

40063. At the request of a county with a population of less than 250,000, the ~~board~~ *Department of Conservation, the Department of Toxic Substances Control,* and the state water board may meet with the county to prioritize, through development and joint adoption of a five-year plan, state environmental concerns with regard to solid waste management in relation to the fiscal and staffing constraints on the county.

SEC. 49. Section 40106 of the Public Resources Code is amended to read:

40106. (a) "Biomass conversion" means the controlled combustion, when separated from other solid waste and used for producing electricity or heat, of the following materials:

(1) Agricultural crop residues.

(2) Bark, lawn, yard, and garden clippings.

(3) Leaves, silvicultural residue, and tree and brush pruning.

(4) Wood, wood chips, and wood waste.

(5) Nonrecyclable pulp or nonrecyclable paper materials.

(b) "Biomass conversion" does not include the controlled combustion of recyclable pulp or recyclable paper materials, or materials that contain sewage sludge, industrial sludge, medical waste, hazardous waste, or either high-level or low-level radioactive waste.

(c) For purposes of this section, "nonrecyclable pulp or nonrecyclable paper materials" means either of the following, as determined by the ~~board~~ *Department of Conservation*:

(1) Paper products or fibrous materials that cannot be technically, feasibly, or legally recycled because of the manner in which the product or material has been manufactured, treated, coated, or constructed.

(2) Paper products or fibrous materials that have become soiled or contaminated and as a result cannot be technically, feasibly, or legally recycled.

SEC. 50. Section 40117 of the Public Resources Code is amended to read:

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

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

(b) The technology produces no discharges of air contaminants or emissions, including greenhouse gases, as defined in subdivision (g) of Section 38505 of the Health and Safety Code.

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

(d) The technology produces no hazardous waste.

(e) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion

process and the owner or operator of the facility certifies that those materials will be recycled or composted.

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

(g) The facility certifies to the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* that any local agency sending solid waste to the facility is in compliance with this division and has reduced, recycled, or composted solid waste to the maximum extent feasible, and the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* makes a finding that the local agency has diverted at least 30 percent of all solid waste through source reduction, recycling, and composting.

SEC. 51. Section 40127 of the Public Resources Code is amended to read:

40127. "Diversion program" means a program in the source reduction and recycling element of a jurisdiction's integrated waste management plan, specified in Chapter 2 (commencing with Section 41000) of, or Chapter 3 (commencing with Section 41300) of, Part 2 and that has the purpose of diverting solid waste from landfill disposal or transformation through source reduction, recycling, and composting activities. "Diversion program" additionally includes any amendments, revisions, or updates to the element, and any programs set forth in a time extension, alternative requirement, or compliance order approved by the ~~board~~ *Department of Conservation* pursuant to Part 2 (commencing with Section 40900).

SEC. 52. Section 40130 of the Public Resources Code is amended to read:

40130. "Enforcement agency" means the local agency designated pursuant to Article 1 (commencing with Section 43200) of Chapter 2 of Part 4 for the purpose of carrying out this division, or the ~~board~~ *Department of Toxic Substances Control* if no designation of a local agency has been approved by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 53. Section 40131 of the Public Resources Code is amended to read:

40131. "Enforcement program" means the regulations and procedures adopted by the ~~board~~ *Department of Toxic Substances*

Control pursuant to Chapter 2 (commencing with Section 43200) of Part 4.

SEC. 54. Section 40145 of the Public Resources Code is amended to read:

40145. "Jurisdiction" means a city, county, or regional agency that is approved by the ~~board~~ *Department of Conservation and the Department of Toxic Substances Control* pursuant to Section 40975.

SEC. 55. Section 40148 of the Public Resources Code is amended to read:

40148. "Large state facility" means those campuses of the California State University and the California Community Colleges, prisons within the Department of Corrections, facilities of the State Department of Transportation, and facilities of other state agencies, that the ~~board~~ *Department of Conservation* determines, are primary campuses, prisons, or facilities.

SEC. 56. Section 40150.2 of the Public Resources Code is amended to read:

40150.2. "Minor violation" means the failure of a person to comply with a requirement or condition of an applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, that an enforcement agency or the ~~board~~ *Department of Toxic Substances Control* is authorized to implement or enforce pursuant to Part 5 (commencing with Section 45000) and that does not otherwise include any of the following:

(a) A violation that results in injury to persons or property or that presents a significant threat to human health or the environment.

(b) A knowing, willful, or intentional violation.

(c) A violation that is a chronic violation or that is committed by a recalcitrant violator. In determining whether a violation is chronic or a violator is recalcitrant, the enforcement agency or ~~board~~ *the Department of Toxic Substances Control*, whichever issues the notice to comply, shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard with respect to applicable regulatory requirements.

(d) A violation that results in an emergency response from a public safety agency.

(e) A violation that enables the violator to benefit economically from the noncompliance, either by reduced costs or competitive advantage.

SEC. 57. Section 40183 of the Public Resources Code is amended to read:

40183. (a) "Rural city" or "rural regional agency" means a city or regional agency that is located within a rural county as defined in Section 40184.

(b) (1) Unless the ~~board~~ *Department of Conservation* takes action pursuant to paragraph (2), this section does not affect any reduction granted to a rural city by the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* pursuant to Section 41787 prior to January 1, 2008.

(2) The ~~board~~ *Department of Conservation* may review and take action regarding any reduction granted to a rural city by the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* in accordance with subdivision (b) of Section 41787.

SEC. 58. Section 40184 of the Public Resources Code is amended to read:

40184. (a) "Rural county" means a county or multicounty regional agency that annually disposes of no more that 200,000 tons of solid waste.

(b) (1) Unless the ~~board~~ *Department of Conservation* takes action pursuant to paragraph (2), this section does not affect any reduction granted to a rural county by the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* pursuant to Section 41787 prior to January 1, 2008.

(2) The ~~board~~ *Department of Conservation* may review and take action regarding any reduction granted to a rural county in accordance with subdivision (b) of Section 41787.

SEC. 59. Section 40194 of the Public Resources Code is amended to read:

40194. "Solid waste facility" includes a solid waste transfer or processing station, a composting facility, a gasification facility, a transformation facility, and a disposal facility. For purposes of Part 5 (commencing with Section 45000), "solid waste facility" additionally includes a solid waste operation that may be carried out pursuant to an enforcement agency notification, as provided in regulations adopted by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 60. Chapter 3 (commencing with Section 40400) of Part 1 of Division 30 of the Public Resources Code is repealed.

SEC. 61. Section 40400 is added to the Public Resources Code, to read:

40400. (a) The California Integrated Waste Management Board is hereby abolished.

(b) The Department of Conservation succeeds and is vested with all authority, duties, powers, purposes, responsibilities, and jurisdiction of the Integrated Waste Management Board with regard to recycling and oversight programs that create incentives or provide funds to achieve resource recovery, unless otherwise specified in statute.

(c) The Department of Toxic Substances Control succeeds and is vested with all authority, duties, powers, purposes, responsibilities, and jurisdiction of the Integrated Waste Management Board with regard to waste management functions, including permitting and oversight of waste materials having no value or having negative or hazardous properties, unless otherwise specified in statute.

(d) The property, records, books, papers, and other property, real, personal and mixed, new or hereafter held for the benefit or use of the California Integrated Waste Management Board related to functions transferred to the Department of Conservation are transferred to the Department of Conservation. The property, records, books, papers, and other property, real, personal and mixed, new or hereafter held for the benefit or use of the California Integrated Waste Management Board related to functions transferred to the Department of Toxic Substances Control are transferred to the Department of Toxic Substances Control. If any doubt arises as to where an item of property is to be transferred, the Department of General Services shall determine where that item of property is to be transferred.

(e) (1) All employees of the California Integrated Waste Management Board who, on January 1, 2010, are serving in state civil service, other than temporary employees, who are engaged in the performance of functions transferred to the Department of Conservation, are transferred to the Department of Conservation pursuant to Section 19050.9 of the Government Code.

(2) All employees of the California Integrated Waste Management Board who, on January 1, 2010, are serving in state

civil service, other than temporary employees, who are engaged in the performance of functions transferred to the Department of Toxic Substances Control, are transferred to the Department of Toxic Substances Control pursuant to Section 19050.9 of the Government Code.

(3) The status, position, and rights of an employee of the board shall not be affected by the transfer and shall continue to be retained by the person as an employee of the department to which these are transferred, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to a position that is exempt from civil service.

SEC. 62. The heading of Article 1.5 (commencing with Section 40910) of Chapter 1 of Part 2 of Division 30 of the Public Resources Code is amended to read:

Article 1.5. ~~Board~~ *Department of Conservation and Department of Toxic Substances Control* Assistance in Local Planning

SEC. 63. Section 40910 of the Public Resources Code is amended to read:

40910. The ~~board~~ *Department of Toxic Substances Control* shall establish, on or before January 1, 1994, an office of local government assistance. The office shall, *in consultation with the Department of Conservation,* to the maximum extent feasible, utilizing existing resources, assist local agencies in the preparation, modification, and implementation of integrated waste management plans.

SEC. 64. Section 40911 of the Public Resources Code is amended to read:

40911. In adopting or amending regulations pursuant to this part, the ~~board~~ *Department of Toxic Substances Control* shall take into account all of the following:

(a) The shared responsibility that exists between the ~~board~~ *Department of Conservation, the Department of Toxic Substances Control,* and local agencies for activities such as the development of markets for materials diverted from disposal facilities, public education and information, and source reduction.

(b) The importance of promoting regional cooperation among local agencies and cooperation among local agencies and the ~~board~~ *Department of Conservation and the Department of Toxic*

Substances Control in achieving the objectives of this division, to the extent that this cooperation will result in more cost-effective and efficient implementation of this division.

(c) The need for local agencies to receive assistance from the ~~board~~ *Department of Conservation and the Department of Toxic Substances Control* in preparing and implementing integrated waste management plans and the elements of those plans.

SEC. 65. Section 40912 of the Public Resources Code is amended to read:

40912. (a) The ~~board~~ *Department of Toxic Substances Control* shall develop a model countywide or regional siting element and a model countywide or regional agency integrated waste management plan that will establish prototypes of the content and format that counties or regional agencies may use in meeting the requirements of this part.

(b) On or before July 1, 2001, the ~~board~~ *former California Integrated Waste Management Board* shall develop a model revised source reduction and recycling element that will establish prototypes of the content and format of that element that cities, counties, regional agencies, or a city and county may use in meeting the requirements of this part.

(c) The ~~board~~ *Department of Conservation* shall adopt a program to provide assistance to cities, counties, regional agencies, or a city and county in the development and implementation of source reduction programs. The program shall include, but not be limited to, the following:

(1) The development of model source reduction programs and strategies that may be used at the local and regional level.

(2) Ongoing analysis of public and private sector source reduction programs that may be provided to cities, counties, regional agencies, and a city and county in order to assist them in complying with Article 3 (commencing with Section 41050) of Chapter 2 and Article 3 (commencing with Section 41350) of Chapter 3.

(3) Assistance to cities, counties, regional agencies, and a city and county in the development of source reduction programs for commercial and industrial generators of solid waste that include the development of source reduction strategies designed for specific types of commercial and industrial generators.

(d) The ~~board~~ *Department of Conservation* shall, to the maximum extent feasible, utilizing existing resources, provide local jurisdictions and private businesses with information, tools, and mathematical models to assist with meeting or exceeding the 50-percent diversion requirement pursuant to Section 41780. The ~~board~~ *Department of Conservation and the Department of Toxic Substances Control* shall act as a solid waste information clearinghouse.

(e) (1) On or before April 1, 2003, and using existing resources, the ~~board~~ *California Integrated Waste Management Board* shall provide local jurisdictions and private businesses with information and models to assist with consideration of environmental justice concerns when complying with Section 41701.

(2) For the purposes of this subdivision, "environmental justice" has the meaning defined in subdivision (e) of Section 65040.12 of the Government Code.

SEC. 66. Section 40913 of the Public Resources Code is amended to read:

40913. (a) On or before January 1, 1994, the ~~board~~ *California Integrated Waste Management Board* shall develop and implement a program to assist local agencies in the identification of markets for materials that are diverted from disposal facilities through source reduction, recycling, and composting.

(b) The program shall provide information to local agencies on individual purchasers of diverted materials and on potential and actual local, regional, and statewide marketing opportunities for materials that are diverted from disposal facilities. The program also shall provide local agencies with information on programs implemented by the ~~board~~ *Department of Conservation* and by other agencies of state government to assist in the development, maintenance, and enhancement of markets for materials that are diverted from disposal facilities.

SEC. 67. Section 40950 of the Public Resources Code is amended to read:

40950. (a) On or before March 1, 1990, and every five years thereafter, each county, which is not a city and county, shall convene a task force to assist in coordinating the development of city source reduction and recycling elements prepared pursuant to Chapter 2 (commencing with Section 41000), the county source reduction and recycling element prepared pursuant to Chapter 3

(commencing with Section 41300), and to assist in the preparation of the countywide siting element prepared pursuant to Chapter 4 (commencing with Section 41700).

(b) The membership of the task force shall be determined by the county and by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county, except in those counties which have only two cities, in which case the membership of the task force is subject to approval of the city which contains the majority of the population of the incorporated area of the county. The task force may include representatives of the solid waste industry, environmental organizations, the general public, special districts, and affected governmental agencies.

(c) To ensure a coordinated and cost-effective regional recycling system, the task force shall do all of the following:

(1) Identify solid waste management issues of countywide or regional concern.

(2) Determine the need for solid waste collection and transfer systems, processing facilities, and marketing strategies that can serve more than one local jurisdiction within the region.

(3) Facilitate the development of multijurisdictional arrangements for the marketing of recyclable materials.

(4) To the extent possible, facilitate resolution of conflicts and inconsistencies between or among city and county source reduction and recycling elements.

(d) The task force shall develop goals, policies, and procedures which are consistent with guidelines and regulations adopted by the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control*, to guide the development of the siting element of the countywide integrated waste management plan.

SEC. 68. Section 40972 of the Public Resources Code is amended to read:

40972. This part is binding upon, and enforceable against, the individual cities and counties which are member agencies of the regional agency. However, an agreement adopted pursuant to this article may apportion responsibilities for the implementation of this part among the cities and counties which are member agencies of the regional agency. Nothing in this section is intended to prohibit a city or county which is a member agency of a regional agency from preparing and submitting to the ~~board~~ *Department*

of Conservation or the Department of Toxic Substances Control for review and approval a source reduction and recycling element or household hazardous waste element, *as applicable*.

SEC. 69. Section 40973 of the Public Resources Code is amended to read:

40973. (a) The regional agency, and not the cities or counties that are member agencies of the regional agency, may be responsible for compliance with Article 1 (commencing with Section 41780) of Chapter 6 if specified in the agreement pursuant to which the regional agency is formed.

(b) Notwithstanding Section 41782, except as provided in subdivision (c), if a regional agency has been specified in the regional agency formation agreement as the responsible party for compliance with Article 1 (commencing with Section 41780) of Chapter 6 ~~of Part 1~~, neither the regional agency nor any member jurisdiction of the regional agency shall be eligible for a reduction of the diversion requirements of Section 41780.

(c) The regional agency may be eligible for a reduction of diversion and planning requirements if all member jurisdictions of a regional agency are rural cities or rural counties, as defined, respectively, in Sections 40183 and 40184.

(d) The regional agency may be eligible for a reduction of planning requirements if all member jurisdictions of a regional agency are cities located in both a rural area and a rural county, as defined in Section 40184, and an unincorporated portion of a county.

(e) (1) If, pursuant to subdivision (a), a regional agency is specified in the regional agency formation agreement as the responsible party for compliance with Article 1 (commencing with Section 41780) of Chapter 6, the regional agency shall not be comprised of more than two counties and all of the cities within those two counties, except as otherwise authorized by the ~~board~~ *Department of Conservation*.

(2) The ~~board~~ *Department of Conservation* may authorize the formation of a regional agency that exceeds two counties and all of the cities within those two counties, for purposes of compliance with Article 1 (commencing with Section 41780) of Chapter 6, if the ~~board~~ *Department of Conservation* finds that the formation of the regional agency will not adversely affect compliance with this part.

SEC. 70. Section 40974 of the Public Resources Code is amended to read:

40974. (a) Notwithstanding Section 40972, each city or county that is a member agency of a regional agency is liable for any civil penalties that may be imposed by the ~~board~~ *Department of Conservation* pursuant to Section 41813 or 41850. However, an agreement that establishes a regional agency may apportion any civil penalties between or among the cities or counties that are member agencies of the regional agency. The total amount of civil penalties that may be imposed against the regional agency is equivalent to that amount that is the sum of the penalties that may be imposed against each city or county that is a member agency of the regional agency.

(b) (1) An agreement may provide that a city or county is subject to the portion of a penalty imposed upon a regional agency pursuant to Section 41850 that is in proportion to the city's or county's responsibility for failure to implement a source reduction and recycling element or household hazardous waste element, as determined by the regional agency.

(2) If an agreement provides for apportioning a penalty pursuant to paragraph (1), the regional agency shall provide the city or county with a written notice regarding the city's or county's responsibility, including the basis for determining the city's or county's proportional responsibility, and an opportunity for a hearing before the regional agency's governing body, before assessing the city or county a proportion of the penalty imposed by the ~~board~~ *Department of Conservation*.

(3) This subdivision does not affect the authority of the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* to impose a penalty pursuant to other provisions of this division.

SEC. 71. Section 40975 of the Public Resources Code is amended to read:

40975. (a) Any agreement forming a regional agency shall be submitted to the ~~board~~ *Department of Conservation and the Department of Toxic Substances Control* for review and approval at the time the regional agency integrated waste management plan is submitted to the ~~board~~ *Department of Toxic Substances Control* for review and approval.

(b) Any agreement forming a regional agency shall, at minimum, contain all of the following provisions:

(1) A listing of the cities and counties which are member agencies of the regional agency, and a description of the regional agency, including the name and address of the regional agency.

(2) Consistent with Section 40974, a description of the method by which any civil penalties imposed by the ~~board~~ *Department of Conservation* pursuant to Sections 41813 and 41850 will be allocated among the cities or counties which are member agencies of the regional agency.

(3) A contingency plan which shows how each city or county which is a member agency of the regional agency will comply with the requirements of this part, including, but not limited to, Article 1 (commencing with Section 41780) of Chapter 6, in the event that the regional agency is abolished.

(4) A description of the duties and responsibilities of each city or county which is a member agency of the regional agency which demonstrates that the city or county will comply with Article 1 (commencing with Section 41780) of Chapter 6.

(5) A description of source reduction, recycling, and composting programs to be implemented by the regional agency. Those programs shall be at least as comprehensive and effective in meeting the requirements of Article 1 (commencing with Section 41780) of Chapter 6 as those which each city or county which is a member agency of the regional agency has proposed in its source reduction and recycling element.

(6) Any other additional element as determined to be needed by the cities or counties which are member agencies of the regional agency.

SEC. 72. Section 41030 of the Public Resources Code is amended to read:

41030. (a) For the initial source reduction and recycling element of a countywide integrated waste management plan which is required to be submitted to the ~~board pursuant to Section 41791~~ *Department of Conservation*, the city waste characterization component shall identify the constituent materials which comprise the solid waste generated within the city. The information shall be representative of the solid waste generated within, and disposed of by, the city and shall reflect seasonal variations. The constituent materials shall be identified by volume, percentage in weight or

its volumetric equivalent, material type, and source of generation, which includes residential, commercial, industrial, governmental, or other sources. Future revisions of waste characterization studies shall identify the constituent materials which comprise the solid waste disposed of at permitted disposal facilities.

(b) In adopting or revising regulations implementing subdivision (a), the ~~board~~ *Department of Conservation* shall do all of the following:

(1) Permit the use of studies or data developed on a county or regional basis and adapted to the conditions which exist in a city preparing its waste characterization component.

(2) Permit the use of preexisting data or studies, including those data and studies prepared by local governments with similar waste characteristics.

(3) Require only that amount of seasonal sampling, and waste characterization only of those categories of waste, necessary to achieve the diversion requirements of paragraph (1) of subdivision (a) of Section 41780.

SEC. 73. Section 41031 of the Public Resources Code is amended to read:

41031. Any waste characterization component prepared by a city pursuant to Section 41030, and any other information submitted by a city to the ~~board~~ *Department of Conservation* on the quantities of solid waste generated, diverted, and disposed of, shall include data which is as accurate as possible, on the quantities of solid waste generated, diverted, and disposed of, to enable the ~~board~~ *Department of Conservation*, to the maximum extent possible, to accurately measure the diversion requirements established under paragraph (1) of subdivision (a) of Section 41780.

SEC. 74. Section 41032 of the Public Resources Code is amended to read:

41032. For the first revision, and any subsequent revision, of a source reduction and recycling element of a countywide integrated waste management plan which is required to be submitted to the ~~board~~ *Department of Conservation* pursuant to Section 41770, the city waste characterization component shall identify the constituent materials which comprise the solid waste disposed of by the city. The information shall be statistically representative of the solid waste disposed of by the city and shall reflect seasonal variations. The constituent materials shall be

identified, to the extent practicable, by volume, percentage in weight, or its volumetric equivalent, material type, and source of generation, which includes residential, commercial, industrial, governmental, or other sources.

SEC. 75. Section 41033 of the Public Resources Code is amended to read:

41033. Any waste characterization component prepared by a city pursuant to Section 40132, and any other information submitted by a city to the ~~board~~ *Department of Conservation* on the quantities of solid waste disposed of by the city, shall include data which is as accurate as possible, on the quantities of solid waste generated, diverted, and disposed of, to enable the ~~board~~ *Department of Conservation*, to the maximum extent possible, to accurately measure the diversion requirements of paragraph (2) of subdivision (a) of Section 41780.

SEC. 76. Section 41220 of the Public Resources Code is amended to read:

41220. The city education and public information component shall describe to the ~~board~~ *Department of Conservation* how the city will increase public awareness of, and participation in, recycling, source reduction, and composting programs.

SEC. 77. Section 41300 of the Public Resources Code is amended to read:

41300. (a) On or before July 1, 1992, each county shall prepare and adopt for the unincorporated area a county source reduction and recycling element which includes all of the components specified in this chapter and which complies with the requirements specified in Chapter 6 (commencing with Section 41780).

(b) Notwithstanding subdivision (a), if a county determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 (commencing with Section 21000), to the extent that division requires the preparation and certification of an environmental impact report for the element, the county shall do all of the following:

(1) On or before July 1, 1992, the county shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the element. The resolution shall also state a date when the county will comply with the deadline

established under subdivision (a) and complete and certify the environmental impact report for the element.

(2) On or before July 1, 1992, the county shall submit a copy of the resolution adopted pursuant to paragraph (1) to the ~~board~~ *Department of Conservation*.

(3) Upon completion and certification of the environmental impact report for the source reduction and recycling element, or December 1, 1992, whichever is sooner, the county shall adopt its source reduction and recycling element.

SEC. 78. Section 41330 of the Public Resources Code is amended to read:

41330. (a) For the initial source reduction and recycling element of a countywide integrated waste management plan which is required to be submitted to the ~~board pursuant to Section 41791~~ *Department of Conservation*, the county waste characterization component shall identify the constituent materials which comprise the solid waste generated within the unincorporated area of the county. The information shall be representative of the solid waste generated and disposed of within that area and shall reflect seasonal variations. The constituent materials shall be identified by volume, percentage in weight or its volumetric equivalent, material type, and source of generation which includes residential, commercial, industrial, governmental, or other sources. Future revisions of waste characterization studies shall identify the constituent materials which comprise the solid waste disposed of at permitted disposal facilities.

(b) In adopting or revising regulations implementing subdivision (a), the ~~board~~ *Department of Conservation* shall do all of the following:

(1) Permit the use of studies or data developed on a regional basis and adapted to the conditions which exist in a county preparing its waste characterization component.

(2) Permit the use of preexisting data or studies, including those data and studies prepared by local governments with similar waste characteristics.

(3) Require only that amount of seasonal sampling, and waste characterization only of those categories of waste, necessary to achieve the diversion requirements of paragraph (1) of subdivision (a) of Section 41780.

SEC. 79. Section 41331 of the Public Resources Code is amended to read:

41331. Any waste characterization component prepared by a county pursuant to Section 41330, and any other information submitted by a county to the ~~board~~ *Department of Conservation* on the quantities of solid waste generated, diverted, and disposed of, shall include data which is as accurate as possible, on the quantities of solid waste generated, diverted, and disposed of, to enable the ~~board~~ *Department of Conservation*, to the maximum extent possible, to accurately measure the diversion requirements established under paragraph (1) of subdivision (a) of Section 41780.

SEC. 80. Section 41332 of the Public Resources Code is amended to read:

41332. For the first revision, and any subsequent revision, of a source reduction and recycling element of a countywide integrated waste management plan which is required to be submitted to the ~~board~~ *Department of Conservation* pursuant to Section 41770, the county waste characterization component shall identify the constituent materials which comprise the solid waste disposed of within the unincorporated area of the county. The information shall be statistically representative of the solid waste disposed of within that area and shall reflect seasonal variations. The constituent materials shall, to the extent practicable, be identified by volume, percentage in weight, or its volumetric equivalent, material type, and source of generation, which includes residential, commercial, industrial, governmental, or other sources.

SEC. 81. Section 41333 of the Public Resources Code is amended to read:

41333. Any waste characterization component prepared by a county pursuant to Section 41332, and any other information submitted by a county to the ~~board~~ *Department of Conservation* on the quantities of solid waste disposed of, shall include data which is as accurate as practicable, on the quantities of solid waste generated, diverted, and disposed of, to enable the ~~board~~ *Department of Conservation*, to the maximum extent possible, to accurately measure the diversion requirements of paragraph (2) of subdivision (a) of Section 41780.

SEC. 82. Section 41420 of the Public Resources Code is amended to read:

41420. The county education and public information component shall describe to the ~~board~~ *Department of Conservation* how the county will educate and inform its citizens about the source reduction, recycling, and composting programs.

SEC. 83. Section 41510 of the Public Resources Code is amended to read:

41510. (a) On or before July 1, 1992, each county shall prepare a household hazardous waste element which identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes, as defined in Section 25117 of the Health and Safety Code, which are generated by households in the unincorporated area of the county and which should be separated from the solid waste stream. In preparing a county household hazardous waste element pursuant to this section, a county may use components of a county hazardous waste management plan prepared pursuant to Section 25135.1 of the Health and Safety Code, if that plan meets the requirements of this article and of Section 41802.

(b) Notwithstanding subdivision (a), if a county determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 (commencing with Section 21000), to the extent that division requires the preparation and certification of an environmental impact report for the element, the county shall do all of the following:

(1) On or before July 1, 1992, the county shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the household hazardous waste element. The resolution shall also state a date when the county will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the household hazardous waste element.

(2) On or before July 1, 1992, the county shall submit its draft household hazardous waste element and a copy of the resolution adopted pursuant to paragraph (1) to the ~~board~~ *Department of Toxic Substances Control*.

(3) Upon completion and certification of the environmental impact report for the household hazardous waste element, or

December 1, 1992, whichever is sooner, the county shall adopt its household hazardous waste element.

SEC. 84. Section 41720 of the Public Resources Code is amended to read:

41720. The countywide siting element submitted to the ~~board~~ *Department of Toxic Substances Control*, shall include a resolution from each affected city or the county stating that any areas identified for the location of a new or expanded solid waste transformation or disposal facility pursuant to Section 41701 is consistent with the applicable general plan.

SEC. 85. Section 41721.5 of the Public Resources Code is amended to read:

41721.5. (a) Any amendments to the countywide siting element shall be approved by the county and by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county except in those counties which have only two cities, in which case the amendment is subject to approval of the city which contains the majority of the population of the incorporated area of the county.

(b) Any person or public agency proposing the development of a solid waste disposal or transformation facility may initiate an amendment to the countywide siting element by submitting a site identification and description to the county board of supervisors.

(c) The county shall submit the site identification and description to the cities within the county within 20 days after the site identification and description is submitted to the county board of supervisors. Each city shall act upon the proposed amendment within 90 days after receipt of the proposed amendment. If a city fails to act upon the proposed amendment within 90 days after receiving the amendment, the city shall be deemed to have approved the proposed amendment as submitted.

(d) If the county or a city disapproves the proposed amendment, the county or city shall mail notice of its decision by first-class mail to the person or public agency proposing the amendment within 10 days of the disapproval, stating its reasons for the disapproval.

(e) No county or city shall disapprove a proposed amendment unless it determines, based on substantial evidence in the record, that the amendment would cause one or more significant adverse impacts within its boundaries from the proposed project.

(f) Within 45 days after the date of disapproval by the county or a city of a proposed amendment, or a decision by the ~~board~~ *Department of Toxic Substances Control* not to concur in the issuance, modification, or revision of a solid waste facilities permit pursuant to Section 44009, any person may file with the superior court a writ of mandate for review of the disapproval or the decision. The evidence before the court shall consist of the record before the county or city which disapproved the proposed amendment or the record before the ~~board~~ *Department of Toxic Substances Control* in its determination not to concur in issuance, modification, or revision of the solid waste facilities permit. Section 1094.5 of the Code of Civil Procedure shall govern the proceedings conducted pursuant to this subdivision.

SEC. 86. Section 41733 of the Public Resources Code is amended to read:

41733. Nondisposal facility elements prepared pursuant to this chapter shall include all solid waste facilities and solid waste facility expansions, except disposal facilities and transformation facilities, which will recover for reuse or recycling at least 5 percent of the total volume of material received by the facility. Transfer stations which recover less than 5 percent of the volume of materials received for reuse or recycling shall be included in the element. However, the portions of the element describing these facilities shall not be subject to ~~board~~ *Department of Toxic Substances Control* approval.

SEC. 87. Section 41734 of the Public Resources Code is amended to read:

41734. (a) (1) Prior to adopting or amending a nondisposal facility element, the city, county, or regional agency shall submit the element or amendment to the task force created pursuant to Section 40950 for review and comment.

(2) Prior to adopting or amending a regional agency nondisposal facility element, if the jurisdiction of the regional agency extends beyond the boundaries of a single county, the regional agency shall submit the element or amendment for review and comment to each task force created pursuant to Section 40950 of each county within the jurisdiction of the regional agency.

(b) Comments by the task force shall include an assessment of the regional impacts of potential diversion facilities and shall be submitted to the city , county, or regional agency and to the ~~board~~

Department of Toxic Substances Control within 90 days of the date of receipt of the nondisposal facility element for review and comment.

SEC. 88. Section 41750 of the Public Resources Code is amended to read:

41750. Each county and city and county shall prepare and submit to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* in accordance with the schedule set forth in Chapter 6 (commencing with Section 41780), a countywide integrated waste management plan, which includes all of the following:

(a) All city source reduction and recycling elements prepared pursuant to Chapter 2 (commencing with Section 41000) and submitted to the county.

(b) The county's source reduction and recycling element for the unincorporated area of the county prepared pursuant to Chapter 3 (commencing with Section 41300).

(c) All city household hazardous waste elements which were prepared pursuant to Article 1 (commencing with Section 41500) of Chapter 3.5 and submitted to the county.

(d) The county household hazardous waste element for the unincorporated area of the county prepared pursuant to Article 2 (commencing with Section 41510) of Chapter 3.5.

(e) The countywide siting element prepared pursuant to Chapter 4 (commencing with Section 41700).

(f) All city nondisposal facility elements prepared pursuant to Chapter 4.5 (commencing with Section 41730) and submitted to the county.

(g) The county nondisposal facility element for the unincorporated area of the county prepared pursuant to Chapter 4.5 (commencing with Section 41730).

SEC. 89. Section 41770 of the Public Resources Code is amended to read:

41770. (a) Each countywide or regional agency integrated waste management plan, and the elements thereof, shall be reviewed, revised, if necessary, and submitted to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* every five years in accordance with the schedule set forth under Chapter 7 (commencing with Section 41800).

(b) Any revisions to a countywide or regional agency integrated waste management plan, and the elements thereof, shall use a waste disposal characterization method that the ~~board~~ *Department of Conservation* shall develop for the use of the city, county, city and county, or regional agency. The city, county, city and county, or regional agency shall conduct waste disposal characterization studies, as prescribed by the ~~board~~ *Department of Conservation*, if it fails to meet the diversion requirements of Section 41780, at the time of the five-year revision of the source reduction and recycling element.

(c) The ~~board~~ *Department of Conservation* may review and revise its regulations governing the contents of revised source reduction and recycling elements to reduce duplications in one or more components of these revised elements.

SEC. 90. Section 41780.05 of the Public Resources Code is amended to read:

41780.05. (a) After January 1, 2009, pursuant to the review authorized by Section 41825, the ~~board~~ *Department of Conservation* shall determine each jurisdiction's compliance with Section 41780 for the years commencing with January 1, 2007, by comparing each jurisdiction's change in its per capita disposal rate in subsequent years with the equivalent per capita disposal rate that would have been necessary for the jurisdiction to meet the requirements of Section 41780 on January 1, 2007, as calculated pursuant to subdivisions (c) and (d).

(b) (1) For purposes of paragraph (5) of subdivision (e) of Section 41825, in making a determination whether a jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation*, shall consider, but is not limited to the consideration of, the jurisdiction's per capita disposal rate and whether the jurisdiction adequately implemented its diversion programs.

(2) When determining whether a jurisdiction has made a good faith effort pursuant to Section 41825 to implement its source reduction and recycling element or its household hazardous waste element, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation*, shall consider that an increase in the per capita disposal rate is the result of the

amount of the jurisdiction's disposal increasing faster than the jurisdiction's growth. The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall use this increase in the per capita disposal rate that is in excess of the equivalent per capita disposal rate as a factor in determining whether the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* is required, pursuant to Section 41825, to more closely examine a jurisdiction's program implementation efforts. This examination may indicate that a jurisdiction is required to expand existing programs or implement new programs, in accordance with the procedures specified in Article 4 (commencing with Section 41825) and in Article 5 (commencing with Section 41850) *of Chapter 7.*

(3) When reviewing the level of program implementation pursuant to Sections 41825 and 41850, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall use, as a factor in determining compliance with Section 41780, the amount determined pursuant to subdivision (d) when comparing a jurisdiction's per capita disposal rate in subsequent years.

(c) (1) Except as otherwise provided in this subdivision, for purposes of this section, "per capita disposal" or "per capita disposal rate" means the total annual disposal, in pounds, from a jurisdiction divided by the total population in a jurisdiction, as reported by the Department of Finance, divided by 365 days.

(2) (A) If a jurisdiction is predominated by commercial or industrial activities and by solid waste generation from those sources, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* may alternatively calculate per capita disposal to reflect those differing conditions.

(B) When making a calculation for a jurisdiction subject to this paragraph, "per capita disposal" or "per capita disposal rate" means the total annual disposal, in pounds, from a jurisdiction divided by total industry employment in a jurisdiction, as reported by the Employment Development Department, divided by 365 days.

(C) The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall calculate the per capita disposal rate for a jurisdiction subject to this

paragraph using the level of industry employment in a jurisdiction instead of the level of population in a jurisdiction.

(3) If the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* determines that the method for calculating the per capita disposal rate for a jurisdiction provided by paragraph (1) or (2) does not accurately reflect that jurisdiction's disposal reduction, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* may use an alternative per capita factor, other than population or industry employment, to calculate the per capita disposal rate that more accurately reflects the jurisdiction's efforts to divert solid waste.

(d) The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall calculate the equivalent per capita disposal rate for each jurisdiction as follows:

(1) Except as otherwise provided in this subdivision, the equivalent per capita disposal rate for a jurisdiction shall be determined using the method specified in this paragraph.

(A) The calculated generation tonnage for each year from 2003 to 2006, inclusive, shall be multiplied by 0.5 to yield the 50 percent equivalent disposal total for each year.

(B) The 50 percent equivalent disposal total for each year shall be multiplied by 2,000, divided by the population of the jurisdiction in that year, and then divided by 365 to yield the 50 percent equivalent per capita disposal for each year.

(C) The four 50 percent equivalent per capita disposal amounts from the years 2003 to 2006, inclusive, shall be averaged to yield the equivalent per capita disposal rate.

(2) If a jurisdiction is predominated by commercial or industrial activities and by solid waste generation from those sources, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* may alternatively calculate the equivalent per capita disposal rate to reflect those conditions by using the level of industry employment in a jurisdiction instead of the level of population in that jurisdiction.

(3) If the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* determines that the method for calculating the equivalent per capita disposal rate for a jurisdiction pursuant to this subdivision does not accurately

reflect a jurisdiction's per capita disposal rate that would be equivalent to the amount required to meet the 50 percent diversion requirements of Section 41780, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* may use an alternative per capita factor, other than population or industry employment, to calculate the equivalent per capita disposal rate that more accurately reflects the jurisdiction's diversion efforts.

(4) The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall modify the percentage used in paragraph (1) to maintain the diversion requirements approved by the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* for a rural jurisdiction pursuant to Section 41787 or for a reduction granted pursuant to Section 41786.

(5) The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* may modify the years included in making a calculation pursuant to this subdivision for an individual jurisdiction to eliminate years in which the calculated generation amount is shown not to be representative or accurate, based upon a generation study completed in one of the five years 2003 to 2007, inclusive. In these cases, the ~~board~~ *California Integrated Waste Management Board* shall not allow the use of an additional year other than 2003, 2004, 2005, 2006, or 2007.

(6) The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* may modify the method of calculating the equivalent per capita disposal rate for an individual jurisdiction to accommodate the incorporation of a new city, the formation of a new regional agency, or changes in membership of an existing regional agency. These modifications shall ensure that a new entity has a new equivalent per capita disposal rate and that the existing per capita disposal rate of an existing entity is adjusted to take into account the disposal amounts lost by the creation of the new entity.

(7) The ~~board~~ *California Integrated Waste Management Board* shall not incorporate generation studies or new base year calculations for a year commencing after 2006 into the equivalent per capita disposal rate, unless a generation study that included the year 2007 was commenced on or before June 30, 2008.

(8) If the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* determines that the equivalent per capita disposal rate cannot accurately be determined for a jurisdiction, or that the rate is no longer representative of a jurisdiction's waste stream, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall evaluate trends in the jurisdiction's per capita disposal to establish a revised equivalent per capita disposal rate for that jurisdiction.

SEC. 91. Section 41780.1 of the Public Resources Code is amended to read:

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

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

(c) To determine achievement of the diversion requirements of Section 41780 in 1995 and in the year 2000, projections of disposal amounts from the source reduction and recycling elements shall be adjusted to reflect annual increases or decreases in population and other factors affecting the waste stream, as determined by the ~~board~~ *former California Integrated Waste Management Board*. By January 1, 1994, the ~~board~~ *former California Integrated Waste Management Board* shall study the factors which affect the generation and disposal of solid waste and shall develop a standard

methodology and guidelines to be used by cities, counties, and regional agencies in adjusting disposal projections as required by this section.

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

SEC. 92. Section 41781.1 of the Public Resources Code is amended to read:

41781.1. (a) Prior to determining that the diversion of sludge may be counted toward the diversion requirements established under Section 41780, but within 180 days of receiving such a request, the ~~board~~ *Department of Toxic Substances Control* shall do both of the following:

(1) Make a finding at a public hearing, based upon substantial evidence, that the sludge has been adequately analyzed and will not pose a threat to public health or the environment for the reuse which is proposed.

(A) Except as provided in subparagraph (B), prior to making the finding required to be made pursuant to this paragraph, the ~~board~~ *Department of Toxic Substances Control* shall consult with each of the following agencies, and obtain their concurrence in the finding, to the extent of each agency's jurisdiction over the sludge or its intended reuse:

(i) The state water board and the regional water ~~board~~ *boards*.

(ii) The State Department of Health Services.

(iii) The State Air Resources Board and air pollution control districts and air quality management districts.

~~(iv) The Department of Toxic Substances Control.~~

(B) If, prior to the ~~board~~ *Department of Toxic Substances Control* making the finding required to be made pursuant to this paragraph, an agency specified in subparagraph (A) issues a permit, waste discharge requirements, or imposes other conditions for the reuse of sludge, the agency shall have been deemed to have concurred in that finding.

(2) Establish, or ensure that one or more of the agencies specified in subparagraph (A) of paragraph (1) establishes, ongoing monitoring requirements which ensure that the proposed sludge reuse does not pose a threat to health and safety or the environment.

(b) It is not the intent of this section to require the ~~board~~ *Department of Toxic Substances Control*, or the agencies listed in subparagraph (A) of paragraph (1) of subdivision (a), to impose additional requirements or approval procedures for sludge or sludge reuse applications, apart from the requirements and approval procedures already imposed by state and federal law. It is the intent of this section to require that the ~~board~~ *Department of Toxic Substances Control* determine that each sludge diversion, for which diversion credit is sought, meets all applicable requirements of state and federal law, and thereby provides for maximum protection of the public health and safety and the environment.

SEC. 93. Section 41781.2 of the Public Resources Code is amended to read:

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

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

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

(1) "Action by a city, county, regional, or local governing body" means franchise or contract conditions, rate or fee schedules, zoning or land use decisions, disposal facility permit conditions, or activities by a waste hauler, recycler, or disposal facility operator acting on behalf of a city, county, regional agency, or local governing body, or other action by the local governing body if the local government action is specifically related to the claimed diversion.

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

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

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

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

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

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

(3) The city, county, or regional agency is implementing, and will continue to implement, source reduction, recycling, and

composting programs, as described in its source reduction and recycling element.

(d) If a city, county, or regional agency source reduction and recycling element submitted pursuant to this chapter includes the diversion of any of the wastes specified in subdivision (c) for years preceding the year commencing January 1, 1990, that diversion shall not apply to the diversion requirements of Section 41780, unless the criteria in subdivision (c) are met.

(e) If a city, county, or regional agency source reduction and recycling element submitted pursuant to this chapter does not contain information sufficient for the city, county, or regional agency to demonstrate to the ~~board~~ *Department of Conservation* whether the criteria in subdivision (c) have been met, the city, county, or regional agency may provide additional information following ~~board~~ *Department of Conservation* review of the source reduction and recycling element pursuant to Section 41791.5. In providing the additional information, Sections 41801.5 and 41811.5 shall apply.

(f) In demonstrating whether the requirements of paragraph (1) of subdivision (c) have been met, the city, county, or regional agency shall submit information to the ~~board~~ *Department of Conservation* on local government programs which are specifically related to the claimed diversion.

(g) Notwithstanding any other provision of law, for purposes of determining the base amount of solid waste from which the diversion requirements of this article shall be calculated for a city, county, or regional agency which includes biomass conversion in its source reduction and recycling element pursuant to Section 41783.1, the base amount shall include those materials disposed of in the base year at biomass conversion facilities.

SEC. 94. Section 41781.3 of the Public Resources Code is amended to read:

41781.3. (a) The use of solid waste for beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover, which reduces or eliminates the amount of solid waste being disposed pursuant to Section 40124, shall constitute diversion through recycling and shall not be considered disposal for the purposes of this division.

(b) Prior to December 31, 1997, pursuant to the ~~board's~~ *former California Integrated Waste Management Board's* authority to

adopt rules and regulations pursuant to *former* Section 40502, the ~~board~~ *former California Integrated Waste Management Board,* shall, by regulation, establish conditions for the use of alternative daily cover that are consistent with this division. In adopting the regulations, the ~~board~~ *former California Integrated Waste Management Board* shall consider, but is not limited to, all of the following criteria:

(1) Those conditions established in past policies adopted by the ~~board~~ *former California Integrated Waste Management Board* affecting the use of alternative daily cover.

(2) Those conditions necessary to provide for the continued economic development, economic viability, and employment opportunities provided by the composting industry in the state.

(3) Those performance standards and limitations on maximum functional thickness necessary to ensure protection of public health and safety consistent with state minimum standards.

(c) Until the adoption of additional regulations, the use of alternative daily cover shall be governed by the conditions established by the ~~board~~ *former California Integrated Waste Management Board* in its existing regulations set forth in paragraph (3) of subdivision (b) of, and paragraph (3) of subdivision (c) of, Section 18813 of Title 14 of the California Code of Regulations, as those sections read on the effective date of this section, and by the conditions established in the ~~board's~~ *former California Integrated Waste Management Board's* policy adopted on January 25, 1995.

(d) In adopting rules and regulations pursuant to this section, Section 40124, and this division, including, but not limited to, Part 2 (commencing with Section 40900), the ~~board~~ *Department of Toxic Substances Control* shall provide guidance to local enforcement agencies on any conditions and restrictions on the utilization of alternative daily cover so as to ensure proper enforcement of those rules and regulations.

SEC. 95. Section 41782 of the Public Resources Code is amended to read:

41782. (a) The ~~board~~ *Department of Conservation* may make adjustments to the amounts reported pursuant to subdivisions (a) and (c) of Section 41821.5, if the city, county, or regional agency demonstrates, and the ~~board~~ *Department of Conservation* concurs, based on substantial evidence in the record, that achievement of

the diversion requirements of Section 41780 is not feasible due to either of the following circumstances:

(1) A medical waste treatment facility, as defined in subdivision (a) of Section ~~25025~~ *117725* of the Health and Safety Code, accepts untreated medical waste, which was generated outside of the jurisdiction, for purposes of treatment, and the medical waste, when treated, becomes solid waste.

(2) (A) A regional diversion facility within the jurisdiction accepts material generated outside the jurisdiction and the conversion or processing of that material results in the production of residual solid waste that cannot feasibly be diverted. Any adjustment provided pursuant to this paragraph shall apply only to that portion of the residual solid waste produced as a consequence of processing material that is not subject to the reporting requirements of subdivisions (a) and (c) of Section 41821.5 and that cannot feasibly be allocated to the originating jurisdiction.

(B) For purposes of granting the reduction specified in subparagraph (A) and for the purpose of calculating compliance with the diversion requirements of Section 41780, "regional diversion facility" means a facility which meets all of the following criteria:

(1) The facility accepts material for recycling from both within and without the jurisdiction of the city or county within which it is located.

(2) All material accepted by the facility has been source-separated for the purpose of being processed prior to its arrival at the facility.

(3) The residual solid waste generated by the facility is a byproduct of the recycling that takes place at the facility.

(4) The facility is not a solid waste facility or solid waste handling operation pursuant to Section 43020.

(5) The facility contributes to regional efforts to divert solid waste from disposal.

(b) If the ~~board~~ *Department of Conservation* makes an adjustment pursuant to subdivision (a), the annual report required pursuant to Section 41821 by the jurisdiction, within which a medical waste treatment facility or regional diversion facility described in subdivision (a) is located, shall include all of the following information:

(1) The total amount of residual solid waste produced at the facility.

(2) The waste types and amounts in the residual solid waste that cannot feasibly be diverted.

(3) The factors that continue to prevent the waste types from being feasibly diverted.

(4) Any changes since the petition for adjustment was granted or since the last annual report.

(5) The additional efforts undertaken by the jurisdiction to divert the waste produced at the facility.

(c) Based upon the information submitted pursuant to subdivision (b), if the ~~board~~ *Department of Conservation* finds, as part of the biennial review pursuant to Section 41825, that the residual solid waste that previously could not be diverted can now be diverted, the ~~board~~ *Department of Conservation* shall rescind the adjustment commensurate with the amount of diversion of the residual tonnages.

(d) It is not the intent of the Legislature to exempt any solid waste facility or handling operation from periodic tracking and the reporting of disposal tonnages in accordance with the regulations adopted by the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* pursuant to subdivisions (a) and ~~(c)~~ *(d)* of Section 41821.5, or from the permitting requirements pursuant to Section 43020.

SEC. 96. Section 41783 of the Public Resources Code is amended to read:

41783. (a) For a jurisdiction's source reduction and recycling element submitted to the ~~board~~ *former California Integrated Waste Management Board* after January 1, 1995, and on or before January 1, 2009, the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include not more than 10 percent through transformation, as defined in Section 40201, if all of the following conditions are met:

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

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

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

(4) The ~~board~~ *former California Integrated Waste Management Board* holds a public hearing in the city, county, or regional agency jurisdiction within which the transformation project is proposed, and, after the public hearing, the ~~board~~ *former California Integrated Waste Management Board* makes both of the following findings, based upon substantial evidence on the record:

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

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

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

(6) The city, county, or regional agency does not include biomass conversion, as authorized pursuant to Section 41783, in its source reduction and recycling element.

(b) On and after January 1, 2009, for purposes of the review authorized by Section 41825, with regard to a jurisdiction's compliance with Section 41780 for each year commencing January 1, 2007, the ~~board~~ *California Integrated Waste Management Board or its successor* may reduce the per capita disposal rate for a jurisdiction, as calculated pursuant to subdivision (d) of Section 41780.05, by no more than 10 percent of the average of the calculated per capita generation tonnage amount, if the jurisdiction otherwise meets the substantive requirements specified in paragraphs (1) to (6), inclusive, of subdivision (a), for solid waste to be included as diversion for purposes of that subdivision.

SEC. 97. Section 41783.1 of the Public Resources Code is amended to read:

41783.1. (a) For any city, county, or regional agency source reduction and recycling element submitted to the ~~board~~ *former California Integrated Waste Management Board or the Department of Toxic Substances Control, in conjunction with the Department*

of Conservation, after January 1, 1995, the 50 percent diversion requirement specified in paragraph (2) of subdivision (a) of Section 41780 may include not more than 10 percent through biomass conversion if all of the following conditions are met:

(1) The biomass conversion project exclusively processes biomass.

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

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

(4) The ~~board~~ *former California Integrated Waste Management Board, or the Department of Toxic Substances Control, in conjunction with the Department of Conservation*, determines, at a public hearing, based upon substantial evidence in the record, that the city, county, or regional agency is, and will continue to be, effectively implementing all feasible source reduction, recycling, and composting measures.

(5) The city, county, or regional agency does not include transformation, as authorized pursuant to Section 41783, in its source reduction and recycling element.

SEC. 98. Section 41784 of the Public Resources Code is amended to read:

41784. If the ~~board~~ *former California Integrated Waste Management Board, or the Department of Toxic Substances Control, in conjunction with the Department of Conservation*, determines that a city or county source reduction and recycling element submitted after January 1, 1995, will not achieve the 50 percent requirement established under Section 41780, and the city or county chooses not to use a transformation project to achieve the 50 percent requirement, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation*, shall not require the city or county to achieve the 50 percent diversion requirement through transformation, or impose any penalty on the city or county to compel the city or county to achieve the 50 percent requirement through transformation.

SEC. 99. Section 41786 of the Public Resources Code is amended to read:

41786. (a) Notwithstanding Section 41780, the ~~board~~ *Department of Conservation* may reduce the diversion requirements specified in Section 41780 for any city or county which, on or before January 1, 1990, disposed of 75 percent or more of its solid waste, collected by the jurisdiction or its authorized agents or contractors, by transformation if either of the following conditions exist:

(1) The attainment of the 25 percent or 50 percent diversion requirement specified in Section 41780 will result in substantial impairment of the obligations of one or more contracts in existence on January 1, 1990, for the city or county to furnish solid waste for fuel. A substantial impairment of obligations includes, but is not limited to, instances where a city has entered into a contract or franchise for 20 or more years with a joint powers authority for the operation of a transformation facility, and meeting the diversion requirements of Section 41780 may increase the city's costs by 15 percent or more.

(2) The attainment of the 25 percent or 50 percent diversion requirement specified in Section 41780 will substantially interfere with the repayment of debt incurred to finance or refinance the transformation project, if the refinancing is done for the purpose of reducing debt service and not for the expansion of the transformation project.

(b) If the ~~board~~ *Department of Conservation* reduces the diversion requirements for a city or county pursuant to subdivision (a), the ~~board~~ *Department of Conservation* shall establish new diversion requirements which require the maximum feasible amount of source reduction, recycling, and composting but which will not result in the conditions described in paragraphs (1) and (2) of subdivision (a).

SEC. 100. Section 41787 of the Public Resources Code is amended to read:

41787. (a) (1) The ~~board~~ *Department of Conservation* may reduce the diversion requirements of Section 41780 for a rural city if the rural city demonstrates, and the ~~board~~ *Department of Conservation* concurs, based on substantial evidence in the record, that achievement of the diversion requirements is not feasible due to both of the following conditions:

(A) The small geographic size or low population density of the rural city.

(B) The small quantity of solid waste generated within the rural city.

(2) The ~~board~~ *Department of Conservation* may reduce the diversion requirements of Section 41780 for the unincorporated area of a rural county if the rural county demonstrates, and the ~~board~~ *Department of Conservation* concurs, based on substantial evidence in the record, that achievement of the diversion requirements is not feasible due to both of the following conditions:

(A) The large geographic size or low population density of the rural county.

(B) The small quantity of solid waste generated within the rural county.

(3) The ~~board~~ *Department of Conservation* may grant a reduction in diversion requirements pursuant to this subdivision only if the rural city or the rural county demonstrates to the ~~board~~ *Department of Conservation*, and the ~~board~~ *Department of Conservation* concurs, based on substantial evidence in the record, that it has, at a minimum, implemented all of the following programs:

(A) A source reduction and recycling program designed to handle the predominant classes and types of solid waste generated within the rural city or rural county.

(B) A public sector diversion and procurement program.

(C) A public information and education program.

(b) If, as part of the review performed pursuant to Section 41825, the ~~board~~ *Department of Conservation* finds that a rural city or a rural county~~, which~~ *that* previously qualified for a reduction in diversion requirements pursuant to subdivision (a)~~,~~ is no longer eligible for that reduction, the ~~board~~ *Department of Conservation* shall issue an order requiring the rural city or rural county to comply with the diversion requirements of Section 41780.

SEC. 101. Section 41787.1 of the Public Resources Code is amended to read:

41787.1. (a) Rural cities and rural counties may join to form rural regional agencies pursuant to Article 3 (commencing with Section 40970) of Chapter 1.

(b) A rural regional agency, and not the rural cities or rural counties which are member jurisdictions of the rural regional agency, may be responsible for compliance with Article 1

(commencing with Section 41780) of Chapter 6 if specified in the agreement pursuant to which the rural regional agency is formed.

(c) (1) The ~~board~~ *Department of Conservation* may reduce the diversion requirements of Section 41780 for a rural regional agency, if the rural regional agency demonstrates, and the ~~board~~ *Department of Conservation* concurs, based on substantial evidence in the record, that achievement of the diversion requirements is not feasible because adverse market or economic conditions beyond the control of the rural regional agency prevent it from meeting the requirements of Section 41780.

(2) Before a rural regional agency may be granted a reduction in diversion requirements pursuant to paragraph (1), it shall demonstrate that, at a minimum, it has established all of the following regionwide programs:

(A) A source reduction and recycling program or programs designed to handle the predominant classes and types of solid waste generated within the rural regional agency.

(B) A regional diversion and procurement program or programs.

(C) A regional public information and education program or programs.

(d) (1) Notwithstanding Section 40974, any civil penalty imposed on a rural regional agency by the ~~board~~ *Department of Conservation* pursuant to Section 41813 or 41850 shall be imposed only on a member rural city or county that is in violation of this division as a city or county irrespective of its membership in the rural regional agency. If a rural regional agency elects to apportion penalties pursuant to this subdivision, the member jurisdiction to that rural regional agency shall, as a condition of the agreement establishing the rural regional agency, be required to account on an individual jurisdictional basis for their compliance with the diversion requirements of Section 41780, as prescribed by Section 41780.2.

(2) In determining whether to impose a penalty on a member of a rural regional agency pursuant to this subdivision, the ~~board~~ *Department of Conservation* may consider all of the following:

(A) The relevant circumstances that resulted in the agency's failure to achieve the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, and whether the member contributed to the circumstances that resulted in the failure to achieve the diversion requirements.

(B) Whether the agency's joint powers agreement specifies that all liability for fines and penalties rests with the member, with no liability assigned to the agency.

(C) Whether the imposition of penalties on members and not on the agency would provide for flexibility that would allow the agency to resolve the problem that is preventing the members from meeting the diversion requirements.

(D) Limiting penalties to a maximum of ten thousand dollars ($10,000) per day if a member's failure does not cause other members or the agency to fail to implement programs in the agency's source reduction and recycling element.

SEC. 102. Section 41787.2 of the Public Resources Code is amended to read:

41787.2. (a) A rural city or a rural county, which has received, or is eligible for, a reduction in diversion requirements pursuant to Section 41787, may become a member of a rural regional agency for the purpose of complying with the diversion requirements of Section 41780, in which case the region's maximum disposal tonnage allowable shall be calculated as follows:

(1) Determining the regional maximum disposal tonnage allowable, excluding members with reduced diversion requirements.

(2) Determining the maximum disposal tonnage allowable for those members authorized to meet reduced diversion requirements.

(3) Adding the calculated maximum disposal tonnages determined pursuant to paragraphs (1) and (2) to determine the regional maximum disposal tonnage allowable.

(b) (1) A rural regional agency may not assume responsibility for compliance with diversion requirements upon formation pursuant to subdivision (b) of Section 41787.1, and for compliance with Article 1 (commencing with Section 41780), if the rural regional agency is comprised of more than two rural counties, unless authorized by the ~~board~~ *Department of Conservation* pursuant to paragraph (2).

(2) The ~~board~~ *Department of Conservation* may authorize the assumption of responsibility for compliance with diversion requirements by a rural regional agency upon formation, which is comprised of more than two rural counties, if the ~~board~~ *Department of Conservation* finds that the rural regional agency's assumption

of responsibility will not adversely affect compliance with this part.

SEC. 103. Section 41787.3 of the Public Resources Code is amended to read:

41787.3. The ~~board~~ *Department of Conservation*, in consultation with rural cities and rural counties, shall develop model programs and materials to assist rural cities and rural counties in complying with the requirements of Chapter 2 (commencing with Section 41000) and Chapter 3 (commencing with Section 41300). Those model programs and materials shall be designed to assist rural cities and rural counties in achieving the purposes of this division in a manner which minimizes, to the maximum extent feasible, the costs imposed on rural cities and rural counties to comply with this division.

SEC. 104. Section 41787.4 of the Public Resources Code is amended to read:

41787.4. Notwithstanding Section 41820, the ~~board~~ *Department of Conservation* may grant a two-year time extension from the diversion requirements of Section 41780 to a rural city, rural county, or rural regional agency if all of the following conditions are met:

(a) The ~~board~~ *Department of Conservation* adopts written findings, based on substantial evidence in the record, that adverse market or economic conditions beyond the control of the rural city, rural county, or rural regional agency prevent the rural city, rural county, or rural regional agency from meeting the diversion requirements.

(b) The rural city, rural county, or rural regional agency submits a plan of correction that demonstrates how it will meet the diversion requirements before the time extension expires, which includes the source reduction, recycling, and composting programs it will implement and states how those programs will be funded.

(c) The rural city, rural county, or rural regional agency demonstrates that it is achieving the maximum feasible amount of source reduction, recycling, or composting of solid waste within its jurisdiction.

SEC. 105. Section 41790 of the Public Resources Code is amended to read:

41790. In order to coordinate solid waste management activities throughout the state and to ensure that Article 2 (commencing with

Section 40050) of Chapter 1 of Part 1 is implemented, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall review each county and city source reduction and recycling element and each countywide integrated waste management plan adopted pursuant to this part to determine if it complies with Article 2 (commencing with Section 40050) of Chapter 1 of Part 1.

SEC. 106. Section 41791 of the Public Resources Code is amended to read:

41791. (a) If any city or county has less than eight years of remaining disposal site capacity, the countywide integrated waste management plan shall be submitted to the ~~board~~ *Department of Toxic Substances Control* within 12 months after the Office of Administrative Law formally approves regulations for the preparation of countywide siting elements and countywide integrated waste management plans pursuant to Section 11349.3 of the Government Code.

(b) If any city or county has eight or more years of remaining disposal site capacity, the countywide integrated waste management plan shall be submitted to the ~~board~~ *Department of Toxic Substances Control* within 18 months after the Office of Administrative Law formally approves regulations for the preparation of countywide siting elements and countywide integrated waste management plans pursuant to Section 11349.3 of the Government Code.

(c) A regional agency integrated waste management plan shall be submitted to the ~~board~~ *Department of Toxic Substances Control* within 18 months after the Office of Administrative Law formally approves regulations for the preparation of countywide siting elements and countywide integrated waste management plans pursuant to Section 11349.3 of the Government Code.

SEC. 107. Section 41791.1 of the Public Resources Code is amended to read:

41791.1. In reviewing, commenting upon, and approving or disapproving integrated waste management plans and the elements ~~thereof~~ *of the plan,* the ~~board~~ *Department of Toxic Substances Control* shall take into account both of the following:

(a) The shared responsibility which exists under law between the ~~board~~ *Department of Conservation* and local agencies for activities such as the development of markets for materials diverted

from disposal facilities, public education and information, and source reduction.

(b) The importance of promoting regional cooperation among local agencies, and cooperation between local agencies and the ~~board~~ *Department of Conservation* in achieving the objectives of this division, to the extent that cooperation will result in more cost-effective and efficient implementation of this division.

SEC. 108. Section 41791.2 of the Public Resources Code is amended to read:

41791.2. In reviewing, commenting upon, and approving or disapproving integrated waste management plans and the elements ~~thereof~~ *of the plan*, the ~~board~~ *Department of Conservation* shall assist local agencies, to the extent that local agencies request this assistance within the same region, in developing regional cooperative approaches to source reduction, public information and education, and market development, if the approaches result in more efficient and cost-effective implementation of this division.

SEC. 109. Section 41791.5 of the Public Resources Code is amended to read:

41791.5. (a) (1) Notwithstanding Section 41791, and except as provided in subdivision (b), each city, county, and regional agency shall submit its source reduction and recycling element and its nondisposal facility element to the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* in accordance with the following schedule:

(A) For any jurisdiction with less than eight years of remaining disposal site capacity, the source reduction and recycling element and the nondisposal facility element shall be submitted on or before April 30, 1994.

(B) For any jurisdiction with eight or more years, but less than 15 years, of remaining disposal site capacity, the source reduction and recycling element and the nondisposal facility element shall be submitted on or before August 31, 1994.

(C) For any jurisdiction with 15 or more years of remaining disposal site capacity, the source reduction and recycling element and the nondisposal facility element shall be submitted on or before December 31, 1994.

(2) For purposes of this section, “remaining disposal site capacity” means capacity remaining as of January 1, 1990. For

each jurisdiction, disposal site capacity shall be deemed to be the countywide permitted disposal site capacity.

(3) Notwithstanding Section 41791, a county or regional agency that has adopted a countywide or regional agency integrated waste management plan may submit the plan and its elements to the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* for review and approval pursuant to the schedule set forth in paragraph (1).

(b) A city which is incorporated after January 1, 1990, shall submit a source reduction and recycling element, a household hazardous waste element, and a nondisposal facility element to the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* for approval within 18 months from the date that the city was incorporated or within 18 months of the effective date of this section, whichever is later.

SEC. 110. Section 41794 of the Public Resources Code is amended to read:

41794. Any city may submit its city source reduction and recycling element or nondisposal facility element to the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* for review before the dates in the schedule in Section 41791.5.

SEC. 111. The heading of Article 1 (commencing with Section 41800) of Chapter 7 of Part 2 of Division 30 of the Public Resources Code is amended to read:

Article 1. ~~Board~~ Approval

SEC. 112. Section 41800 of the Public Resources Code is amended to read:

41800. (a) Except as provided in subdivision (b), within 120 days from the date of receipt of a countywide or regional integrated waste management plan which the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* has determined to be complete, or any element of the plan which the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* has determined to be complete, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall determine whether the plan or element is in compliance with Article 2 (commencing with Section 40050) of

Chapter 1 of Part 1, Chapter 2 (commencing with Section 41000), and Chapter 5 (commencing with Section 41750), and, based upon that determination, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall approve, conditionally approve, or disapprove the plan or element.

(b) (1) Within 120 days from the date of receipt of a city, county, or regional agency nondisposal facility element, which the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* has determined to be complete, and within 60 days from the date of receipt of an amendment to a city, county, or regional agency nondisposal facility element, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall determine whether the element, which the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* has determined to be complete, or amendment is in compliance with Chapter 4.5 (commencing with Section 41730) and Article 1 (commencing with Section 41780) of Chapter 6, and, based upon that determination, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall approve, conditionally approve, or disapprove the element or amendment within that time period.

(2) In reviewing the element or amendment, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall:

(A) Not consider the estimated capacity of the facility or facilities in the element or amendment unless the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* determines that this information is needed to determine whether the element or amendment meets the requirements of Article 1 (commencing with Section 41780) of Chapter 6.

(B) Recognize that individual facilities represent portions of local plans or programs that are designed to achieve the diversion requirements of Section 41780 and therefore may not arbitrarily require new or expanded diversion at proposed facilities.

(C) Not disapprove an element or amendment that includes a transfer station or other facility solely because the facility does not contribute towards the jurisdiction's efforts to comply with Section 41780.

(c) If the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* does not act to approve, conditionally

approve, or disapprove an element ~~which~~ *that* the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* has determined to be complete within 120 days, or an amendment ~~which the board~~ *that the Department of Toxic Substances Control or the Department of Conservation* has determined to be complete within 60 days, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall be deemed to have approved the element or amendment.

SEC. 113. Section 41801 of the Public Resources Code is amended to read:

41801. Before approving or conditionally approving a countywide or regional integrated waste management plan, or any element of the plan, pursuant to Section 41800, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall adopt written findings, based on substantial evidence in the record, that implementing the plan or element will achieve the requirements established pursuant to this part, including the diversion requirements of Section 41780.

SEC. 114. Section 41801.5 of the Public Resources Code is amended to read:

41801.5. (a) If an element submitted to the ~~board~~ *Department of Conservation* for final review includes the diversion of any solid wastes specified in subdivision (c) of Section 41781.2 for years preceding the year commencing January 1, 1990, and the ~~board~~ *Department of Conservation* is unable to determine whether the requirements of Section 41781.2 have been met, the ~~board~~ *Department of Conservation* shall notify the city, county, or regional agency that the diversion is excluded for purposes of calculating compliance with Section 41780. The ~~board~~ *Department of Conservation* shall notify the city, county, or regional agency of the exclusion within 60 days from the date of receipt of the element for final review. If an element has been submitted to the ~~board~~ *Department of Conservation* for final review prior to January 1, 1993, the ~~board~~ *Department of Conservation* shall notify the submitting city, county, or regional agency of the exclusion on or before March 1, 1993.

(b) The notice shall be based upon a summary review undertaken solely for the purpose of determining whether the source reduction and recycling element includes any diversion of wastes excluded by Section 41781.2, and whether the element contains information

sufficient for the ~~board~~ *Department of Conservation* to determine whether the requirements of that section have been met. The summary review and notice shall be undertaken by the ~~board~~ *Department of Conservation* concurrent with the ~~board's~~ *Department of Conservation's* review and approval, conditional approval, or disapproval of source reduction and recycling elements pursuant to Section 41800.

(c) The ~~board~~ *Department of Conservation* shall approve or conditionally approve the source reduction and recycling element, if wastes have been excluded pursuant to Section 41781.2, if the ~~board~~ *Department of Conservation* finds, pursuant to Section 41801, that, notwithstanding that exclusion, the element will achieve the requirements established pursuant to this part, including the diversion requirements of Section 41780.

(d) If the source reduction and recycling element is approved or conditionally approved pursuant to this section, the city, county, or regional agency shall revise the element to reflect the excluded wastes and shall submit any such revisions to the ~~board~~ *Department of Conservation* pursuant to Section 41822.

SEC. 115. Section 41802 of the Public Resources Code is amended to read:

41802. (a) Within 120 days from the date of receipt of a household hazardous waste element, the ~~board~~ *Department of Toxic Substances Control* shall approve or disapprove the element.

(b) The ~~board~~ *Department of Toxic Substances Control* shall not disapprove a household hazardous waste element if the local agency preparing the element demonstrates to the ~~board~~ *Department of Toxic Substances Control* that, in implementing the household hazardous waste element, the local agency will comply with all of the following requirements:

(1) The local agency will use feasible methods to properly reduce, collect, recycle, treat, and dispose of household hazardous waste generated within its jurisdiction.

(2) The local agency will devote reasonable expenditures to the safe reduction, collection, recycling, treatment, and disposal of household hazardous waste, relative to the other expenditures required by this division, and relative to the expenditures for household hazardous waste programs which were awarded grants of funds pursuant to Section 46401 as it read on January 1, 1993.

(3) The local agency will make all reasonable efforts to inform the public of, and to encourage public participation in, the household hazardous waste program.

(4) Regardless of the number of household hazardous waste collection events held each year by a local agency, or the actual number of households served, the collection program is available for use by all households within the jurisdiction of the local agency, and provides a safe alternative for all residents within the jurisdiction of the local agency to properly and safely dispose of household hazardous waste.

(c) (1) In determining whether a local agency meets the conditions for approval of a household hazardous waste element set forth in subdivision (b), the ~~board~~ *Department of Toxic Substances Control* shall consider the geographic size and population of the city or county and the quantity of household hazardous waste generated within the jurisdiction of the city or county.

(2) The ~~board~~ *Department of Toxic Substances Control* may provide an exemption from the requirements of subdivision (b) if a city, county, or a regional agency demonstrates, and the ~~board~~ *Department of Toxic Substances Control* concurs, that compliance with those requirements is not feasible due to the small geographic size of the city, county, or regional agency and the small quantity of solid waste generated within the city, county, or regional agency. The ~~board~~ *Department of Toxic Substances Control* may establish alternative, but less comprehensive, requirements for those cities, counties, or regional agencies to ensure compliance with this division.

SEC. 116. Section 41810 of the Public Resources Code is amended to read:

41810. (a) If the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* conditionally approves a countywide or regional integrated waste management plan, or any element of the plan, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall issue a notice of conditional approval to the city, county, or regional agency which identifies the specific reasons for the conditional approval. The notice of conditional approval shall include specific recommendations on how to correct the remaining deficiencies in the plan or element.

(b) If the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* disapproves a countywide or regional integrated waste management plan, or any element of the plan, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall issue a notice of deficiency to the city, county, or regional agency which identifies the specific reasons for the disapproval. The notice of deficiency shall include specific recommendations on how to correct the deficiencies in the plan or element.

SEC. 117. Section 41810.1 of the Public Resources Code is amended to read:

41810.1. (a) Any city, county, or regional agency ~~which~~ *that* receives a notice of conditional approval for a countywide or regional integrated waste management plan, or any element of the plan, pursuant to subdivision (a) of Section 41810, shall, within 60 days from the date of receipt of the notice of conditional approval, submit a compliance schedule to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* that demonstrates how the city, county, or regional agency will correct the deficiencies identified in the notice of conditional approval by the earliest feasible date, but in no event shall that correction take longer to make than one year from the date of submission of the compliance schedule.

(b) The ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall approve or disapprove a compliance schedule submitted pursuant to subdivision (a) within 60 days from the date of its receipt of the schedule.

(c) If the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* determines, based on substantial evidence in the record, that a city, county, or regional agency is not in compliance with a compliance schedule approved pursuant to subdivision (b), the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* may revoke the notice of conditional approval, and shall issue a notice of deficiency pursuant to subdivision (b) of Section 41810.

(d) It is the intent of the Legislature that a notice of conditional approval shall provide flexibility for a city, county, or regional agency to make substantial progress towards meeting the requirements of this part while ensuring full compliance with this part at the earliest feasible date.

SEC. 118. Section 41811 of the Public Resources Code is amended to read:

41811. Within 120 days of receipt of the notice of deficiency issued pursuant to Section 41810, the city or county shall correct the deficiencies, readopt, and resubmit the city source reduction and recycling element or the countywide integrated waste management plan to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation*.

SEC. 119. Section 41811.5 of the Public Resources Code is amended to read:

41811.5. (a) If the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* disapproves an element for which a city, county, or regional agency has received a notification of excluded wastes pursuant to Section 41801.5, the city, county, or regional agency may, concurrent with the procedures specified in Section 41811, submit additional information to substantiate that the requirements of Section 41781.2 have been met. The additional information shall be submitted to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* within 60 days of disapproval of the element.

(b) Following the receipt of additional information pursuant to subdivision (a) the ~~board~~ *Department of Conservation* shall determine, within 60 days, whether all, or a portion of, the excluded waste will be included in the source reduction and recycling element for purposes of calculating compliance with Section 41780.

(c) Based upon the ~~board's~~ *Department of Conservation's* determination pursuant to subdivision (b), the city, county, or regional agency shall revise its source reduction and recycling element to correct any deficiencies resulting from the exclusion of wastes pursuant to Section 41781.2, and shall resubmit the element to the ~~board~~ *Department of Conservation*. The element shall be resubmitted within 120 days of a ~~board~~ *Department of Conservation* determination pursuant to subdivision (b). Notwithstanding Section 41811, if an element is disapproved pursuant to Section 41800, and the notice of deficiency issued pursuant to Section 41810 identifies reasons for disapproval, including, but not limited to, noncompliance with Section 41781.2, the city, county, or regional agency shall correct all deficiencies,

and readopt and resubmit the element to the ~~board~~ *Department of Conservation* pursuant to the requirements of this section.

(d) In revising the source reduction and recycling element to address deficiencies arising from noncompliance with Section 41781.2, a city, county, or regional agency may limit the revisions to an identification and description of the specific measures that will be undertaken to achieve compliance with Section 41780.

(e) If a city, county, or regional agency is unable to resubmit the source reduction and recycling element within 120 days, the ~~board~~ *Department of Conservation* may, on a case-by-case basis, extend the deadline imposed by subdivision (c) for submittal of a revised element.

SEC. 120. Section 41812 of the Public Resources Code is amended to read:

41812. If the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* determines that the revised city, county, or regional agency source reduction and recycling element or the countywide or regional agency integrated waste management plan submitted pursuant to Section 41811 or 41811.5 still fails to meet the requirements of this part, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall conduct a public hearing for the purpose of hearing testimony on the plan or element and the deficiencies identified by the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation*.

SEC. 121. Section 41813 of the Public Resources Code is amended to read:

41813. (a) After conducting a public hearing pursuant to Section 41812, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* may impose administrative civil penalties of not more than ten thousand dollars ($10,000) per day on any city or county, or, pursuant to Section 40974, on any city or county as a member of a regional agency, which fails to submit an adequate element or plan in accordance with the requirements of this chapter.

(b) The ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall not impose any penalty against a city or county pursuant to this section if the city or county is in substantial compliance with this part and if those aspects of a plan or element of a plan submitted by a city, county, or regional agency

which is not in compliance with this part do not directly or substantially affect achievement of the diversion requirements of Section 41780.

(c) In determining whether a city, county, or regional agency is in substantial compliance, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall consider whether the city, county, or regional agency has made a good faith effort to implement all reasonable and feasible measures to comply.

(d) The ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall not use the money collected from the penalties imposed pursuant to subdivision (a) for administrative purposes. The ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall use the money collected from the penalties imposed pursuant to subdivision (a), to the extent possible, to assist local governments in meeting the requirements of this part.

SEC. 122. Section 41820.5 of the Public Resources Code is amended to read:

41820.5. (a) ~~In addition to its authority under Section 41820, the board~~ *The Department of Conservation* may, after a public hearing, grant a time extension from the diversion requirements of Section 41780 to a city if both of the following conditions exist:

(1) The city was incorporated pursuant to Division 3 (commencing with Section 56000) of Title 5 of the Government Code after January 1, 1990, and before January 1, 2001.

(2) The county within which the city is located did not include provisions in its franchises that ensured that the now incorporated area would comply with the diversion requirements of Section 41780.

(b) The ~~board~~ *Department of Conservation* may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows both of the following:

(1) The city shall divert 25 percent of its estimated generation amount of solid waste from landfill or transformation facilities within three years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

(2) The city shall divert 50 percent of its estimated generation amount of solid waste from landfill or transformation facilities within eight years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

SEC. 123. Section 41820.6 of the Public Resources Code is amended to read:

41820.6. (a) ~~In addition to its authority under Section 41820, the board~~ *The Department of Toxic Substances Control or the Department of Conservation* may, after a public hearing, grant a time extension from the requirements of Section 41780 to a city if both of the following conditions exist:

(1) The city was incorporated pursuant to Division 3 (commencing with Section 56000) of Title 5 of the Government Code on or after January 1, 2001.

(2) The county within which the city is located did not include provisions in its franchises that ensured that the now incorporated area would comply with the requirements of Section 41780.

(b) The ~~board~~ *Department of Conservation* may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows that the city shall comply with the requirements of Section 41780, within three years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

SEC. 124. Section 41821 of the Public Resources Code is amended to read:

41821. (a) (1) Each year following the ~~board's~~ *Department of Toxic Substances Control or the Department of Conservation's* approval of a jurisdiction's source reduction and recycling element, household hazardous waste element, and nondisposal facility element, the jurisdiction shall submit a report to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* summarizing its progress in reducing solid waste as required by Section 41780, in accordance with the schedule set forth in this subdivision.

(2) The annual report shall be due on or before August 1 of the year following ~~board~~ *Department of Toxic Substances Control or*

the Department of Conservation approval of the source reduction and recycling element, the household hazardous waste element, and the nondisposal facility element, and on or before August 1 in each subsequent year. The information in this report shall encompass the previous calendar year, January 1 to December 31, inclusive.

(b) Each jurisdiction's annual report to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall, at a minimum, include the following:

(1) Calculations of annual disposal reduction.

(2) A summary of progress made in implementing the source reduction and recycling element and the household hazardous waste element.

(3) An update of the jurisdiction's source reduction and recycling element and household hazardous waste element to include any new or expanded programs the jurisdiction has implemented or plans to implement.

(4) An update of the jurisdiction's nondisposal facility element to reflect any new or expanded nondisposal facilities the jurisdiction is using or planning to use.

(5) A summary of progress made in diversion of construction and demolition of waste material, including information on programs and ordinances implemented by the local government and quantitative data, where available.

(6) Other information relevant to compliance with Section 41780.

(c) A jurisdiction may also include, in the report required by this section, all of the following:

(1) Information on disposal reported pursuant to Section 41821.5 that the jurisdiction believes may be relevant to the ~~board's~~ *Department of Conservation's* determination of the jurisdiction's per capita disposal rate.

(2) Disposal characterization studies or other completed studies that show the effectiveness of the programs being implemented.

(3) Factors that the jurisdiction believes would affect the accuracy of, or mitigate the amount of, solid waste disposed by the jurisdiction, including, but not limited to, either of the following:

(A) Whether the jurisdiction hosts a solid waste facility or regional diversion facility.

(B) The effects of self-hauled waste and construction and demolition waste.

(4) The extent to which the jurisdiction previously relied on biomass diversion credit and the extent to which it may be impacted by the lack of the credit.

(5) Information regarding the programs the jurisdiction is undertaking to address specific disposal challenges, and why it is not feasible to implement programs to respond to other factors that affect the amount of waste that is disposed.

(6) Other information that describes the good faith efforts of the jurisdiction to comply with Section 41780.

(d) The ~~board~~ *Department of Conservation* shall use, but is not limited to the use of, the annual report in the determination of whether the jurisdiction's source reduction and recycling element needs to be revised or updated.

(e) (1) The ~~board~~ *Department of Conservation* shall adopt procedures for requiring additional information in a jurisdiction's annual report. The procedures shall require the ~~board~~ *Department of Conservation* to notify a jurisdiction of any additional required information no later than 120 days after the ~~board~~ *Department of Conservation* receives the report from the jurisdiction.

(2) Paragraph (1) does not prohibit the ~~board~~ *Department of Conservation* from making additional requests for information in a timely manner. A jurisdiction receiving a request for information shall respond in a timely manner.

(3) If the schedule for the submission of an annual report by a jurisdiction does not correspond with the scheduled review by the ~~board~~ *Department of Conservation* specified in subdivision (a) of Section 41825, the ~~board~~ *Department of Conservation* shall utilize the information contained in the annual report to assist the ~~board~~ *Department of Conservation* in providing technical assistance and reviewing the jurisdiction's diversion program implementation.

(f) The ~~board~~ *Department of Conservation* shall adopt procedures for conferring with a jurisdiction regarding the implementation of its diversion programs.

(g) Notwithstanding the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code), a jurisdiction shall submit the progress report required by this section to the ~~board~~ *Department of Conservation*

electronically, using the ~~board's~~ *Department of Conservation's* electronic reporting format system.

(h) Notwithstanding the reporting schedule required by this section, and in addition to the review required by Section 41825, the ~~board~~ *Department of Conservation* shall visit each jurisdiction not less than once each year to monitor the jurisdiction's implementation and maintenance of its diversion programs.

SEC. 125. Section 41821.1 of the Public Resources Code is amended to read:

41821.1. (a) Each year following the ~~board's~~ *Department of Toxic Substances Control's* approval of a county or regional agency's siting element and summary plan, the county or regional agency shall submit a report to the ~~board~~ *Department of Toxic Substances Control* summarizing the adequacy of the siting element and summary plan. The report on the siting element shall discuss any changes in disposal capacity, disposal facilities, or any other relevant issues. The annual report shall be due on or before August 1 of the year following ~~board~~ *Department of Toxic Substances Control* approval of a county or regional agency's siting element and summary plan, and on or before August 1 in each subsequent year. The information in this report shall encompass the previous calendar year, January 1 to December 31, inclusive.

(b) The ~~board~~ *Department of Toxic Substances Control* shall adopt procedures that may authorize a jurisdiction to submit an abbreviated version of the report required pursuant to this section, if the ~~board~~ *Department of Toxic Substances Control* determines that the jurisdiction has met or exceeded the requirements of paragraph (2) of subdivision (a) of Section 41780 for the previous two years, and if the ~~board~~ *Department of Toxic Substances Control* determines that the jurisdiction has otherwise complied with this division for the previous five years.

SEC. 126. Section 41821.2 of the Public Resources Code is amended to read:

41821.2. (a) For the purposes of this section, "district" means a community services district, public utility district, or sanitary district that provides solid waste handling services or implements source reduction and recycling programs.

(b) Notwithstanding any other law, each district shall do all of the following:

(1) Comply with the source reduction and recycling element and the household hazardous waste element of the city, county, or regional agency in which the district is located, as required by the city, county, or regional agency. The city, county, or regional agency shall notify a district of any program that it is implementing or modifying when it annually submits a report to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* pursuant to Section 41821.

(2) Provide each city, county, or regional agency in which it is located, information on the programs implemented by the district, the amount of waste disposed and reported to the disposal tracking system pursuant to Section 41821.5 for each city, county, or regional agency, and the amount of waste diverted by the district for each city, county, or regional agency.

(c) The ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* may adopt regulations pertaining to the format of the information to be provided pursuant to paragraph (2) of subdivision (b) and deadlines for supplying this information to the city, county, or regional agency, so that it may be incorporated into the annual report submitted to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* pursuant to Section 41821.

(d) A district is subject to the portion of a penalty imposed, pursuant to Section 41850, upon a city, county, or regional agency in which the district is located, that is in proportion to the district's responsibility for failure to implement that jurisdiction's source reduction and recycling element and household hazardous waste element, as determined by that city, county, or regional agency. The ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall not determine the proportion of a district's responsibility as part of its determination to impose penalties. The city, county, or regional agency shall provide the district with a written notice regarding the district's responsibility, including the basis for determining the district's proportional responsibility, and an opportunity for hearing before the city, county, or regional agency's governing body, before assessing the district a proportion of the penalty imposed by the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation*.

(e) A district may impose a fee in an amount sufficient to pay for the costs of complying with this section. The fees shall be assessed and collected in the same manner as the fees imposed pursuant to Sections 41901 and 41902.

SEC. 127. Section 41821.3 of the Public Resources Code is amended to read:

41821.3. (a) For the purposes of this section the following definitions shall apply:

(1) "Inert waste" means only rock, concrete, brick, sand, soil, ceramics, and cured asphalt. "Inert waste" does not include any waste that meets the definition of "designated waste," as defined in Section 13173 of the Water Code, or "hazardous waste" as defined in Section 40141.

(2) "Inert waste removed from the solid waste stream and not disposed of in a solid waste landfill" means the use or placement of inert waste on property where surface mining operations, as defined in Section 2735, are being conducted, or have been conducted previously, if the use or placement is for purposes of reclamation, as defined in Section 2733, pursuant to either of the following:

(A) A reclamation plan approved under Section 2774.

(B) For surface mining operations conducted prior to January 1, 1976, an agreement with a city or county, or a permit issued by a city or county, that provides for a fill appropriately engineered for the planned future use of the reclaimed mine site.

(3) "Jurisdiction" means a city, county, or regional agency.

(b) A jurisdiction shall deduct, from the amount of disposed waste that is required to be included in the annual report submitted to the ~~board~~ *Department of Conservation* pursuant to subdivision (b) of Section 41821, inert waste removed from the solid waste stream and not disposed of in a solid waste landfill, as defined in paragraph (2) of subdivision (a). A jurisdiction shall deduct this inert waste only in accordance with the procedures specified in subdivisions (c) to (e), inclusive, commencing with the report submitted by the jurisdiction to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* for the year 2001.

(c) (1) A jurisdiction shall deduct inert waste pursuant to subdivision (b) from its reported disposal tonnage for the year 2001, and shall identify, in the jurisdiction's annual report, that

the deduction is being made pursuant to this section and the exact amount of the deduction.

(2) The ~~board~~ *Department of Conservation* shall verify that the deduction made pursuant to paragraph (1) is consistent with the requirements of this section and the amount deducted is consistent with the amount reported through the ~~board's~~ *Department of Conservation* disposal reporting system. The ~~board~~ *Department of Conservation* shall approve the deduction made by the jurisdiction upon making this verification.

(3) If the ~~board~~ *Department of Conservation* finds that the amount deducted pursuant to paragraph (1) does not meet the requirements of this section, or if the amount deducted is not consistent with the amount reported through the ~~board's~~ *Department of Conservation's* disposal reporting system, the ~~board~~ *Department of Conservation* shall notify the jurisdiction of its preliminary determination and confer with representatives of the jurisdiction to reach an agreement regarding the amount of the deduction. If the jurisdiction agrees upon the amount of the deduction, the ~~board~~ *Department of Conservation* shall approve the deduction as modified. If the ~~board~~ *Department of Conservation* and the jurisdiction are unable to reach agreement upon the amount of the deduction, the jurisdiction may request a hearing before the ~~board~~ *Department of Conservation* to obtain a final determination.

(d) (1) A jurisdiction shall deduct tonnage from its base-year disposal in an amount equal to the amount deducted from the jurisdiction's 2001 disposal tonnage pursuant to this section. The jurisdiction shall not deduct an amount from its base-year disposal tonnage that is greater than the amount of disposed inert waste that was included in its most recent ~~board-approved~~ *Department of Conservation-approved* revised base-year approved by the ~~board~~ *Department of Conservation*.

(2) The ~~board~~ *Department of Conservation* shall verify that the base-year deduction made pursuant to paragraph (1) is consistent with the requirements of this section. The ~~board~~ *Department of Conservation* shall approve the revised base-year disposal tonnage upon making this verification.

(3) If the ~~board~~ *Department of Conservation* finds that the base-year deduction requested pursuant to paragraph (1) is not consistent with the requirements of this section, the ~~board~~ *Department of Conservation* shall notify the jurisdiction of its

preliminary determination and confer with representatives of the jurisdiction in order to reach agreement regarding the amount of the deduction. If the jurisdiction agrees upon the amount of the deduction, the ~~board~~ *Department of Conservation* shall approve the revised base-year disposal tonnage accordingly. If the ~~board~~ *Department of Conservation* and the jurisdiction are unable to reach agreement upon the amount of the deduction, the jurisdiction may request a hearing before the ~~board~~ *Department of Conservation* to obtain a final determination.

(e) (1) A jurisdiction shall deduct all inert waste from its reported disposal tonnage in all of its annual reports for all subsequent years. The ~~board~~ *Department of Conservation* shall verify this deduction pursuant to paragraphs (2) and (3) of subdivision (c).

(2) If the ~~board~~ *Department of Conservation* approves the jurisdiction's revised base-year disposal tonnage pursuant to subdivision (d), the revised base year disposal tonnage shall not be subsequently revised for inert waste under this section.

(f) This section does not limit the authority of the ~~board~~ *Department of Conservation* to require any facility that uses or places inert material on property where surface mining operations are being conducted, or have been conducted previously, to report to the ~~board~~ *Department of Conservation* on the quantities of inert material used or placed on the property for the purpose of reclamation.

(g) It is the intent of the Legislature that a city, county, or regional agency not be required to revise its source reduction and recycling element to comply with this section unless the city, county, or regional agency elects to implement this section as authorized by this section.

(h) This section shall become inoperative on the operative date of any regulation adopted by the ~~board~~ *Department of Conservation* relating to "inert waste removed from the solid waste stream and not disposed of in a solid waste landfill," as defined in paragraph (2) of subdivision (a), if that regulation includes procedures to facilitate the counting of the inert waste for purposes of the disposal reporting system established under Section 41821.5 when that inert waste is placed in a mine reclamation facility as fill material, and, as of January 1 immediately following that operative date, is repealed, unless a later enacted statute that is enacted before that

January 1 deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 128. Section 41821.5 of the Public Resources Code is amended to read:

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

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

(c) Each county shall submit periodic reports to the cities within the county, to any regional agency of which it is a member agency, and to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation*, on the amounts of solid waste disposed by jurisdiction or region of origin, as specified in subdivision (a), and on the categories and amounts of solid waste diverted to recycling and composting facilities within the county or region, as specified in subdivision (b).

(d) The ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* may adopt regulations pursuant to this section requiring practices and procedures that are reasonable and necessary to perform the periodic tracking surveys required by this section, and that provide a representative accounting of solid wastes that are handled, processed, or disposed. Those regulations or periodic tracking surveys approved by the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall not impose an unreasonable burden on waste

handling, processing, or disposal operations or otherwise interfere with the safe handling, processing, and disposal of solid waste.

(e) On or before January 1, 2002, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall submit a report to the Legislature that evaluates the implementation of this section. The report shall include, but not be limited to, all of the following:

(1) An evaluation of the accuracy of the disposal reporting system under differing circumstances.

(2) The status of implementation of the disposal reporting system at the local level by waste haulers, landfills, transfer station and material recovery operators, and local agencies.

(3) The need for modification of the disposal reporting system to improve accuracy.

(4) Recommendations for regulatory and statutory changes needed to address deficiencies in the disposal reporting system.

(5) Recommendations to improve implementation and to streamline the reporting system, including ways to assist agencies to meet the reporting and tracking requirements.

(f) The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation* shall convene a working group composed of representatives of stakeholder groups, including, but not limited to, cities, counties, regional agencies, the solid waste industry, recyclers, and environmental organizations, to assist the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation* in preparing the report required pursuant to subdivision (e).

SEC. 129. Section 41821.6 of the Public Resources Code is amended to read:

41821.6. To assist market development efforts by the ~~board~~ *Department of Conservation*, local agencies, and the private sector, the ~~board~~ *Department of Conservation* shall use existing data resources collected from recycling, composting, and disposal facilities, or from other sources, to provide periodic information on the recovery and availability of recycled materials.

SEC. 130. Section 41822 of the Public Resources Code is amended to read:

41822. Each city, county, or regional agency shall review its source reduction and recycling element or the countywide integrated waste management plan at least once every five years

to correct any deficiencies in the element or plan, to comply with the source reduction and recycling requirements established under Section 41780, and to revise the documents, as necessary, to comply with this part. Any revision made to an element or plan pursuant to this section shall be submitted to the ~~board~~ *Department of Conservation* for review and approval or disapproval pursuant to the schedule established under this chapter.

SEC. 131. Section 41825 of the Public Resources Code, as added by Section 13 of Chapter 343 of the Statutes of 2008, is amended to read:

41825. (a) Using the information in the report submitted to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* by the jurisdiction pursuant to Section 41821 and any other relevant information, the ~~board~~ *Department of Conservation* shall make a finding whether each jurisdiction was in compliance with Section 41780 for calendar year 2006 and shall review a jurisdiction's compliance with Section 41780 in accordance with the following schedule:

(1) If the ~~board~~ *Department of Conservation* makes a finding that the jurisdiction was in compliance with Section 41780 for calendar year 2006, the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* shall review, commencing January 1, 2012, and at least once every four years thereafter, whether the jurisdiction has implemented its source reduction and recycling element and household hazardous waste element.

(2) If the ~~board makes~~ *Department of Toxic Substances Control and the Department of Conservation make* a finding that the jurisdiction made a good faith effort to implement its source reduction and recycling element and household hazardous waste element, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation* shall review, commencing January 1, 2010, and at least once every two years thereafter, whether the jurisdiction has implemented its source reduction and recycling element and household hazardous waste element.

(3) If the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* makes a finding that the jurisdiction was not in compliance with Section 41780 for calendar year 2006 or for any subsequent calendar year, the ~~board~~ *Department of Toxic*

Substances Control, in conjunction with the Department of Conservation, shall review, commencing January 1, 2010, and at least once every two years thereafter, whether the jurisdiction has implemented its source reduction and recycling element and household hazardous waste element.

(4) If, after determining that a jurisdiction is subject to paragraph (2), or, if, after determining that a jurisdiction is not in compliance with Section 41780 and is subject to paragraph (3), the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* subsequently determines that the jurisdiction has come into compliance with Section 41780, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall review, at least once every four years, whether the jurisdiction has implemented its source reduction and recycling element and household hazardous waste in the same manner as a jurisdiction that is subject to paragraph (1).

(5) If, after determining that a jurisdiction is in compliance with Section 41780 and is subject to paragraph (1), the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* subsequently determines that the jurisdiction is not in compliance with Section 41780, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall review, at least once every two years, whether the jurisdiction has implemented its source reduction and recycling element and household hazardous waste element in the same manner as a jurisdiction that is subject to paragraph (2) or (3).

(b) In addition to the requirements of subdivision (a), the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* may review whether a jurisdiction is in compliance with Section 41780 in accordance with the requirements of this section at any time that the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* receives information that indicates the jurisdiction may not be making a good faith effort to implement its source reduction and recycling element and household hazardous waste element.

(c) (1) Before issuing a compliance order pursuant to subdivision (d), the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall confer with the jurisdiction regarding conditions relating to the proposed order of compliance, with a first meeting occurring not less than

60 days before issuing a notice of intent to issue an order of compliance.

(2) The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall issue a notice of intent to issue an order of compliance not less than 30 days before the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* holds a hearing to issue the notice of compliance. The notice of intent shall specify all of the following:

(A) The proposed basis for issuing an order of compliance.

(B) The proposed actions the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* recommends are necessary for the jurisdiction to complete to implement its source reduction and recycling element or household hazardous waste element.

(C) The proposed recommendations to the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation*.

(3) The ~~board~~ *Department of Conservation* shall consider any information provided pursuant to subdivision (c) of Section 41821 if the proposed issuance of an order of compliance involves changes to a jurisdiction's calculation of annual disposal.

(d) (1) If, after holding a public hearing, which, to the extent possible, shall be held in the local or regional agency's jurisdiction, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* finds that a jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall issue an order of compliance with a specific schedule for achieving compliance.

(2) The compliance order shall include those conditions that the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* determines to be necessary for the jurisdiction to implement its diversion programs.

(3) In addition to considering the good faith efforts of a jurisdiction, as specified in subdivision (e), to implement a diversion program, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation* shall consider both of the following factors in determining whether or not to issue a compliance order:

(A) Whether an exceptional growth rate may have affected compliance.

(B) Other information that the jurisdiction may provide that indicates the effectiveness of the jurisdiction's programs, such as disposal characterization studies or other jurisdiction specific information.

(e) For purposes of making a determination pursuant to this section whether a jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* shall consider all of the following criteria:

(1) For the purposes of this section, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

(2) For purposes of this section, "good faith effort" may also include the evaluation by a jurisdiction of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the jurisdiction to adequately address all sources of significant disposal, the submission by the jurisdiction of a compliance schedule, and the undertaking of all other reasonable and feasible efforts to implement the programs identified in the jurisdiction's source reduction and recycling element or household hazardous waste element.

(3) In determining whether a jurisdiction has made a good faith effort, the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* shall consider the enforcement criteria included in ~~its~~ *the former California Integrated Waste Management Board's* enforcement policy, as adopted on April 25, 1995, or as subsequently amended.

(4) The ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* shall consider all of the following when considering whether a jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element:

(A) Natural disasters.

(B) Budgetary conditions within a jurisdiction that could not be remedied by the imposition or adjustment of solid waste fees.

(C) Work stoppages that directly prevent a jurisdiction from implementing its source reduction and recycling element or household hazardous waste element.

(D) The impact of the failure of federal, state, and other local agencies located within the jurisdiction to implement source reduction and recycling programs in the jurisdiction.

(E) The extent to which the jurisdiction has implemented additional source reduction, recycling, and composting activities.

(F) The extent to which the jurisdiction has made program implementation choices driven by considerations related to other environmental issues, including climate change.

(G) Whether the jurisdiction has provided information to the ~~board~~ *Department of Conservation* concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.

(H) The extent to which the jurisdiction has implemented programs to comply with Section 41780 and to maintain its per capita disposal rate.

(5) In making a determination whether a jurisdiction has made a good faith effort, pursuant to this section, the ~~board~~ *Department of Conservation* may consider a jurisdiction's per capita disposal rate as a factor in determining whether the jurisdiction adequately implemented its diversion programs. The ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall not consider a jurisdiction's per capita disposal rate to be determinative as to whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element.

(f) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 132. Section 41850 of the Public Resources Code is amended to read:

41850. (a) Except as specifically provided in Section 41813, if, after holding the public hearing and issuing an order of compliance pursuant to Section 41825, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* finds that the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* may impose administrative civil penalties upon the city or county or, pursuant to Section 40974, upon the city or county as a member of a regional agency, of up to ten thousand dollars ($10,000) per day until the jurisdiction implements the element.

(b) In determining whether or not to impose any penalties, or in determining the amount of any penalties imposed under this section, including any penalties imposed due to the exclusion of solid waste pursuant to Section 41781.2 that results in a reduction in the quantity of solid waste diverted by a jurisdiction, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall consider whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element. In addition, the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall consider only those relevant circumstances that have prevented a jurisdiction from meeting the requirements of this division, including, but not limited to, the factors described in subdivisions (d) and (e) of Section 41825.

SEC. 133. Section 41850.5 of the Public Resources Code is amended to read:

41850.5. Any administrative civil penalty imposed by the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* pursuant to Section 41813 or 48150 shall be deposited in the Local Government Assistance Account, which is hereby created in the Integrated Waste Management Fund. Any funds deposited in that account shall be used solely for the purposes of assisting local governments in complying with the diversion

requirements established under Section 41780, and shall not be used by the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* for administrative purposes.

SEC. 134. Section 41851 of the Public Resources Code is amended to read:

41851. Nothing in this chapter shall infringe on the existing authority of counties and cities to control land use or to make land use decisions, and nothing in this chapter provides or transfers new authority over that land use to the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation*.

SEC. 135. Section 41903 of the Public Resources Code is amended to read:

41903. A city or county may assess special fees of a reasonable amount on the importation of waste from outside of the county to publicly owned or privately owned facilities. No city or county shall export solid waste to any other jurisdiction unless the exporting city or county has, within one year following the date specified in Section 41791 or a later date established or permitted by the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation*, an approved city or county household hazardous waste element and a source reduction and recycling element which have both been implemented, or have submitted a countywide integrated waste management plan, and is in compliance with it, provided, however, that, until one year following the date specified in Section 41791 or a later date established by the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation*, nothing herein shall be construed as prohibiting the export of solid waste. The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* may waive the requirements of this section if the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation,* determines that all additional reasonable source reduction and recycling programs are being implemented in the city or county or if the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation* determines that the system to export waste supports or enhances the city or county source recovery and recycling element.

SEC. 136. Section 41956 of the Public Resources Code is amended to read:

41956. The ~~board~~ *Department of Conservation* may award special enforcement grants to cities or counties to support pilot programs designed to develop and evaluate enforcement techniques to reduce the theft of recyclable materials from commercial, industrial, or other nonresidential establishments.

SEC. 137. Section 42000 of the Public Resources Code is amended to read:

42000. The Legislature hereby finds and declares all of the following:

(a) This division requires cities and counties to divert 25 percent of all solid waste from landfills and transformation facilities by 1995 and 50 percent by 2000. As of 1990, the overall diversion rate in the state was 12 percent.

(b) California's source reduction, recycling, and composting efforts need to increase greatly if local jurisdictions are to meet the 25-percent and the 50-percent diversion requirements.

(c) Market development is the key to increased, cost-effective recycling. Market development includes activities that strengthen demand by manufacturers and end-use consumers for recyclable materials collected by municipalities, nonprofit organizations, and private entities.

(d) Developing markets for recyclable materials creates opportunities that will reindustrialize California. The ~~board~~ *Department of Conservation* estimates that the development of markets for recyclable materials may create over 20,000 jobs in California's manufacturing sector, an additional 25,000 jobs in the sorting and processing fields, and an unestimated number of jobs in other fields that may develop through full implementation of this division.

(e) The ~~board~~ *Department of Conservation* is authorized to conduct individual market development activities, but is not presently required to implement a comprehensive plan that addresses the full range of market development needs.

SEC. 138. Section 42002 of the Public Resources Code is amended to read:

42002. The following definitions govern the construction of this chapter:

(a) "Applicant" means a person, as defined in Section 40170, who applies for designation as a Recycling Market Development Zone.

(b) "Postconsumer waste material" means any product generated by a business or a consumer which has served its intended end use, and which has been separated from solid waste for the purposes of collection, recycling, and disposal, and which does not include secondary waste material.

(c) "Recycling-based business" means any business that increases market demand for, or adds value to, postconsumer waste material or secondary waste material.

(d) "Recycling market development zone" or "zone" means any single or joint, contiguous parcels of property that, based on the determination of the ~~board~~ *Department of Conservation*, meets the following criteria:

(1) The area has been zoned an appropriate land use for the development of commercial, industrial, or manufacturing purposes.

(2) The area is identified in the countywide or regional agency integrated waste management plan as part of the market development area.

(3) The area is located in a city with an existing postconsumer waste collection infrastructure.

(4) The area may be used to establish commercial, manufacturing, or industrial processes which would produce end products that consist of not less than 50 percent recycled materials.

(e) "Revolving loan program" means the Recycling Market Development Revolving Loan Program established pursuant to Section 42023.1.

(f) "Secondary waste material" means industrial byproducts which would otherwise go to disposal facilities and wastes generated after completion of a manufacturing process, but does not include internally generated scrap commonly returned to industrial or manufacturing processes, such as home scrap and mill broke.

(g) "Subaccount" means the Recycling Market Development Revolving Loan Subaccount created pursuant to subdivision (a) of Section 42023.1.

SEC. 139. Section 42005 of the Public Resources Code is amended to read:

42005. (a) The ~~board~~ *Department of Conservation* shall develop a comprehensive market development plan using existing resources, that will stimulate market demand in the state for

postconsumer waste material and secondary waste material generated in the state.

(b) The ~~board's~~ *Department of Conservation's* market development plan shall include, but shall not be limited to, achieving all of the following goals:

(1) Increasing market demand for postconsumer waste materials and secondary waste materials available due to California's source reduction and recycling programs.

(2) Increasing demand for recycled content products, especially high quality, value-added products.

(3) Promoting efficient local waste diversion systems which yield high quality, industrially usable feedstocks.

(4) Promoting the competitive collection and use of secondary waste materials.

(c) The ~~board's~~ *Department of Conservation's* development plan shall also include efforts to encourage and promote cooperative, regional programs to expand markets for recycled material. These programs shall include activities to address problems and opportunities that are unique to rural, urban, and suburban areas of the state.

(d) The ~~board~~ *Department of Conservation* shall develop a plan, using existing resources, to provide assistance to local agencies when requested by a city, county, or regional agency, in the implementation of cost-effective programs that provide a quality supply of recycled materials for markets.

SEC. 140. Section 42007 of the Public Resources Code is amended to read:

42007. Upon adoption of the plan required by Section 42005, the ~~board~~ *Department of Conservation* shall conduct a detailed analysis of staff resources and consider how to most effectively implement the plan in consideration of existing statutory mandates and resource constraints.

SEC. 141. Section 42012 of the Public Resources Code is amended to read:

42012. The local governing body, or any person through the local governing body, may apply to the ~~board~~ *Department of Conservation* for designation as a recycling market development zone.

SEC. 142. Section 42013 of the Public Resources Code is amended to read:

42013. The ~~board~~ *Department of Conservation* shall adopt regulations and guidelines concerning the necessary contents of each application for designation and, in the countywide integrated waste management plans, shall determine the maximum number of recycling market development zones to be designated pursuant to this chapter.

SEC. 143. Section 42014 of the Public Resources Code is amended to read:

42014. The ~~board~~ *Department of Conservation* may designate or redesignate recycling market development zones for persons applying for that designation.

SEC. 144. Section 42015 of the Public Resources Code is amended to read:

42015. If there are more applications for designation than the number of recycling market development zones to be designated, the ~~board~~ *Department of Conservation* shall select the applicants who shall receive the designation of a recycling market development zone based on a comparison of the applications submitted and an indication that the applicant's proposals include effective, innovative, and comprehensive tax incentives and regulatory incentives, and other incentives programs, to attract private sector investment in the proposed recycling market development zone.

SEC. 145. Section 42019 of the Public Resources Code is amended to read:

42019. In evaluating an application for the designation of a recycling market development zone, the ~~board~~ *Department of Conservation* shall consider the amount of landfill capacity remaining in the jurisdiction where the zone would be located.

SEC. 146. Section 42020 of the Public Resources Code is amended to read:

42020. In evaluating an application for the designation of a recycling market development zone, the ~~board~~ *Department of Conservation* shall not deny the application solely because of technical deficiencies. The ~~board~~ *Department of Conservation* shall provide applicants with an opportunity to correct technical deficiencies. An application shall be denied if technical deficiencies are not corrected within 14 days.

SEC. 147. Section 42023.1 of the Public Resources Code is amended to read:

42023.1. (a) The Recycling Market Development Revolving Loan Subaccount is hereby created in the account for the purpose of providing loans for purposes of the Recycling Market Development Revolving Loan Program established pursuant to this article.

(b) Notwithstanding Section 13340 of the Government Code, the funds deposited in the subaccount are hereby continuously appropriated to the ~~board~~ *Department of Conservation* without regard to fiscal year for making loans pursuant to this article.

(c) The ~~board~~ *Department of Conservation* may expend interest earnings on funds in the subaccount for administrative expenses incurred in carrying out the Recycling Market Development Revolving Loan Program, upon the appropriation of funds in the subaccount for that purpose in the annual Budget Act.

(d) The money from any loan repayments and fees, including, but not limited to, principal and interest repayments, fees and points, recovery of collection costs, income earned on any asset recovered pursuant to a loan default, and funds collected through foreclosure actions, shall be deposited in the subaccount.

(e) All interest accruing on interest payments from loan applicants shall be deposited in the subaccount.

(f) The ~~board~~ *Department of Conservation* may expend the money in the subaccount to make loans to local governing bodies, private businesses, and nonprofit entities within recycling market development zones, or in areas outside zones where partnerships exist with other public entities to assist local jurisdictions to comply with Section 40051.

(g) The ~~board~~ *Department of Conservation* shall establish and collect fees for applications for loans authorized by this section. The application fee shall be set at a level that is sufficient to fund the ~~board's~~ *Department of Conservation's* cost of processing applications for loans. In addition, the ~~board~~ *Department of Conservation* shall establish a schedule of fees, or points, for loans which are entered into by the ~~board~~ *Department of Conservation*, to fund the ~~board's~~ *Department of Conservation's* administration of the revolving loan program.

(h) The ~~board~~ *Department of Conservation* may expend money in the subaccount for the administration of the Recycling Market Development Revolving Loan Program, upon the appropriation of funds in the subaccount for that purpose in the annual Budget

Act. In addition, the ~~board~~ *Department of Conservation* may expend money in the account to administer the revolving loan program, upon the appropriation of funds in the subaccount for that purpose in the annual Budget Act. However, funding for the administration of the revolving loan program from the account shall be provided only if there are not sufficient funds in the subaccount to fully fund the administration of the program.

(i) The ~~board~~ *Department of Conservation*, pursuant to subdivision (a) of Section 47901, may set aside funds for the purposes of paying costs necessary to protect the state's position as a lender-creditor. These costs shall be broadly construed to include, but not be limited to, foreclosure expenses, auction fees, title searches, appraisals, real estate brokerage fees, attorney fees, mortgage payments, insurance payments, utility costs, repair costs, removal and storage costs for repossessed equipment and inventory, and additional expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.

(j) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 148. Section 42023.3 of the Public Resources Code is amended to read:

42023.3. (a) All money remaining in the subaccount on July 1, 2011, and all money received as repayment and interest on loans shall, as of July 1, 2011, be transferred to the account and any money due and outstanding on loans as of July 1, 2011, shall be repaid to the ~~board~~ *Department of Conservation* and deposited by the ~~board~~ *Department of Conservation* in the account until paid in full, except that, upon authorization by the Legislature in the annual Budget Act, interest earnings may be expended for administrative costs associated with the collection of outstanding loan accounts.

(b) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective

on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 149. Section 42023.4 of the Public Resources Code is amended to read:

42023.4. (a) Loans made pursuant to Section 42023.1 shall be subject to all of the following requirements:

(1) The terms of any approved loan shall be specified in a loan agreement between the borrower and the ~~board~~ *Department of Conservation*. The loan agreement shall include a requirement that the failure to comply with the agreement shall result in any remaining unpaid amount of the loan, with accrued interest, being immediately due and payable. Notwithstanding any term of the agreement, any recipient of a loan that the ~~board~~ *Department of Conservation* approves shall repay the principal amount, plus interest on the basis of the rate of return for money in the Surplus Money Investment Fund at the time of the loan commitment. Except as provided in subdivision (a) of Section 42023.3, all money received as repayment and interest on loans made pursuant to this section shall be deposited in the subaccount.

(2) The term of any loan made pursuant to this section shall be not more than 10 years when collateralized by assets other than real estate, or not more than 15 years when partially or wholly collateralized by real estate.

(3) The ~~board~~ *Department of Conservation* shall approve only those loan applications that demonstrate the applicant's ability to repay the loan. The highest priority for funding shall be given to projects which demonstrate that the project will increase market demand for recycling the project's type of postconsumer waste material.

(4) The ~~board~~ *Department of Conservation* shall finance not more than three-fourths of the cost of each project, or not more than two million dollars ($2,000,000) for each project, whichever is less.

(5) The Department of Finance may audit the expenditure of the proceeds of any loan made pursuant to Section 42023.1 and this section.

(b) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 150. Section 42023.5 of the Public Resources Code is amended to read:

42023.5. (a) The ~~board~~ *Department of Conservation* shall, as part of the annual report to the Legislature, pursuant to Section 40507, include a report on the performance of the Recycling Market Development Revolving Loan Program, including the number and size of loans made, characteristics of loan recipients, projected loan demand, and the cost of administering the program.

(b) This section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 151. Section 42023.6 of the Public Resources Code is amended to read:

42023.6. (a) The ~~board~~ *Department of Conservation* shall encourage applicants to seek participation from private financial institutions or other public agencies. For purposes of enabling the ~~board~~ *Department of Conservation* and local agencies to comply with Sections 40051 and 41780, the ~~board~~ *Department of Conservation* may participate, in an amount not to exceed five hundred thousand dollars ($500,000), in the Capital Access Loan Program as provided in Article 8 (commencing with Section 44559) of Chapter 1 of Division 27 of the Health and Safety Code.

(b) For purposes of participating in the Capital Access Loan Program, as specified in subdivision (a), or in any program that leverages subaccount funds, the ~~board~~ *Department of Conservation* may operate both inside and outside the recycling market development zones.

(c) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2011, and as of January 1, 2012, is repealed, unless a later enacted statute, which becomes effective

on or before January 1, 2012, deletes or extends the dates on which it becomes inoperative and is repealed.

(2) The repeal of this section pursuant to paragraph (1) shall not extinguish any loan obligation or the authority of the state to pursue appropriate actions for the collection of a loan.

SEC. 152. Section 42024 of the Public Resources Code is amended to read:

42024. The ~~board~~ *Department of Conservation*, the Treasurer, and other appropriate state agencies shall, to the extent feasible and as appropriate, coordinate activities that will leverage financing for market development projects and encourage joint activities to strengthen markets for recycled materials.

SEC. 153. Section 42106 of the Public Resources Code is amended to read:

42106. The agency in consultation with the air board, water board and the department, may adopt regulations to implement this chapter. The agency may adopt emergency regulations to implement the loan guarantee program in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11346.1 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to this section shall be filed with, but not repealed by, the Office of Administrative Law, and shall remain in effect until revised by the agency.

SEC. 154. Section 42171 of the Public Resources Code is amended to read:

42171. The ~~board~~ *Department of Toxic Substances Control* shall evaluate the use of recycling residue for use as solid waste landfill cover materials or for use as extenders for currently used cover material. If used as daily cover or as extenders to daily cover, recycling residues shall have all of the physical characteristics required by regulations for cover materials adopted pursuant to Section 43020. The results of this evaluation shall be reported in the report required pursuant to Section 40507.

SEC. 155. Section 42172 of the Public Resources Code is amended to read:

42172. The ~~board~~ *Department of Toxic Substances Control* shall conduct its evaluation of recycling residue in consultation with ~~the Department of Toxic Substances Control,~~ the State Air Resources Board, the state water board, and any other agency having pertinent jurisdiction. Recycling residue used as daily cover or as extenders in daily cover shall meet performance standards and requirements for cover material as specified in the regulations adopted pursuant to Section 43020.

SEC. 156. Section 42240 of the Public Resources Code is amended to read:

42240. The Department of General Services and the ~~board~~ *Department of Conservation*, in consultation with other affected state agencies, shall maintain specifications for the purchase of compost by the State of California. The specifications shall designate the state minimum operating standards and product quality standards. The specifications shall be designed to maximize the use of compost without jeopardizing the safety and health of the citizens of the state or the environment.

SEC. 157. Section 42241.5 of the Public Resources Code is amended to read:

42241.5. The ~~board~~ *Department of Conservation* may develop a program to increase the use of compost products in agricultural applications. The program may include, but shall not be limited to, the following:

(a) Identification of federal, state, and local financial assistance.

(b) Cooperative efforts with appropriate federal and state agencies.

SEC. 158. Section 42244 of the Public Resources Code is amended to read:

42244. The ~~board~~ *Department of Conservation* shall evaluate compost, cocompost, and chemically fixed sewage sludge for use as solid waste landfill cover materials or for use as extenders for currently used cover material. Compost, cocompost, and chemically fixed sewage sludge products, when used as a substitute for or mixed with currently approved cover material, shall possess all the physical characteristics required in the definition of a cover material.

SEC. 159. Section 42244.5 of the Public Resources Code is amended to read:

42244.5. On or before January 1, 1994, the ~~board~~ *Department of Conservation* shall evaluate rice straw for use as a solid waste landfill cover material or for use as an extender for currently used cover material. Rice straw or rice straw materials, when used as a substitute for or mixed with currently approved cover material, shall possess all the physical characteristics required in the definition of a cover material. The results of the evaluation shall be included in the report required pursuant to Section 40507.

SEC. 160. Section 42245 of the Public Resources Code is amended to read:

42245. On or after January 1, 1992, based on the results of the evaluation conducted in accordance with Section 42244, the ~~board~~ *Department of Toxic Substances Control* may, on a case-by-case basis, approve the use of compost, co-compost, and chemically fixed sewage sludge, that meet the performance standards for cover material, for up to 25 percent of landfill cover materials or landfill cover extenders.

SEC. 161. Section 42252 of the Public Resources Code is amended to read:

42252. An at-store recycling program provided by the operator of a store shall include all of the following:

(a) A plastic carryout bag provided by the store shall have printed or displayed on the bag, in a manner visible to a consumer, the words "PLEASE RETURN TO A PARTICIPATING STORE FOR RECYCLING."

(b) A plastic carryout bag collection bin shall be placed at each store and shall be visible, easily accessible to the consumer, and clearly marked that the collection bin is available for the purpose of collecting and recycling plastic carryout bags.

(c) All plastic bags collected by the store shall be collected, transported, and recycled in a manner that does not conflict with the local jurisdiction's source reduction and recycling element, pursuant to Chapter 2 (commencing with Section 41000) and Chapter 3 (commencing with Section 41300) of Part 2.

(d) The store shall maintain records describing the collection, transport, and recycling of plastic bags collected for a minimum of three years and shall make the records available to the ~~board~~

Department of Conservation or the local jurisdiction, upon request, to demonstrate compliance with this chapter.

(e) The operator of the store shall make reusable bags available to customers within the store, which may be purchased and used in lieu of using a plastic carryout bag or paper bag. This subdivision is not applicable to a retail establishment specified pursuant to subdivision (b) of Section 42251.

SEC. 162. Section 42291 of the Public Resources Code is amended to read:

42291. (a) Until January 1, 1998, every manufacturer that manufactures plastic trash bags of 0.75 mil or greater thickness for sale in this state shall ensure that at least 30 percent of the material used in those plastic trash bags is recycled plastic postconsumer material.

(b) (1) On and after January 1, 1998, the manufacturer's required use of recycled plastic postconsumer material shall be determined pursuant to paragraph (2). Compliance by a manufacturer with either alternative shall be deemed to be compliance with this subdivision.

(2) Every manufacturer of regulated bags shall do one of the following:

(A) Ensure that its plastic trash bags intended for sale in this state contain a quantity of recycled plastic postconsumer material equal to at least 10 percent of the weight of the regulated bags.

(B) Ensure that at least 30 percent of the weight of the material used in all of its plastic products intended for sale in this state is recycled plastic postconsumer material.

(3) Beginning March 1, 1999, and annually thereafter, every manufacturer subject to this subdivision shall certify to the ~~board~~ *Department of Conservation* that it has used the required amount of recycled plastic postconsumer material annually in compliance with paragraph (2).

(c) Any certification of postconsumer materials used for compliance with this chapter shall not include any materials that are certified or used for compliance with any other state or federal requirement that requires the use or reporting of postconsumer materials for any plastic products.

(d) If any manufacturer subject to this section is unable to obtain sufficient amounts of recycled plastic postconsumer material to comply with this section within a reporting period because of

unavailability or because the available material did not meet recycled plastic postconsumer material quality standards adopted by the ~~board~~ *Department of Conservation*, the manufacturer shall certify that fact to the ~~board~~ *Department of Conservation*. Each manufacturer making that certification shall make a reasonable effort to identify available supplies of material before submitting certification to the ~~board~~ *Department of Conservation*.

(e) The Legislature hereby finds and declares that although the changes made to this section by the act amending this section during the 1998 portion of the 1997–98 Regular Session become effective after January 1, 1998, it is the intent of the Legislature that the new requirements specified in subdivision (b) be effective as of January 1, 1998. The Legislature further finds that this change is requested by the manufacturers subject to this section and that the retroactive effect of these changes will not cause any hardship on any manufacturer subject to this section, or cause any manufacturer to be subject to regulatory action as a result of these changes, but rather, would instead have the effect of preventing hardship to the manufacturers regulated by this section.

SEC. 163. Section 42291.5 of the Public Resources Code is amended to read:

42291.5. For each pound of recycled plastic postconsumer material purchased from a source of recycled plastic postconsumer material in this state for use in the manufacture of plastic trash bags, or other products manufactured with recycled plastic postconsumer material in compliance with this chapter, the ~~board~~ *Department of Conservation* shall credit the manufacturer certifying pursuant to Section 42293 with having used 1.2 pounds of recycled plastic postconsumer material toward compliance with the requirements of Section 42291.

SEC. 164. Section 42292 of the Public Resources Code is amended to read:

42292. Each manufacturer shall obtain from its suppliers of recycled plastic postconsumer material for use in the manufacture of plastic trash bags, or other products manufactured with recycled plastic postconsumer material in compliance with this chapter, a statement identifying the quantity, source location, and proximate prior usage of, and the actual postconsumer material content of, each shipment of recycled plastic postconsumer material purchased by the manufacturer, and any other information that the ~~board~~

Department of Conservation, may, by regulation, require the manufacturer to obtain from its suppliers, for purposes of inclusion in the annual report required by Section 42293.

SEC. 165. Section 42293 of the Public Resources Code is amended to read:

42293. (a) On or before March 1, 1999, and annually thereafter, each manufacturer subject to this chapter shall submit a report to the ~~board~~ *Department of Conservation* certifying that it has complied with Section 42291 during the preceding calendar year, certifying the name and physical location of each of its suppliers of recycled plastic postconsumer material for use in the manufacture of plastic trash bags, or other products manufactured with recycled plastic postconsumer material in compliance with this chapter, and containing the information obtained pursuant to Section 42292 and any other information that the ~~board~~ *Department of Conservation* may require by regulation. Any manufacturer that processes its own recycled plastic postconsumer material shall certify to the ~~board~~ *Department of Conservation* that it is the supplier of the material.

(b) On or before October 1, 2001, the ~~board~~ *Department of Conservation* shall survey manufacturers subject to this section and, notwithstanding Section 7550.5 of the Government Code, report back to the Legislature. The survey shall do all of the following:

(1) Identify the name and physical location of suppliers certified by manufacturers pursuant to subdivision (a).

(2) Identify the quantity of recycled plastic postconsumer material provided by suppliers within the state and the quantity of the material provided by suppliers outside the state.

(3) Provide recommendations regarding recycled plastic postconsumer material content requirements based on the availability of that material.

(4) Identify gauge thickness of all regulated bags.

(5) Determine national production versus production of a separate line for California.

SEC. 166. Section 42294 of the Public Resources Code is amended to read:

42294. (a) Every wholesaler of plastic trash bags of 1.0 mil or greater thickness sold in this state shall certify to the ~~board~~ *Department of Conservation* the name and physical location of

each manufacturer from whom it purchased plastic trash bags for purposes of inclusion in the annual report required by subdivision (c).

(b) On and after January 1, 1995, every wholesaler of trash bags of 0.75 mil or greater thickness sold in this state shall certify to the ~~board~~ *Department of Conservation* the name and physical location of each manufacturer from whom it purchased plastic trash bags for purposes of inclusion in the annual report required by subdivision (c).

(c) On or before March 1, 1994, and annually thereafter, each wholesaler shall submit a report to the ~~board~~ *Department of Conservation* containing the certification required by this section for the preceding calendar year, together with any other information that the ~~board~~ *Department of Conservation* may require by regulation.

SEC. 167. Section 42295 of the Public Resources Code is amended to read:

42295. Each supplier, manufacturer, and wholesaler required to provide a certification or any information pursuant to this chapter shall be subject to audit by the ~~board~~ *Department of Conservation*.

SEC. 168. Section 42296 of the Public Resources Code is amended to read:

42296. (a) If any supplier provides a manufacturer with false or misleading information, the ~~board~~ *Department of Conservation*, within 30 days of determining that fact, shall refer the false or misleading information to the Attorney General for prosecution for fraud.

(b) If any manufacturer or wholesaler provides the ~~board~~ *Department of Conservation* with a false or misleading certification or other information, the ~~board~~ *Department of Conservation*, within 30 days of determining that fact, shall refer the false or misleading certification or information to the Attorney General for prosecution for fraud.

SEC. 169. Section 42297 of the Public Resources Code is amended to read:

42297. (a) The ~~board~~ *Department of Conservation* may adopt such regulations as it determines are necessary to more specifically define terms for purposes of the chapter and to otherwise implement this chapter.

(b) Annually on or before July 1, the ~~board~~ *Department of Conservation* shall publish a list of any suppliers, manufacturers, or wholesalers who have failed to comply with this chapter.

(c) (1) Any supplier, manufacturer, or wholesaler, and any of its divisions, subsidiaries, or successors, who fails to comply with this chapter, shall be ineligible for the award of any state contract or subcontract, or for the renewal, extension, or modification of an existing contract or subcontract, until the ~~board~~ *Department of Conservation* determines that it is in compliance with this chapter.

(2) No state agency shall solicit offers from, award contracts to, or renew, extend, or modify a current contract or subcontract with, any supplier, manufacturer, or wholesaler, or any of its divisions, subsidiaries, or successors, who fails to comply with this chapter until the ~~board~~ *Department of Conservation* determines that it is in compliance with this chapter.

SEC. 170. Section 42301 of the Public Resources Code is amended to read:

42301. For purposes of this chapter, the following definitions apply:

(a) "Container manufacturer" means a company or a successor company that sells any rigid plastic packaging container subject to this chapter to a manufacturer that sells or offers for sale in this state any product packaged in that container.

(b) "Curbside collection program" means a recycling program that collects materials set out by households for collection at the curb at intervals not less than every two weeks. "Curbside collection program" does not include redemption centers, buyback locations, drop-off programs, material recovery facilities, or plastic recovery facilities.

(c) "Refillable package" means a rigid plastic packaging container that the ~~board~~ *Department of Conservation* determines is routinely returned to and refilled by the product manufacturer at least five times with the original product contained by the package.

(d) "Reusable package" means a rigid plastic packaging container that the ~~board~~ *Department of Conservation* determines is routinely reused by consumers at least five times to store the original product contained by the package.

(e) "Manufacturer" means the producer or generator of a product that is sold or offered for sale in the state and that is stored inside of a rigid plastic packaging container.

(f) "Rigid plastic packaging container" means any plastic package having a relatively inflexible finite shape or form, with a minimum capacity of eight fluid ounces or its equivalent volume and a maximum capacity of five fluid gallons or its equivalent volume, that is capable of maintaining its shape while holding other products, including, but not limited to, bottles, cartons, and other receptacles, for sale or distribution in the state.

(g) "Postconsumer material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product lifecycle. Postconsumer material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

(h) "Recycled" means a product or material that has been reused in the production of another product and has been diverted from disposal in a landfill.

(i) "Recycling rate" means the proportion, as measured by weight, volume, or number, of a rigid plastic packaging container sold or offered for sale in the state that is being recycled in a given calendar year, that is one of the following:

(1) A particular type of rigid plastic packaging container, such as a milk jug, soft drink container, or detergent bottle.

(2) A product-associated rigid plastic packaging container.

(3) A single resin type, as specified in Section 18015, of rigid plastic packaging container, notwithstanding the exemption of that container from this chapter pursuant to subdivision (b), (c), or (d) of Section 42340.

(j) (1) "Source reduced container" means either of the following:

(A) A rigid plastic packaging container for which the manufacturer seeks compliance as of January 1, 1995, whose package weight per unit or use of product has been reduced by 10 percent when compared with the packaging used for that product by the manufacturer from January 1, 1990, to December 31, 1994.

(B) A rigid plastic container for which the manufacturer seeks compliance after January 1, 1995, whose package weight per unit

or use of product has been reduced by 10 percent when compared with one of the following:

(i) The packaging used for the product by the manufacturer on January 1, 1995.

(ii) The packaging used for that product by the manufacturer over the course of the first full year of commerce in this state.

(iii) The packaging used in commerce that same year for similar products whose containers have not been considered source reduced.

(2) A rigid plastic packaging container is not a source reduced container for the purposes of this chapter if the packaging reduction was achieved by any of the following:

(A) Substituting a different material type for a material that previously constituted the principal material of the container.

(B) Increasing a container's weight per unit or use of product after January 1, 1991.

(C) Packaging changes that adversely affect the potential for the rigid plastic packaging container to be recycled or to be made of postconsumer material.

(k) "Product-associated rigid plastic packaging container" means a brand-specific, rigid plastic packaging line that may have one or more sizes, shapes, or designs and that is used in conjunction with a particular generic product line.

(*l*) "PETE" means polyethylene terephthalate as specified in subdivision (a) of Section 18015.

(m) "HDPE" means high-density polyethylene.

SEC. 171. Section 42310 of the Public Resources Code is amended to read:

42310. Except as otherwise provided in this chapter, every rigid plastic packaging container sold or offered for sale in this state shall, on average, meet one of the following criteria:

(a) Be made from 25 percent postconsumer material.

(b) Have a recycling rate of 45 percent if it is a product-associated rigid plastic packaging container or a single resin type of rigid plastic packaging container, as demonstrated to the ~~board~~ *Department of Conservation* by the product maker, container manufacturer, or other entity. The ~~board~~ *Department of Conservation* may take appropriate action to verify the demonstration, but the ~~board~~ *Department of Conservation* is not

required to expend state funds to conduct a survey or calculate the rate.

(c) Be a reusable package or a refillable package.

(d) Be a source reduced container.

(e) Is a container containing floral preservative that is subsequently reused by the floral industry for at least two years.

SEC. 172. Section 42310.1 of the Public Resources Code is amended to read:

42310.1. (a) Until January 1, 1997, the criteria specified in Section 42310 shall not apply to any rigid plastic packaging container that is manufactured for use with food or cosmetics, as defined in subdivisions (f) and (i) of Section 321 of Title 21 of the United States Code.

(b) Notwithstanding subdivision (a), rigid plastic packaging containers actually recycled shall be included in calculating the recycling rate pursuant to subdivision (b) or (c) of Section 42310.

(c) Every manufacturer of a product packaged in a rigid plastic packaging container described in subdivision (a), which is not in compliance with Section 42310, that is exempt from the criteria specified in Section 42310 pursuant to subdivision (a), shall do both of the following:

(1) On or before December 1, 1995, the manufacturer shall submit a report to the ~~board~~ *Department of Conservation* which demonstrates that the manufacturer is taking, and will continue to take, all feasible actions consistent with Section 42310 to ensure the reduction, recycling, or reuse of the rigid plastic packaging containers described in subdivision (a) and the development and expansion of markets for rigid plastic packaging containers. Those actions may include, but are not limited to, all of the following:

(A) The use of postconsumer recycled plastic in rigid plastic packaging containers sold in this state.

(B) The use of postconsumer recycled plastic in other packaging materials sold or manufactured in this state.

(C) The use of postconsumer recycled plastic in other products sold or manufactured in this state.

(D) Arranging for the use of postconsumer recycled plastic collected for recycling in this state in the manufacture of nonrigid plastic packaging container products or packaging of another entity.

(E) The procurement of products containing postconsumer recycled plastic, including, but not limited to, trash bags, trash containers, pallets, carpeting, slip sheets, and shrink wrap.

(F) The demonstration of financial investment in recycled plastic collecting, processing, and remanufacturing activities in the state.

(2) On or before January 1, 1996, every manufacturer of rigid plastic packaging containers shall, for any rigid plastic packaging container that is exempt from, and not in compliance with, the criteria specified in Section 42310 pursuant to subdivision (a), diligently seek one or more "nonobjection letters" from the United States Food and Drug Administration which will permit the manufacturer of rigid plastic packaging containers to use recycled plastic in the manufacture of the rigid plastic packaging containers described in subdivision (a).

SEC. 173. Section 42310.2 of the Public Resources Code is amended to read:

42310.2. (a) On or before July 1, 1994, as part of the regulations required to be adopted pursuant to Section 42325, the ~~board~~ *Department of Conservation* shall adopt regulations to carry out the requirements of paragraph (1) of subdivision (c) of Section 42310.1. In adopting regulations pursuant to this section, the ~~board~~ *Department of Conservation* shall make every effort to limit paperwork and information to only those matters that are needed for the ~~board~~ *Department of Conservation* to determine if manufacturers are taking all feasible actions to ensure the reduction, recycling, or reuse of the rigid plastic packaging containers described in subdivision (a) of Section 42310.1, and the development and expansion of markets for rigid plastic packaging containers.

(b) On or before February 1, 1996, the ~~board~~ *Department of Conservation* shall review, and approve or disapprove, the reports required pursuant to paragraph (1) of subdivision (c) of Section 42310.1. If a report is not submitted pursuant to a schedule established by the ~~board~~ *Department of Conservation*, or, if, based upon the report, the ~~board~~ *Department of Conservation* determines that a manufacturer has not taken all feasible actions to ensure the reduction, recycling, or reuse of the containers and the development and expansion of markets for rigid plastic packaging containers, the ~~board~~ *Department of Conservation* may take one of the following actions, as selected by the manufacturer:

(1) Require the manufacturer to take additional actions, including, but not limited to, one or more of the measures described in paragraph (1) of subdivision (c) of Section 42310.1, to ensure that the manufacturer is taking, and will continue to take, all feasible actions to ensure the reduction, recycling, or reuse of the containers and the development and expansion of markets for rigid plastic packaging containers.

(2) Impose a civil penalty of up to one hundred thousand dollars ($100,000) pursuant to Section 42322. In imposing monetary penalties pursuant to this paragraph, the ~~board~~ *Department of Conservation* shall take into consideration all of the following factors:

(A) The size and net worth of the manufacturer.

(B) The impact of the violation on the overall objectives of this chapter.

(C) The severity of the violation. A penalty imposed pursuant to this paragraph shall not be required to be paid by a manufacturer before January 1, 1997.

(c) If the ~~board~~ *Department of Conservation* determines that the conditions in paragraphs (1) and (2) are met, the ~~board~~ *Department of Conservation* shall enter into a contract, or other legally binding agreement, with one or more trade associations representing manufacturers of resin, manufacturers of rigid plastic packaging containers, or manufacturers of products packaged in rigid plastic packaging containers subject to this section and Section 42310.1. The agreement shall allow the trade association, in lieu of those individual manufacturers in the trade association who elect to be a party to the contract or agreement, to submit the report required pursuant to paragraph (1) of subdivision (c) of Section 42310.1 and to implement the actions identified in the report. The ~~board~~ *Department of Conservation* shall enter into the agreement only if both of the following conditions exist:

(1) The agreement ensures that the report will contain sufficient information that otherwise would be required to be submitted by individual manufacturers pursuant to Section 42310.1, and any other information that is necessary and directly related to the ~~board's~~ *Department of Conservation's* ability to comply with this section.

(2) The agreement ensures that each manufacturer that elects to be a party to the agreement and that is a member of the trade

association that submits the report shall be liable for the full amount of any civil penalties that may be imposed or shall comply with any requirement imposed by the ~~board~~ *Department of Conservation* pursuant to paragraph (1) of subdivision (b), as selected by the manufacturer. A manufacturer subject to this paragraph shall not be liable for a civil penalty greater than one hundred thousand dollars ($100,000), regardless of the number of trade associations of which the manufacturer is a member.

(d) Notwithstanding any other provision of this section, a trade association representing resin manufacturers shall be responsible for submitting an additional report as provided pursuant to paragraph (1) of subdivision (c) of Section 42310.1. The resin manufacturer's trade association is subject to the review, penalties, and sanctions specified in paragraphs (1) and (2) of subdivision (b). No member of the resin manufacturer's trade association is liable for penalties and sanctions set forth in paragraph (1) or (2) of subdivision (b) pursuant to this subdivision if that member would not otherwise be subject to those penalties and sanctions.

(e) For the purposes of subdivision (b) and paragraph (1) of subdivision (c) of Section 42310.1, "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(f) For purposes of Section 42310.1 and this section regarding all reporting, compliance, and penalty obligations, "manufacturer" includes all subsidiaries and affiliates.

SEC. 174. Section 42310.3 of the Public Resources Code is amended to read:

42310.3. (a) Notwithstanding Section 42310, a manufacturer is in compliance with this chapter if the manufacturer demonstrates through its own actions, or the actions of another company under the same corporate ownership, that one of the following actions were taken during the same period for which the manufacturer is subject to this chapter, with regard to a rigid plastic packaging container that stores the manufacturer's product that is sold or intended for sale in this state:

(1) The manufacturer, or another company under the same corporate ownership, consumed postconsumer material generated in the state in the manufacture of a rigid plastic packaging container subject to Section 42310, or a rigid plastic packaging container or

other plastic products or plastic packaging not subject to that section, and that is equivalent to, or exceeds the postconsumer material that the rigid plastic packaging container is otherwise required to contain, as specified in subdivision (a) of Section 42310.

(2) The manufacturer, or any company under the same corporate ownership, arranged by contractual agreement for the purchase and consumption of postconsumer material generated in the state and exported to another state for the manufacture of a rigid plastic packaging container subject to Section 42310, or a rigid plastic packaging container or other plastic products or plastic packaging not subject to that section that is equivalent to, or exceeds the postconsumer material that the rigid plastic packaging container is otherwise required to contain, as specified in subdivision (a) of Section 42310.

(b) The ~~board~~ *Department of Conservation* shall determine the manner of demonstrating compliance with this section.

SEC. 175. Section 42320 of the Public Resources Code is amended to read:

42320. Any entity required to make a certification pursuant to this chapter may be audited by the ~~board~~ *Department of Conservation*.

SEC. 176. Section 42321 of the Public Resources Code is amended to read:

42321. If any entity provides the ~~board~~ *Department of Conservation* with a false or misleading certificate pursuant to this chapter, the ~~board~~ *Department of Conservation*, within 30 days of making this determination, shall refer the provider of the false or misleading certificate to the Attorney General for prosecution for fraud.

SEC. 177. Section 42322 of the Public Resources Code is amended to read:

42322. (a) Any violation of this chapter is a public offense punishable by a fine of not more than one hundred thousand dollars ($100,000).

(b) In addition to the penalty specified under subdivision (a), any violation of this chapter may be subject to a civil penalty assessed by the ~~board~~ *Department of Conservation* of not more than fifty thousand dollars ($50,000) for each violation, pursuant to a notice and hearing procedure that conforms with Chapter 5

(commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The total annual fines or penalties assessed upon a violator of this chapter shall not exceed one hundred thousand dollars ($100,000).

(d) The ~~board~~ *Department of Conservation* shall annually publish a list by July 1 setting forth any fines or penalties that have been levied against a violator of this chapter in the preceding calendar year, for failure to comply with the requirements of this chapter.

(e) The ~~board~~ *Department of Conservation* shall deposit all penalties or fines paid pursuant to this section into the Rigid Container Account, which is hereby created in the Integrated Waste Management Fund in the State Treasury. The moneys deposited in the Rigid Container Account shall be expended by the ~~board~~ *Department of Conservation*, upon appropriation by the Legislature, to assist local governmental agencies to develop and implement collection and processing systems for the recycling of materials that are subject to this chapter, for the development of markets for these materials, and for the ~~board's~~ *Department of Conservation's* costs of implementing this chapter.

SEC. 178. Section 42323 of the Public Resources Code is amended to read:

42323. Proprietary information included in part of a report or certificate submitted to the ~~board~~ *Department of Conservation* pursuant to this chapter shall not be made available to the general public.

SEC. 179. Section 42325 of the Public Resources Code is amended to read:

42325. The ~~board~~ *Department of Conservation* shall adopt regulations to implement this chapter. These regulations shall include, but shall not be limited to, all of the following:

(a) Procedures for certifying compliance with Article 2 (commencing with Section 42310), including a requirement that product manufacturers include in their specifications for rigid plastic packaging containers a requirement that the packaging manufacturer certify that the rigid plastic packaging containers comply with this chapter.

(b) Procedures for considering and granting waivers pursuant to Article 4 (commencing with Section 42330).

SEC. 180. Section 42326 of the Public Resources Code is amended to read:

42326. In developing the regulations required by Section 42325, the ~~board~~ *Department of Conservation* shall consult with representatives of the manufacturers affected by this chapter, with representatives of environmental organizations, and other interested parties.

SEC. 181. Section 42327 of the Public Resources Code is amended to read:

42327. The ~~board~~ *Department of Conservation* may expend funds from the Integrated Waste Management Account to implement this chapter, upon appropriation by the Legislature.

SEC. 182. Section 42330 of the Public Resources Code is amended to read:

42330. (a) The ~~board~~ *Department of Conservation* shall grant a waiver from the postconsumer material content requirement of subdivision (a) of Section 42310, but not from any other requirement of Section 42310, if the ~~board~~ *Department of Conservation* finds one or more of the following:

(1) The rigid plastic packaging containers cannot meet the postconsumer material requirements of subdivision (a) of Section 42310 and remain in compliance with applicable provisions of regulations adopted by the Food and Drug Administration or other state or federal laws or regulations.

(2) It is technologically infeasible to use rigid plastic packaging containers that achieve the postconsumer material requirement of subdivision (a) of Section 42310.

(b) The ~~board~~ *Department of Conservation* shall grant a waiver from all of the requirements of Section 42310 if the ~~board~~ *Department of Conservation* finds either of the following:

(1) Less than 60 percent of the single-family homes in the state on and after January 1, 1994, have curbside collection programs that include beverage container recycling.

(2) At least 50 percent, by number, of a manufacturer's rigid plastic packaging containers sold or offered for sale in the state in the current calendar year achieve the postconsumer material requirements of subdivision (a) of Section 42310 and all of the manufacturer's rigid plastic packaging containers will comply with the requirements of Section 42310 on or before January 1, 1996.

(c) The ~~board~~ *Department of Conservation* shall grant a one-year waiver from all of the requirements of Section 42310 for products packaged in rigid plastic packaging containers that are introduced and sold in this state after January 1, 1995.

SEC. 183. Section 42356.1 of the Public Resources Code is amended to read:

42356.1. (a) If an ASTM standard specification specified in paragraph (1) of subdivision (b) of Section 42356 is subsequently revised, the ~~board~~ *Department of Conservation* shall review the new ASTM standard specification as follows:

(1) If the ~~board~~ *Department of Conservation* determines that the new standard is more stringent and more protective of the public health, safety, and the environment, and is reflective of and consistent with state policies and programs, the ~~board~~ *Department of Conservation* may adopt the new standard.

(2) If the ~~board~~ *Department of Conservation* determines that the new standard is not as stringent and does not protect the public health, safety, and the environment, and is not reflective of and consistent with state policies and programs, the ~~board~~ *Department of Conservation* shall not adopt the new standard.

(b) If the ASTM, or any other entity, develops a new standard specification or other applicable standard for any of the terms prohibited under subdivision (a) of Section 42357, the ~~board~~ *Department of Conservation* may review the new standard and, if the ~~board~~ *Department of Conservation* determines that the new standard for the prohibited term is more stringent and more protective of the public health, safety, and the environment, and is reflective of and consistent with state policies and programs, the ~~board~~ *Department of Conservation* may make a recommendation to the Legislature.

(c) Compliance with a standard adopted pursuant to paragraph (1) of subdivision (a) shall be deemed to be in compliance with this chapter.

SEC. 184. Section 42359.7 of the Public Resources Code is amended to read:

42359.7. (a) If an ASTM standard specification specified in subdivision (b) of Section 42359.5 is subsequently revised, the ~~board~~ *Department of Conservation* shall review the new ASTM standard specification as follows:

(1) If the ~~board~~ *Department of Conservation* determines that the new standard is more stringent and more protective of the public health, safety, and the environment, and is reflective of and consistent with state policies and programs, the ~~board~~ *Department of Conservation* may adopt the new standard.

(2) If the ~~board~~ *Department of Conservation* determines that the new standard is not as stringent and does not protect the public health, safety, and the environment, and is not reflective of and consistent with state policies and programs, the ~~board~~ *Department of Conservation* shall not adopt the new standard.

(b) If the ASTM, or any other entity, develops a new standard specification, or another applicable standard, for any of the terms prohibited under subdivision (a) of Section 42359.6, the ~~board~~ *Department of Conservation* may review the new standard and, if the ~~board~~ *Department of Conservation* determines that the new standard for that prohibited term is more stringent and more protective of the public health, safety, and the environment, and is reflective of and consistent with state policies and programs, the ~~board~~ *Department of Conservation* may make a recommendation to the Legislature.

(c) Compliance with a standard adopted pursuant to paragraph (1) of subdivision (a) shall be deemed to be in compliance with this chapter.

SEC. 185. Section 42410 of the Public Resources Code is amended to read:

42410. The ~~board~~ *Department of Conservation* shall evaluate current state and federal quality standards for retreaded tires and identify the obstacles for an increased market for retreads. The results of this evaluation and the activities that the ~~board~~ *Department of Conservation* will undertake to increase the use of retreaded tires shall be included in the reporting requirements specified in Section 42950.

SEC. 186. Section 42411 of the Public Resources Code is amended to read:

42411. The Department of General Services and the ~~board~~ *Department of Conservation*, in consultation with representatives of the California retreading industry, shall adopt specifications for the purchase of retreaded tires by the State of California. The specifications shall designate the state minimum quality standards for retreaded tires. The specifications shall be designed to maximize

the use of retreads without jeopardizing the safety of the occupants of the vehicle or the intended end use of the tire.

SEC. 187. Section 42414 of the Public Resources Code is amended to read:

42414. The number of retreaded tires purchased annually by the Department of General Services during each fiscal year shall be tabulated and forwarded to the ~~board~~ *Department of Conservation* by August 31 every year.

SEC. 188. Section 42415 of the Public Resources Code is amended to read:

42415. The ~~board~~ *Department of Conservation*, in consultation with the Department of General Services, shall perform a study to determine if the retreads, procured by the Department of General Services, have met all quality and performance criteria of a new tire.

SEC. 189. Section 42416 of the Public Resources Code is repealed.

~~42416. On or before July 1, 1991, the board shall, in consultation with the retreading industry, develop a procedure to estimate the number of retreads sold in California. This information, in addition to other facts compiled on the utilization of retread tires, shall be used to evaluate the effectiveness of this program. The results of that evaluation shall be included in the report required pursuant to Section 40507.~~

SEC. 190. Section 42441 of the Public Resources Code is amended to read:

42441. "Recycled lead-acid battery" means any lead-acid battery which contains a minimum percentage of postconsumer recovered lead. The required minimum percentage of postconsumer recovered lead shall be determined by the ~~board~~ *Department of Toxic Substances Control* in consultation with the Market Development Commission.

SEC. 191. Section 42443 of the Public Resources Code is amended to read:

42443. The number of recycled lead-acid batteries purchased each year by the Department of General Services shall be tabulated and forwarded to the ~~board~~ *Department of Toxic Substances Control* on or before March 31 of each year.

SEC. 192. Section 42450 of the Public Resources Code is amended to read:

42450. (a) The ~~board~~ *Department of Toxic Substances Control* may conduct a study on the disposal and recyclability of household batteries, taking into account any studies completed or underway elsewhere, including, but not limited to, any studies by the Environmental Protection Agency. The ~~board~~ *Department of Conservation* may participate in the study.

(b) The study may include, but is not limited to, all of the following:

(1) The effect of used household batteries on solid waste landfills and transformation facilities, including any threats to human health or environment.

(2) The recyclability of used household batteries, including, but not limited to, the following topics:

(A) Applicable recycling technologies and their effectiveness.

(B) Collection systems.

(C) Possible adverse effects on human health or the environment resulting from exposure to household batteries at all stages of the recycling process.

(D) Costs and revenues associated with recycling, including avoided disposal costs.

(E) Development of markets for products derived from recycled household batteries.

(c) For the purposes of this section, "household batteries" means batteries made of mercury, alkaline, carbon-zinc, nickel-cadmium, and other batteries typically generated as household waste, including, but not limited to, batteries used in hearing aids, cameras, watches, computers, calculators, flashlights, lanterns, standby and emergency lighting, portable radio and television sets, meters, toys, and clocks, but excluding lead-acid batteries as defined in Section 42440.

SEC. 193. Section 42461 of the Public Resources Code is amended to read:

42461. The Legislature finds and declares all of the following:

(a) The purpose of this chapter is to enact a comprehensive and innovative system for the reuse, recycling, and proper and legal disposal of covered electronic devices, and to provide incentives to design electronic devices that are less toxic, more recyclable, and that use recycled materials.

(b) It is the further purpose of this chapter to enact a law that establishes a program that is cost free and convenient for consumers

and the public to return, recycle, and ensure the safe and environmentally-sound disposal of covered electronic devices.

(c) It is the intent of the Legislature that the cost associated with the handling, recycling, and disposal of covered electronic devices is the responsibility of the producers and consumers of covered electronic devices, and not local government or their service providers, state government, or taxpayers.

(d) In order to reduce the likelihood of illegal disposal of these hazardous materials, it is the intent of this chapter to ensure that any cost associated with the proper management of covered electronic devices be internalized by the producers and consumers of covered electronic devices at or before the point of purchase, and not at the point of discard.

(e) Manufacturers of covered electronic devices, in working to achieve the goals and objectives of this chapter, should have the flexibility to partner with each other and with those public sector entities and business enterprises that currently provide collection and processing services to develop and promote a safe and effective covered electronic device recycling system for California.

(f) The producers of electronic products, components, and devices should reduce and, to the extent feasible, ultimately phase out the use of hazardous materials in those products.

(g) Electronic products, components, and devices, to the greatest extent feasible, should be designed for extended life, repair, and reuse.

(h) The purpose of the Hazardous Electronic Waste Recycling Act is to provide sufficient funding for the safe, cost-free, and convenient collection and recycling of 100 percent of the covered electronic waste discarded or offered for recycling in the state, to eliminate electronic waste stockpiles and legacy devices by December 31, 2007, to end the illegal disposal of covered electronic devices, to establish manufacturer responsibility for reporting to the ~~board~~ *former California Integrated Waste Management Board* on the manufacturer's efforts to phase out hazardous materials in electronic devices and increase the use of recycled materials, and to ensure that electronic devices sold in the state do not violate the regulations adopted by the Department of Toxic Substances Control pursuant to Section 25214.10 of the Health and Safety Code. *On and after January 1, 2010, manufacturers shall report the required information to the Department of Toxic Substances Control.*

SEC. 194. Section 42463 of the Public Resources Code is amended to read:

42463. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Account" means the Electronic Waste Recovery and Recycling Account created in the Integrated Waste Management Fund under Section 42476.

(b) "Authorized collector" means any of the following:

(1) A city, county, or district that collects covered electronic devices.

(2) A person or entity that is required or authorized by a city, county, or district to collect covered electronic devices pursuant to the terms of a contract, license, permit, or other written authorization.

(3) A nonprofit organization that collects or accepts covered electronic devices.

(4) A manufacturer or agent of the manufacturer that collects, consolidates, and transports covered electronic devices for recycling from consumers, businesses, institutions, and other generators.

(5) An entity that collects, handles, consolidates, and transports covered electronic devices and has filed applicable notifications with the department pursuant to Chapter 23 (commencing with Section 66273.1) of Division 4.5 of Title 22 of the California Code of Regulations.

~~(c) "Board" means the California Integrated Waste Management Board.~~

~~(d)~~

(c) "Consumer" means a person who purchases a new or refurbished covered electronic device in a transaction that is a retail sale or in a transaction to which a use tax applies pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

~~(e)~~

(d) "Department" means the Department of Toxic Substances Control.

~~(f)~~

(e) (1) Except as provided in paragraph (2), "covered electronic device" means a video display device containing a screen greater

than four inches, measured diagonally, that is identified in the regulations adopted by the department pursuant to subdivision (b) of Section 25214.10.1 of the Health and Safety Code.

(2) "Covered electronic device" does not include any of the following:

(A) A video display device that is a part of a motor vehicle, as defined in Section 415 of the Vehicle Code, or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle.

(B) A video display device that is contained within, or a part of a piece of industrial, commercial, or medical equipment, including monitoring or control equipment.

(C) A video display device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air-conditioner, dehumidifier, or air purifier.

(D) An electronic device, on and after the date that it ceases to be a covered electronic device under subdivision (e) of Section 25214.10.1 of the Health and Safety Code.

~~(g)~~

(f) "Covered electronic waste" or "covered e-waste" means a covered electronic device that is discarded.

~~(h)~~

(g) "Covered electronic waste recycling fee" or "covered e-waste recycling fee" means the fee imposed pursuant to Article 3 (commencing with Section 42464).

~~(i)~~

(h) "Covered electronic waste recycler" or "covered e-waste recycler" means any of the following:

(1) A person who engages in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of reuse or recycling.

(2) A person who changes the physical or chemical composition of a covered electronic device, in accordance with the requirements of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code and the regulations adopted pursuant to that chapter, by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for purposes of

segregating components, for purposes of recovering or recycling those components, and who arranges for the transport of those components to an end user.

(3) A manufacturer who meets any conditions established by this chapter and Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code for the collection or recycling of covered electronic waste.

~~(j)~~

(i) "Discarded" has the same meaning as defined in subdivision (b) of Section 25124 of the Health and Safety Code.

~~(k)~~

(j) "Electronic waste recovery payment" means an amount established and paid by the ~~board~~ *Department of Toxic Substances Control* pursuant to Section 42477.

~~(l)~~

(k) "Electronic waste recycling payment" means an amount established and paid by the ~~board~~ *Department of Toxic Substances Control* pursuant to Section 42478.

~~(m)~~

(l) "Hazardous material" has the same meaning as defined in Section 25501 of the Health and Safety Code.

~~(n)~~

(m) "Manufacturer" means either of the following:

(1) A person who manufactures a covered electronic device sold in this state.

(2) A person who sells a covered electronic device in this state under that person's brand name.

~~(o)~~

(n) "Person" means an individual, trust firm, joint stock company, business concern, and corporation, including, but not limited to, a government corporation, partnership, limited liability company, and association. Notwithstanding Section 40170, "person" also includes a city, county, city and county, district, commission, the state or a department, agency, or political subdivision thereof, an interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.

~~(p)~~

(o) "Recycling" has the same meaning as defined in subdivision (a) of Section 25121.1 of the Health and Safety Code.

~~(q)~~

(p) "Refurbished," when used to describe a covered electronic device, means a device that the manufacturer has tested and returned to a condition that meets factory specifications for the device, has repackaged, and has labeled as refurbished.

~~(r)~~

(q) "Retailer" means a person who makes a retail sale of a new or refurbished covered electronic device. "Retailer" includes a manufacturer of a covered electronic device who sells that covered electronic device directly to a consumer through any means, including, but not limited to, a transaction conducted through a sales outlet, catalog, or the Internet, or any other similar electronic means.

~~(s)~~

(r) (1) "Retail sale" has the same meaning as defined under Section 6007 of the Revenue and Taxation Code.

(2) "Retail sale" does not include the sale of a covered electronic device that is temporarily stored or used in California for the sole purpose of preparing the covered electronic device for use thereafter solely outside the state, and that is subsequently transported outside the state and thereafter used solely outside the state.

~~(t)~~

(s) "Vendor" means a person that makes a sale of a covered electronic device for the purpose of resale to a retailer who is the lessor of the covered electronic device to a consumer under a lease that is a continuing sale and purchase pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

~~(u)~~

(t) "Video display device" means an electronic device with an output surface that displays, or is capable of displaying, moving graphical images or a visual representation of image sequences or pictures, showing a number of quickly changing images on a screen in fast succession to create the illusion of motion, including, if applicable, a device that is an integral part of the display, in that it cannot be easily removed from the display by the consumer, that produces the moving image on the screen. A video display device may use, but is not limited to, a cathode ray tube (CRT), liquid crystal display (LCD), gas plasma, digital light processing, or other image projection technology.

SEC. 195. Section 42464 of the Public Resources Code is amended to read:

42464. (a) On and after January 1, 2005, or as otherwise provided by Section 25214.10.1 of the Health and Safety Code, a consumer shall pay a covered electronic waste recycling fee upon the purchase of a new or refurbished covered electronic device, in the following amounts:

(1) Six dollars ($6) for each covered electronic device with a screen size of less than 15 inches measured diagonally.

(2) Eight dollars ($8) for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.

(3) Ten dollars ($10) for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

(b) Except as provided in subdivision (d), a retailer shall collect from the consumer a covered electronic waste recycling fee at the time of the retail sale of a covered electronic device.

(c) (1) A retailer may retain 3 percent of the covered electronic waste recycling fee as reimbursement for all costs associated with the collection of the fee and shall transmit the remainder of the fee to the state pursuant to Section 42464.4.

(2) If a retailer makes an election pursuant to paragraph (2) of subdivision (d), and the conditions of subparagraphs (A), (B), and (C) of paragraph (2) of subdivision (d) are met, the vendor, in lieu of the retailer, may retain 3 percent of the covered electronic waste recycling fee as reimbursement for all costs associated with the collection of the fee and the vendor shall transmit the remainder of the fee to the state pursuant to Section 42464.4.

(d) (1) If a retailer elects to pay the covered electronic waste recycling fee on behalf of the consumer, the retailer shall provide an express statement to that effect on the receipt given to the consumer at the time of sale. If a retailer elects to pay the covered electronic waste recycling fee on behalf of the consumer, the fee is a debt owed by the retailer to the state, and the consumer is not liable for the fee.

(2) A retailer may elect to pay the covered electronic waste recycling fee on behalf of the consumer by paying the covered electronic waste recycling fee to the retailer's vendor, but only if all of the following conditions are met:

(A) The vendor is registered with the State Board of Equalization to collect and remit the covered electronic waste recycling fee pursuant to this chapter.

(B) The vendor holds a valid seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation Code.

(C) The retailer pays the covered electronic waste recycling fee to the vendor that is separately stated on the vendor's invoice to the retailer.

(D) The retailer provides an express statement on the invoice, contract, or other record documenting the sale that is given to the consumer, that the covered electronic waste recycling fee has been paid on behalf of the consumer.

(3) For the purpose of making the election in paragraph (2), if the conditions set forth in subparagraphs (A), (B), (C), and (D) of paragraph (2), are met, the covered electronic waste recycling fee is a debt owed by the vendor to the state, and the retailer is not liable for the fee.

(e) The retailer shall separately state the covered electronic waste recycling fee on the receipt given to the consumer at the time of sale.

(f) On or before August 1, 2005, and, thereafter, no more frequently than annually, and no less frequently than biennially, ~~the board, in collaboration with~~ the department~~,~~ shall review, at a public hearing, the covered electronic waste recycling fee and shall make any adjustments to the fee to ensure that there are sufficient revenues in the account to fund the covered electronic waste recycling program established pursuant to this chapter. Adjustments to the fee that are made on or before August 1, shall apply to the calendar year beginning the following January 1. The ~~board~~ *department* shall base an adjustment of the covered electronic waste recycling fee on both of the following factors:

(1) The sufficiency, and any surplus, of revenues in the account to fund the collection, consolidation, and recycling of covered electronic waste that is projected to be recycled in the state.

(2) The sufficiency of revenues in the account for ~~the board and~~ the department to administer, enforce, and promote the program established pursuant to this chapter, plus a prudent reserve not to exceed 5 percent of the amount in the account.

SEC. 196. Section 42465 of the Public Resources Code is amended to read:

42465. On and after the date specified in subdivision (a) of Section 42464, a person shall not sell a new or refurbished covered electronic device to a consumer in this state if the ~~board or~~ department determines that the manufacturer of that covered electronic device is not in compliance with this chapter or as provided otherwise by Section 25214.10.1 of the Health and Safety Code.

SEC. 197. Section 42474 of the Public Resources Code is amended to read:

42474. (a) Civil liability in an amount of up to two thousand five hundred dollars ($2,500) per offense may be administratively imposed by the ~~board~~ *department* for each sale of a covered electronic device for which a covered electronic waste recycling fee has not been paid pursuant to Section 42464.

(b) A civil penalty in an amount of up to five thousand dollars ($5,000) per offense may be imposed by a superior court for each sale of a covered electronic device for which a covered electronic waste recycling fee has not been paid pursuant to Section 42464.

(c) Civil liability in an amount of up to twenty-five thousand dollars ($25,000) may be administratively imposed by the ~~board~~ *department* against manufacturers for failure to comply with this chapter, except as otherwise provided in subdivision (a).

SEC. 198. Section 42475 of the Public Resources Code is amended to read:

42475. (a) The ~~board~~ *department* shall administer and enforce this chapter in consultation with the department.

(b) The ~~board and the~~ department may adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this chapter, and any other regulations that the ~~board and the~~ department determines are necessary to implement the provisions of this chapter in a manner that is enforceable.

(c) The ~~board~~ *department* shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that ensure the protection of any proprietary information submitted to the ~~board~~ *department* by a manufacturer of covered electronic devices.

(d) The ~~board and the~~ department may prepare, publish, or issue any materials that the ~~board or~~ department determines to be necessary for the dissemination of information concerning the activities of the ~~board or~~ department under this chapter.

(e) In carrying out this chapter, the ~~board and the~~ department may solicit and use any and all expertise available in other state agencies, including, but not limited to, the department, the Department of Conservation, and the State Board of Equalization.

SEC. 199. Section 42475.2 of the Public Resources Code is amended to read:

42475.2. (a) The ~~board and the~~ department may ~~each~~ adopt regulations to implement and enforce this chapter as emergency regulations.

(b) The emergency regulations adopted pursuant to this chapter shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the ~~board or the~~ department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department ~~or the board~~, whichever occurs sooner.

SEC. 200. Section 42475.4 of the Public Resources Code is amended to read:

42475.4. (a) The ~~board~~ *department* shall annually establish, and update as necessary, statewide recycling goals for covered electronic waste. In implementing this section, the ~~board~~ *department* shall do all of the following:

(1) Post on its *Internet* Web site information on the amount of covered electronic devices sold in the state in the previous year as reported to the ~~board~~ *department*.

(2) Post on its *Internet* Web site information on the amount of covered electronic waste recycled in the state in the previous year as reported to the ~~board~~ *department*.

(3) Develop and adopt recycling goals, with input from manufacturers, retailers, covered electronic waste recyclers, and collectors, that reflect projections of covered electronic device sales, rates of obsolescence, and stockpiles.

(b) Nothing in this section authorizes the ~~board~~ *department* to establish any recycling rates or dates by which a manufacturer of covered electronic devices shall comply with this chapter, or to impose any other recycling goal or target on a manufacturer of those devices.

SEC. 201. Section 42476 of the Public Resources Code is amended to read:

42476. (a) The Electronic Waste and Recovery and Recycling Account is hereby established in the Integrated Waste Management Fund. All fees collected pursuant to this chapter shall be deposited in the account. Notwithstanding Section 13340 of the Government Code, the funds in the account are hereby continuously appropriated, without regard to fiscal year, for the following purposes:

(1) To pay refunds of the covered electronic waste recycling fee imposed under Section 42464.

(2) To make electronic waste recovery payments to an authorized collector of covered electronic waste pursuant to Section 42479.

(3) To make electronic waste recycling payments to covered electronic waste recyclers pursuant to Section 42479.

(4) To make payments to manufacturers pursuant to subdivision (g).

(b) (1) The money in the account may be expended for the following purposes only upon appropriation by the Legislature in the annual Budget Act:

(A) For the administration of this chapter by the ~~board and the~~ department.

(B) To reimburse the State Board of Equalization for its administrative costs of registering, collecting, making refunds, and auditing retailers and consumers in connection with the covered electronic waste recycling fee imposed under Section 42464.

(C) To provide funding to the department to implement and enforce Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as that chapter relates to covered

electronic devices, and any regulations adopted by the department pursuant to that chapter.

(D) To establish the public information program specified in subdivision (d).

(2) Any fines or penalties collected pursuant to this chapter shall be deposited in the Electronic Waste Penalty Subaccount, which is hereby established in the account. The funds in the Electronic Waste Penalty Subaccount may be expended by the ~~board or~~ department only upon appropriation by the Legislature.

(c) Notwithstanding Section 16475 of the Government Code, any interest earned upon funds in the Electronic Waste Recovery and Recycling Account shall be deposited in that account for expenditure pursuant to this chapter.

(d) Not more than 1 percent of the funds annually deposited in the Electronic Waste Recovery and Recycling Account shall be expended for the purposes of establishing the public information program to educate the public in the hazards of improper covered electronic device storage and disposal and on the opportunities to recycle covered electronic devices.

(e) The ~~board~~ *department* shall adopt regulations specifying cancellation methods for the recovery, processing, or recycling of covered electronic waste.

(f) The ~~board~~ *department* may pay an electronic waste recycling payment or electronic waste recovery payment for covered electronic waste only if all of the following conditions are met:

(1) The covered electronic waste, including any residuals from the processing of the waste, is handled in compliance with all applicable statutes and regulations.

(2) The manufacturer or the authorized collector or recycler of the electronic waste provide a cost free and convenient opportunity to recycle electronic waste, in accordance with the legislative intent specified in subdivision (b) of Section 42461.

(3) If the covered electronic waste is processed, the covered electronic waste is processed in this state according to the cancellation method authorized by the ~~board~~ *department*.

(4) The ~~board~~ *department* declares that the state is a market participant in the business of the recycling of covered electronic waste for all of the following reasons:

(A) The fee is collected from the state's consumers for covered electronic devices sold for use in the state.

(B) The purpose of the fee and subsequent payments is to prevent damage to the public health and the environment from waste generated in the state.

(C) The recycling system funded by the fee ensures that economically viable and sustainable markets are developed and supported for recovered materials and components in order to conserve resources and maximize business and employment opportunities within the state.

(g) (1) The ~~board~~ *department* may make a payment to a manufacturer that takes back a covered electronic device from a consumer in this state for purposes of recycling the device at a processing facility. The amount of the payment made by the ~~board~~ *department* shall equal the value of the covered electronic waste recycling fee paid for that device. To qualify for a payment pursuant to this subdivision, the manufacturer shall demonstrate both of the following to the ~~board~~ *department*:

(A) The covered electronic device for which payment is claimed was used in this state.

(B) The covered electronic waste for which a payment is claimed, including any residuals from the processing of the waste, has been, and will be, handled in compliance with all applicable statutes and regulations.

(2) A covered electronic device for which a payment is made under this subdivision is not eligible for an electronic waste recovery payment or an electronic waste recycling payment under Section 42479.

SEC. 202. Section 42477 of the Public Resources Code is amended to read:

42477. (a) On July 1, 2004, or as specified otherwise in Section 25214.10.1 of the Health and Safety Code, and on July 1 every two years thereafter, the ~~board in collaboration with the~~ department shall establish an electronic waste recovery payment schedule for covered electronic wastes generated in this state to cover the net cost for an authorized collector to operate a free and convenient system for collecting, consolidating and transporting covered electronic wastes generated in this state.

(b) The ~~board~~ *department* shall make the electronic waste recovery payments either directly to an authorized collector or to a covered electronic waste recycler for payment to an authorized collector pursuant to this article.

SEC. 203. Section 42478 of the Public Resources Code is amended to read:

42478. (a) Except as provided in subdivision (b), on July 1, 2004, or as specified otherwise in Section 25214.10.1 of the Health and Safety Code, and on July 1 every two years thereafter, the ~~board, in collaboration with the~~ department~~,~~ shall establish a covered electronic waste recycling payment schedule for covered electronic wastes generated in this state to cover the average net cost for an electronic waste recycler to receive, process, and recycle each major category, as determined by the ~~board~~ *department*, of covered electronic waste received from an authorized collector. The ~~board~~ *department* shall make the electronic waste recycling payments to a covered electronic waste recycler pursuant to this article.

(b) Until the ~~board~~ *department* adopts a new payment schedule that covers the average net cost for an electronic waste recycler to receive, process, and recycle each major category, as determined by the ~~board~~ *department* of covered electronic waste received from an authorized collector, the amount of the covered electronic waste recycling payment shall be equal to twenty-eight cents ($0.28) per pound of the total weight of covered electronic waste received from an authorized collector and subsequently processed for recycling.

SEC. 204. Section 42479 of the Public Resources Code is amended to read:

42479. (a) (1) For covered electronic waste collected for recycling on and after January 1, 2005, the ~~board~~ *department* shall make electronic waste recovery payments and electronic waste recycling payments for the collection and recycling of covered electronic waste to an authorized collector or covered electronic waste recycler, respectively, upon receipt of a completed and verified invoice submitted to the ~~board~~ *department* by the authorized collector or recycler in the form and manner determined by the ~~board~~ *department*.

(2) To the extent authorized pursuant to Section 42477, a covered electronic waste recycler shall make the electronic waste recovery payments to an authorized collector upon receipt of a completed and verified invoice submitted to the recycler by the authorized collector in the form and manner determined by the ~~board~~ *department*.

(b) An e-waste recycler is eligible for a payment pursuant to this section only if the e-waste recycler meets all of the following requirements:

(1) The e-waste recycler is in compliance with applicable requirements of Article 6 (commencing with Section 66273.70) of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(2) The e-waste recycler demonstrates to the ~~board~~ *department* that any facility utilized by the e-waste recycler for the handling, processing, refurbishment, or recycling of covered electronic devices meets all of the following standards:

(A) The facility has been inspected by the department within the past 12 months and had been found to be operating in conformance with all applicable laws, regulations, and ordinances.

(B) The facility is accessible during normal business hours for unannounced inspections by state or local agencies.

(C) The facility has health and safety, employee training, and environmental compliance plans and certifies compliance with the plans.

(D) The facility meets or exceed the standards specified in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2, Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300), of the Labor Code or, if all or part of the work is to be performed in another state, the equivalent requirements of that state.

SEC. 205. Section 42485 of the Public Resources Code is amended to read:

42485. Except as provided in subdivision (b) of Section 42486, the ~~board and the~~ department shall not implement this chapter if either of the following occur:

(a) A federal law, or a combination of federal laws, takes effect and does all of the following:

(1) Establishes a program for the collection, recycling, and proper disposal of covered electronic waste that is applicable to all covered electronic devices sold in the United States.

(2) Provides revenues to the state to support the collection, recycling, and proper disposal of covered electronic waste, in an amount that is equal to, or greater than, the revenues that would be generated by the fee imposed under Section 42464.

(3) Requires covered electronic device manufacturers, retailers, handlers, processors, and recyclers to dispose of those devices in a manner that is in compliance with all applicable federal, state, and local laws, and prohibits the devices from being exported for disposal in a manner that poses a significant risk to the public health or the environment.

(b) A trial court issues a judgment, which is not appealed, or an appellate court issues an order affirming a judgment of a trial court, holding that out-of-state manufacturers or retailers, or both, may not be required to collect the fee authorized by this chapter. The out-of-state manufacturers or retailers, or both, shall continue to collect the fee during the appellate process.

SEC. 206. Section 42500 of the Public Resources Code is amended to read:

42500. The ~~board~~ *Department of Conservation, in collaboration with the Department of Toxic Substances Control*, shall provide periodic training to enforcement agencies regarding changes in state or federal regulations, new technologies affecting solid waste landfill operations, and other matters which will enhance the enforcement agencies' ability to carry out their enforcement responsibilities. In providing that training, the ~~board~~ *Department of Conservation and the Department of Toxic Substances Control* shall pay particular attention to cities and counties which meet the criteria specified in Section 41782.

SEC. 207. Section 42501 of the Public Resources Code is amended to read:

42501. (a) The ~~board~~ *Department of Conservation, in collaboration with the Department of Toxic Substances Control*, shall provide ongoing technical assistance and guidance to enforcement agencies to assist in their decisionmaking processes. This assistance shall include, but is not limited to, providing all of the following:

(1) Technical studies and reports.

(2) Copies of innovative facility operation plans.

(3) Investigative findings and analyses of new waste management practices and procedures.

(b) In providing that assistance, the ~~board~~ *Department of Conservation* shall pay particular attention to cities and counties which meet the criteria specified in Section 41782.

SEC. 208. Section 42510 of the Public Resources Code is amended to read:

42510. It is the intent of the Legislature that actions taken by the ~~board~~ *Department of Conservation* and cities and counties pursuant to this article serve in the best interests of cities and counties by preserving existing disposal site capacity and providing a source of revenue from the stabilization and expansion of markets for processed wood waste materials. Except as provided in Sections 41783, 41784, and 41785, any actions taken pursuant to this article shall be separate from, and not be counted toward, the diversion requirements established pursuant to paragraphs (1) and (2) of subdivision (a) of Section 41780.

SEC. 209. Section 42511 of the Public Resources Code is amended to read:

42511. The ~~board~~ *Department of Conservation, in consultation with the Department of Toxic Substances Control,* shall assist cities and counties to divert nonyard wood wastes which cannot otherwise feasibly be reduced, recycled, or composted, for processing and utilization as a fuel resource, provided that the facilities which use the nonyard wood waste as a fuel resource have obtained any necessary permits which allow the use of those materials as a fuel and to the extent the diversion is consistent with the hierarchy set forth in Section 40051.

SEC. 210. Section 42520 of the Public Resources Code is amended to read:

42520. The ~~board~~ *Department of Conservation* shall establish a Plastics Recycling Information Clearinghouse. This clearinghouse shall provide information to postconsumer plastics collectors, reprocessors, and recyclers about programs collecting postconsumer plastics, availability of postconsumer plastics, and recent advances in postconsumer plastics recycling technology.

SEC. 211. Section 42540 of the Public Resources Code is amended to read:

42540. The ~~board~~ *Department of Conservation, in consultation with the Department of Toxic Substances Control,* shall provide technical assistance to counties and cities to assist in development, revision, amendment, and implementation of local city source reduction and recycling elements and countywide integrated waste management plans. Assistance rendered, at the discretion of the

~~board~~ *Department of Conservation*, includes, but is not limited to, all of the following:

(a) Developing regulations for the implementation of the city source reduction and recycling elements and the countywide integrated waste management plans.

(b) Conducting waste characterization studies on a city, county, district, regional, or statewide basis, or any combination thereof.

(c) Developing annual baseline data for measurement of the effectiveness of local plans in achieving statewide goals.

(d) Conducting studies on issues or problems that impact the ability of local government, the state, or business and industry in achieving individual or collective goals for integrated waste management.

(e) Developing mechanisms to implement market development recommendations recommended by the ~~board~~ *Department of Conservation*.

(f) Providing technical and general information deemed appropriate to assist state and local governments achieve the objectives of integrated waste management elements and plans.

SEC. 212. Section 42551 of the Public Resources Code is amended to read:

42551. The ~~board~~ *Department of Conservation* shall conduct a study of the feasibility of requiring that all telephone directories issued or sold in this state be made of materials that will allow for the maximum volume of directories to be recycled. The ~~board~~ *Department of Conservation* shall consult with representatives of telephone directory publishers, including the Yellow Pages Publishers Association, as well as representatives of recycling operators. The ~~board~~ *Department of Conservation* shall make use of public hearings and workshops as a means of providing an opportunity for public comment. The ~~board~~ *Department of Conservation* may create an advisory board consisting of members representing telephone directory publishers, recycling operators, and other interested parties.

SEC. 213. Section 42555 of the Public Resources Code is amended to read:

42555. If the ~~board~~ *Department of Conservation* determines that the policy goals established by Section 42554 are not being met by January 1, 1995, the ~~board~~ *Department of Conservation* shall make recommendations to the Legislature, on or before

January 1, 1996, on strategies for meeting the goals established in Section 42554.

SEC. 214. Section 42556 of the Public Resources Code is amended to read:

42556. If the ~~board~~ *Department of Conservation* determines that the policy goals established by Section 42554 are not being met by January 1, 1999, the ~~board~~ *Department of Conservation* shall make recommendations to the Legislature, on or before January 1, 2000, on strategies for meeting the goals established in Section 42554.

SEC. 215. Section 42557 of the Public Resources Code is amended to read:

42557. On and after January 1, 1995, all telephone directories distributed within the state shall be made from materials that will allow for the maximum volume of directories to be recycled, as determined by the ~~board~~ *Department of Conservation*. If reasonably feasible, it is the goal of this state that existing waste paper recyclers make an effort to accept telephone directories for recycling.

SEC. 216. Section 42558 of the Public Resources Code is amended to read:

42558. For the purposes of implementing and enforcing this chapter, the ~~board~~ *Department of Conservation* shall adopt general guidelines regarding the materials which may be used in the production of telephone directories which can and will be recycled. The guidelines shall be reviewed and promptly updated, as necessary, in order to avoid delay in the introduction of new materials or new recycling processes which will advance efforts to recycle telephone directories.

SEC. 217. Section 42561 of the Public Resources Code is amended to read:

42561. On or before January 1, 1991, the ~~board~~ *Department of Conservation* shall initiate a high grade white office paper recovery assistance program for state and local agencies and private businesses.

SEC. 218. Section 42562 of the Public Resources Code is amended to read:

42562. The high grade white office paper recovery assistance program shall include the following elements:

(a) Staff training materials designed to provide training to local program coordinators and instruction to personnel of state and local agencies and private businesses who would participate in high grade white office paper recovery programs.

(b) Public information materials designed to provide initial program startup support and periodic reinforcement to high grade white office paper recovery programs.

(c) Desk top collection containers designed for use by personnel within the office setting.

(d) Metal collection bins that meet State Fire Marshal's standards for overnight storage of flammable materials for use in intermediate storage of recovered paper.

(e) Staff assistance from the ~~board~~ *Department of Conservation* to identify markets for collected materials, including model contracts for negotiation with local paper brokers.

SEC. 219. Section 42600 of the Public Resources Code is amended to read:

42600. The ~~board~~ *Department of Conservation* shall establish a statewide public information and education program to encourage participation by the general public, business, government, and industry in all phases of integrated waste management. To the maximum extent possible, the public information and education program developed pursuant to this chapter shall be coordinated so as to not duplicate the efforts of other state agency public information programs for the promotion of source reduction, recycling, and composting. The public information and education program shall encourage participation in the ~~board's~~ *Department of Conservation's* integrated waste management programs and in local and regional programs. The ~~board's~~ *Department of Conservation's* program shall, at a minimum, include strategies and specific campaign activities to do all of the following:

(a) Encourage business and industry to reduce excess packaging of consumer products, to eliminate nonrecyclable contaminants from consumer goods, and to increase product durability. The ~~board~~ *Department of Conservation* shall also promote waste handling practices which reduce waste generation by business and industry.

(b) Encourage consumers to reduce waste generation through selective purchasing and to encourage recycling at home and work.

(c) Encourage local government procurement of products containing recycled materials, integration of recycling into the community waste management infrastructure, and public participation in local waste management decisionmaking.

(d) Implement a "Buy Recycled" campaign to encourage business, industrial, and residential consumers to purchase products manufactured with, or packaged in, recycled materials. To promote the "Buy Recycled" program, the ~~board~~ *Department of Conservation* shall develop a directory of California vendors providing recycled products and shall work to dispel myths regarding the inferiority of recycled products.

(e) Provide information to cities, counties, and regional agencies on programs implemented by the ~~board~~ *Department of Conservation* pursuant to this section and strategies that may be pursued jointly by the ~~board~~ *Department of Conservation* and cities, counties, and regional agencies to maximize coordination between state and local public information and education programs to reduce costs and improve efficiencies of state and local governments.

(f) Develop and disseminate to cities, counties, and regional agencies model public information materials and programs that can be used by those agencies in compliance with Sections 41220 and 41420.

SEC. 220. Section 42601 of the Public Resources Code is amended to read:

42601. The ~~board~~ *Department of Conservation* shall measure public information program effectiveness through research which establishes program benchmarks and tracks results. The results of that measurement shall serve as the basis for program modification.

SEC. 221. Section 42602 of the Public Resources Code is amended to read:

42602. The ~~board~~ *Department of Conservation* shall employ appropriate marketing techniques to disseminate its message, including radio and television advertising. The ~~board~~ *Department of Conservation* may conduct paid advertising campaigns or solicit joint sponsorship of advertising campaigns by private industry for the purposes of complying with this chapter.

SEC. 222. Section 42605 of the Public Resources Code is amended to read:

42605. The State Department of Education shall encourage participation in the integrated waste management education program established pursuant to this chapter in cooperation with the ~~California Integrated Waste Management Board~~ *Department of Conservation* to satisfy the teaching requirements of the science framework adopted by the State Board of Education.

SEC. 223. Section 42621 of the Public Resources Code is amended to read:

42621. The ~~board~~ *Department of Conservation* shall develop and implement a source reduction and recycling program for school districts which shall include, but not be limited to, all of the following elements:

(a) A survey of school districts throughout the state to determine which districts already have source reduction and recycling programs and which districts need those programs.

(b) Development of a model waste reduction and recycling program for school districts.

(c) Providing training for school districts on how to implement source reduction and recycling programs.

(d) Providing ongoing technical and informational assistance for school districts implementing source reduction and recycling programs.

(e) Establishment of a repository of literature and teaching materials from other states and institutions which have instituted source reduction and recycling programs for their waste stream.

(f) Determining the types of equipment needed by school districts to implement source reduction recycling programs.

(g) Providing assistance to school districts in locating markets for their reusable or recyclable materials.

(h) Disseminating information to school districts on office equipment and other items which are made from recycled materials and which are available for purchase by school districts.

SEC. 224. Section 42635 of the Public Resources Code is amended to read:

42635. For purposes of this chapter, the following definitions shall apply:

(a) “Environmentally preferable product” means a product that promotes healthy indoor environments for children, and demonstrates the use of the environmentally preferable materials and systems. When compared to other similar products with similar

functions an environmentally preferable product has some, or all, of the following characteristics relative to those similar products serving similar functions:

(1) Less hazardous to public health, safety, and the environment.

(2) Consumes less energy in their manufacture or use.

(3) Contains more, or any amount of, recycled or post-consumer material content in their manufacture.

(4) Results in less potential waste.

(5) Results in less harm to indoor air quality.

(6) Consumes less water.

(7) Include features, or is manufactured from materials, that promotes recycling or reuse of the product.

(b) "Local agency" means a city that has prepared, adopted, and submitted to the county a source reduction and recycling element pursuant to Section 41000, and a county that has prepared and submitted to the ~~board~~ *Department of Conservation* an integrated waste management plan pursuant to Section 41570.

(c) "Office" means a county office of education.

(d) "School" or "schoolsite" means a public elementary or secondary school.

(e) "School district" has the same meaning as defined in Section 80 of the Education Code.

SEC. 225. Section 42640 of the Public Resources Code is amended to read:

42640. (a) On or before July 1, 2002, after researching and determining the best waste reduction practices for school districts and schoolsites, the ~~board~~ *Department of Conservation* shall develop models and school waste reduction tools, based upon the program developed pursuant to Section 42621, that may be used by schools, school districts, offices, and local agencies to implement waste reduction programs. The models and tools may include, but not be limited to, all of the following:

(1) Waste prevention, recycling, composting, procurement, and green building elements that, when properly implemented, create hands-on learning experiences for pupils and result in a greater reduction in schoolsite and school district solid waste generation than currently exists.

(2) Model waste reduction programs that may be implemented by the local agencies, schoolsites, and school districts.

(3) Environmental, economic, and educational benefits of implementing waste reduction programs.

(b) The ~~board~~ *Department of Conservation* shall make the models and tools available and downloadable to local agencies, schools, and school districts from the ~~board's~~ *Department of Conservation's Internet* Web site.

SEC. 226. Section 42641 of the Public Resources Code is amended to read:

42641. The ~~board~~ *Department of Conservation* shall provide training and ongoing technical and informational assistance to local agencies, offices, schools, and school districts on implementing waste reduction programs.

SEC. 227. Section 42642 of the Public Resources Code is amended to read:

42642. The Division of the State Architect, in consultation with the ~~board~~ *Department of Conservation*, shall develop and maintain on its *Internet* Web site, a list of environmentally preferable products and a list of recycled products that may be used in the construction and modernization of school facilities. The ~~board~~ *Department of Conservation* shall provide notice to each school district of the existence of these lists and their location on these *Internet* Web sites.

SEC. 228. Section 42645 of the Public Resources Code is amended to read:

42645. (a) The ~~board~~ *Department of Conservation*, in consultation with the State Department of Education, the State Board of Education, and the Secretary for Education, shall establish a program to provide grants to school districts and schools to assist in the development and implementation of educational programs and to promote the use of existing educational programs to teach the concepts of source reduction, recycling, and composting.

(b) The ~~board~~ *Department of Conservation*, in consultation with the State Department of Education, the State Board of Education, and the Secretary for Education, shall adopt criteria for awarding grants pursuant to this article, including, but not limited to, the grant's structure, the schedule for awarding grants, and grant amount limits. This criteria shall include, but not be limited to, a procedure for the geographic distribution of the grants and the appropriate representation of elementary, middle, and high school as grant recipients. In adopting this criteria, the ~~board~~ *Department*

of Conservation shall include, in the criteria, the extent to which an office, a school district, or a school has demonstrated a commitment to achieving the following goals:

(1) The adoption of waste reduction and recycling programs and practices.

(2) The adoption and implementation of the unified education strategy adopted pursuant to Part 4 (commencing with Section 71300) of Division 34.

(3) The allocation of adequate space for the safe collection, storage, and loading of recyclable materials.

(4) To the maximum extent feasible, the use of recycled materials and environmentally preferable products in the construction or modernization of public school facilities.

(5) Participation in the environmental ambassador pilot program established pursuant to Section 51226.4 of the Education Code.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the adoption of criteria for the awarding of grants pursuant to this article is not the adoption of a regulation, and is exempt from the requirements of that chapter.

SEC. 229. Section 42646 of the Public Resources Code is amended to read:

42646. On or before January 1, 2004, the ~~board~~ *Department of Conservation* shall evaluate the implementation of school waste reduction and recycling programs in the state's schools and if the ~~board~~ *Department of Conservation* determines less than 75 percent of schools have implemented a waste reduction and recycling program, the ~~board~~ *Department of Conservation* shall recommend to the Legislature those statutory changes needed to require schools to implement such a program.

SEC. 230. Section 42647 of the Public Resources Code is amended to read:

42647. The ~~board~~ *Department of Conservation* may enter into an interagency agreement with the State Department of Education or other state agencies to implement this chapter, Part 4 (commencing with Section 71300) of Division 34, and ~~Sections~~ *Section* 33541 ~~and 51226.4~~ of the Education Code.

SEC. 231. Section 42648.1 of the Public Resources Code is amended to read:

42648.1. On or before April 1, 2005, the ~~board~~ *Department of Conservation* shall take all of the following actions:

(a) Make available one or more model ordinances that are suitable for modification by a local agency and that may be adopted by a local agency to facilitate solid waste reduction, reuse, and recycling programs, at large venues and large events in accordance with the requirements of this chapter.

(b) While developing the model ordinance, consult with representatives of the League of California Cities, the California State Association of Counties, recyclers, private and public solid waste services and appropriate personnel involved with the operation and management of large venues and large events.

(c) Post information on the ~~board's~~ *Department of Conservation's* Internet Web site on the solid waste reduction, reuse, and recycling programs for implementation by operators of large venues and large events to decrease solid waste and increase diversion of recyclable materials.

(d) Post information on the ~~board's~~ *Department of Conservation's* Internet Web site for local agencies, with examples of solid waste reduction, reuse, and recycling programs, including, but not limited to, those operated by community conservation corps.

SEC. 232. Section 42648.2 of the Public Resources Code is amended to read:

42648.2. (a) (1) On and after July 1, 2005, when issuing a permit to an operator of a large venue or large event, the local agency shall provide information to the operator on programs that can be implemented to reduce, reuse, and recycle solid waste materials generated at the venue or event, and provide contact information about where solid waste materials may be donated, recycled, or composted. This information may include, but is not limited to, providing information directing the operator of the large venue or large event to the ~~board's~~ *Department of Conservation's Internet* Web site or any other appropriate Web site included by the local agency, direct mailings, brochures, or other relevant literature.

(2) On or before August 1, 2006, and annually thereafter until August 1, 2008, each local agency shall provide the ~~board~~ *Department of Conservation* with an estimate and description of the top 10 percent of large venues and large events within its

jurisdiction, based upon amount of solid waste generated, as submitted by operators of large venues and large events pursuant to Section 42648.3. To the extent that the information is readily available to the local agency, the information shall include the name, location, and a brief description of the venue or event, a brief description of the types of wastes generated, types, and estimated amount of materials disposed and diverted, by weight, and existing solid waste reduction, reuse, and recycling programs that the operator of the large venue or large event utilizes to reduce, reuse, and recycle the solid waste. This information shall be reported to the ~~board~~ *Department of Conservation* as a part of the local agency's annual report submitted pursuant to Section 41821.

(b) On or before December 1, 2008, the ~~board~~ *Department of Conservation* shall evaluate the solid waste reduction, reuse, and recycling rates and implementation of waste reduction, reuse, and recycling plans in the top 10 percent of large venues and large events as reported by each local agency pursuant to paragraph (2) of subdivision (a). If the ~~board~~ *Department of Conservation*, upon reviewing the information reported to the ~~board~~ *Department of Conservation* by local agencies pursuant to paragraph (2) of subdivision (a), determines that less than 75 percent of the solid waste reduction, reuse, and recycling plans for the large venues and large events have been prepared or implemented to meet their waste reduction, reuse, and recycling rates developed pursuant to subdivision (a) of Section 42648.4, according to the schedule determined pursuant to subdivision (b) of Section 42468.4, the ~~board~~ *Department of Conservation* shall recommend to the Legislature those statutory changes needed to require operators of large venues and large events to implement waste reduction, reuse, and recycling plans.

SEC. 233. Section 42648.5 of the Public Resources Code is amended to read:

42648.5. The ~~board~~ *Department of Conservation* shall provide technical assistance and tools to implement this chapter, to the extent feasible under existing financial resources. This technical assistance may include, but is not limited to, model documents, training, research on solid waste management best practices, cost reduction, and innovative products to assist local agencies and operators of large venues and large events to develop and

implement effective solid waste reduction, reuse, and recycling plans and rates.

SEC. 234. Section 42650 of the Public Resources Code is amended to read:

42650. The ~~board~~ *Department of Conservation* may establish a research and development program, based on priorities that are consistent with Section 40051, and designed to identify, develop, and refine processes and technologies that will assist state and local governments and private industries to implement innovative resource management and waste reduction programs. The ~~board~~ *Department of Conservation* may conduct research and development programs, upon appropriation therefor by the Legislature, that include, but are not limited to, all of the following:

(a) Establishing, in coordination with the Department of Conservation, a recycling extension service within the ~~board~~ *Department of Conservation* to serve as a central clearinghouse for recycling research information.

(b) Establishing cooperative research and development facilities at universities and colleges in the state.

(c) Developing a research program to study the feasibility of using disposal site mining technology to extend the life of existing disposal sites, recover valuable resources, and to reuse the reclaimed disposal site in an environmentally sound manner.

(d) Establishing a research program to identify educational and promotional methods that can effect environmentally positive changes in human behavior.

(e) Conducting studies into hazards posed by special wastes and by ash and air emissions from the incineration of waste.

(f) Conducting research to develop statistical tools to establish computer-based data bases on waste characteristics, special waste volumes, and county and regional waste capacities.

(g) Analyzing disposal site encroachment problems and assisting local agencies in the development of effective public policy tools to discourage disposal site encroachment.

SEC. 235. Section 42651 of the Public Resources Code is amended to read:

42651. In determining the types of research and development which may be undertaken pursuant to Section 42650, the ~~board~~ *Department of Conservation* shall prioritize the allocation of funds

for processes and technologies based upon the hierarchy established under Section 40051.

SEC. 236. Section 42700 of the Public Resources Code is amended to read:

42700. The Director of Transportation, upon consultation with the ~~board~~ *Department of Conservation*, shall review and modify all bid specifications relating to the purchase of paving materials, and base, subbase, and pervious backfill materials, using recycled materials. The recycled materials shall include, but are not limited to, recycled asphalt pavement, crushed concrete subbase, foundry slag, asphalt flux produced from the reprocessing or re-refining of used oil, and paving materials utilizing recycled materials, including, but not limited to, crumb rubber from automobile tires, ash, and glass and glassy aggregates. The specifications shall be based on standards developed by the Department of Transportation for recycled paving materials and for recycled base, subbase, and pervious backfill materials. The standards and specifications shall provide for the use of recycled materials and shall not reduce the quality standards for highway and road construction.

SEC. 237. Section 42703 of the Public Resources Code is amended to read:

42703. (a) Except as provided in subdivision (d), the Department of Transportation shall require the use of crumb rubber in lieu of other materials at the following levels for state highway construction or repair projects that use asphalt as a construction material:

(1) On and after January 1, 2007, the Department of Transportation shall use, on an annual average, not less than 6.62 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(2) On and after January 1, 2010, the Department of Transportation shall use, on an annual average, not less than 8.27 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(3) On and after January 1, 2013, the Department of Transportation shall use, on an annual average, not less than 11.58 pounds of CRM per metric ton of the total amount of asphalt paving materials used.

(b) (1) The annual average use of crumb rubber required in subdivision (a) shall be achieved on a statewide basis and shall

not require the use of asphalt containing crumb rubber in each individual project or in a place where it is not feasible to use that material.

(2) On and after January 1, 2007, and before January 1, 2015, not less than 50 percent of the asphalt pavement used to comply with the requirements of subdivision (a) shall be rubberized asphalt concrete.

(3) On and after January 1, 2015, the Department of Transportation may use any material meeting the definition of asphalt containing crumb rubber, with respect to product type or specification, to comply with the requirements of subdivision (a).

(c) (1) The Secretary of Business, Transportation and Housing shall, on or before January 1, 2009, and on or before January 1 annually thereafter, prepare an analysis comparing the cost differential between asphalt containing crumb rubber and conventional asphalt. The analysis shall include the cost of the quantity of asphalt product needed per lane mile paved and, at a minimum, shall include all of the following:

(A) The lifespan and duration of the asphalt materials.

(B) The maintenance cost of the asphalt materials and other potential cost savings to the department, including, but not limited to, reduced soundwall construction costs resulting from noise reduction qualities of rubberized asphalt concrete.

(C) The difference between each type or specification of asphalt containing crumb rubber, considering the cost-effectiveness of each type or specification separately in comparison to the cost-effectiveness of conventional asphalt paving materials.

(2) Notwithstanding subdivision (a), if, after completing the analysis required by paragraph (1), the secretary determines that the cost of asphalt containing crumb rubber exceeds the cost of conventional asphalt, the Department of Transportation shall continue to meet the requirement specified in paragraph (1) of subdivision (a), and shall not implement the requirement specified in paragraph (2) of subdivision (a). If the secretary determines, pursuant to an analysis prepared pursuant to paragraph (1), that the cost of asphalt containing crumb rubber does not exceed the cost of conventional asphalt, the Department of Transportation shall implement paragraph (2) of subdivision (a) within one year of that determination, but not before January 1, 2010.

(3) Notwithstanding subdivision (a), if the Department of Transportation delays the implementation of paragraph (2) of subdivision (a), the Department of Transportation shall not implement the requirement of paragraph (3) of subdivision (a) until three years after the date the department implements paragraph (2) of subdivision (a).

(d) For the purposes of complying with the requirements of subdivision (a), only crumb rubber manufactured in the United States that is derived from waste tires taken from vehicles owned and operated in the United States may be used.

(e) The Department of Transportation and the ~~board~~ *Department of Conservation* shall develop procedures for using crumb rubber and other derived tire products in other projects.

(f) The Department of Transportation shall notify and confer with the East Bay Municipal Utility District before using asphalt containing crumb rubber on a state highway construction or repair project that overlays district infrastructure.

(g) For purposes of this section the following definitions shall apply:

(1) "Asphalt containing crumb rubber" means any asphalt pavement construction, rehabilitation, or maintenance material that contains reclaimed tire rubber and that is specified for use by the Department of Transportation.

(2) "Crumb rubber" or "CRM" has the same meaning as defined in Section 42801.7.

(3) "Rubberized asphalt concrete" or "RAC" means a paving material that uses an asphalt rubber binder containing an amount of reclaimed tire rubber that is 15 percent or more by weight of the total blend, and that meets other specifications for both the physical properties of asphalt rubber and the application of asphalt rubber, as defined in the American Society for Testing and Materials (ASTM) Standard Specification for Asphalt-Rubber Binder.

SEC. 238. Section 42760 of the Public Resources Code is amended to read:

42760. On and after January 1, 1991, every consumer of newsprint in California shall ensure that at least 25 percent of all newsprint used by that consumer of newsprint is made from recycled-content newsprint, if recycled-content newsprint is available at a price comparable to that of newsprint made from

virgin material, if the recycled-content newsprint meets the quality standards established by the ~~board~~ *Department of Conservation* pursuant to Section 42775, and if the recycled-content newsprint is available within a reasonable period of time.

SEC. 239. Section 42770 of the Public Resources Code is amended to read:

42770. Each consumer of newsprint within the State of California shall, on or before March 1 of each year, certify to the ~~board~~ *Department of Conservation* the number of tons of newsprint used during the preceding calendar year and the number of tons of recycled-content newsprint used during the preceding calendar year.

SEC. 240. Section 42773 of the Public Resources Code is amended to read:

42773. If a consumer of newsprint is unable to obtain sufficient amounts of recycled-content newsprint within any reporting period because recycled-content newsprint was not available at a comparable price to that for virgin material, failed to meet the quality standards established pursuant to Section 42775, or was not available within a reasonable period of time, the consumer of newsprint shall so certify to the ~~board~~ *Department of Conservation* and shall provide the ~~board~~ *Department of Conservation* with the specific reason for failing to use recycled-content newsprint. In order to make that certification in good faith, the newsprint consumer shall have contacted, for the purpose of obtaining recycled-content newsprint, every producer of recycled-content newsprint that offered to sell recycled-content newsprint to the consumer of newsprint within the last 12 months. The name of each person contacted, the corporate name, if any, and address and telephone number shall accompany each filing with the ~~board~~ *Department of Conservation*.

SEC. 241. Section 42774 of the Public Resources Code is amended to read:

42774. For the purposes of implementing and enforcing this chapter, the ~~board~~ *Department of Conservation* shall develop and maintain a list which identifies every consumer of newsprint, as defined in Section 42750, and every person who supplies a consumer of newsprint with newsprint, in the state. The ~~board~~ *Department of Conservation* may use information from local

business permits, trade publications, or any other relevant information to develop the list.

SEC. 242. Section 42775 of the Public Resources Code is amended to read:

42775. (a) For the purposes of implementing and enforcing this chapter, the ~~board~~ *Department of Conservation* shall set newsprint comparable quality standards for each of the grades of newsprint specified in Section 42753 to determine the comparable quality of recycled-content newsprint to virgin material. These standards shall be based on the average numerical standards of printing opacity, brightness level, and cross machine tear strength available from all producers selling recycled-content newsprint in the state in quantities of at least 5,000 metric tons per year. The ~~board~~ *Department of Conservation* shall set standards which deviate from this average by not more than 5 percent.

(b) The ~~board~~ *Department of Conservation* shall review its standards at least once every two years and determine whether they should be adjusted to reflect changes in industry standards and practices, and, if so, the ~~board~~ *Department of Conservation* shall set new standards according to the criteria in subdivision (a).

SEC. 243. Section 42780 of the Public Resources Code is amended to read:

42780. If any person provides a consumer of newsprint with a false or misleading certificate concerning the recycled content of the delivered newsprint pursuant to Section 42772, the ~~board~~ *Department of Conservation*, within 30 days of making this determination, shall refer the false or misleading certificate to the Attorney General for prosecution for fraud.

SEC. 244. Section 42781 of the Public Resources Code is amended to read:

42781. If any consumer of newsprint provides the ~~board~~ *Department of Conservation* with a false or misleading certificate concerning the percentage of recycled-content newsprint used pursuant to Section 42770, the ~~board~~ *Department of Conservation* within 30 days of making this determination, shall refer the false or misleading certificate to the Attorney General for prosecution for fraud.

SEC. 245. Section 42782 of the Public Resources Code is amended to read:

42782. If any consumer of newsprint provides the ~~board~~ *Department of Conservation* with a false or misleading certificate concerning why the consumer of newsprint was unable to obtain the minimum amounts of recycled-content newsprint pursuant to Section 42773, the ~~board~~ *Department of Conservation*, within 30 days of making this determination, shall refer the false or misleading certificate to the Attorney General for prosecution for fraud.

SEC. 246. Section 42783 of the Public Resources Code is amended to read:

42783. Specific information on newsprint prices included as part of a certificate submitted to the ~~board~~ *Department of Conservation* by newsprint consumers or suppliers of newsprint is propriety information and shall not be made available to the general public.

SEC. 247. Section 42791 of the Public Resources Code is amended to read:

42791. In addition to Section 42790, any person who violates Article 3 (commencing with Section 42770) may be assessed a civil penalty by the ~~board~~ *Department of Conservation* of not more than one thousand dollars ($1,000) for each violation, pursuant to notice and hearing. Any civil penalties received pursuant to this subdivision shall be deposited in a separate account in the fund and, upon appropriation by the Legislature, shall be used by the ~~board~~ *Department of Conservation* for the administration of this division.

SEC. 248. Section 42811 of the Public Resources Code is amended to read:

42811. The ~~board~~ *Department of Toxic Substances Control* may delegate specific powers and authority in this chapter to enforcement agencies, as defined in Section 40130, including any of the following:

(a) Review of operation plans submitted pursuant to regulations adopted under subdivision (a) of Section 42821.

(b) Inspection of permitted facilities.

(c) Enforcement of waste tire facility permits.

SEC. 249. Section 42812 of the Public Resources Code is amended to read:

42812. Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the issuance of a permit

for the operation of an existing waste tire facility pursuant to this chapter, except as to any substantial change in the design or operation of the waste tire facility made between the time this chapter becomes effective and the permit is initially issued by the ~~board~~ *Department of Toxic Substances Control* and as to any subsequent substantial changes made in the design or operation of the waste tire facility.

SEC. 250. Section 42820 of the Public Resources Code is amended to read:

42820. (a) The ~~board~~ *Department of Toxic Substances Control*, in consultation with the Office of Environmental Health Hazard Assessment, shall adopt regulations setting forth the procedures and requirements necessary to obtain a major waste tire facility permit. The regulations adopted pursuant to this subdivision shall not be limited to, but shall include by reference, the regulations adopted by the State Fire Marshal pursuant to subdivision (b).

(b) The State Fire Marshal, in consultation with the ~~board~~ *Department of Toxic Substances Control*, shall adopt fire prevention regulations for a major waste tire facility.

(c) Regulations adopted pursuant to subdivision (a) shall not require the issuance of a separate permit to a solid waste disposal facility that is permitted pursuant to Chapter 3 (commencing with Section ~~44001)~~ *44000.5)* of Part 4.

SEC. 251. Section 42821 of the Public Resources Code is amended to read:

42821. The regulations for a major waste tire facility permit shall include, but not be limited to, all of the following:

(a) Requirements for submission of a detailed operations plan that contains the following components:

(1) Fire prevention measures consistent with applicable regulations adopted by the State Fire Marshal pursuant to subdivision (b) of Section 42820.

(2) Fencing and other security measures.

(3) Vector control measures.

(4) Limits on the size and height of tire piles.

(5) A closure plan.

(b) Requirements for submission of a detailed plan and implementation schedule for the elimination or substantial reduction of existing tire piles using any of the following methods or techniques:

(1) Polymer treatment.

(2) Rubber reclaiming and crumb rubber production.

(3) Pyrolysis.

(4) Production of supplemental fuels for cement kilns, lumber operations, or other industrial processes.

(5) Tire shredding and transportation to an authorized solid waste landfill.

(6) Energy recovery through incineration of whole or shredded tires in accordance with the terms and conditions of a permit issued by an air pollution control district or air quality management district.

(7) Other applications determined to be appropriate by the ~~board~~ *Department of Toxic Substances Control*.

(c) Requirements for the submission of evidence of financial assurances secured by the operator of the facility that are adequate to cover damage claims arising out of the operation of the facility and that are adequate to cover the cost of closure if that becomes necessary. The financial assurance shall be a trust fund, surety bond, letter of credit, insurance, or other equivalent financial arrangement acceptable to the ~~board~~ *Department of Toxic Substances Control*.

SEC. 252. Section 42822 of the Public Resources Code is amended to read:

42822. The ~~board~~ *Department of Toxic Substances Control* shall issue major waste tire facility permits pursuant to the regulations upon application therefor.

SEC. 253. Section 42823 of the Public Resources Code is amended to read:

42823. Except as provided in Section 42823.5, no person shall establish a new major waste tire facility or expand an existing minor waste tire facility unless the person has obtained a major waste tire facility permit issued by the ~~board~~ *Department of Toxic Substances Control* pursuant to Section 42822.

SEC. 254. Section 42823.5 of the Public Resources Code is amended to read:

42823.5. (a) A cement manufacturing plant shall be exempt from the requirement to obtain a permit pursuant to Section 42823 if the operator of the cement manufacturing plant meets both of the following requirements:

(1) The owner or operator of the cement manufacturing plant stores not more than a one-month supply of waste tires at the site of the cement manufacturing plant at any time. A one-month supply of waste tires shall be based on either of the following:

(A) The average monthly consumption of waste tires by the plant during the previous year.

(B) The waste tire percentage of the total fuel supply allowed by the air pollution control district or air quality management district, multiplied by the average monthly consumption of fuel for the previous year.

(2) The operator or owner of the cement manufacturing plant is in compliance with any regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pertaining to waste tire storage and disposal.

(b) To apply for the exemption provided by this section, the operator or owner of a cement manufacturing plant shall provide all of the following information to the ~~board~~ *Department of Toxic Substances Control* in writing:

(1) The name, address, and physical location of the plant.

(2) The name, address, and telephone number of the plant operator and owner.

(3) Information describing compliance with subdivision (a).

(4) Signatures of the operator and owner of the plant certifying to the accuracy of the information provided.

(c) If there is any change to the information provided pursuant to subdivision (b), the operator or owner of the cement manufacturing plant shall report the change to the ~~board~~ *Department of Toxic Substances Control*, in writing, within 30 days from the date of the change.

(d) Within 60 days from the date of the receipt of the information required by subdivision (b), the ~~board~~ *Department of Toxic Substances Control* shall determine whether the operator or owner of a cement manufacturing plant qualifies for the exemption provided by this section and shall notify the operator or owner of the plant of its determination in writing.

(e) The ~~board~~ *Department of Toxic Substances Control* or the local enforcement agency may inspect a cement manufacturing plant that receives the exemption provided by this section to determine compliance with this section.

(f) Any operator or owner of a cement manufacturing plant who receives an exemption pursuant to this section shall allow the ~~board~~ *Department of Toxic Substances Control*, upon presentation of the proper credentials, to enter the cement manufacturing plant during normal working hours to examine and copy books, papers, records, or memoranda pertaining to the use and storage of waste tires, and to conduct inspections and investigations pertaining to waste tire use and storage.

SEC. 255. Section 42825 of the Public Resources Code is amended to read:

42825. (a) Any person who accepts waste tires at a major waste tire facility that has not been issued a permit or an authorization to operate from the ~~board~~ *Department of Toxic Substances Control*, or who knowingly directs, transports, or abandons waste tires to or at a major waste tire facility that has not been issued a permit or an authorization to operate from the ~~board~~ *Department of Toxic Substances Control* shall, upon conviction, be punished by a fine of not less than one thousand dollars ($1,000) or more than ten thousand dollars ($10,000) for each day of violation, by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(b) For purposes of subdivision (a), "each day of violation" means each day on which a violation continues. In any case where a person has accepted waste tires at a major waste tire facility, or knowingly directed or transported waste tires to a major waste tire facility, that has not been issued a permit, in violation of subdivision (a), each day that the waste tires remain at the facility and the person has knowledge thereof is a separate additional violation, unless the person has filed a report with the ~~board~~ *Department of Toxic Substances Control* disclosing the violation and is in compliance with any order regarding the waste tires issued by the ~~board~~ *Department of Toxic Substances Control*, a hearing officer, or a court of competent jurisdiction.

SEC. 256. Section 42830 of the Public Resources Code is amended to read:

42830. (a) On or before December 1, 1991, the ~~board~~ *Department of Toxic Substances Control*, in consultation with the State Fire Marshal and the State Department of Health Services, shall adopt emergency regulations setting forth the procedures and requirements necessary to obtain a minor waste tire facility permit.

(b) Regulations adopted pursuant to subdivision (a) shall not require the issuance of a separate permit to a solid waste disposal facility which is permitted pursuant to Chapter 3 (commencing with Section ~~44001)~~ *44000.5)* of Part 4.

SEC. 257. Section 42831 of the Public Resources Code is amended to read:

42831. The ~~board~~ *Department of Toxic Substances Control* may exempt either of the following from the permit requirements of this article:

(a) An owner or operator of a tire retreading business for the business site if not more than 3,000 waste tires are kept on the business premises.

(b) A person using waste tires for agricultural purposes if the waste tires are kept on the site of use.

SEC. 258. Section 42832 of the Public Resources Code is amended to read:

42832. The regulations for minor waste tire facility permits shall include, but not be limited to, all of the following:

(a) Fire prevention measures.

(b) Vector control measures.

(c) Other measures determined by the ~~board~~ *Department of Toxic Substances Control* to be necessary to protect the public health and safety.

SEC. 259. Section 42833 of the Public Resources Code is amended to read:

42833. The ~~board~~ *Department of Toxic Substances Control* shall issue minor waste tire facility permits pursuant to the regulations upon application therefor.

SEC. 260. Section 42835 of the Public Resources Code is amended to read:

42835. (a) Any person who accepts waste tires at a minor waste tire facility that has not been issued a permit or an authorization to operate from the ~~board~~ *Department of Toxic Substances Control*, or who knowingly directs, transports, or abandons waste tires to or at a minor waste tire facility that has not been issued a permit or an authorization to operate from the ~~board~~ *Department of Toxic Substances Control* shall, upon conviction, be punished by a fine of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) for each

day of violation, by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(b) For purposes of subdivision (a), "each day of violation" means each day on which a violation continues. In any case where a person has accepted waste tires at a minor waste tire facility, or knowingly directed or transported waste tires to a minor waste tire facility, that has not been issued a permit, in violation of subdivision (a), each day that the waste tires remain at the facility and the person has knowledge thereof is a separate additional violation, unless the person has filed a report with the ~~board~~ *Department of Toxic Substances Control* disclosing the violation and is in compliance with any order regarding the waste tires issued by the ~~board~~ *Department of Toxic Substances Control*, a hearing officer, or a court of competent jurisdiction.

SEC. 261. Section 42841 of the Public Resources Code is amended to read:

42841. The ~~board~~ *Department of Toxic Substances Control* may refuse to issue or renew a waste tire facility permit on any grounds for which it may suspend or revoke a permit.

SEC. 262. Section 42843 of the Public Resources Code is amended to read:

42843. (a) The ~~board~~ *Department of Toxic Substances Control*, after holding a hearing in accordance with the procedures set forth in Sections 11503 to 11519, inclusive, of the Government Code, may revoke, suspend, or deny a waste tire facility permit for a period of up to three years, if the ~~board~~ *Department of Toxic Substances Control* determines any of the following:

(1) The permit was obtained by a material misrepresentation or failure to disclose relevant factual information.

(2) The operator of the waste tire facility, during the previous three years, has been issued a final order for, failed to comply with, or has been convicted of, any of the following:

(A) One or more violations of this chapter or the regulations adopted pursuant to this chapter.

(B) One or more violations of Chapter 19 (commencing with Section 42950) or the regulations adopted pursuant to that chapter.

(C) The terms or conditions of the operator's waste tire facility permit.

(D) Any order, direction, or penalty issued by the ~~board~~ *Department of Toxic Substances Control* relating to the safe storage or processing of waste tires.

(b) If the ~~board~~ *Department of Toxic Substances Control* determines that a violation specified in paragraph (2) of subdivision (a) demonstrates a chronic, recurring pattern of noncompliance that poses, or may pose, a significant risk to public health and safety or the environment, or if the violation has not been corrected or reasonable progress toward correction has not been achieved, the ~~board~~ *Department of Toxic Substances Control* may suspend, revoke, or deny a waste tire facility permit, in accordance with the procedure specified in subdivision (a), for a period of not more than five years.

(c) If the ~~board~~ *Department of Toxic Substances Control* determines that a violation specified in paragraph (2) of subdivision (a) has resulted in significant harm to human health or the environment, the ~~board~~ *Department of Toxic Substances Control* may suspend, revoke, or deny a waste tire facility permit, in accordance with the procedure specified in subdivision (a), for a period of five years or greater.

SEC. 263. Section 42844 of the Public Resources Code is amended to read:

42844. (a) The ~~board~~ *Department of Toxic Substances Control* may temporarily suspend any permit issued pursuant to this chapter prior to any hearing if the ~~board~~ *Department of Toxic Substances Control* determines that the action is necessary to prevent or mitigate an imminent or substantial endangerment to the public health or safety or the environment.

(b) The ~~board~~ *Department of Toxic Substances Control* shall notify the holder of the permit of the temporary suspension and the effective date thereof and, at the same time, shall serve the person with an accusation.

(c) Upon receipt by the ~~board~~ *Department of Toxic Substances Control* of a notice of defense to the accusation from the holder of the permit, the ~~board~~ *Department of Toxic Substances Control* shall, within 15 days, set the matter for a hearing, which shall be held as soon as possible, but not later than 30 days after receipt of the notice.

(d) The temporary suspension shall remain in effect until the hearing is completed and the ~~board~~ *Department of Toxic Substances*

Control has made a final determination on the merits, which shall be made within 60 days after the completion of the hearing. If the determination is not transmitted within this period, the temporary suspension shall be of no further effect.

SEC. 264. Section 42845 of the Public Resources Code is amended to read:

42845. (a) Any person who stores, stockpiles, or accumulates waste tires at a location for which a waste tire facility permit is required pursuant to this chapter, or in violation of the terms and conditions of the permit, the provisions of this chapter, or the regulations adopted under this chapter, shall, upon order of the ~~board~~ *Department of Toxic Substances Control*, clean up those waste tires or abate the effects thereof, or, in the case of threatened pollution or nuisance, take other necessary remedial action.

(b) (1) Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the ~~board~~ *Department of Toxic Substances Control*, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with that order. In any suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.

(2) If the Attorney General declines, or is unable, to petition the appropriate superior court for issuance of an injunction within 45 days from the ~~board's~~ *Department of Toxic Substances Control's* request, pursuant to paragraph (1), the district attorney or county counsel of that county may, at the ~~board's~~ *Department of Toxic Substances Control's* request, petition the superior court for issuance of the injunction specified in paragraph (1).

SEC. 265. Section 42846 of the Public Resources Code is amended to read:

42846. (a) The ~~board~~ *Department of Toxic Substances Control* may expend available moneys to perform any cleanup, abatement, or remedial work required under the circumstances set forth in Section 42845 which in its judgment is required by the magnitude of endeavor or the need for prompt action to prevent substantial pollution, nuisance, or injury to the public health or safety. The action may be taken in default of, or in addition to, remedial work by the violator or other persons, and regardless of whether injunctive relief is being sought.

(b) The ~~board~~ *Department of Toxic Substances Control* may perform the work itself, or by or in cooperation with any other governmental agency, and may use rented tools or equipment, either with operators furnished or unoperated. Notwithstanding any other provisions of law, the ~~board~~ *Department of Toxic Substances Control* may enter into oral contracts for that work, and the contracts, whether written or oral, may include provisions for equipment rental and in addition the furnishing of labor and materials necessary to accomplish the work. The contracts are exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

SEC. 266. Section 42846.5 of the Public Resources Code is amended to read:

42846.5. If the owner of property upon which waste tires are unlawfully stored, stockpiled, or accumulated refuses to allow the ~~board~~ *Department of Toxic Substances Control* or its contractors access to enter onto the property and perform all necessary cleanup, abatement, or remedial work as authorized under Section 42846, the ~~board~~ *Department of Toxic Substances Control* or its contractors shall be permitted reasonable access to the property to perform that activity if an order setting civil liability has been issued or obtained pursuant to Article 6 (commencing with Section 42850) by the ~~board~~ *Department of Toxic Substances Control*, or by its designee pursuant to subdivision (c) of Section 42850, against the property owner, and the ~~board~~ *Department of Toxic Substances Control* finds that there is a significant threat to public health or the environment.

SEC. 267. Section 42847 of the Public Resources Code is amended to read:

42847. If waste tires are cleaned up, the effects of the tires are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any governmental agency, the person or persons who unlawfully stored, stockpiled, or accumulated the waste tires or who unlawfully permitted the storage, stockpile, or accumulation of waste tires or who threatened to cause or permit the unlawful storage, stockpile, or accumulation of waste tires shall be liable to that governmental agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects thereof, or taking other remedial actions. The amount of those costs shall be recoverable in a civil action

by, and paid to, the governmental agency and the ~~board~~ *Department of Toxic Substances Control* to the extent of the latter's contribution to the cleanup costs from available funds. The ~~board~~ *Department of Toxic Substances Control* shall seek recovery of its costs if that recovery is feasible.

SEC. 268. Section 42847.5 of the Public Resources Code is amended to read:

42847.5. (a) Any costs or damages incurred by the ~~board~~ *Department of Toxic Substances Control* under this article constitute a lien upon the real property owned by any responsible party that is subject to the remedial action. The lien shall attach regardless of whether the responsible party is insolvent. A lien imposed under this section shall arise at the time costs are first incurred by the ~~board~~ *Department of Toxic Substances Control* with respect to a remedial action at the site.

(b) A lien established under this section shall be subject to the notice and hearing procedures required by due process of the law. Prior to imposing the lien, the ~~board~~ *Department of Toxic Substances Control* shall send the property owner via certified mail a "Notice of Intent to Place A Lien" letter. This letter shall provide that the owner, within 14 calendar days from the date of receipt of the letter, may object to the imposition of the lien either in writing or through an informal proceeding before a neutral official. This neutral official shall be the ~~board's~~ *Department of Toxic Substances Control's* executive director or his or her designee, who may not have had any prior involvement with the site. The issue before the neutral official shall be whether the ~~board~~ *Department of Toxic Substances Control* has a reasonable basis for its determination that the statutory elements for lien placement under this section are satisfied. During this proceeding the property owner may present information or submit documents, or both, to establish that the ~~board~~ *Department of Toxic Substances Control* should not place a lien as proposed. The neutral official shall assure that a record of the proceeding is made, and shall issue a written decision. The decision shall state whether the property owner has established any issue of fact or law to alter the ~~board's~~ *Department of Toxic Substances Control's* intention to file a lien, and the basis for the decision.

(c) The ~~board~~ *Department of Toxic Substances Control* may not be considered a responsible party for a remediated site merely because a lien is imposed under this section.

(d) A lien imposed under this section shall continue until the liability for the costs or damages incurred under this article, or a judgment against the responsible party, is satisfied. However, if it is determined by a court that the judgment against the responsible party will not be satisfied, the ~~board~~ *Department of Toxic Substances Control* may exercise its rights under the lien.

(e) A lien imposed under this section shall have the force and effect of, and the priority of, a judgment lien upon its recordation in the county in which the property subject to the lien is located. The lien shall contain a legal description of the real property that is subject to, or affected by, the remedial action, the assessor's parcel number, and the name of the owner of record, as shown on the latest equalized assessment roll.

(f) All funds recovered under this section on behalf of the ~~board's~~ *Department of Toxic Substances Control's* waste tire stabilization and abatement program shall be deposited in the California Tire Recycling Management Fund established under Section 42885.

SEC. 269. Section 42848 of the Public Resources Code is amended to read:

42848. If, despite reasonable efforts by the ~~board~~ *Department of Toxic Substances Control* to identify the person responsible for the unlawful storage, stockpiling, or accumulation of waste tires or the condition of pollution or nuisance, the person is not identified at the time cleanup, abatement, or remedial work must be performed, the ~~board~~ *Department of Toxic Substances Control* shall not be required to issue an order under this section.

SEC. 270. Section 42849 of the Public Resources Code is amended to read:

42849. (a) "Threaten" or "threat," for purposes of this article, means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, natural resources, or the public health or safety.

(b) If the ~~board~~ *Department of Toxic Substances Control* finds either an imminent threat to public health, safety, or the

environment, or a threat, as defined by subdivision (a), the ~~board~~ *Department of Toxic Substances Control* may conduct an emergency meeting to determine the legal, enforcement, cleanup, or other necessary actions that may be taken to correct that imminent threat or threat. Such a finding by the ~~board~~ *Department of Toxic Substances Control* shall be deemed to be an "emergency situation" for purposes of, and in addition to the situations described in, Section 11125.5 of the Government Code.

SEC. 271. Section 42850 of the Public Resources Code is amended to read:

42850. (a) Any person who negligently violates any provision of this chapter, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter, is liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000), for each violation of a separate provision or, for continuing violations, for each day that the violation continues.

(b) Liability under this section may be imposed in a civil action or liability may be imposed administratively pursuant to this article.

(c) Upon request of a city, county, or city and county, that city, county, or city and county may be designated, in writing, by the ~~board~~ *Department of Toxic Substances Control*, to exercise the enforcement authority granted to the ~~board~~ *Department of Toxic Substances Control* under this chapter. Any city, county, or city and county so designated shall follow the same procedures set forth for the ~~board~~ *Department of Toxic Substances Control* under this article. This designation shall not limit the authority of the ~~board~~ *Department of Toxic Substances Control* to take action it deems necessary or proper to ensure to enforcement of this chapter.

SEC. 272. Section 42851 of the Public Resources Code is amended to read:

42851. (a) The ~~board~~ *Department of Toxic Substances Control* may issue a complaint to any person on whom civil liability may be imposed pursuant to this article. The complaint shall allege the acts or failures to act that constitute a basis for liability and the amount of the proposed civil liability. The complaint shall be served by personal service or certified mail and shall inform the party so served that a hearing shall be conducted within 60 days after the party has been served, unless the party waives the right to a hearing.

(b) If the party waives the right to a hearing, the ~~board~~ *Department of Toxic Substances Control* shall issue an order setting liability in the amount proposed in the complaint unless the ~~board~~ *Department of Toxic Substances Control* and the party have entered into a settlement agreement, in which case the ~~board~~ *Department of Toxic Substances Control* shall issue an order setting liability in the amount specified in the settlement agreement. If the party has waived the right to a hearing or if the ~~board~~ *Department of Toxic Substances Control* and the party have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

SEC. 273. Section 42855 of the Public Resources Code is amended to read:

42855. All penalties collected under Section 42850 shall be deposited in the California Tire Recycling Management Fund created pursuant to Section 42885 if the attorney who brought the action represented the ~~board~~ *Department of Toxic Substances Control*, or shall be retained by a city, county, or city and county designated pursuant to subdivision (c) of Section 42850, if the attorney who brought the action represents the city, county, or city and county. The moneys retained by the city, county, or city and county shall be expended on enforcement and cleanup required under this chapter, including, but not limited to, the prosecution of enforcement actions.

SEC. 274. Section 42867 of the Public Resources Code is amended to read:

42867. Except as otherwise determined by the ~~board~~ *Department of Toxic Substances Control*, only landfills authorized in this article shall be eligible for financial assistance in the shredding of tires pursuant to Article 3 (commencing with Section 42870).

SEC. 275. Section 42871 of the Public Resources Code is amended to read:

42871. The ~~board~~ *Department of Conservation* shall administer a tire recycling program that promotes and develops alternatives to the landfill disposal of used whole tires.

SEC. 276. Section 42872.5 of the Public Resources Code is amended to read:

42872.5. (a) (1) In addition to the purposes listed in Section 42872, the tire recycling program may include the awarding of

grants to cities, counties, and other local government agencies for the funding of public works projects that use rubberized asphalt concrete. In addition to the factors listed in Sections 42874 and 42875, the ~~board~~ *Department of Conservation* may award a grant for a public works project that uses rubberized asphalt concrete if the project will use at least 1,250 tons of rubberized asphalt concrete during the life of the project and will use 20 pounds or more of crumb rubber per ton of rubberized asphalt concrete.

(2) The ~~board~~ *Department of Conservation* shall annually determine the amount of a grant to be awarded pursuant to this section, based on the per ton amount of rubberized asphalt concrete to be used in the project.

(3) The ~~board~~ *Department of Conservation* shall not award a grant pursuant to this section that exceeds a maximum amount of two hundred fifty thousand dollars ($250,000).

(b) The grants authorized under this section shall be funded by an appropriation in the annual Budget Act from the California Tire Recycling Management Fund established pursuant to Section 42885. To the extent possible, depending on the number of qualified applications, and whether there is a sufficient supply of crumb rubber materials, any funds appropriated pursuant to this section shall not be less than 16 percent of the funds appropriated pursuant to this chapter for market development and new technology activities for used tires and waste tires.

(c) In order to provide outreach to local agencies regarding the use of rubberized asphalt concrete in public works projects, all of the following shall occur:

(1) The ~~board~~ *Department of Conservation* shall create, annually update, and post on its Internet Web site a database of public works projects that include rubberized asphalt concrete that were completed by local agencies under the program established by this section.

(2) The Department of Transportation shall post on its public Internet Web site data and descriptions regarding state public works projects using rubberized asphalt concrete.

(3) The ~~board~~ *Department of Conservation* shall post on its public Internet Web site a link to the data and descriptions provided under paragraph (2).

(4) The ~~board~~ *Department of Conservation* shall provide technical support to local agencies on the design and application for rubberized asphalt concrete.

(d) This section shall become inoperative on June 30, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 277. Section 42873 of the Public Resources Code is amended to read:

42873. (a) Activities eligible for funding under this article, that reduce, or that are designed to reduce or promote the reduction of, landfill disposal of used whole tires, may include the following:

(1) Polymer treatment.

(2) Rubber reclaiming and crumb rubber production.

(3) Retreading.

(4) Shredding.

(5) The manufacture of products made from used tires, including, but not limited to, all of the following:

(A) Rubberized asphalt, asphalt rubber, modified binders, and chip seals.

(B) Playground equipment.

(C) Crash barriers.

(D) Erosion control materials.

(E) Nonslip floor and track surfacing.

(F) Oilspill recovery equipment.

(G) Roofing adhesives.

(H) Tire-derived aggregate applications, including lightweight fill and vibration mitigation.

(6) Other environmentally safe applications or treatments determined to be appropriate by the ~~board~~ *Department of Conservation*.

(b) (1) The ~~board~~ *Department of Conservation* may not expend funds for an activity that provides support or research for the incineration of tires. For the purposes of this article, incineration of tires, includes, but is not limited to, fuel feed system development, fuel sizing analysis, and capacity and production optimization.

(2) Paragraph (1) does not affect the permitting or regulation of facilities that engage in the incineration of tires.

SEC. 278. Section 42874 of the Public Resources Code is amended to read:

42874. The ~~board~~ *Department of Conservation* shall evaluate applications for loans or grants under this article based upon, but not limited to, the following factors in the proposal:

(a) The quantity of used tires that will be diverted from landfills.

(b) The estimated cost per tire in the recycling, processing, or conversion process.

(c) The availability of markets for the recycled tire product.

(d) The degree to which the processing program mitigates or avoids adverse environmental effects.

SEC. 279. Section 42875 of the Public Resources Code is amended to read:

42875. The ~~board~~ *Department of Conservation* may also consider the following factors in awarding grant or loan applications:

(a) The ability of the proposed processing program to integrate with existing or proposed solid waste management activities.

(b) Financial support for implementation and operation of the proposed processing program from sources other than loans and grants from the ~~board~~ *Department of Conservation*.

(c) The degree to which the technical approach of the proposal makes the loan and grant program financially self-sufficient.

(d) The degree to which the program can be measured or evaluated for success.

(e) The probability that the processing program can be implemented and operated with the funds applied for and the amount of funds sought.

(f) The time that the land or property on which the proposed processing facility is available to the applicant. No proposal shall be considered for a loan or grant unless the property or facility is available for at least five years.

(g) The business plan for operation of the facility.

SEC. 280. Section 42880 of the Public Resources Code is amended to read:

42880. The ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* shall administer this chapter. For organizational purposes, the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* may

create a new division, bureau, office, or unit to administer this chapter.

SEC. 281. Section 42881 of the Public Resources Code is amended to read:

42881. (a) In addition to any regulations which the ~~board is~~ *Department of Toxic Substances Control and the Department of Conservation are* required by statute to adopt, the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* may adopt any rules or regulations which ~~the board determines~~ *they determine* may be necessary or useful to carry out this chapter or any of the ~~board's~~ duties or responsibilities imposed pursuant to this chapter.

(b) The ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* may prepare, publish, or issue printed materials which ~~the board determines~~ *they determine* to be necessary for the dissemination of information concerning the activities of the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation,* pursuant to this chapter.

SEC. 282. Section 42882 of the Public Resources Code is amended to read:

42882. In carrying out this chapter, the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* may solicit and use any and all expertise available in other state agencies, including, but not limited to, the State Board of Equalization, and, where an existing state agency performs functions of a similar nature to the ~~board's~~ functions *of the Department of Toxic Substances Control and the Department of Conservation,* the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* may contract with, or cooperate with that agency in carrying out this chapter. If the ~~board~~ *Department of Conservation* contracts with the State Board of Equalization to collect the fee imposed in Section 42885, the State Board of Equalization may collect that fee pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

SEC. 283. Section 42883 of the Public Resources Code is amended to read:

42883. The recipient of a grant, subsidy, or loan pursuant to Article 3 (commencing with Section 42870) shall, on or before January 1 of each year, submit a report to the ~~board~~ *Department*

of Conservation containing information required by the ~~board~~ *Department of Conservation*, including, but not limited to, the number of used whole tires recycled, which is necessary to measure the success of the recipient's program in reducing the number of tires disposed of in landfills or stockpiled.

SEC. 284. Section 42885 of the Public Resources Code, as amended by Section 55 of Chapter 77 of the Statutes of 2006, is amended to read:

42885. (a) For purposes of this section, “California tire fee” means the fee imposed pursuant to this section.

(b) (1) A person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of one dollar and seventy-five cents ($1.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 1½ percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(c) The ~~board~~ *Department of Conservation*, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.

(d) The California tire fee imposed pursuant to subdivision (b) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

(e) A person or business who knowingly, or with reckless disregard, makes a false statement or representation in a document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed

in a civil action and shall not exceed twenty-five thousand dollars ($25,000) for each violation.

(f) In addition to the civil penalty that may be imposed pursuant to subdivision (e), the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* may impose an administrative penalty in an amount not to exceed five thousand dollars ($5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on a person who intentionally or negligently violates a permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* shall adopt regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

(g) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. "New tire" does not include retreaded, reused, or recycled tires.

(h) The California tire fee shall not be imposed on a tire sold with, or sold separately for use on, any of the following:

(1) A self-propelled wheelchair.

(2) A motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.

(3) A vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person's physical disability, is otherwise unable to move about as a pedestrian.

(i) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 285. Section 42885 of the Public Resources Code, as added by Chapter 707 of the Statutes of 2004, is amended to read:

42885. (a) For purposes of this section, "California tire fee" means the fee imposed pursuant to this section.

(b) (1) Every person who purchases a new tire, as defined in subdivision (g), shall pay a California tire fee of seventy-five cents ($0.75) per tire.

(2) The retail seller shall charge the retail purchaser the amount of the California tire fee as a charge that is separate from, and not included in, any other fee, charge, or other amount paid by the retail purchaser.

(3) The retail seller shall collect the California tire fee from the retail purchaser at the time of sale and may retain 3 percent of the fee as reimbursement for any costs associated with the collection of the fee. The retail seller shall remit the remainder to the state on a quarterly schedule for deposit in the California Tire Recycling Management Fund, which is hereby created in the State Treasury.

(c) The ~~board~~ *Department of Conservation*, or its agent authorized pursuant to Section 42882, shall be reimbursed for its costs of collection, auditing, and making refunds associated with the California Tire Recycling Management Fund, but not to exceed 3 percent of the total annual revenue deposited in the fund.

(d) The California tire fee imposed pursuant to subdivision (a) shall be separately stated by the retail seller on the invoice given to the customer at the time of sale. Any other disposal or transaction fee charged by the retail seller related to the tire purchase shall be identified separately from the California tire fee.

(e) Any person or business who knowingly, or with reckless disregard, makes any false statement or representation in any document used to comply with this section is liable for a civil penalty for each violation or, for continuing violations, for each day that the violation continues. Liability under this section may be imposed in a civil action and shall not exceed twenty-five thousand dollars ($25,000) for each violation.

(f) In addition to the civil penalty that may be imposed pursuant to subdivision (e), the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* may impose an administrative penalty in an amount not to exceed five thousand dollars ($5,000) for each violation of a separate provision or, for continuing violations, for each day that the violation continues, on any person who intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* shall adopt

regulations that specify the amount of the administrative penalty and the procedure for imposing an administrative penalty pursuant to this subdivision.

(g) For purposes of this section, "new tire" means a pneumatic or solid tire intended for use with on-road or off-road motor vehicles, motorized equipment, construction equipment, or farm equipment that is sold separately from the motorized equipment, or a new tire sold with a new or used motor vehicle, as defined in Section 42803.5, including the spare tire, construction equipment, or farm equipment. "New tire" does not include retreaded, reused, or recycled tires.

(h) The California tire fee may not be imposed on any tire sold with, or sold separately for use on, any of the following:

(1) Any self-propelled wheelchair.

(2) Any motorized tricycle or motorized quadricycle, as defined in Section 407 of the Vehicle Code.

(3) Any vehicle that is similar to a motorized tricycle or motorized quadricycle and is designed to be operated by a person who, by reason of the person's physical disability, is otherwise unable to move about as a pedestrian.

(i) This section shall become operative on January 1, 2015.

SEC. 286. Section 42885.5 of the Public Resources Code is amended to read:

42885.5. (a) The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation* shall adopt a five-year plan, which shall be updated every two years, to establish goals and priorities for the waste tire program and each program element.

(b) On or before July 1, 2001, and every two years thereafter, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall submit the adopted five-year plan to the appropriate policy and fiscal committees of the Legislature. The ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall include in the plan, programmatic and fiscal issues including, but not limited to, the hierarchy used by the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* to maximize productive uses of waste and used tires, and the performance objectives and measurement criteria used by the ~~board~~ *Department of Toxic Substances Control and the Department of*

Conservation to evaluate the success of its waste and used tire recycling program. Additionally, the plan shall describe each program element's effectiveness, based upon performance measures developed by the ~~board,~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* including, but not limited to, the following:

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

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

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

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

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

(6) A description of the grants, loans, contracts, and other expenditures proposed to be made by the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* under the tire recycling program.

(7) Until June 30, 2010, the grant program authorized under Section 42872.5 to encourage the use of rubberized asphalt concrete technology in public works projects.

(8) Border region activities, conducted in coordination with the California Environmental Protection Agency, including, but not limited to, all of the following:

(A) Training programs to assist Mexican waste and used tire haulers to meet the requirements for hauling those tires in California.

(B) Environmental education training.

(C) Development of a waste tire abatement plan, with the appropriate government entities of California and Mexico.

(D) Tracking both the legal and illegal waste and used tire flow across the border and recommended revisions to the waste tire policies of California and Mexico.

(E) Coordination with businesses operating in the border region and with Mexico, with regard to applying the same environmental and control requirements throughout the border region.

(c) The ~~board~~ *Department of Conservation* shall base the budget for the California Tire Recycling Act and program funding on the plan.

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

SEC. 287. Section 42888 of the Public Resources Code is amended to read:

42888. (a) Except as agreed to by the ~~board~~ *Department of Conservation*, no refund shall be approved by the ~~board~~ *Department of Conservation* after three years from the date the payment was due for which the overpayment was made, or with respect to deficiency or jeopardy determinations, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires later, unless a claim therefor is filed with the ~~board~~ *Department of Conservation* within that period. No credit shall be approved by the ~~board~~ *Department of Conservation* after the expiration of that period, unless a claim for credit is filed with the ~~board~~ *Department of Conservation* within that period or unless the credit relates to a period for which a waiver is given by the ~~board~~ *Department of Conservation*.

(b) A refund may be approved by the ~~board~~ *Department of Conservation* for any period agreed to by the ~~board~~ *Department of Conservation* for good cause if a claim for the referral is filed with the ~~board~~ *Department of Conservation* before the expiration of the period agreed upon.

SEC. 288. Section 42889 of the Public Resources Code, as amended by Section 26 of Chapter 696 of the Statutes of 2008, is amended to read:

42889. (a) Commencing January 1, 2005, of the moneys collected pursuant to Section 42885, an amount equal to seventy-five cents ($0.75) per tire on which the fee is imposed shall be transferred by the State Board of Equalization to the Air Pollution Control Fund. The state board shall expend those moneys, or allocate those moneys to the districts for expenditure, to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, to the extent that the state board or the applicable district determines that the program or project remediates air pollution harms created by tires upon which the fee described in Section 42885 is imposed.

(b) The remaining moneys collected pursuant to Section 42885 shall be used to fund the waste tire program, and shall be appropriated to the ~~board~~ *Department of Toxic Substances Control*

and the Department of Conservation in the annual Budget Act in a manner consistent with the five-year plan adopted and updated by the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation*. These moneys shall be expended for the payment of refunds under this chapter and for the following purposes:

(1) To pay the administrative overhead cost of this chapter, not to exceed 6 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(2) To pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (c) of Section 42885.

(3) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(4) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The ~~board~~ *Department of Toxic Substances Control* shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the ~~board~~ *Department of Toxic Substances Control* designates a local entity for that purpose, the ~~board~~ *Department of Toxic Substances Control, in conjunction with the Department of Conservation,* shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42885.5. The ~~board~~ *Department of Toxic Substances Control* may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(5) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the ~~board~~ *Department of Toxic Substances Control*. Not less than six million five hundred

thousand dollars ($6,500,000) shall be expended by the ~~board~~ *Department of Toxic Substances Control* during each of the following fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

(6) To make studies and conduct research directed at promoting and developing alternatives to the landfill disposal of waste tires.

(7) To assist in developing markets and new technologies for used tires and waste tires. The ~~board's~~ *Department of Conservation's* expenditure of funds for purposes of this subdivision shall reflect the priorities for waste management practices specified in subdivision (a) of Section 40051.

(8) To pay the costs associated with implementing and operating a waste tire and used tire hauler program and manifest system pursuant to Chapter 19 (commencing with Section 42950).

(9) To pay the costs to create and maintain an emergency reserve, which shall not exceed one million dollars ($1,000,000).

(10) To pay the costs of cleanup, abatement, or other remedial action related to the disposal of waste tires in implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100) of Part 7.

(c) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2015, deletes or extends that date.

SEC. 289. Section 42889 of the Public Resources Code, as amended by Section 27 of Chapter 696 of the Statutes of 2008, is amended to read:

42889. Funding for the waste tire program shall be appropriated to the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation* in the annual Budget Act. The moneys in the fund shall be expended for the payment of refunds under this chapter and for the following purposes:

(a) To pay the administrative overhead cost of this chapter, not to exceed 5 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act.

(b) To pay the costs of administration associated with collection, making refunds, and auditing revenues in the fund, not to exceed 3 percent of the total revenue deposited in the fund, as provided in subdivision (b) of Section 42885.

(c) To pay the costs associated with operating the tire recycling program specified in Article 3 (commencing with Section 42870).

(d) To pay the costs associated with the development and enforcement of regulations relating to the storage of waste tires and used tires. The ~~board~~ *Department of Toxic Substances Control* shall consider designating a city, county, or city and county as the enforcement authority of regulations relating to the storage of waste tires and used tires, as provided in subdivision (c) of Section 42850, and regulations relating to the hauling of waste and used tires, as provided in subdivision (b) of Section 42963. If the ~~board~~ *Department of Toxic Substances Control* designates a local entity for that purpose, the ~~board~~ *Department of Toxic Substances Control* shall provide sufficient, stable, and noncompetitive funding to that entity for that purpose, based on available resources, as provided in the five-year plan adopted and updated as provided in subdivision (a) of Section 42855.5. The ~~board~~ *Department of Toxic Substances Control* may consider and create, as appropriate, financial incentives for citizens who report the illegal hauling or disposal of waste tires as a means of enhancing local and statewide waste tire and used tire enforcement programs.

(e) To pay the costs of cleanup, abatement, removal, or other remedial action related to waste tire stockpiles throughout the state, including all approved costs incurred by other public agencies involved in these activities by contract with the ~~board~~ *Department of Toxic Substances Control*. Not less than six million five hundred thousand dollars ($6,500,000) shall be expended by the ~~board~~ *Department of Toxic Substances Control* during each of the following fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

(f) This section shall become operative on January 1, 2015.

SEC. 290. Section 42889.3 of the Public Resources Code is amended to read:

42889.3. On or before January 1 of each year, the Department of Transportation shall report to the Legislature and the ~~board~~ *Department of Conservation* on the use of waste tires in transportation and civil engineering projects during the previous five years, including, but not limited to, the approximate number of waste tires used every year, and the types and location of these projects.

SEC. 291. Section 42910 of the Public Resources Code is amended to read:

42910. (a) Not later than March 1, 1993, after holding a public hearing, the ~~board~~ *Department of Conservation* shall adopt a model ordinance for adoption by any local agency relating to adequate areas for collecting and loading recyclable materials in development projects.

(b) The ~~board~~ *Department of Conservation* shall consult with representatives of the League of California Cities, County Supervisors Association of California, American Planning Association, American Institute of Architects, private and public waste services, building construction and management, and retail businesses in developing the model ordinance.

(c) Not later than January 1, 1993, the ~~board~~ *Department of Conservation* shall distribute the draft model ordinance to all local agencies and other interested parties for review. Any comments shall be submitted to the ~~board~~ *Department of Conservation* by February 1, 1993, for consideration at the public hearing of the ~~board~~ *Department of Conservation* to adopt the ordinance.

SEC. 292. Section 42912 of the Public Resources Code is amended to read:

42912. (a) Not later than March 1, 2004, after holding a public hearing, the ~~board~~ *Department of Conservation* shall do all of the following:

(1) Adopt one or more model ordinances, suitable for modification by a local agency, that the local agency may adopt that will require a range of diversion rates of construction and demolition waste materials from 50 to 75 percent, as determined by the ~~board~~ *Department of Conservation*, and as measured by weight.

(2) Consult with representatives of the League of California Cities, the California State Association of Counties, private and public waste services and building construction materials industry and construction management personnel throughout the development of the model ordinances.

(3) Compile a report on programs, other than a model ordinance, that local governments and general contractors can implement to increase diversion of construction and demolition waste materials.

(4) Post on the ~~board's~~ *Department of Conservation's* Internet Web site, a report for general contractors on methods by which

contractors can increase diversion of construction and demolition waste materials.

(5) Post on the ~~board's~~ *Department of Conservation's* Internet Web site, a report for local governments with suggestions of programs, in addition to adoption of the model ordinance, to increase diversion of construction and demolition waste materials.

(b) Not later than January 1, 2004, the ~~board~~ *Department of Conservation* shall distribute the draft model ordinance to all local agencies and other interested parties for review. Any comments shall be submitted to the ~~board~~ *Department of Conservation* by February 1, 2004, for consideration at the public hearing of the ~~board~~ *Department of Conservation* to adopt the ordinance.

SEC. 293. Section 42920 of the Public Resources Code is amended to read:

42920. (a) On or before February 15, 2000, the ~~board~~ *Department of Conservation* shall adopt a state agency model integrated waste management plan for source reduction, recycling, and composting activities.

(b) (1) On or before July 1, 2000, each state agency shall develop and adopt, in consultation with the ~~board~~ *Department of Conservation*, an integrated waste management plan, in accordance with the requirements of this chapter. The plan shall build upon existing programs and measures, including the state agency model integrated waste management plan adopted by the ~~board~~ *Department of Conservation* pursuant to subdivision (a), that will reduce solid waste, reuse materials whenever possible, recycle recyclable materials, and procure products with recycled content in all state agency offices and facilities, including any leased locations. It is the intent of the Legislature that the local jurisdiction and the state agency or large state facility located within that jurisdiction work together to implement the state agency integrated waste management plan.

(2) Each state agency shall submit an adopted integrated waste management plan to the ~~board~~ *Department of Conservation* for review and approval on or before July 15, 2000. The ~~board~~ *Department of Conservation* shall adopt procedures for reviewing and approving those integrated waste management plans. The ~~board~~ *Department of Conservation* shall complete its plan review process on or before January 1, 2001.

(3) If a state agency has not submitted an adopted integrated waste management plan or the model integrated waste management plan with revisions to the ~~board~~ *Department of Conservation* by January 1, 2001, or if the ~~board~~ *Department of Conservation* has disapproved the plan that was submitted, then the model integrated waste management plan, as revised by the ~~board~~ *Department of Conservation* in consultation with the agency, shall take effect on that date, or on a later date as determined by the ~~board~~ *Department of Conservation*, and shall have the same force and effect as if adopted by the state agency.

(c) Notwithstanding subdivision (e) of Section 12217 of the Public Contract Code, at least one solid waste reduction and recycling coordinator shall be designated by each state agency. The coordinator shall perform the duties imposed pursuant to this chapter using existing resources. The coordinator shall be responsible for implementing the integrated waste management plan and shall serve as a liaison to other state agencies and coordinators.

(d) The ~~board~~ *Department of Conservation* shall provide technical assistance to state agencies for the purpose of implementing the integrated waste management plan.

SEC. 294. Section 42921.5 of the Public Resources Code is amended to read:

42921.5. (a) After January 1, 2009, the ~~board~~ *Department of Conservation* shall determine each state agency's or a large state facility's compliance with Section 42921, for each year, commencing with January 1, 2007, by comparing the per capita disposal rate in subsequent years with the equivalent per capita disposal rate that would have been necessary for the state agency or large state facility to comply with Section 42921 on January 1, 2007, as calculated pursuant to subdivision (d).

(b) In making a determination whether a state agency or large state facility is in compliance with the requirements of Section 42921, the ~~board~~ *Department of Conservation* may consider an agency's or facility's per capita disposal rate as a factor in determining whether the state agency or large state facility is adequately implementing its integrated waste management plan. The ~~board~~ *Department of Conservation* shall not consider a state, agency, or large state facility's per capita disposal rate to be

determinative when considering whether the agency or facility is implementing its integrated waste management plan.

(c) When determining whether an agency or facility is in compliance with Section 42921, the ~~board~~ *Department of Conservation* shall consider that an increase in the per capita disposal rate is a result of disposal amounts increasing faster than the growth of the state agency or large state facility. The ~~board~~ *Department of Conservation* shall use an increase in the per capita disposal rate that is in excess of the equivalent per capita disposal rate as a factor in determining whether the ~~board~~ *Department of Conservation* is required to more closely examine the agency's or facility's plan implementation efforts. If indicated by this examination, the ~~board~~ *Department of Conservation* may require a state agency or large state facility to expand existing programs or implement new programs.

(d) (1) Except as provided in paragraph (2), "per capita disposal" or "per capita disposal rate" means the total annual disposal by a state agency or large state facility, in pounds, divided by total number of employees in that state agency or large state facility, and divided by 365 days.

(2) The ~~board~~ *Department of Conservation* may alternatively define per capita disposal or per capita disposal rate for a state agency or large state facility that has a significant amount of disposal from nonemployees or for other reasons that would make calculation of per capita disposal by the number of employees inaccurate.

SEC. 295. Section 42924 of the Public Resources Code is amended to read:

42924. (a) On or before February 15, 2000, the ~~board~~ *Department of Conservation* shall develop and adopt requirements relating to adequate areas for collecting, storing, and loading recyclable materials in state buildings. In developing the requirements, the ~~board~~ *Department of Conservation* may rely on the model ordinance adopted pursuant to Chapter 18 (commencing with Section 42900).

(b) Each state agency or large state facility, when entering into a new lease, or renewing an existing lease, shall ensure that adequate areas are provided for, and adequate personnel are available to oversee, the collection, storage, and loading of

recyclable materials in compliance with the requirements established pursuant to subdivision (a).

(c) In the design and construction of state agency offices and facilities, the Department of General Services shall allocate adequate space for the collection, storage, and loading of recyclable materials in compliance with the requirements established pursuant to subdivision (a).

SEC. 296. Section 42925 of the Public Resources Code is amended to read:

42925. (a) Any cost savings realized as a result of the state agency integrated waste management plan shall, to the extent feasible, be redirected to the agency's integrated waste management plan to fund plan implementation and administration costs, in accordance with Sections 12167 and 12167.1 of the Public Contract Code.

(b) The ~~board~~ *Department of Conservation* shall establish and implement a waste reduction award program for state agencies and large state facilities that develop, adopt, and implement innovative and effective integrated waste management plans in compliance with this chapter.

SEC. 297. Section 42926 of the Public Resources Code is amended to read:

42926. (a) In addition to the information provided to the ~~board~~ *Department of Conservation* pursuant to Section 12167.1 of the Public Contract Code, each state agency shall submit an annual report to the ~~board~~ *Department of Conservation* summarizing its progress in reducing solid waste as required by Section 42921. The annual report shall be due on or before September 1, 2009, and on or before September 1 in each subsequent year. The information in this report shall encompass the previous calendar year.

(b) Each state agency's annual report to the ~~board~~ *Department of Conservation* shall, at a minimum, include all of the following:

(1) Calculations of annual disposal reduction.

(2) Information on the changes in waste generated or disposed of due to increases or decreases in employees, economics, or other factors.

(3) A summary of progress made in implementing the integrated waste management plan.

(4) The extent to which the state agency intends to utilize programs or facilities established by the local agency for the handling, diversion, and disposal of solid waste. If the state agency does not intend to utilize those established programs or facilities, the state agency shall identify sufficient disposal capacity for solid waste that is not source reduced, recycled, or composted.

(5) Other information relevant to compliance with Section 42921.

(c) The ~~board~~ *Department of Conservation* shall use, but is not limited to the use of, the annual report in the determination of whether the agency's integrated waste management plan needs to be revised.

SEC. 298. Section 42927 of the Public Resources Code is amended to read:

42927. (a) A community college district shall give first priority for the expenditure of the revenues derived from the sale of recyclable materials resulting from the implementation of the district's integrated waste management plan for the purposes of offsetting the recycling program costs imposed pursuant to this chapter.

(b) A community college district shall expend all cost savings that result from implementation of the district's integrated waste management plan pursuant to this chapter to fund the continued implementation of the plan consistent with the requirement that revenues from the sale of recyclable materials be used to offset recycling program costs, as specified in Sections 12167 and 12167.1 of the Public Contract Code.

(c) A community college district shall provide information on the quantities of recyclable materials collected for recycling annually to the ~~board~~ *Department of Conservation*, according to a schedule determined by the ~~board~~ *Department of Conservation* and the district.

SEC. 299. Section 42951 of the Public Resources Code is amended to read:

42951. (a) Every person who engages in the transportation of waste or used tires shall hold a valid waste and used tire hauler registration, unless exempt as specified in Section 42954.

(b) A registered waste and used tire hauler shall only transport waste or used tires to a facility that is permitted, excluded, exempted, or otherwise authorized by the ~~board~~ *Department of*

Toxic Substances Control, by statute, or by regulation, to accept waste and used tires, or to a facility that lawfully accepts waste or used tires for reuse or disposal.

SEC. 300. Section 42952 of the Public Resources Code is amended to read:

42952. Except as provided in Section 42954, any person engaged in transporting waste or used tires shall comply with all of the following requirements:

(a) The person shall be registered as a waste and used tire hauler with the ~~board~~ *Department of Toxic Substances Control*.

(b) The person shall not advertise or represent himself or herself as being in the business of a waste and used tire hauler without being registered as a waste and used tire hauler by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 301. Section 42953 of the Public Resources Code is amended to read:

42953. Any person who gives, contracts, or arranges with another person to transport waste or used tires shall utilize only a person holding a valid waste and used tire hauler registration from the ~~board~~ *Department of Toxic Substances Control*, unless the hauler is exempt as specified in Section 42954.

SEC. 302. Section 42954 of the Public Resources Code is amended to read:

42954. (a) A person who hauls waste or used tires is exempt from registration under this chapter if at least one of the following conditions is met:

(1) The person transports fewer than 10 waste or used tires at any one time.

(2) The person is, or hauls used and waste tires in a vehicle owned and operated by, the United States, the State of California, or any county, city, town, or municipality in the state, except when vehicles the public agency owns or operates are used as a waste and used tire carrier for hire.

(3) The waste or used tires were inadvertently mixed or commingled with solid waste, and it is not economical or safe to remove or recover them.

(4) The vehicle originated outside the boundaries of the state and is destined for a point outside the boundaries of the state, if no waste or used tires are loaded or unloaded within the boundaries of the state.

(5) The person is hauling waste or used tires for agricultural purposes. However, notwithstanding Section 42961.5, a person hauling waste or used tires for agricultural purposes shall carry a manifest from the generator in the vehicle during transportation, which may be destroyed after delivery.

(6) The waste or used tires were hauled by a common carrier who transported something other than waste or used tires to an original destination point and then transported waste or used tires on the return part of the trip, and the revenue derived from the waste or used tires is incidental when compared to the revenue earned by the carrier.

(7) The person, who is not a waste tire generating business, is transporting waste or used tires to an amnesty day event or to a location as defined in subdivision (b) of Section 42951, and has received written authorization, which includes specific conditions and dates, from the local enforcement agency. The local enforcement agency shall provide copies of any written authorizations to the ~~board~~ *Department of Toxic Substances Control* within 30 days of their issuance.

(8) The person complies with any additional conditions for exemption, as approved by the ~~board~~ *Department of Toxic Substances Control*.

(b) Any person who transports tires in violation of subdivision (b) of Section 42951 shall not be exempt pursuant to subdivision (a).

SEC. 303. Section 42955 of the Public Resources Code is amended to read:

42955. An application for a new or renewed waste and used tire hauler registration shall be made on a form approved by the ~~board~~ *Department of Toxic Substances Control*. The application shall include, but not be limited to, all of the following:

(a) A vehicle description, vehicle identification number, vehicle license number, and the name of the registered vehicle owner for each vehicle used for transporting waste or used tires.

(b) The business name under which the hauler operates, and the business owners' name, address, and telephone number.

(c) Other business names under which the hauler operates.

(d) A bond in favor of the State of California in the amount of ten thousand dollars ($10,000). Proof of bond renewal shall be

submitted with the application for annual renewal of a waste and used tire hauler registration.

(e) Any additional information required by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 304. Section 42956 of the Public Resources Code is amended to read:

42956. (a) Upon approval of an application submitted pursuant to Section 42955, the ~~board~~ *Department of Toxic Substances Control* shall issue a waste and used tire hauler registration to be carried in the vehicle and a waste and used tire hauler decal to be permanently affixed to the lower right hand corner of the windshield.

(b) Any person who operates a vehicle or who authorizes the operation of a vehicle that transports 10 or more tires without a valid and current waste and used tire hauler registration, as issued by the ~~board~~ *Department of Toxic Substances Control* pursuant to Section 42955, shall be subject to the enforcement actions specified in Article 4 (commencing with Section 42962).

(c) The waste and used tire hauler registration shall be presented upon demand of an authorized representative of the ~~board~~ *Department of Toxic Substances Control*.

SEC. 305. Section 42960 of the Public Resources Code is amended to read:

42960. (a) The ~~board~~ *Department of Toxic Substances Control* may suspend, revoke, or deny a waste and used tire hauler registration for a period of up to three years, by filing an accusation in accordance with the procedures of Sections 11505 to 11519, inclusive, of the Government Code, if the holder of the registration does any of the following:

(1) Commits more than three violations of, or fails to comply with any requirements of, this chapter or Chapter 16 (commencing with Section 42800), or the regulations adopted pursuant to those provisions, within a one year period.

(2) Commits, aids, or abets any violation of this chapter or Chapter 16 (commencing with Section 42800), or the regulations adopted pursuant to those provisions, or permits an agent to do so, and the ~~board~~ *Department of Toxic Substances Control* determines that the violation poses an immediate threat of harm to public safety or to the environment.

(3) Commits, aids, or abets a failure to comply with this chapter or Chapter 16 (commencing with Section 42800), or the regulations adopted pursuant to those provisions, or permits an agent to do so, and the ~~board~~ *Department of Toxic Substances Control* determines that the failure to comply shows a repeating or recurring occurrence or that the failure to comply may pose a threat to public health or safety or the environment.

(4) Commits any misrepresentation or omission of a significant fact or other required information in the application for a waste and used tire hauler registration or commits any misrepresentation or omission of fact on any manifest more than three times in one year.

(b) The ~~board~~ *Department of Toxic Substances Control* may suspend, revoke, or deny a waste and used tire hauler registration for a period of three years to five years, or may suspend, revoke, or deny a waste and used tire hauler registration permanently, in accordance with the procedures specified in subdivision (a), under any of the following circumstances:

(1) The hauler's registration has been previously revoked or denied for any violation specified in subdivision (a).

(2) The hauler has been previously fined pursuant to this chapter or Chapter 16 (commencing with Section 42800).

(3) The ~~board~~ *Department of Toxic Substances Control* determines that the hauler's operations pose a significant threat to public health and safety.

SEC. 306. Section 42961 of the Public Resources Code is amended to read:

42961. If the ~~board~~ *Department of Toxic Substances Control* denies an application for registration, the applicant may request a hearing by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 307. Section 42961.5 of the Public Resources Code is amended to read:

42961.5. (a) For purposes of this chapter, the following definitions shall apply:

(1) "California Uniform Waste and Used Tire Manifest" means a shipping document signed by a generator of waste or used tires, a waste and used tire hauler, or the operator of a waste or used tire facility or other destination that contains all of the information required by the ~~board~~ *Department of Toxic Substances Control*, including, but not limited to, an accurate measurement of the

number of tires being shipped, the type or types of the tires, the date the shipment originated, and the origin and intended final destination of the shipment.

(2) "Waste and used tire hauler" means any person required to be registered with the ~~board~~ *Department of Toxic Substances Control* pursuant to subdivision (a) of Section 42951.

(b) Any person generating waste or used tires that are transported or submitted for transportation, for offsite handling, altering, storage, disposal, or for any combination thereof, shall complete a California Uniform Waste and Used Tire Manifest, as required by the ~~board~~ *Department of Toxic Substances Control*. The generator shall provide the manifest to the waste and used tire hauler at the time of transfer of the tires. Each generator shall submit to the ~~board~~ *Department of Toxic Substances Control*, on a quarterly schedule, a legible copy of each manifest. The copy submitted to the ~~board~~ *Department of Toxic Substances Control* shall contain the signatures of the generator and the waste and used tire hauler.

(c) (1) Any waste and used tire hauler shall have the California Uniform Waste and Used Tire Manifest in his or her possession while transporting waste or used tires. The manifest shall be shown upon demand to any representative of the ~~board~~ *Department of Toxic Substances Control*, any officer of the *Department of the* California Highway Patrol, any peace officer, as defined in Section 830.1 or 830.2 of the Penal Code, or any local public officer designated by the ~~board~~ *Department of Toxic Substances Control*.

(2) Any waste and used tire hauler hauling waste or used tires for offsite handling, altering, storage, disposal, or any combination thereof, shall complete the California Uniform Waste and Used Tire Manifest as required by the ~~board~~ *Department of Toxic Substances Control*. The waste and used tire hauler shall provide the manifest to the waste or used tire facility operator who receives the waste or used tires for handling, altering, storage, disposal, or any combination thereof. Each waste and used tire hauler shall submit to the ~~board~~ *Department of Toxic Substances Control*, on a quarterly schedule, a legible copy of each manifest. The copy submitted to the ~~board~~ *Department of Toxic Substances Control* shall contain the signatures of the generator and the facility operator.

(d) Each waste or used tire facility operator that receives waste or used tires for handling, altering, storage, disposal, or any combination thereof, that was transported with a manifest pursuant to this section, shall submit copies of each manifest provided by the waste and used tire hauler to the ~~board~~ *Department of Toxic Substances Control* and the generator on a quarterly schedule. The copy submitted to the ~~board~~ *Department of Toxic Substances Control* shall contain the signatures of each generator, each transporter, and the facility operator. If approved by the ~~board~~ *Department of Toxic Substances Control*, in lieu of submitting a copy of each manifest used, a facility operator may submit an electronic report to the ~~board meeting the requirements of Section 42814~~ *Department of Toxic Substances Control*.

(e) The ~~board~~ *Department of Toxic Substances Control* shall develop and implement a system for auditing manifests submitted to the ~~board~~ *Department of Toxic Substances Control* pursuant to this section, for the purpose of enforcing this section. The ~~board~~ *Department of Toxic Substances Control* or its agent shall continuously conduct random sampling and matching of manifests submitted by any person generating waste or used tires, hauling waste or used tires, or operating waste or used tire facilities, to assure compliance with this section.

(f) (1) If approved by the ~~board~~ *Department of Toxic Substances Control*, any waste and used tire generator, waste and used tire hauler, or operator of a waste tire facility that is subject to the manifest requirements of this section, may submit an electronic report to the ~~board~~ *Department of Toxic Substances Control*, in lieu of submitting the copy of the manifest required. The electronic report shall include all information required to be on the California Uniform Waste and Used Tire Manifest, and any other information required by the ~~board~~ *Department of Toxic Substances Control*.

(2) A waste and used tire generator, waste and used tire hauler, or operator of a waste tire facility that is subject to paragraph (1) may submit the electronic reports to the ~~board~~ *Department of Toxic Substances Control* on a quarterly schedule.

SEC. 308. Section 42962 of the Public Resources Code is amended to read:

42962. (a) Any person who does any of the following shall be liable for a civil penalty not to exceed twenty-five thousand

dollars ($25,000) for each violation of a separate provision or for continuing violations for each day that violation continues:

(1) Intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter.

(2) Knowingly, or with reckless disregard, makes any false statement or representation in any application, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with this chapter.

(b) Liability under subdivision (a) may be imposed in a civil action.

(c) In addition to the civil penalty that may be imposed pursuant to subdivision (a), the ~~board~~ *Department of Toxic Substances Control* may impose civil penalties administratively in an amount not to exceed five thousand dollars ($5,000) for each violation of a separate provision or for continuing violations for each day that violation continues, on any person who intentionally or negligently violates any permit, rule, regulation, standard, or requirement issued or adopted pursuant to this chapter. The ~~board~~ *Department of Toxic Substances Control* shall adopt regulations that specify the procedures and amounts for the imposition of administrative civil penalties pursuant to this subdivision.

SEC. 309. Section 42962.5 of the Public Resources Code is amended to read:

42962.5. Any traffic officer, as defined in Section 625 of the Vehicle Code, and any peace officer, as specified in Section 830.1 of the Penal Code, may enforce this chapter as authorized representatives of the ~~board~~ *Department of Toxic Substances Control*.

SEC. 310. Section 42963 of the Public Resources Code is amended to read:

42963. (a) This chapter, or any regulations adopted pursuant to Section 42966, is not a limitation on the power of a city, county, or district to impose and enforce reasonable land use conditions or restrictions on facilities that handle waste or used tires in order to protect the public health and safety or the environment, including preventing or mitigating potential nuisances, if the conditions or restrictions do not conflict with, or impose less stringent requirements than, this chapter or those regulations. However, this chapter, including any regulations that are adopted pursuant to

Section 42966, is intended to establish a uniform statewide program for the regulation of waste and used tire haulers that will prevent the illegal disposal of tires, but which will not subject waste and used tire haulers to multiple registration or manifest requirements. Therefore, any local laws regulating the transportation of waste or used tires are preempted by this chapter.

(b) Upon request of a city, county, or city and county, the ~~board~~ *Department of Toxic Substances Control* may designate, in writing, that city, county, or city and county to exercise the enforcement authority granted to the ~~board~~ *Department of Toxic Substances Control* under this chapter. A city, county, or city and county designated by the ~~board~~ *Department of Toxic Substances Control* pursuant to this subdivision shall follow the same procedures set forth for the ~~board~~ *Department of Toxic Substances Control* under this article. This designation shall not limit the authority of the ~~board~~ *Department of Toxic Substances Control* to take action it deems necessary or proper to ensure the enforcement of this chapter.

SEC. 311. Section 42964 of the Public Resources Code is amended to read:

42964. The ~~board~~ *Department of Toxic Substances Control* may expend funds from the California Tire Recycling Management Fund, upon appropriation by the Legislature, for purposes of implementation of this chapter.

SEC. 312. Section 42966 of the Public Resources Code is amended to read:

42966. The ~~board~~ *Department of Toxic Substances Control* shall administer this chapter. The ~~board~~ *Department of Toxic Substances Control* may adopt any regulations necessary or useful to carry out this chapter or any of the ~~board's~~ *Department of Toxic Substances Control's* duties or responsibilities imposed pursuant to this chapter. The ~~board~~ *Department of Toxic Substances Control* shall initially, as soon as possible, adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for safety, and general welfare. Emergency

regulations adopted pursuant to this section shall remain in effect for a period not to exceed 120 days.

SEC. 313. Section 42967 of the Public Resources Code is amended to read:

42967. (a) The costs of administering this chapter shall be paid from fees deposited in the California Tire Recycling Management Fund pursuant to ~~subdivision (i) of~~ Section 42889.

(b) The ~~board~~ *Department of Toxic Substances Control* may develop a legislative proposal for an alternative fee system for the payment of the costs of administering this chapter and submit that proposal to the Legislature for its consideration as part of the 1994–95 fiscal year budget review process.

SEC. 314. Section 43020 of the Public Resources Code is amended to read:

43020. The ~~board~~ *Department of Toxic Substances Control* shall adopt and revise regulations which set forth minimum standards for solid waste handling, transfer, composting, transformation, and disposal, in accordance with this division, and Section 117590 of, and Chapter 6.5 (commencing with Section 25100) of Division 20 of, the Health and Safety Code. The ~~board~~ *Department of Toxic Substances Control* shall not include any requirements that are already under the authority of the State Air Resources Board for the prevention of air pollution or of the state water board for the prevention of water pollution.

SEC. 315. Section 43020.1 of the Public Resources Code is amended to read:

43020.1. (a) As part of the existing regulatory review process for regulations adopted pursuant to this article, the ~~board~~ *Department of Toxic Substances Control* may consider whether the operational requirements that apply to nonhazardous wood waste landfills should differ from the operational requirements that apply to other categories of solid waste landfills, such as those used for the disposal of municipal solid waste. If the ~~board~~ *Department of Toxic Substances Control* determines that the operational requirements that apply to nonhazardous wood waste landfills should differ from the operational requirements that apply to other categories of solid waste landfills, such as those used for the disposal of municipal solid waste, the ~~board~~ *Department of Toxic Substances Control* shall revise its regulations accordingly.

(b) For the purposes of this section, "nonhazardous wood waste landfill" means a landfill that exclusively accepts untreated bark, sawdust, shavings, and chips that are the byproducts of primary wood product manufacturing and processes that are not used as raw material and that are destined for disposal. "Nonhazardous wood waste landfill" does not include any landfill that accepts chemically treated or adulterated bark, sawdust, shavings, and chips that are the byproducts of primary wood product manufacturing and processes that are not used as raw material and that are destined for disposal.

(c) Nothing in this section is intended to authorize the ~~board~~ *Department of Toxic Substances Control* to adopt regulations which are less stringent than those adopted by the Environmental Protection Agency pursuant to Part 256 (commencing with Section 256.01) of Title 40 of the Code of Federal Regulations.

SEC. 316. Section 43030 of the Public Resources Code is amended to read:

43030. (a) The ~~board~~ *Department of Toxic Substances Control* shall adopt regulations that are consistent with Section 40055 governing the monitoring and control of the subsurface migration of landfill gas.

(b) The ~~board~~ *Department of Toxic Substances Control* shall consult with the state water board, the State Air Resources Board, and the California Air Pollution Control Officers Association to ensure that the regulations do not conflict with any regulations adopted by the state water board and the State Air Resources Board or air pollution control districts and air quality management districts.

(c) The regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to subdivision (a) shall establish monitoring and control standards, based on the potential of the waste to generate landfill gas, as determined by the ~~board~~ *Department of Toxic Substances Control*, and shall require owners and operators of disposal sites or disposal facilities to report monitoring data and to perform, or cause to be performed, site inventories and evaluations of disposal sites or disposal facilities for the subsurface migration of landfill gas.

(d) If an owner or operator of a disposal site or disposal facility is in compliance with requirements of the air pollution control district or the air quality management district within whose

jurisdiction the disposal site or disposal facility is located, the owner or operator shall be deemed to be in compliance with this section and with any regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to this section. However, owners or operators of disposal sites and disposal facilities shall be required to comply with regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to this section, which impose requirements not addressed by the requirements of the air pollution control district or the air quality management district within whose jurisdiction the disposal site or disposal facility is located.

SEC. 317. Section 43035 of the Public Resources Code is amended to read:

43035. (a) The ~~board~~ *Department of Toxic Substances Control*, in cooperation with the Office of Emergency Services, shall develop an integrated waste management disaster plan to provide for the handling, storage, processing, transportation, and diversion from disposal sites, or provide for disposal at a disposal site where absolutely necessary, of solid waste, resulting from a state of emergency or a local emergency, as defined, respectively, in subdivisions (b) and (c) of Section 8558 of the Government Code.

(b) The ~~board~~ *Department of Toxic Substances Control* may adopt regulations, including emergency regulations, necessary to carry out the integrated waste management disaster plan.

SEC. 318. Section 43040 of the Public Resources Code is amended to read:

43040. (a) The ~~board~~ *Department of Toxic Substances Control* shall adopt standards and regulations requiring that, as a condition for the issuance, modification, revision, or review of a solid waste facilities permit for a disposal facility, the operator of the disposal facility shall provide assurance of adequate financial ability to respond to personal injury claims and public or private property damage claims resulting from the operations of the disposal facility which occur before closure.

(b) To the extent practicable and consistent with federal law and regulations, the ~~board~~ *California Integrated Waste Management Board* and the state water board shall, on or before January 1, 1994, develop a work plan for combining financial assurance requirements for operating liability with financial

assurance requirements for corrective actions into one mechanism which provides appropriate coverage for both purposes.

SEC. 319. Section 43050 of the Public Resources Code is amended to read:

43050. (a) On or before January 1, 2008, the ~~board~~ *California Integrated Waste Management Board* shall conduct a study to define the conditions that potentially affect solid waste landfills, including technologies and engineering controls designed to mitigate potential risks, in order to identify potential long-term threats to public health and safety and the environment. The ~~board~~ *California Integrated Waste Management Broad* shall also study various financial assurance mechanisms that would protect the state from long-term postclosure and corrective action costs in the event that a landfill owner or operator fails to meet its legal obligations to fund postclosure maintenance or corrective action during the postclosure period. The ~~board~~ *California Integrated Waste Management Board*, on or before July 1, 2009, shall adopt regulations and develop recommendations for needed legislation to implement the findings of the study.

(b) In conducting the study described in subdivision (a), the ~~board~~ *California Integrated Waste Management Board* shall consult with representatives of the League of California Cities, the County Supervisors Association of California, private and public waste services, and environmental organizations.

SEC. 320. Section 43101 of the Public Resources Code is amended to read:

43101. The Legislature hereby finds and declares as follows:

(a) The board and the state water board have submitted a report entitled Joint Report: Reforming the California Solid Waste Disposal Regulatory Process, and have recommended legislation to the Governor and the Legislature that identifies areas of regulatory overlap, conflict, and duplication and makes recommendations for change.

(b) The report found that regulatory overlap, conflict, and duplication were evident between the board and the state water board and between the board and local enforcement agencies and that regulatory reform was necessary to streamline the state's solid waste disposal regulatory process. In addition, it was found that a recasting of the solid waste facilities permit was warranted to make more efficient and streamlined the permitting and regulation of

solid waste disposal facilities. The report also makes numerous other appropriate recommendations for improving the manner in which the management of solid waste is regulated by the state which require immediate legislative response.

(c) It is, therefore, the intent of the Legislature, in enacting this chapter, and in making the necessary revisions to this division and Division 7 (commencing with Section 13000) of the Water Code by the act enacting this chapter, to accomplish all of the following:

(1) As provided by Sections 40054 and 40055, the ~~board~~ *Department of Toxic Substances Control*, the state water board, and the regional water boards shall retain their appropriate statutory authority over solid waste disposal facilities and sites. A clear and concise division of authority shall be maintained in both statute and regulation to remove all areas of overlap, duplication, and conflict between the ~~board~~ *Department of Toxic Substances Control* and the state water board and regional water boards, or between the ~~board~~ *Department of Toxic Substances Control* and any other state agency, as appropriate.

(2) The state water board and regional water boards shall be the sole agencies regulating the disposal and classification of solid waste for the purpose of protecting the waters of the state, consistent with Section 40055, and the ~~board~~ *Department of Toxic Substances Control* and the certified local enforcement agencies shall regulate all other aspects of solid waste disposal within the scope of their appropriate regulatory authority.

(3) To effectuate that clear division of authority, the ~~board~~ *Department of Toxic Substances Control* and the state water board shall develop one consolidated set of solid waste disposal facility regulations where distinct chapters are written and implemented by the appropriate agency, and one consolidated permit application, including one technical report to incorporate the requirements of both the solid waste facilities permit and waste discharge requirements.

(4) The process and timeframe for the review and approval of the consolidated application shall be revised to allow, to the greatest extent feasible, for the concurrent development and review of the waste discharge requirements and the solid waste facilities permit. The intent of this permit streamlining effort is to shorten the overall timeframe for processing a permit and to accommodate

concurrent reviews by the local enforcement agency and the regional water boards within a set timeframe.

(5) Any details of a concurrent permit approval process shall be worked out in an implementation plan that is developed jointly by the ~~board~~ *Department of Toxic Substances Control* and state water board with input from interested parties.

(6) If practicable, joint inspections of facilities shall be conducted by the ~~board~~ *Department of Toxic Substances Control*, regional water boards, and local enforcement agencies, and inspection reports shall be shared with any other affected state or local agency.

(7) The closure and postclosure maintenance requirements of the ~~board~~ *Department of Toxic Substances Control* and the state water board for solid waste landfills shall be combined into one set of consolidated regulations which require one closure and postclosure maintenance plan to be prepared for each solid waste landfill.

(8) A clear and concise division of responsibilities shall be maintained to minimize overlap and duplication of permitting, inspection, and compliance duties between the ~~board~~ *Department of Toxic Substances Control* and certified local enforcement agencies. The ~~board's~~ *Department of Toxic Substances Control's* primary role in regard to permitting and compliance shall be to provide technical assistance and ongoing training and support to local enforcement agencies, to ensure a local enforcement agency's performance in complying with state minimum standards, and to review permits and other documents submitted by local enforcement agencies for ~~board~~ *Department of Toxic Substances Control* concurrence or approval. The ~~board~~ *Department of Toxic Substances Control* shall strengthen the state certification and evaluation program for local enforcement agencies and shall set clear and uniform standards to be met by local enforcement agencies.

(9) The Solid Waste Disposal Site Cleanup and Maintenance Account shall be abolished and a solid waste disposal fee established for deposit in the Integrated Waste Management Account which provides adequate funding for all obligations imposed pursuant to this division. In addition, the costs of the state water board and the regional water boards of regulating solid waste facilities shall be funded from the account.

(10) The Solid Waste Assessment Test Program shall continue operating with resources from the Integrated Waste Management Account until all of the ranked solid waste disposal sites are reviewed.

(11) Responsibility for establishing and enforcing financial responsibility requirements for solid waste landfills, from operation through to cleanup, shall, to the greatest extent practicable and consistent with applicable federal law, be consolidated into one set of regulations administered by the ~~board~~ *Department of Toxic Substances Control*, in consultation with the state water board.

(12) At a minimum, the financial assurance requirements for closure and postclosure maintenance shall be combined, and the requirements for corrective action and operating liability shall be reviewed, as required by subdivision (b) of Section 43040, to determine if there can be further consolidation of financial assurance requirements for solid waste landfills.

(13) The state water board or the appropriate regional water board shall have access to the financial assurance funds for closure and postclosure activities and to financial assurance funds for corrective action, as necessary, to address water quality problems, if the owner or operator has failed to implement the required closure and postclosure activities or corrective action activities.

(d) It is the intent of the Legislature, in enacting this chapter, and in making the necessary revisions to this division and Division 7 (commencing with Section 13000) of the Water Code, to ensure that the state minimum standards for environmental protection at solid waste disposal facilities are not reduced.

SEC. 321. Section 43103 of the Public Resources Code is amended to read:

43103. The ~~board~~ *Department of Toxic Substances Control* and the state water board shall adopt regulations for the implementation of the changes required by this chapter, and the act adding this chapter.

SEC. 322. Section 43200 of the Public Resources Code is amended to read:

43200. (a) The ~~board~~ *Department of Toxic Substances Control* shall prepare and adopt certification regulations for local enforcement agencies. The regulations shall specify requirements that a local agency shall meet before being designated as an

enforcement agency. The regulations shall include, but are not limited to, all of the following:

(1) Technical expertise.

(2) (A) Adequacy of staff resources.

(B) For the purposes of this paragraph, the ~~board~~ *Department of Toxic Substances Control* shall adopt regulations for specified enforcement agencies, as defined in subparagraph (C), which meet all of the following requirements:

(i) The regulations shall not require a specific number of person-hours or staff resources for the performance of duties as a specified enforcement agency.

(ii) The regulations shall establish performance standards for specified enforcement agencies which will provide a comparable level of public health and safety and environmental protection to that required of other local agencies certified pursuant to this article.

(iii) The regulations shall establish procedures to ensure that all duties required of specified enforcement agencies pursuant to this article are actually performed.

(iv) The regulations shall require specified enforcement agency personnel to receive a comparable level of training to that required of personnel employed by other local agencies certified pursuant to this article.

(C) For the purposes of subparagraph (B), "specified enforcement agency" means a local enforcement agency which has a population of less than 50,000 persons.

(3) Adequacy of budget resources.

(4) Training requirements.

(5) The existence of at least one permitted solid waste facility within the jurisdiction of the local agency. For the purposes of this paragraph, "permitted solid waste facility" includes a proposed solid waste facility for which an environmental impact report or negative declaration has been prepared and certified pursuant to Division 13 (commencing with Section 21000) or for which a conditional use permit has been issued by a city or county.

(b) The regulations adopted pursuant to subdivision (a) shall specify four separate types of certifications for which an enforcement agency may be designated, as follows:

(1) Permitting, inspection, and enforcement of regulations at solid waste landfills.

(2) Permitting, inspection, and enforcement of solid waste incinerators.

(3) Permitting, inspection, and enforcement of transfer and processing stations.

(4) Inspection and enforcement of litter, odor, and nuisance regulations at solid waste landfills.

SEC. 323. Section 43201 of the Public Resources Code is amended to read:

43201. After August 1, 1992, no enforcement agency shall be designated pursuant to this article unless the ~~board~~ *Department of Toxic Substances Control* determines that the agency fully complies with one or more of the certification types specified in Section 43200. No enforcement agency shall, after August 1, 1992, exercise the powers of an enforcement agency pursuant to this chapter unless the agency has been certified by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 324. Section 43202 of the Public Resources Code is amended to read:

43202. An enforcement agency may be designated by the local governing body and certified by the ~~board~~ *Department of Toxic Substances Control* to act to carry out this chapter within each jurisdiction. If an enforcement agency is not designated and certified, the ~~board~~ *Department of Toxic Substances Control*, in addition to its other powers and duties, shall be the enforcement agency within the jurisdiction, subject to the agreement required pursuant to Section 43212.1 or 43310.1.

SEC. 325. Section 43204 of the Public Resources Code is amended to read:

43204. No enforcement agency may exercise the powers and duties of an enforcement agency until the designation is approved by the ~~board~~ *Department of Toxic Substances Control*. After August 1, 1992, the ~~board~~ *Department of Toxic Substances Control* shall not approve a designation unless it finds that the designated enforcement agency is capable of fulfilling its responsibilities under the enforcement program and meets the certification requirements adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to Section 43200.

SEC. 326. Section 43205 of the Public Resources Code is amended to read:

43205. (a) Except as provided in subdivision (b), if no enforcement agency is designated and certified, the ~~board~~ *Department of Toxic Substances Control* shall be the enforcement agency and shall assume all the powers and duties of an enforcement agency pursuant to this chapter, subject to the agreement required pursuant to Section 43212.1 or 43310.1. If the ~~board~~ *Department of Toxic Substances Control* is the enforcement agency and an enforcement agency is then designated and certified by the ~~board~~ *Department of Toxic Substances Control*, the ~~board~~ *Department of Toxic Substances Control* shall continue to act as the enforcement agency for the remainder of the fiscal year, with those responsibilities terminating as of June 30, unless otherwise specified by the ~~board~~ *Department of Toxic Substances Control*.

(b) Notwithstanding subdivision (a), if no enforcement agency is designated and certified for Stanislaus County or Santa Cruz County, the ~~board~~ *Department of Toxic Substances Control* shall be the enforcement agency, and shall assume all of the powers and duties of an enforcement agency for that county, but shall not be required to enter into the agreement required pursuant to Sections 43212.1 or 43310.1.

(c) The ~~board~~ *Department of Toxic Substances Control* and the enforcement agency shall not, at any time, impose duplicative fees or charges on the owner or operator of a solid waste facility.

SEC. 327. Section 43207 of the Public Resources Code is amended to read:

43207. No local governmental department or agency, or any employee thereof, which is the operating unit for a solid waste handling or disposal operation shall be the enforcement agency, or an employee thereof, for the types of solid waste handling or disposal operation it conducts unless authorized by the ~~board~~ *Department of Toxic Substances Control* to act in that capacity.

SEC. 328. Section 43209 of the Public Resources Code is amended to read:

43209. The enforcement agency, within its jurisdiction and consistent with its certification by the ~~board~~ *Department of Toxic Substances Control*, shall do all of the following:

(a) Enforce applicable provisions of this part, regulations adopted under this part, and terms and conditions of permits issued pursuant to Chapter 3 (commencing with Section ~~44001)~~ *44000.5)*.

(b) Request enforcement by appropriate federal, state, and local agencies of their respective laws governing solid waste storage, handling, and disposal.

(c) File with the ~~board~~ *Department of Toxic Substances Control*, upon its request, information the ~~board~~ *Department of Toxic Substances Control* determines to be necessary.

(d) Develop, implement, and maintain inspection, enforcement, permitting, and training programs.

(e) (1) Establish and maintain an enforcement program consistent with regulations adopted by the ~~board~~ *Department of Toxic Substances Control* to implement this chapter, the standards adopted pursuant to this chapter, and the terms and conditions of permits issued pursuant to Chapter 3 (commencing with Section ~~44001)~~ *44000.5)*.

(2) The enforcement agency may establish specific local standards for solid waste handling and disposal subject to approval by a majority vote of its local governing body, by resolution or ordinance.

(3) A standard established pursuant to this subdivision shall be consistent with this division and all regulations adopted by the ~~board~~ *Department of Toxic Substances Control*.

(f) Keep and maintain records of its inspection, enforcement, permitting, training, and regulatory programs, and of any other official action in accordance with regulations adopted by the ~~board~~ *Department of Toxic Substances Control*.

(g) (1) Consult, as appropriate, with the appropriate local health agency concerning all actions which involve health standards.

(2) The consultation required by this subdivision shall include affording the health agency adequate notice and opportunity to conduct and report the evaluation as it reasonably determines is appropriate.

(h) Establish and maintain an inspection program.

(1) The inspection program required by this subdivision shall be designed to determine whether any solid waste facility is operating under any of the following:

(A) The facility is operating without a permit.

(B) The facility is operating in violation of state minimum standards.

(C) The facility is operating in violation of the terms and conditions of its solid waste facilities permit.

(D) The facility may pose a significant threat to public health and safety or to the environment, based on any relevant information.

(2) The inspection program established pursuant to this subdivision shall also ensure frequent inspections of solid waste facilities that have an established pattern of noncompliance with this division, regulations adopted pursuant to this division, or the terms and conditions of a solid waste facilities permit. The inspection program may include public awareness activities, enforcement to prevent the illegal dumping of solid waste, and the abatement of the illegal dumping of solid waste.

SEC. 329. Section 43209.1 of the Public Resources Code is amended to read:

43209.1. (a) Notwithstanding any other provision of law, if an enforcement agency receives a complaint, pursuant to subdivision (b) of Section 41705 of the Health and Safety Code, from an air pollution control district or an air quality management district pertaining to an odor emanating from a compost facility under its jurisdiction, the enforcement agency shall, in consultation with the district, take appropriate enforcement actions pursuant to this part.

(b) On or before April 1, 1998, the ~~board~~ *California Integrated Waste Management Board* shall convene a working group consisting of enforcement agencies and air pollution control districts and air quality management districts to assist in the implementation of this section and Section 41705 of the Health and Safety Code. On or before April 1, 1999, the ~~board~~ *California Integrated Waste Management Board* and the working group shall develop recommendations on odor measurement and thresholds, complaint response procedures, and enforcement tools and take any other action necessary to ensure that enforcement agencies respond in a timely and effective manner to complaints of odors emanating from composting facilities. On or before January 1, 2000, the ~~board~~ *California Integrated Waste Management Board* shall implement the recommendations of the working group that the ~~board~~ *California Integrated Waste Management Board* determines to be appropriate.

(c) On or before April 1, 2003, the ~~board~~ *California Integrated Waste Management Board* shall adopt and submit to the Office of Administrative Law, pursuant to Section 11346.2 of the

Government Code, regulations governing the operation of organic composting sites that include, but are not limited to, any of the following:

(1) Odor management and threshold levels.

(2) Complaint investigation and response procedures.

(3) Enforcement tools.

(d) This section shall become inoperative on April 1, 2003, unless the ~~board~~ *California Integrated Waste Management Board* adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) on or prior to that date.

SEC. 330. Section 43210 of the Public Resources Code is amended to read:

43210. For those facilities that accept only hazardous wastes, or accept only low-level radioactive wastes, or facilities that accept only both, and to which Chapter 6.5 (commencing with Section 25100) of Division 20 or Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code applies, the ~~board~~ *Department of Toxic Substances Control* and the enforcement agency have no enforcement or regulatory authority. All enforcement activities for the facilities relative to the control of hazardous wastes shall be performed by the Department of Toxic Substances Control pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code, and all enforcement activities relative to the control of low-level radioactive waste shall be performed by the State Department of Health Services pursuant to Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code.

SEC. 331. Section 43211 of the Public Resources Code is amended to read:

43211. (a) For those facilities that accept both hazardous wastes and other solid wastes, the Department of Toxic Substances Control shall exercise enforcement and regulatory powers relating to the control of the hazardous wastes at the facility pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The ~~board~~ *Department of Toxic Substances Control* and the enforcement agency shall, at solid waste disposal facilities, exercise enforcement and regulatory

powers relating to the control of solid wastes and asbestos-containing waste, as provided in Section 44820.

(b) For purposes of this section, "asbestos containing waste" means waste that contains more than 1 percent by weight, of asbestos that is either friable or nonfriable.

SEC. 332. Section 43212 of the Public Resources Code is amended to read:

43212. (a) If the ~~board~~ *Department of Toxic Substances Control* is the enforcement agency, the ~~board~~ *Department of Toxic Substances Control* may impose fees to recover its costs of operation on the local governing body, a solid waste facility operator, or a solid waste enterprise that operates within the jurisdiction of the enforcement agency, and shall collect those fees in a manner determined by the ~~board~~ *Department of Toxic Substances Control* and developed in consultation with the local governing body. Any fees imposed pursuant to this section shall bear a direct relationship to the reasonable and necessary costs, as determined by the ~~board~~ *Department of Toxic Substances Control*, of providing for the efficient operation of the activities or programs for which the fee is imposed.

(b) If the ~~board~~ *Department of Toxic Substances Control* is the enforcement agency for a county and all of the cities within that county, the local governing body shall be the county ~~board~~ *Department of Toxic Substances Control* of supervisors for purposes of this section.

SEC. 333. Section 43212.1 of the Public Resources Code is amended to read:

43212.1. If the ~~board~~ *Department of Toxic Substances Control* is the enforcement agency, the local governing body and the ~~board~~ *Department of Toxic Substances Control* shall enter into an agreement which shall identify the jurisdictional boundaries of the enforcement agency; address the powers and duties to be performed by the ~~board~~ *Department of Toxic Substances Control* as the enforcement agency, and identify an estimated workload and anticipated costs to the ~~board~~ *Department of Toxic Substances Control*.

SEC. 334. Section 43214 of the Public Resources Code is amended to read:

43214. (a) The ~~board~~ *Department of Toxic Substances Control* shall develop performance standards for evaluating certified local

enforcement agencies and shall periodically review each certified enforcement agency and its implementation of the permit, inspection, and enforcement program. The ~~board's~~ *Department of Toxic Substances Control's* review shall include periodic inspections of solid waste facilities and disposal sites within the jurisdiction of each enforcement agency for the purpose of evaluating whether the enforcement agency is appropriately applying and enforcing state minimum standards within its jurisdiction.

(b) Following initial certification of an enforcement agency by the ~~board~~ *Department of Toxic Substances Control*, the ~~board~~ *Department of Toxic Substances Control* shall conduct a performance review of the enforcement agency every three years, or more frequently as determined by the ~~board~~ *Department of Toxic Substances Control*.

(c) In conducting performance reviews of enforcement agencies, the ~~board~~ *Department of Toxic Substances Control* shall, based on the performance standards developed pursuant to subdivision (a), determine whether each enforcement agency is in compliance with the requirements of this article and the regulations adopted to implement this article. If the ~~board~~ *Department of Toxic Substances Control* finds that an enforcement agency is not fulfilling its responsibilities pursuant to this article and if the ~~board~~ *Department of Toxic Substances Control* also finds that this lack of compliance has contributed to significant noncompliance with state minimum standards at solid waste facilities or disposal sites within the jurisdiction of the enforcement agency, the ~~board~~ *Department of Toxic Substances Control* shall withdraw its approval of designation pursuant to Sections 43215 and 43216. Notwithstanding Sections 43215 and 43216, if the ~~board~~ *Department of Toxic Substances Control* finds that conditions at solid waste facilities or disposal sites within the jurisdiction of the enforcement agency threaten public health and safety or the environment, the ~~board~~ *Department of Toxic Substances Control* shall, within 10 days of notifying the enforcement agency, become the enforcement agency until another enforcement agency is designated locally and certified by the ~~board~~ *Department of Toxic Substances Control*.

(d) The ~~board~~ *Department of Toxic Substances Control* shall find that an enforcement agency is not fulfilling its responsibilities

pursuant to this article, and may take action as prescribed by subdivision (c), if the ~~board~~ *Department of Toxic Substances Control*, in conducting its performance review, makes one or more of the following findings with regard to compliance with this part and Part 5 (commencing with Section 45000):

(1) The enforcement agency has failed to exercise due diligence in the inspection of solid waste facilities and disposal sites.

(2) The enforcement agency has intentionally misrepresented the results of inspections.

(3) The enforcement agency has failed to prepare, or cause to be prepared, permits, permit revisions, or closure and postclosure maintenance plans.

(4) The enforcement agency has approved permits, permit revisions, or closure and postclosure maintenance plans that are not consistent with this part and Part 5 (commencing with Section 45000).

(5) The enforcement agency has failed to take appropriate enforcement actions.

(6) The enforcement agency has failed to comply with, or has taken actions that are inconsistent with, or that are not authorized by, this division or the regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to this division. However, nothing in this paragraph is intended to affect the authority of enforcement agencies pursuant to subdivision (e) of Section 43209.

SEC. 335. Section 43215 of the Public Resources Code is amended to read:

43215. (a) If the ~~board~~ *Department of Toxic Substances Control*, in conducting the inspection and performance review required pursuant to Section 43214 or this section, finds that the enforcement agency is not fulfilling one or more of its responsibilities, the ~~board~~ *Department of Toxic Substances Control* shall notify the enforcement agency of the particular reasons for finding that the enforcement agency is not fulfilling its responsibilities and of the ~~board's~~ *Department of Toxic Substances Control's* intention to withdraw its approval of the designation if, within a time to be specified in that notification, but in no event less than 30 days, the enforcement agency does not take the corrective action specified by the ~~board~~ *Department of Toxic Substances Control*.

(b) The ~~board~~ *Department of Toxic Substances Control* shall adopt regulations that establish a process for notice, public hearing, the admission of evidence, and final action by the ~~board~~ *Department of Toxic Substances Control* for partial or full withdrawal of the approval of designation pursuant to this chapter.

SEC. 336. Section 43215.1 of the Public Resources Code is amended to read:

43215.1. The ~~board~~ *Department of Toxic Substances Control* may, upon the written request of an enforcement agency, provide legal counsel for purposes of compliance with this part.

SEC. 337. Section 43216 of the Public Resources Code is amended to read:

43216. If the ~~board~~ *Department of Toxic Substances Control* withdraws its approval of the designation of an enforcement agency, another enforcement agency shall be designated pursuant to Section 43203 within 90 days and approved by the ~~board~~ *Department of Toxic Substances Control*. If no designation is made within 90 days, the ~~board~~ *Department of Toxic Substances Control* shall become the enforcement agency within the jurisdiction of the former enforcement agency.

SEC. 338. Section 43216.5 of the Public Resources Code is amended to read:

43216.5. In addition to the procedures for ~~board~~ *Department of Toxic Substances Control* withdrawal of its approval of a local enforcement agency's designation pursuant to Sections 43214, 43215, and 43216, the ~~board~~ *Department of Toxic Substances Control* may take any actions which are determined by the ~~board~~ *Department of Toxic Substances Control* to be necessary to ensure that local enforcement agencies fulfill their obligations under this chapter. To ensure that a local enforcement agency is appropriately fulfilling its obligations under this chapter and implementing regulations, the ~~board~~ *Department of Toxic Substances Control* may conduct more frequent inspections and evaluations within a local enforcement agency's jurisdiction, establish a schedule and probationary period for improved performance by a local enforcement agency, assume partial responsibility for specified local enforcement agency duties, and implement any other measures which may be determined by the ~~board~~ *Department of Toxic Substances Control* to be necessary to improve local enforcement agency compliance.

SEC. 339. Section 43217 of the Public Resources Code is amended to read:

43217. The ~~board~~ *Department of Toxic Substances Control* shall provide ongoing training, technical assistance, and guidance to local enforcement agencies to assist in their decisionmaking processes. This assistance shall include, but is not limited to, providing all of the following:

(a) Technical studies and reports.

(b) Copies of innovative solid waste facility operation plans.

(c) Investigative findings and analyses of new solid waste management practices and procedures.

(d) A program for loaning technical and scientific equipment, to the extent that funds are available to the ~~board~~ *Department of Toxic Substances Control* to purchase that equipment.

SEC. 340. Section 43218 of the Public Resources Code is amended to read:

43218. Each enforcement agency shall inspect each solid waste facility within its jurisdiction at least one time each month and shall file, within 30 days of the inspection, a written report in a format prescribed by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 341. Section 43219 of the Public Resources Code is amended to read:

43219. (a) The ~~board~~ *Department of Toxic Substances Control* may, at its discretion, conduct inspections and investigations of solid waste facilities in order to evaluate the local enforcement agency and to ensure that state minimum standards are met.

(b) Except as otherwise provided by Section 43220, the ~~board~~ *Department of Toxic Substances Control*, in conjunction with an inspection conducted by the local enforcement agency, shall conduct inspections of solid waste facilities within the jurisdiction of each local enforcement agency. The ~~board~~ *Department of Toxic Substances Control* shall inspect the types and number of solid waste facilities which are determined by the ~~board~~ *Department of Toxic Substances Control* to be necessary to adequately evaluate whether the local enforcement agency is ensuring compliance by solid waste facilities with state minimum standards. A written inspection report shall be prepared and submitted within 30 days of the inspection to the local enforcement agency.

(c) If the ~~board~~ *Department of Toxic Substances Control* identifies any significant violation of state minimum standards that were not identified and resolved through previous inspections by the local enforcement agency, the ~~board~~ *Department of Toxic Substances Control* shall take appropriate action as authorized by Sections 43215 and 43216.5.

(d) Notwithstanding any other provision of this section and Sections 43215 and 43216, if, as a result of a facility inspection conducted pursuant to subdivision (b), the ~~board~~ *Department of Toxic Substances Control* finds that conditions at a solid waste facility within the jurisdiction of a local enforcement agency threaten public health and safety or the environment, the ~~board~~ *Department of Toxic Substances Control* shall, within 10 days of notifying the local enforcement agency, become the enforcement agency until another local enforcement agency is designated locally and certified by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 342. Section 43220 of the Public Resources Code is amended to read:

43220. The ~~board~~ *Department of Toxic Substances Control*, in conjunction with an inspection conducted by the local enforcement agency, shall conduct at least one inspection every 18 months of each solid waste landfill and transformation facility in the state. A written inspection report shall be prepared and submitted within 30 days of the inspection to the local enforcement agency. If the ~~board~~ *Department of Toxic Substances Control* identifies any significant violation of state minimum standards that was not resolved through previous inspections by the local enforcement agency, the ~~board~~ *Department of Toxic Substances Control* shall take appropriate action as authorized by Sections 43215 and 43216.5 and subdivision (d) of Section 43219.

SEC. 343. Section 43230 of the Public Resources Code is amended to read:

43230. The ~~board~~ *Department of Toxic Substances Control* shall expend funds from the account, upon appropriation by the Legislature, for the making of grants to local enforcement agencies to carry out the solid waste facilities permit and inspection program pursuant to Chapter 3 (commencing with Section ~~44001)~~ *44000.5)*. The total amount of grants made by the ~~board~~ *Department of Toxic Substances Control* pursuant to this section shall not exceed, in

any one fiscal year, one million five hundred thousand dollars ($1,500,000).

SEC. 344. Section 43231 of the Public Resources Code is amended to read:

43231. The ~~board~~ *Department of Toxic Substances Control* shall adopt regulations for the implementation of this article.

SEC. 345. Section 43232 of the Public Resources Code is amended to read:

43232. All expenses which are incurred by the ~~board~~ *Department of Toxic Substances Control* in carrying out this article are payable solely from the account. No liability or obligation is imposed upon the state pursuant to this part, and the ~~board~~ *Department of Toxic Substances Control* shall not incur a liability or obligation beyond the extent to which money is provided in the account for the purposes of this article.

SEC. 346. Section 43300 of the Public Resources Code is amended to read:

43300. The ~~board~~ *Department of Toxic Substances Control*, when acting in its capacity as an enforcement agency, may enforce all provisions of this division, and the regulations adopted thereto, for the protection of the environment and the public health and safety, and from nuisance.

SEC. 347. Section 43301 of the Public Resources Code is amended to read:

43301. The ~~board~~ *Department of Toxic Substances Control* shall coordinate action in solid waste handling and disposal with other federal, state, and local agencies and private persons.

SEC. 348. Section 43302 of the Public Resources Code is amended to read:

43302. The ~~board~~ *Department of Toxic Substances Control* may request enforcement by appropriate federal, state, and local agencies of their respective laws governing solid waste storage, handling, and disposal.

SEC. 349. Section 43303 of the Public Resources Code is amended to read:

43303. The ~~board~~ *Department of Toxic Substances Control* shall develop, implement, and maintain inspection, enforcement, and training programs.

SEC. 350. Section 43304 of the Public Resources Code is amended to read:

43304. The ~~board~~ *Department of Toxic Substances Control* shall adopt an enforcement program consisting of regulations necessary to implement this division and the standards adopted pursuant thereto. The enforcement program shall include a description for carrying out the permit and inspection program pursuant to Chapter 3 (commencing with Section 44001).

SEC. 351. Section 43305 of the Public Resources Code is amended to read:

43305. The ~~board~~ *Department of Toxic Substances Control* may, as it deems necessary, establish specific local standards for solid waste handling and disposal after consultation with the local governing body. However, the standards shall be consistent with this division and all regulations adopted by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 352. Section 43306 of the Public Resources Code is amended to read:

43306. The ~~board~~ *Department of Toxic Substances Control* shall keep and maintain records of its inspection, enforcement, training, and regulatory programs and of any other official action in accordance with regulations adopted by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 353. Section 43307 of the Public Resources Code is amended to read:

43307. The ~~board~~ *Department of Toxic Substances Control* shall consult with the appropriate local health agency concerning all actions which involve health standards. The consultation shall include granting the health agency adequate notice and opportunity to conduct and report any evaluation that it reasonably deems appropriate.

SEC. 354. Section 43308 of the Public Resources Code is amended to read:

43308. For those facilities that accept only hazardous wastes and to which Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code applies, or that accept only low-level radioactive wastes and to which Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code applies, or for those facilities that accept both, the ~~board~~ *Department of Toxic Substances Control* shall have no enforcement or regulatory authority. Except as otherwise provided in Section 40052, all enforcement activities

for those facilities relative to the control of hazardous wastes shall be performed by the Department of Toxic Substances Control pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code, and all enforcement activities for those facilities relative to low-level radioactive wastes shall be performed by the State Department of Health Services pursuant to Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code.

SEC. 355. Section 43309 of the Public Resources Code is amended to read:

43309. The ~~board~~ *Department of Toxic Substances Control* may adopt regulations specifying the operations subject to the exception in paragraph (3) of subdivision (b) of Section 40200. The regulations shall prohibit the storing of more than 90 cubic yards of waste in covered containers during any 72-hour period and the transfer of uncontainerized refuse from smaller refuse hauling motor vehicles to larger refuse transfer motor vehicles for transport to the point of ultimate disposal.

SEC. 356. Section 43310 of the Public Resources Code is amended to read:

43310. If the ~~board~~ *Department of Toxic Substances Control* becomes the enforcement agency, it may charge reasonable fees to the local governing body to recover operation costs.

SEC. 357. Section 43310.1 of the Public Resources Code is amended to read:

43310.1. (a) If the ~~board~~ *Department of Toxic Substances Control* becomes the enforcement agency, on or after January 1, 1995, the local governing body and the ~~board~~ *Department of Toxic Substances Control* shall enter into an agreement which shall identify the jurisdictional boundaries of the enforcement agency; address the powers and duties to be performed by the ~~board~~ *Department of Toxic Substances Control* as the enforcement agency, and identify an estimated workload and anticipated costs to the ~~board~~ *Department of Toxic Substances Control*. The agreement shall also identify the cost recovery procedures to be followed by the ~~board~~ *Department of Toxic Substances Control* pursuant to Section 43310.

(b) If, after a good faith effort by the ~~board~~ *Department of Toxic Substances Control* and the local governing body, no agreement is reached between the local governing body and the ~~board~~

Department of Toxic Substances Control within the 90-day period specified in Section 43216, or within 90 days after a local governing body notifies the ~~board~~ *Department of Toxic Substances Control* of its intent not to designate an enforcement agency pursuant to Section 43203, the ~~board~~ *Department of Toxic Substances Control* shall make the determinations specified in subdivision (a) that would have been the subject of the agreement.

(c) If the ~~board~~ *Department of Toxic Substances Control* becomes the enforcement agency for Stanislaus County or Santa Cruz County, the ~~board~~ *Department of Toxic Substances Control* shall impose fees authorized pursuant to this section directly on the solid waste facilities in those counties, and shall not require the local governing body to impose or collect those fees.

SEC. 358. Section 43501 of the Public Resources Code is amended to read:

43501. (a) A person owning or operating a solid waste landfill, as defined in Section 40195.1, shall do both of the following:

(1) Upon application to become an operator of a solid waste facility pursuant to Section 44001, certify to the ~~board~~ *Department of Toxic Substances Control* and the local enforcement agency that all of the following have been accomplished:

(A) The owner or operator has prepared an initial estimate of closure and postclosure maintenance costs.

(i) The ~~board~~ *Department of Toxic Substances Control* shall adopt regulations that provide for an increase in the initial closure and postclosure maintenance cost estimates to account for cost overruns due to unforeseeable circumstances, and to provide a reasonable contingency comparable to that which is built into cost estimates for other, similar public works projects.

(ii) The ~~board~~ *former California Integrated Waste Management Board* shall adopt regulations on or before January 1, 2008, that require closure and postclosure maintenance cost estimates to be based on reasonably foreseeable costs the state may incur if the state would have to assume responsibility for the closure and postclosure maintenance due to the failure of the owner or operator. Cost estimates shall include, but not be limited to, estimates in compliance with Sections 1770, 1773, and 1773.1 of the Labor Code, and the replacement and repair costs for longer lived items, including, but not limited to, repair of the environmental control systems.

(B) The owner or operator has established a trust fund or equivalent financial arrangement acceptable to the ~~board~~ *Department of Toxic Substances Control*, as specified in Article 4 (commencing with Section 43600).

(C) The amounts that the owner or operator will deposit annually in the trust fund or equivalent financial arrangement acceptable to the ~~board~~ *Department of Toxic Substances Control* will ensure adequate resources for closure and postclosure maintenance.

(2) Submit to the regional water board, the local enforcement agency, and the ~~board~~ *Department of Toxic Substances Control* a plan for the closure of the solid waste landfill and a plan for the postclosure maintenance of the solid waste landfill.

(b) Notwithstanding subparagraph (C) of paragraph (1) of subdivision (a) or any other provision of law, if the owner or operator is a county with a population of 200,000 or less, as determined by the 1990 decennial census, the county shall not be required to make annual deposits in excess of the amount required by the federal act or any other applicable federal law, or by any ~~board-approved~~ *Department of Toxic Substances Control-approved* formula that meets the requirements of the federal act.

(c) If not in conflict with federal law or regulations, a county or city may, with regard to a solid waste landfill owned or operated by the county or city, base its estimate of closure and postclosure maintenance costs on the costs of employing county or city employees or persons under contract with the county or city in performing closure and postclosure maintenance. However, even if, to meet federal requirements, the cost estimate is based on the most expensive costs of closure and postclosure maintenance performed by a third party, the county or city may, to effect cost savings, employ county or city employees or employ persons under contract to actually perform closure operations or postclosure maintenance operations.

SEC. 359. Section 43501.5 of the Public Resources Code is amended to read:

43501.5. (a) In addition to the requirements of this article, and Section 21780 of Title 27 of the California Code of Regulations, a person who is required to file a final closure plan shall also file with the enforcement agency a Labor Transition Plan that includes all of the following:

(1) Provisions that ensure, subject to any requirements already established pursuant to a collective bargaining agreement, preferential reemployment and transfer rights of displaced employees to comparable available employment with the same employer for a period of no less than one year following the closure of the solid waste facility.

(2) Provisions to provide displaced employees assistance in finding comparable employment with other employers.

(3) Provisions to ensure compliance with all applicable provisions of Chapter 4 (commencing with Section 1400) of Part of 4 of Division 2 of the Labor Code.

(b) When submitting the final closure plan, the operator shall submit, in addition to the requirements of subdivision (a), a certification to the ~~board~~ *Department of Toxic Substances Control* and the enforcement agency that the provisions described in paragraphs (1) to (3), inclusive, of subdivision (a), will be implemented, subject to any requirements already established under a collective bargaining agreement.

(c) For the purposes of this section, "comparable employment" means the same or a substantially similar job classification at equal or greater wage and benefit levels in the same geographic region of the state.

SEC. 360. Section 43502 of the Public Resources Code is amended to read:

43502. All documentation relating to the preparation of the closure and postclosure maintenance costs shall be retained by the owner or operator and shall be available for inspection by the ~~board~~ *Department of Toxic Substances Control* or the enforcement agency at reasonable times.

SEC. 361. Section 43504 of the Public Resources Code is amended to read:

43504. Pursuant to the procedural requirements in Chapter 3 (commencing with Section 44001), the enforcement agency or the ~~board~~ *Department of Toxic Substances Control* may suspend or revoke a permit if the applicant fails within a reasonable period of time to submit an acceptable plan for the closure of the landfill and an acceptable plan for postclosure maintenance of the landfill.

SEC. 362. Section 43505 of the Public Resources Code is amended to read:

43505. The closure plan and the postclosure maintenance plan may be revised only upon the filing of a written application therefor by the owner or operator, and the approval, or amendment and approval, by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 363. Section 43506 of the Public Resources Code is amended to read:

43506. (a) After receiving a complete closure plan and postclosure maintenance plan, the regional water board shall approve or disapprove the plans pursuant to the authority and time schedules specified in Division 7 (commencing with Section 13000) of the Water Code. The ~~board~~ *Department of Toxic Substances Control* shall incorporate the action of the regional water board and shall only approve plans that include an acceptable mechanism for providing the necessary funds to implement the plans.

(b) In reviewing closure plans and postclosure maintenance plans pursuant to this section, the regional water boards shall review and take action on those portions of the plans which are related to the protection of the waters of the state and the ~~board~~ *Department of Toxic Substances Control* shall review and take action on the remaining portions of the plans.

SEC. 364. Section 43507 of the Public Resources Code is amended to read:

43507. The owner and operator shall, regardless of any changes occurring during the continued operation of the landfill, close and maintain the landfill during postclosure in accordance with the most recent closure plan and the most recent postclosure maintenance plan approved by the ~~board~~ *Department of Toxic Substances Control* pursuant to this article. Upon receipt of the final shipment of solid waste, the most recent closure and postclosure maintenance plan shall become the governing document for the disposal site.

SEC. 365. Section 43508 of the Public Resources Code is amended to read:

43508. The ~~board~~ *Department of Toxic Substances Control* or the enforcement agency may recover any costs incurred in meeting the requirements of this article by charging a fee pursuant to Chapter 8 (commencing with Section 41900) of Part 2.

SEC. 366. Section 43509 of the Public Resources Code is amended to read:

43509. (a) The ~~board~~ *Department of Toxic Substances Control*, in consultation with the state water board and in compliance with Section 40055, shall adopt and amend regulations specifying closure plan and postclosure maintenance plan adoption procedures and uniform standards to implement Section 43601. Regulations adopted pursuant to this section shall not include standards and requirements contained in regulations adopted by the State Water Resources Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code. The regulations shall also require solid waste landfill owners or operators to calculate, and periodically revise, cost estimates for closure and for postclosure maintenance, for as long as the solid waste could have an adverse effect on the quality of the waters of the state, but not less than 30 years after closure unless all wastes are removed in accordance with federal and state law.

(b) The ~~board~~ *Department of Toxic Substances Control* may adopt regulations that authorize the adoption of both preliminary and final closure and postclosure maintenance plans. Regulations for preliminary closure and postclosure maintenance plans may require less specificity and engineering detail than final closure and postclosure maintenance plans, and these regulations shall apply only in those cases in which there is reasonable certainty that the solid waste landfill will not close for at least one year following approval of the plans. Preliminary closure and postclosure maintenance plans shall provide sufficient detail to enable the owner or operator and the ~~board~~ *Department of Toxic Substances Control* to accurately estimate the costs for closure and postclosure maintenance.

(c) If a solid waste landfill owner or operator has submitted a closure plan and postclosure maintenance plan which satisfies the requirements of this chapter, and which has been approved by the local enforcement agency, the ~~board~~ *Department of Toxic Substances Control*, and the appropriate regional water board, the plans shall be deemed to have satisfactorily complied with all state requirements for the adoption of a closure plan and postclosure maintenance plan.

SEC. 367. Section 43510 of the Public Resources Code is amended to read:

43510. (a) The regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to this article and Article 4

(commencing with Section 43600) shall not duplicate or conflict with the regulations imposing closure and postclosure maintenance requirements adopted by the state water board which are found in Chapter 15 (commencing with Section 2510) of Chapter 3 of Title 23 of the California Code of Regulations.

(b) On or before June 30, 1995, the ~~board~~ *California Integrated Waste Management Board* and the state water board shall revise the regulations adopted pursuant to this article and Article 4 (commencing with Section 43600) of this chapter and Section 13172 of the Water Code for the purpose of consolidating the requirements of the ~~board~~ *California Integrated Waste Management Board* and the state water board for closure and postclosure maintenance into one set of regulations.

SEC. 368. Section 43600 of the Public Resources Code is amended to read:

43600. (a) Except as otherwise provided in subdivision (b), any person owning or operating a solid waste landfill, as defined in Section 40195.1, shall, with the closure plan and postclosure maintenance plan submitted pursuant to subdivision (b) of Section 43501, submit to the ~~board~~ *Department of Toxic Substances Control* evidence of financial ability to provide for the cost of closure and postclosure maintenance, in an amount that is equal to the estimated cost of closure and 15 years of postclosure maintenance, contained in the closure plan and the postclosure maintenance plan submitted.

(b) On and after the effective date of the federal regulations set forth in Subpart G (commencing with Section 258.70) of Part 258 of Title 40 of the Code of Federal Regulations, any person owning or operating a solid waste landfill, shall, with the closure plan and postclosure maintenance plan submitted pursuant to subdivision (b) of Section 43501, submit to the ~~board~~ *Department of Toxic Substances Control* evidence of financial ability to provide for closure and postclosure maintenance, in an amount that is equal to the estimated cost of closure and 30 years of postclosure maintenance, contained in the closure plan and the postclosure maintenance plan submitted.

SEC. 369. Section 43601 of the Public Resources Code is amended to read:

43601. (a) The evidence of financial ability shall be sufficient to meet the closure and postclosure maintenance costs when needed.

(b) The owner or operator of a solid waste landfill shall provide evidence of financial ability through the use of any of the mechanisms set forth in Part 258 (commencing with Section 258.1) of Title 40 of the Code of Federal Regulations or through the use of any other mechanisms approved by the ~~board~~ *Department of Toxic Substances Control*. However, the ~~board~~ *Department of Toxic Substances Control* may adopt regulations that reasonably condition the use of one or more of those mechanisms to ensure adequate protection of public health and safety and the environment, but shall not exclude the use of any mechanism permitted under federal law. In addition, the evidence of financial ability submitted pursuant to Section 43600 shall provide that funds shall be available to the regional water boards upon the issuance of any order under Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code to implement closure and postclosure activities.

(c) The state water board or the appropriate regional water board shall have access to the financial assurance funds for closure and postclosure activities, and to financial assurance funds for corrective action, as necessary, to address water quality problems, if the owner or operator of the solid waste landfill has failed to implement the required closure and postclosure activities or corrective action activities.

(d) The owner or operator may request disbursement for expenditures to conduct closure, postclosure maintenance, or corrective actions from the financial assurance mechanism established for that activity. Requests for disbursement shall be granted by the ~~board~~ *Department of Toxic Substances Control* only if sufficient funds are remaining in the financial assurance mechanism to cover the remaining approved total costs of closure, postclosure maintenance, or corrective actions, as appropriate.

(e) If the evidence of financial ability for closure, postclosure, or corrective action is demonstrated by use of insurance, the ~~board~~ *Department of Toxic Substances Control* may approve the insurance mechanism if it is in compliance with either paragraph (1) or (2) as follows:

(1) The issuer of the insurance policy is either:

(A) Licensed by the Department of Insurance to transact the business of insurance in the State of California as an admitted carrier.

(B) Eligible to provide insurance as an excess and surplus lines insurer in California through a surplus lines broker currently licensed under the regulations of the Department of Insurance and upon the terms and conditions prescribed by the Department of Insurance.

(2) If the insurance carrier is established by a solid waste facility operator to meet the financial assurance obligations of that operator, insurance may be approved by the ~~board~~ *Department of Toxic Substances Control* that meets all of the following requirements:

(A) The insurance mechanism is in full compliance with the requirements for insurance that are specified in subdivision (d) of Section 258.74 of Title 40 of the Code of Federal Regulations.

(B) The insurance carrier is an insurer domiciled in the United States and licensed in its state of domicile to write that insurance.

(C) The insurance carrier only provides financial assurance to the operator that has established the insurance carrier as a form of self-insurance and does not engage in the business of marketing, brokering, or providing insurance coverage to other parties.

(D) The insurance carrier shall maintain a rating of A- or better by A.M. Best, or other equivalent rating by any other agency acceptable to the ~~board~~ *Department of Toxic Substances Control*.

(E) If requested by the ~~board~~ *Department of Toxic Substances Control*, an independent financial audit report evaluating the assets and liabilities of the insurance carrier and confirming compliance with the statutory and regulatory requirements of the state of domicile and an independent actuarial opinion on the independence and financial soundness of the insurance carrier by an actuary in good standing with the Casualty Actuarial Society or the American Academy of Actuaries regarding the adequacy of the loss reserves maintained by the insurance carrier shall be submitted to the ~~board~~ *Department of Toxic Substances Control* upon application and annually thereafter.

(f) A solid waste facility operator using or proposing to use an insurance company to demonstrate financial assurance may be required by the ~~board~~ *Department of Toxic Substances Control* to pay a fee for the actual and necessary cost of reviewing information submitted by the operator pursuant to paragraph (2) of subdivision

(e) up to an amount not to exceed ten thousand dollars ($10,000), unless a higher amount is mutually agreed to by the operator and the ~~board~~ *Department of Toxic Substances Control*.

(g) The funds collected pursuant to subdivision (f) shall be deposited in the Integrated Waste Management Account and shall be available, upon appropriation by the Legislature, for expenditure by the ~~board~~ *Department of Toxic Substances Control* to fund the review specified in subdivision (f).

SEC. 370. Section 43601.5 of the Public Resources Code is amended to read:

43601.5. (a) On or before March 1, 1994, the ~~board~~ *former California Integrated Waste Management Board* shall review and revise regulations affecting solid waste landfill closure and postclosure financial assurances adopted in accordance with this article to make the regulations consistent with the requirements established pursuant to Subpart G (commencing with Section 258.1) of Part 258 of Subchapter I of Chapter 1 of Title 40 of the Code of Federal Regulations, as amended on October 9, 1991.

(b) In reviewing and revising regulations pursuant to subdivision (a), the ~~board~~ *Department of Toxic Substances Control* shall, consistent with this division, and with federal law and regulations, endeavor to minimize the costs of compliance with those regulations by the owners and operators of public solid waste landfills and to provide flexible mechanisms for those owners and operators to comply with closure and postclosure financial assurance requirements, in order to ensure that adequate funding will be available for programs and projects that are necessary to comply with the diversion requirements of Section 41780.

SEC. 371. Section 43603 of the Public Resources Code is amended to read:

43603. The ~~board~~ *Department of Toxic Substances Control* shall not require an owner or operator of a disposal site to revise or amend a closure plan submitted pursuant to this section or former Section 66796.22 of the Government Code after closure of the landfill in order to reflect subsequent changes in any standards and regulations adopted by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 372. Section 43606 of the Public Resources Code is amended to read:

43606. (a) Except for financial arrangements approved by the ~~board~~ *Department of Toxic Substances Control* pursuant to this article, no indemnification, hold harmless, or similar agreement or conveyance is effective to transfer from the owner or operator of a disposal site to any other person any obligations imposed on the owner or operator under this article.

(b) Notwithstanding subdivision (a), nothing in this section prohibits any agreement between the owner and the operator regarding their respective obligations for closure and postclosure maintenance of a disposal site, and nothing in this section prohibits a cause of action that an owner or operator has or would have against the other party by reason of that agreement.

SEC. 373. Section 44000.5 of the Public Resources Code is amended to read:

44000.5. (a) With respect only to solid waste disposed of in this state, a person shall not dispose of solid waste, cause solid waste to be disposed of, arrange for the disposal of solid waste, transport solid waste for purposes of disposal, or accept solid waste for disposal, except at a solid waste disposal facility for which a solid waste facilities permit has been issued pursuant to this chapter or as otherwise authorized pursuant to this division and the regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to this division.

(b) A violation of this section is an unlawful act.

SEC. 374. Section 44001 of the Public Resources Code is amended to read:

44001. Any person who proposes to become an operator of a solid waste facility shall file with the enforcement agency having jurisdiction over the facility, or the ~~board~~ *Department of Toxic Substances Control* if there is no designated and certified enforcement agency, an application for a solid waste facilities permit at least 150 days in advance of the date on which it is desired to commence operation, unless the enforcement agency issues a permit to the applicant to commence operations prior to that time.

SEC. 375. Section 44002.1 of the Public Resources Code is amended to read:

44002.1. (a) The Legislature finds and declares all of the following:

(1) New trends in solid waste handling and collection practices, such as single-stream collection of recyclable materials, coupled with the regulations adopted by the ~~board~~ *Department of Toxic Substances Control* that govern solid waste transfer or processing stations and composting facilities, have resulted in the failure of a substantial number of persons carrying out previously unregulated recycling, solid waste handling, and composting activities, to comply with existing law.

(2) As cities and counties undertake greater efforts to increase the diversion of solid waste from landfills, the ~~board~~ *Department of Toxic Substances Control* anticipates that many new transfer and processing stations and composting facilities will commence operation in California within the next two to five years.

(3) To address these trends, it is necessary to provide a temporary permitting scheme to enable the operators of existing solid waste facilities to obtain temporary permits more quickly than is possible under existing law, in order to protect the public health and safety and the environment.

(b) The ~~board~~ *Department of Toxic Substances Control* shall adopt emergency regulations pursuant to subdivision (d) to authorize an enforcement agency, upon the ~~board's~~ *Department of Toxic Substances Control's* concurrence, to issue a temporary solid waste facilities permit to a person operating a solid waste transfer or processing station or a composting facility, that, as of January 1, 2008, is required under this division and the regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to this division to obtain a solid waste facilities permit, but for which a permit has not been obtained. The regulations adopted by the ~~board~~ *Department of Toxic Substances Control* shall include all of the following requirements:

(1) That a person desiring to obtain a temporary solid waste facilities permit submit a complete and correct application for the permit to the enforcement agency having jurisdiction no later than 60 days from the effective date of the regulations.

(2) That the date by which a holder of a temporary solid waste facilities permit shall obtain a permanent solid waste facilities permit from the enforcement agency having jurisdiction, or cease the activities for which a solid waste facilities permit is required, be on or before June 30, 2010.

(3) That a facility covered under a temporary solid waste facilities permit have been in operation on or before January 1, 2007.

(4) That the owner or operator of a facility covered under a temporary solid waste facilities permit agree to allow the facility to be inspected, at least monthly, by the enforcement agency.

(c) (1) An enforcement agency shall diligently notify the operators of all facilities within its jurisdiction of the availability of temporary solid waste facilities permits under the regulations adopted pursuant to this section.

(2) The ~~board~~ *Department of Toxic Substances Control* shall expeditiously review and act on a proposed temporary solid waste facilities permit submitted to it by an enforcement agency. Upon the request of an enforcement agency, the ~~board~~ *Department of Toxic Substances Control* shall provide assistance to the enforcement agency to expeditiously process applications for temporary solid waste facilities permits.

(d) The regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to this section shall be adopted as emergency regulations and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare. The ~~board~~ *California Integrated Waste Management Board* shall file the emergency regulations with the Office of Administrative Law at the earliest feasible date or March 1, 2008, whichever date is earlier. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted by the ~~board~~ *California Integrated Waste Management Board or the Department of Toxic Substances Control*, pursuant to this section shall remain in effect until July 1, 2010, and on that date shall become inoperative.

(e) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 376. Section 44003 of the Public Resources Code is amended to read:

44003. When the operator of the disposal site is not the disposal site owner, the disposal site operator's application for a solid waste facilities permit shall contain any information that the enforcement

agency or the ~~board~~ *Department of Toxic Substances Control* may require regarding the disposal site owner's interest in the real property utilized as the disposal site.

SEC. 377. Section 44004 of the Public Resources Code is amended to read:

44004. (a) An operator of a solid waste facility may not make a significant change in the design or operation of the solid waste facility that is not authorized by the existing permit, unless the change is approved by the enforcement agency, the change conforms with this division and all regulations adopted pursuant to this division, and the terms and conditions of the solid waste facilities permit are revised to reflect the change.

(b) If the operator wishes to change the design or operation of the solid waste facility in a manner that is not authorized by the existing permit, the operator shall file an application for revision of the existing solid waste facilities permit with the enforcement agency. The application shall be filed at least 180 days in advance of the date when the proposed modification is to take place unless the 180-day time period is waived by the enforcement agency.

(c) The enforcement agency shall review the application to determine all of the following:

(1) Whether the change conforms with this division and all regulations adopted pursuant to this division.

(2) Whether the change requires review pursuant to Division 13 (commencing with Section 21000).

(d) Within 60 days from the date of the receipt of the application for a revised permit, the enforcement agency shall inform the operator, and if the enforcement agency is a local enforcement agency, also inform the ~~board~~ *Department of Toxic Substances Control*, of its determination to do any of the following:

(1) Allow the change without a revision to the permit.

(2) Disallow the change because it does not conform with the requirements of this division or the regulations adopted pursuant to this division.

(3) Require a revision of the solid waste facilities permit to allow the change.

(4) Require review under Division 13 (commencing with Section 21000) before a decision is made.

(e) The operator has 30 days within which to appeal the decision of the enforcement agency to the hearing panel, as authorized

pursuant to Article 2 (commencing with Section 44305) of Chapter 4. The enforcement agency shall provide notice of a hearing held pursuant to this subdivision in the same manner as notice is provided pursuant to subdivision (h).

(f) Under circumstances that present an immediate danger to the public health and safety or to the environment, as determined by the enforcement agency, the 180-day filing period may be waived.

(g) (1) A permit revision is not required for the temporary suspension of activities at a solid waste facility if the suspension meets either of the following criteria:

(A) The suspension is for the maintenance or minor modifications to a solid waste unit or to solid waste management equipment.

(B) The suspension is for temporarily ceasing the receipt of solid waste at a solid waste management facility and the owner or operator is in compliance with all other applicable terms and conditions of the solid waste facilities permit and minimum standards adopted by the ~~board~~ *Department of Toxic Substances Control*.

(2) An owner or operator of a solid waste facility who temporarily suspends operations shall remain subject to the closure and postclosure maintenance requirements of this division and to all other requirements imposed by federal law pertaining to the operation of a solid waste facility.

(3) The enforcement agency may impose any reasonable conditions relating to the maintenance of the solid waste facility, environmental monitoring, and periodic reporting during the period of temporary suspension. The ~~board~~ *Department of Toxic Substances Control* may also impose any reasonable conditions determined to be necessary to ensure compliance with applicable state standards.

(h) (1) (A) Before making its determination pursuant to subdivision (d), the enforcement agency shall submit the proposed determination to the ~~board~~ *Department of Toxic Substances Control* for comment and hold at least one public hearing on the proposed determination. The enforcement agency shall give notice of the hearing pursuant to Section 65091 of the Government Code, except that the notice shall be provided to all owners of real property within a distance other than 300 feet of the real property that is

the subject of the hearing, if specified in the regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to subdivision (i). The enforcement agency shall also provide notice of the hearing to the ~~board~~ *Department of Toxic Substances Control* when it submits the proposed determination to the ~~board~~ *Department of Toxic Substances Control*.

(B) The enforcement agency shall mail or deliver the notice required pursuant to subparagraph (A) at least 10 days prior to the date of the hearing to any person who has filed a written request for the notice with a person designated by the enforcement agency to receive these requests. The enforcement agency may charge a fee to the requester in an amount that is reasonably related to the costs of providing this service and the enforcement agency may require each request to be annually renewed.

(C) The enforcement agency shall consider environmental justice issues when preparing and distributing the notice to ensure that the notice is concise and understandable for limited-English-speaking populations.

(2) If the ~~board~~ *Department of Toxic Substances Control* comments pursuant to paragraph (1), the ~~board~~ *Department of Toxic Substances Control* shall specify whether the proposed determination is consistent with the regulation adopted pursuant to subdivision (i).

(i) (1) The ~~board~~ *Department of Toxic Substances Control* shall, to the extent resources are available, adopt regulations that implement subdivision (h) and define the term "significant change in the design or operation of the solid waste facility that is not authorized by the existing permit."

(2) While formulating and adopting the regulations required pursuant to paragraph (1), the ~~board~~ *Department of Toxic Substances Control* shall consider recommendations of the Working Group on Environmental Justice and the advisory group made pursuant to Sections 71113 and 71114 and the report required pursuant to Section 71115.

SEC. 378. Section 44005 of the Public Resources Code is amended to read:

44005. (a) Any owner or operator of a solid waste facility who plans to encumber, sell, transfer, or convey the ownership or operations of a solid waste facility or disposal site to a new owner or operator, shall notify the enforcement agency and the ~~board~~

Department of Toxic Substances Control, 45 days prior to the date of the anticipated transfer. The notification shall be in writing and shall include information as determined by the ~~board~~ *Department of Toxic Substances Control*, including any financial assurances, if applicable.

(b) The enforcement agency and the ~~board~~ *Department of Toxic Substances Control* shall review the notification documentation and any available records of enforcement actions taken against the proposed transferee, and shall determine, within 30 days of receipt, whether the facility will be operated in compliance with the terms and conditions of an approved permit and any other applicable requirements, including, but not limited to, the requirements of Division 13 (commencing with Section 21000). If the solid waste facility will not be operated in compliance with the terms and conditions of an approved permit, or any other applicable requirements of Division 13 (commencing with Section 21000), the new owner or operator shall be required to file an application for a revised or modified solid waste facilities permit.

(c) If the enforcement agency or the ~~board~~ *Department of Toxic Substances Control* determines that the facility will be operated in compliance with the terms and conditions of the existing permit, the enforcement agency may change the name of the owner or operator on the permit.

SEC. 379. Section 44006 of the Public Resources Code is amended to read:

44006. (a) Each report or application filed under this article shall be submitted under oath or under penalty of perjury.

(b) Each report, notice, or application filed under this article shall be submitted on a form approved by the ~~board~~ *Department of Toxic Substances Control*.

(c) Each application required to be filed under this article shall be accompanied by a filing fee according to a fee schedule established by the enforcement agency to reflect the cost of processing the application and to recover costs incurred in meeting the requirements of Article 3 (commencing with Section 43500) and Article 4 (commencing with Section 43600) of Chapter 2. This fee is in addition to the fees authorized by Chapter 8 (commencing with Section 41900) of Part 2.

SEC. 380. Section 44007 of the Public Resources Code is amended to read:

44007. The enforcement agency shall not issue or revise a solid waste facilities permit unless it has, at least 65 days in advance, provided the ~~board~~ *Department of Toxic Substances Control* and the applicant with a copy of the proposed permit, which shall contain the terms and conditions the enforcement agency proposes to establish.

SEC. 381. Section 44008 of the Public Resources Code is amended to read:

44008. (a) A decision to issue or not issue the permit shall be made by the enforcement agency within 120 days from the date that the application is deemed complete pursuant to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, unless waived by the applicant.

(b) The enforcement agency may only issue the permit pursuant to subdivision (a) if it finds that the proposed solid waste facilities permit is consistent with this division and any regulations adopted by the ~~board~~ *Department of Toxic Substances Control* pursuant to this division applicable to solid waste facilities.

SEC. 382. Section 44009 of the Public Resources Code is amended to read:

44009. (a) (1) The ~~board~~ *Department of Toxic Substances Control* shall, in writing, concur or object to the issuance, modification, or revision of any solid waste facilities permit within 60 days from the date of the ~~board's~~ *Department of Toxic Substances Control's* receipt of any proposed solid waste facilities permit submitted under Section 44007 after consideration of the issues in this section.

(2) If the ~~board~~ *Department of Toxic Substances Control* determines that the permit is not consistent with the state minimum standards adopted pursuant to Section 43020, or is not consistent with Sections 43040, 43600, 44007, 44010, 44017, 44150, and 44152 or Division 31 (commencing with Section 50000), the ~~board~~ *Department of Toxic Substances Control* shall object to provisions of the permit and shall submit those objections to the local enforcement agency for its consideration.

(3) If the ~~board~~ *Department of Toxic Substances Control* fails to concur or object in writing within the 60-day period specified in paragraph (1), the ~~board~~ *Department of Toxic Substances Control* shall be deemed to have concurred in the issuance of the permit as submitted to it.

(b) Notwithstanding subdivision (a), the ~~board~~ *Department of Toxic Substances Control* is not required to concur in, or object to, and shall not be deemed to have concurred in, the issuance of a solid waste facilities permit for a disposal facility if the owner or operator is not in compliance with, as determined by the regional water board, an enforcement order issued pursuant to Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code, or if all of the following conditions exist:

(1) Waste discharge requirements for the disposal facility issued by the applicable regional water board are pending review in a petition before the state water board.

(2) The petition for review of the waste discharge requirements includes a request for a stay of the waste discharge requirements.

(3) The state water board has not taken action on the stay request portion of the pending petition for review of waste discharge requirements.

(c) In objecting to the issuance, modification, or revision of any solid waste facilities permit pursuant to this section, the ~~board~~ *Department of Toxic Substances Control* shall, based on substantial evidence in the record as to the matter before the ~~board~~ *Department of Toxic Substances Control*, state its reasons for objecting. The ~~board~~ *Department of Toxic Substances Control* shall not object to the issuance, modification, or revision of any solid waste facilities permit unless the ~~board~~ *Department of Toxic Substances Control* finds that the permit is not consistent with the state minimum standards adopted pursuant to Section 43020, or is not consistent with Section 43040, 43600, 44007, 44010, 44017, 44150, or 44152 or Division 31 (commencing with Section 50000).

(d) Nothing in this section is intended to require that a solid waste facility obtain a waste discharge permit from a regional water board prior to obtaining a solid waste facilities permit.

SEC. 383. Section 44010 of the Public Resources Code is amended to read:

44010. The enforcement agency shall issue the permit only if it finds that the proposed solid waste facilities permit is consistent with the standards adopted by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 384. Section 44014 of the Public Resources Code is amended to read:

44014. (a) Upon compliance with Sections 44007, 44008, and 44009, and after any necessary hearing, the local enforcement agency shall issue, modify, or revise a solid waste facilities permit if the ~~board~~ *Department of Toxic Substances Control* has concurred in that issuance, modification, or revision of the permit pursuant to Section 44009.

(b) The permit shall contain all terms and conditions which the enforcement agency determines to be appropriate for the operation of the solid waste facility. The operator shall comply with all terms and conditions of the permit.

(c) Within 15 days of issuing, modifying, or revising a solid waste facilities permit, the enforcement agency shall transmit to the permittee a copy of the solid waste facilities permit.

SEC. 385. Section 44018 of the Public Resources Code is amended to read:

44018. The ~~board~~ *Department of Toxic Substances Control* shall establish, by regulation, a program to be implemented by the ~~board~~ *Department of Toxic Substances Control* and by local enforcement agencies that provides for the expedited review of permits issued pursuant to this article. The program shall be designed to reduce unnecessary delay in the issuance of these permits and to protect the public health and safety and the environment.

SEC. 386. Section 44100 of the Public Resources Code is amended to read:

44100. (a) The enforcement agency, in issuing or reviewing a solid waste facilities permit or in connection with an action relating to a solid waste facilities permit or as otherwise authorized by this division, may investigate the operation of a solid waste facility, a transfer or processing station, a disposal site, collection or handling equipment, or a storage area for solid wastes.

(b) In the investigation, the enforcement agency may require a person, who is, or proposes to become, an operator of a solid waste facility, a transfer or processing station, a disposal site, collection or handling equipment, or a storage area for solid wastes, or a person that the enforcement agency believes may have information concerning a suspected violation of this division, to furnish, under penalty of perjury, any nonprivileged technical or monitoring program or other reports that the enforcement agency may specify.

(c) If the owner of property upon which solid waste is unlawfully stored, stockpiled, disposed, handled, or maintained refuses to allow or provide the ~~board~~ *Department of Toxic Substances Control*, the enforcement agency, or a contractor of the ~~board~~ *Department of Toxic Substances Control* or enforcement agency with access to enter onto the property and perform all necessary cleanup, abatement, or remedial work as authorized pursuant to Section 45000 or 48020, the court may issue the ~~board~~ *Department of Toxic Substances Control*, the enforcement agency, or a contractor of the ~~board~~ *Department of Toxic Substances Control* or enforcement agency a warrant pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure to permit reasonable access to the property to perform that activity, if the following conditions have been met:

(1) An administrative order requiring corrective action has been issued or obtained pursuant to Section 45000 against the property owner.

(2) The ~~board~~ *Department of Toxic Substances Control* or enforcement agency finds that there is a significant threat to public health or the environment.

SEC. 387. Section 44104 of the Public Resources Code is amended to read:

44104. (a) The ~~board~~ *Department of Toxic Substances Control* shall maintain an inventory of solid waste facilities which violate state minimum standards. To the extent it is practicable to do so, the ~~board~~ *Department of Toxic Substances Control* shall incorporate in this inventory existing information collected in the course of previous surveys of this type and similar information made available to the ~~board~~ *Department of Toxic Substances Control* by state and local agencies.

(b) Whenever a solid waste facility is proposed to be included in the inventory, the ~~board~~ *Department of Toxic Substances Control* shall give notice thereof by certified mail to the disposal site owner and the operator of the solid waste facility. If, within 90 days of that notice, the violation has not been corrected, the solid waste facility shall be included in the inventory. The ~~board~~ *Department of Toxic Substances Control* shall update and publish the inventory twice annually.

SEC. 388. Section 44152 of the Public Resources Code is amended to read:

44152. No enforcement agency shall issue or revise a permit for a solid waste facility which exclusively uses transformation until the ~~board~~ *Department of Toxic Substances Control* has concluded in writing that the proposed permit is consistent with the state's minimum standards for solid waste facilities.

SEC. 389. Section 44202 of the Public Resources Code is amended to read:

44202. (a) Upon receipt of a written request from any tribe considering a proposal to construct each solid waste facility in that tribe's Indian country within this state, the secretary shall convene negotiations for purposes of reaching a cooperative agreement pursuant to this article, which will define the respective rights, duties, and obligations of the state and the tribe concerning the approval, development, and operation of the facility. In convening the negotiations, the secretary shall consult with the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control*, the State Water Resources Control Board, the appropriate California regional water quality control board, the State Air Resources Board, and the appropriate air pollution control district or air quality management district.

(b) This article does not apply to any facility located on Indian country within the state if it meets all of the following requirements:

(1) The facility is owned and operated solely by a tribe.

(2) All solid waste accepted by the facility is generated by that particular tribe.

(3) Appropriate federal agencies have approved the facility.

SEC. 390. Section 44203 of the Public Resources Code is amended to read:

44203. (a) The secretary may enter into any cooperative agreement which meets the requirements of this article.

(b) Each cooperative agreement shall include, but shall not be limited to, all requirements determined to be necessary to meet the requirements of subdivision (e) to do all of the following:

(1) Protect water quality, as determined by the State Water Resources Control Board or the appropriate California regional water quality control board.

(2) Protect air quality, as determined by the State Air Resources Board or the appropriate air pollution control officer.

(3) Provide for proper management of solid wastes, as determined necessary by the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control*.

(4) In making these determinations, the state agencies shall consider any applicable federal environmental and public health and safety laws.

(c) A decision by the secretary whether to enter into a cooperative agreement shall be based on a good faith determination concerning whether a proposed cooperative agreement meets the requirements of this article. The secretary shall take this action within 130 days of a written request by the tribe that the secretary approve a draft cooperative agreement. At least 60 days prior to determining whether to enter into a cooperative agreement, the secretary shall provide notice, and make available for public review and comment, drafts of his or her proposed action and drafts of the findings and determinations that are required by this section. The secretary shall hold a public hearing in the affected area on the proposed action within the time period for taking that action, as specified in this section. Within 10 days after the close of the public review and comment period, the agencies shall complete the determinations required by this section and the secretary shall issue a final decision.

(d) The findings and determinations of the secretary and relevant agencies made pursuant to this section shall explain material differences between state laws and regulations and the proposed tribal or federal functionally equivalent provisions. The findings and determinations do not need to explain each difference between the state and tribal or federal requirements as long as they identify and evaluate whether the material differences meet the requirements of this article, including, but not limited to, providing at least as much protection for public health and safety and the environment as would the state requirements.

(e) Any cooperative agreement executed pursuant to this article shall provide for regulation of the solid waste facility through inclusion in the agreement of design, permitting, construction, siting, operation, monitoring, inspection, closure, postclosure, liability, enforcement, and other regulatory provisions applicable to a solid waste facility, or which relate to any environmental

consequences that may be caused by facility construction or operation, that are functionally equivalent to all of the following:

(1) Article 4 (commencing with Section 13260) of Chapter 4 of, Chapter 5 (commencing with Section 13300) of, and Chapter 5.5 (commencing with Section 13370) of, Division 7 of the Water Code.

(2) Chapter 3 (commencing with Section 41700) of, Chapter 4 (commencing with Section 42300) of, and Chapter 5 (commencing with Section 42700) of, Part 4 of, and Part 6 (commencing with Section 44300) of, Division 26 of the Health and Safety Code.

(3) This division.

(4) All regulations adopted pursuant to the statutes specified in this section.

(5) Any other provision of state environmental, public health, and safety laws and regulations germane to the solid waste facility proposed by the tribe.

(f) The tribal organizational structures or other means of implementing the requirements specified in subdivision (e) are not required to be the same as the state organizational structures or means of implementing its system of regulation.

(g) Neither the approval of any cooperative agreement nor amendments to the agreement, nor any determination of sufficiency provided in Section 44205, shall constitute a "project" as defined in Section 21065 and shall not be subject to review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(h) Each cooperative agreement shall provide for the incorporation of the standards and requirements germane to the protection of the environment, public health, and safety listed in subdivision (e), as enacted, or as those provisions may be amended after January 1, 1992, or after the effective date of any cooperative agreement, if those standards and requirements meet both of the following requirements:

(1) The standards and requirements do not discriminate against a tribe which has executed a cooperative agreement, or a lessee of the tribe, and are applicable to, or not more stringent than, other rules applicable to other similar or analogous facilities or operations outside Indian country.

(2) Adequate notice and opportunity for comment on the incorporation of new and amended standards or requirements are

provided to the tribe, facility owner, and operator to facilitate any physical or operational changes in the facility in accordance with state law.

SEC. 391. Section 44309 of the Public Resources Code is amended to read:

44309. All hearings *shall be* conducted by the ~~board~~ *Department of Toxic Substances Control* acting as the enforcement agency pursuant to Section 43205 ~~shall be conducted by a hearing panel of three board members appointed by the chairperson of the board~~.

SEC. 392. Section 44820 of the Public Resources Code is amended to read:

44820. (a) Except as provided in subdivision (c), the ~~board~~ *Department of Toxic Substances Control* shall adopt, by regulation, a permitting, inspection, and enforcement program for the disposal of asbestos containing waste, as specified in Section 25143.7 of the Health and Safety Code, at any solid waste facility or disposal site subject to regulation pursuant to this part. The program may include, but is not limited to, standards and certification requirements for local enforcement agencies, pursuant to which the ~~board~~ *Department of Toxic Substances Control* may delegate authority for the regulation of asbestos containing waste to local enforcement agencies.

(b) On or before March 1, 1995, or the earliest feasible date thereafter, the ~~board~~ *California Integrated Waste Management Board* and the Department of Toxic Substances Control shall enter into a memorandum of understanding that defines the enforcement responsibilities of each agency for the disposal of asbestos containing waste at any solid waste disposal facility or disposal site subject to regulation pursuant to this part. The memorandum of understanding shall be periodically updated to be consistent with each agency's responsibilities pursuant to this section and Chapter 6.5 (commencing with Section 25100) of Division 30 of the Health and Safety Code.

(c) Until the board has adopted regulations pursuant to subdivision (a), the Department of Toxic Substances Control shall regulate asbestos containing waste at a solid waste facility or disposal site.

(d) Any regulations adopted pursuant to this section shall be deemed emergency regulations and shall be adopted in accordance

with the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.) The adoption of these regulations shall be deemed to be necessary for the immediate preservation of the public peace, health, safety, or general welfare.

SEC. 393. Section 45000 of the Public Resources Code is amended to read:

45000. (a) Except as provided in subdivision (b), the enforcement agency or the ~~board~~ *Department of Toxic Substances Control* may issue an administrative order requiring the owner or operator of a solid waste facility or disposal site or a person in violation of Section 44000.5, to take corrective action as necessary to abate a nuisance, or to protect human health and safety or the environment. If both the ~~board~~ *Department of Toxic Substances Control* and the enforcement agency issue an administrative order regarding the same facility, disposal site, or person, the order issued by the ~~board~~ *Department of Toxic Substances Control* shall prevail if there is a conflict between the orders.

(b) An administrative order shall not be issued for a minor violation that is corrected immediately in the presence of the inspector. Immediate compliance in that manner shall be noted in the inspection report.

(c) The enforcement agency or the ~~board~~ *Department of Toxic Substances Control* may contract for corrective action after an order issued pursuant to subdivision (a) becomes final and the owner or operator fails to comply with the order by the date specified in the order.

(d) If an enforcement agency or the ~~board~~ *Department of Toxic Substances Control* expends any funds pursuant to subdivision (b), the owner or operator of the solid waste facility or disposal site or a person in violation of Section 44000.5 shall reimburse the enforcement agency or the ~~board~~ *Department of Toxic Substances Control* for the amount expended, including, but not limited to, a reasonable amount for contract administration, and an amount equal to the interest that would have been earned on the expended funds. The amount expended shall be recoverable in a civil action by the Attorney General, upon request of the local enforcement agency or the ~~board~~ *Department of Toxic Substances Control*.

(e) A contract for corrective action entered into by the ~~board~~ *Department of Toxic Substances Control* is exempt from approval

by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

(f) A corrective action shall incorporate by reference applicable waste discharge requirements issued by the state water board or a regional water board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of, and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of, the Water Code, and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, existing at the time of the corrective action or proposed corrective action.

SEC. 394. Section 45002 of the Public Resources Code is amended to read:

45002. (a) Except as provided in subdivision (b), an order issued pursuant to this part or Part 4 (commencing with Section 43000) shall provide the person subject to that order with a notice of that person's right to appeal pursuant to Part 4 (commencing with Section 43000) and Part 6 (commencing with Section 45030).

(b) The recipient of a notice to comply issued pursuant to Section 45003 may request that a hearing be conducted in accordance with Section 44307, but only with respect to an action taken by an enforcement agency of the ~~board~~ *Department of Toxic Substances Control* that arises from a minor violation that the owner or operator fails to correct or fails to certify, in a timely manner, as having been corrected.

SEC. 395. Section 45003 of the Public Resources Code is amended to read:

45003. (a) (1) An authorized representative of the enforcement agency or ~~board~~ *Department of Toxic Substances Control* who, in the course of conducting an inspection, detects a minor violation, shall take an enforcement action as to the minor violation only in accordance with this section.

(2) In a proceeding concerning an enforcement action taken pursuant to this section, there shall be a rebuttable presumption upholding the determination made by the enforcement agency or ~~board~~ *Department of Toxic Substances Control* regarding whether the violation is a minor violation.

(b) A notice to comply shall be the only means by which an enforcement agency or ~~board~~ *Department of Toxic Substances Control* may cite a minor violation, unless the person cited fails

to correct the violation or fails to submit the certification of correction within the time period prescribed in the notice, in which case the enforcement agency or ~~board~~ *Department of Toxic Substances Control* may take any enforcement action, including imposing a penalty, as authorized by this part.

(c) (1) The enforcement agency or the ~~board~~ *Department of Toxic Substances Control* shall commence an enforcement action under this section by serving a notice to comply on the owner or operator of the solid waste facility or disposal site at which a violation has occurred, specifying the violation and the manner in which the violation may be corrected.

(2) A person who receives a notice to comply detailing a minor violation shall have not more than 30 days from the date of the notice to comply in which to correct any violation cited in the notice to comply. Within five working days of correcting the violation, the person cited or an authorized representative shall sign the notice to comply, certifying that any violation has been corrected, and return the notice to the enforcement agency or ~~board~~ *Department of Toxic Substances Control*, whichever issued the notice to comply.

(3) A false certification that a violation has been corrected is punishable as a misdemeanor.

(4) The effective date of the certification that a violation has been corrected shall be one of the following dates, whichever occurs first:

(A) The date the certification is received by the enforcement agency or the ~~board~~ *Department of Toxic Substances Control*, whichever issued the notice to comply, including receipt of an electronic or facsimile version of the certification.

(B) The date the certification is postmarked by the United States Postal Service.

(C) The date the certification is accepted for delivery by a national express delivery service as evidenced by a receipt.

(d) If a notice to comply is issued, a single notice to comply shall be issued for all minor violations noted during the inspection, and the notice to comply shall list all of the minor violations and the manner in which each of the minor violations may be brought into compliance.

(e) If a person who receives a notice to comply pursuant to subdivision (c) disagrees with one or more of the alleged violations

listed on the notice to comply, the person shall provide the enforcement agency or ~~board~~ *Department of Toxic Substances Control* that issued the notice to comply a written notice of disagreement specifying the allegations with which the person disagrees along with the returned signed notice to comply, certifying that all of the undisputed violations have been corrected. If the person disagrees with all of the alleged violations, the written notice of disagreement shall be returned in lieu of the signed certification of correction within 30 days of the date of issuance of the notice to comply. If the issuing agency takes administrative enforcement action on the basis of the disputed violation, that action may be appealed in the same manner as any other alleged violation under Section 44307.

(f) This section does not do any of the following:

(1) Prevent a reinspection to ensure compliance with this division or to ensure that minor violations cited in a notice to comply have been corrected and that the solid waste facility or disposal site is in compliance with this division.

(2) Prevent the enforcement agency or ~~board~~ *Department of Toxic Substances Control* from requiring a person to submit necessary documentation needed to support the person's claim of compliance pursuant to subdivision (c).

(3) Restrict the power of a city attorney, district attorney, county counsel, or the Attorney General to bring, in the name of the people of California, any criminal proceeding otherwise authorized by law.

(4) Prevent the enforcement agency or ~~board~~ *Department of Toxic Substances Control* from cooperating with, or participating in, a proceeding specified in paragraph (3).

SEC. 396. Section 45005 of the Public Resources Code is amended to read:

45005. An enforcement agency or the ~~board~~ *Department of Toxic Substances Control* may issue a cease and desist order to any of the following:

(a) A person who is operating, has operated, or proposes to operate a solid waste facility or operates a disposal site in an unauthorized manner, or who is disposing of solid waste in any of the following manners:

(1) In violation of a solid waste facilities permit or in violation of this division, or any regulation adopted pursuant to this division.

(2) Without a solid waste facilities permit.

(3) In a manner that causes or threatens to cause a condition of hazard, pollution, or nuisance.

(b) A person who has violated, is violating, or proposes to violate Section 44000.5.

SEC. 397. Section 45010 of the Public Resources Code is amended to read:

45010. (a) The ~~board~~ *Department of Toxic Substances Control* and enforcement agencies shall impose civil penalties on the operators of solid waste facilities in a judicious manner and shall impose those penalties only after all reasonable efforts pursuant to Section 45010.2 have been made by enforcement agencies to provide proper notice of violations to alleged violators as well as a reasonable opportunity to bring solid waste facilities and disposal sites into compliance with this division.

(b) An enforcement agency shall not deposit funds collected through the imposition of civil penalties pursuant to this article in the General Fund of the local enforcement agency, but instead shall deposit those funds in a segregated account and use those funds exclusively for enhancing solid waste enforcement within the local enforcement agency's jurisdiction, including, but not limited to, all of the following:

(1) Increasing enforcement programs.

(2) Expanding the agency's enforcement capabilities.

(3) Bringing solid waste facilities into compliance with this division.

(4) Remediating illegal or abandoned solid waste disposal sites.

(c) Civil penalties paid to the ~~board~~ *Department of Toxic Substances Control* pursuant to this article shall be deposited in the Enforcement Penalty Account, which is hereby established in the Solid Waste Disposal Site Cleanup Trust Fund created pursuant to Section 48027. Notwithstanding subdivision (b) of Section 48027, the moneys in the Enforcement Penalty Account may be expended by the ~~board~~ *Department of Toxic Substances Control*, upon appropriation by the Legislature, to enforce and implement this division.

SEC. 398. Section 45010.1 of the Public Resources Code is amended to read:

45010.1. (a) The ~~board~~ *Department of Toxic Substances Control* or an enforcement agency may issue an order imposing a

civil penalty of not more than five thousand dollars ($5,000) for each violation, for each day that the violation continues, to a person who violates the terms or conditions of a solid waste facilities permit or who violates a requirement of this division, a regulation adopted pursuant to this division, or an order issued under this chapter, if the requirement, regulation, or order is applicable to a solid waste facility or a disposal site. An enforcement agency or the ~~board~~ *Department of Toxic Substances Control* may impose the penalty administratively pursuant to this part.

(b) In determining the amount of civil liability to be imposed pursuant to this section, the ~~board~~ *Department of Toxic Substances Control* or enforcement agency shall take into consideration the factors specified in Section 45016.

SEC. 399. Section 45010.2 of the Public Resources Code is amended to read:

45010.2. Before the ~~board~~ *Department of Toxic Substances Control* or enforcement agency issues an order under this chapter, except for a notice to comply pursuant to Section 45003, the ~~board~~ *Department of Toxic Substances Control* or enforcement agency shall do both of the following:

(a) Notify the owner or operator of the solid waste facility or the owner or operator of the disposal site, that the facility or site is in violation of this division, a regulation adopted pursuant to this division, or an order issued under this division, applicable to a solid waste facility or disposal site.

(b) Upon the request of the owner or operator of the solid waste facility or the owner or operator of the disposal site, meet with the owner or operator to clarify the applicable requirements and to determine what actions, if any, that the operator or owner may voluntarily take to bring the facility or site into compliance by the earliest feasible date.

SEC. 400. Section 45011 of the Public Resources Code is amended to read:

45011. If an enforcement agency or the ~~board~~ *Department of Toxic Substances Control* determines that a solid waste facility or disposal site is in violation of this division, a regulation adopted pursuant to this division, the terms or conditions of a solid waste facilities permit, an order issued under this division, or poses a potential or actual threat to public health and safety or the environment, or determines that a person has disposed of solid

waste at an unpermitted disposal site in violation of Section 44000.5, the enforcement agency or ~~board~~ *Department of Toxic Substances Control* may issue an order establishing a time schedule according to which the facility or site shall be brought into compliance with this division. The order may also provide for a civil penalty, to be imposed administratively by the enforcement agency or ~~board~~ *Department of Toxic Substances Control*, in an amount not to exceed five thousand dollars ($5,000) for each day on which a violation occurs, if compliance is not achieved in accordance with that time schedule.

SEC. 401. Section 45012 of the Public Resources Code is amended to read:

45012. (a) If an enforcement agency, despite having made a good faith effort pursuant to its enforcement authority or any other authority, is unable to correct a violation, and the ~~board~~ *Department of Toxic Substances Control*, acting through its executive director, and the enforcement agency both agree that enforcement by the ~~board~~ *Department of Toxic Substances Control* is feasible and desirable pursuant to these circumstances, the ~~board~~ *Department of Toxic Substances Control*, acting through its executive director, may take any appropriate enforcement action pursuant to this section.

(b) (1) Notwithstanding subdivision (a), the ~~board~~ *Department of Toxic Substances Control* shall not take any enforcement action specified in this part without providing notice to the enforcement agency and the violator of the ~~board's~~ *Department of Toxic Substances Control's* intent to take that action, allowing the enforcement agency and the violator a reasonable opportunity to correct the violation, and conducting a public hearing on the matter.

(2) When taking an enforcement action pursuant to this section, the ~~board~~ *Department of Toxic Substances Control* is vested, in addition to its other powers, with all of the authority to take an action that an enforcement agency may take pursuant to this division.

(c) Notwithstanding subdivisions (a) and (b), if the ~~board~~ *Department of Toxic Substances Control* finds that an enforcement agency's failure to take enforcement action constitutes an imminent threat to public health and safety or to the environment, the ~~board~~ *Department of Toxic Substances Control* may take the enforcement

action that the ~~board~~ *Department of Toxic Substances Control* determines is necessary.

SEC. 402. Section 45013 of the Public Resources Code is amended to read:

45013. The ~~board~~ *Department of Toxic Substances Control* shall make available guidance and assistance to the enforcement agency regarding the inspection, investigation, enforcement, and remediation of illegal, abandoned, inactive, or closed disposal sites to ensure that public health and safety and the environment are protected.

SEC. 403. Section 45014 of the Public Resources Code is amended to read:

45014. (a) Upon the failure of a person to comply with a final order issued by a local enforcement agency or the ~~board~~ *Department of Toxic Substances Control*, the Attorney General, upon request of the ~~board~~ *Department of Toxic Substances Control*, shall petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining the person or persons from continuing to violate the order or complaint.

(b) An attorney authorized to act on behalf of the local enforcement agency or the ~~board~~ *Department of Toxic Substances Control* may petition the superior court for injunctive relief to enforce this part, a term or condition in a solid waste facilities permit, or a standard adopted by the ~~board~~ *Department of Toxic Substances Control* or the local enforcement agency.

(c) In addition to the administrative imposition of civil penalties pursuant to this part, Article 6 (commencing with Section 42850) of Chapter 16 of Part 3, and Article 4 (commencing with Section 42962) of Chapter 19 of Part 3, an attorney authorized to act on behalf of the local enforcement agency or the ~~board~~ *Department of Toxic Substances Control* may apply, to the clerk of the appropriate court in the county in which the civil penalty was imposed, for a judgment to collect the penalty. The application, which shall include a certified copy of the decision or order in the civil penalty action, constitutes a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered shall include the amount of the court filing fee that would have been due from an applicant who is not a public agency, and

has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered. The amount of the unpaid court filing fee shall be paid to the court prior to satisfying any of the civil penalty amount. Thereafter, any civil penalty or judgment recovered shall be paid, to the maximum extent allowed by law, to the ~~board~~ *Department of Toxic Substances Control* or to the local enforcement agency, whichever is represented by the attorney who brought the action.

SEC. 404. Section 45016 of the Public Resources Code is amended to read:

45016. In making a determination regarding the allegations in, and the amount of any liability that may be imposed pursuant to, an order, petition, or complaint and determining the appropriate outcome, and when determining whether to deny, suspend, or revoke a permit or to deny a permit application, the issuing agency, the ~~board~~ *Department of Toxic Substances Control*, or a court, as the case may be, shall take into consideration:

(a) The nature, circumstances, extent, and gravity of any violation or any condition giving rise to the violation and the various remedies and penalties that are appropriate in the given circumstances, with primary emphasis on protecting the public health and safety and the environment.

(b) Whether the violations or conditions giving rise to the violation have been corrected in a timely fashion or reasonable progress is being made.

(c) Whether the violations or conditions giving rise to the violation demonstrate a chronic pattern of noncompliance with this division, the regulations adopted pursuant to this division, or with the terms and conditions of a solid waste facilities permit, or pose, or have posed, a serious risk to the public health and safety or to the environment.

(d) Whether the violations or conditions giving rise to the violation were intentional.

(e) Whether the violations or conditions giving rise to the violation were voluntarily and promptly reported to appropriate authorities prior to the commencement of an investigation by the enforcement agency.

(f) Whether the violations or conditions giving rise to the violation were due to circumstances beyond the reasonable control

of the violator or were otherwise unavoidable under the circumstances.

(g) Whether in the case of violations of this division, or the regulations adopted pursuant to this division, the violator has established one or more of the following programs prior to committing the violation that will help to prevent violations of the type committed in the future:

(1) A comprehensive compliance program designed to prevent violations of this division, the regulations adopted pursuant to this division, and of the terms and conditions of the solid waste facilities permit.

(2) Employee training programs designed to educate the employees regarding their responsibilities under this division, the regulations adopted pursuant to this division, and the terms and conditions of the solid waste facilities permit.

(3) Regular internal audits to monitor the effectiveness of the comprehensive compliance programs described in paragraph (1).

(4) Confidential systems for employee reporting of potential statutory, regulatory, or solid waste facilities permit violations and for protecting persons so reporting from retaliatory employment actions.

(5) Special incentive programs that promote and reward statutory, regulatory, and permit compliance.

SEC. 405. Section 45017 of the Public Resources Code is amended to read:

45017. (a) (1) Except as provided in paragraphs (2) and (3), all orders and determinations issued pursuant to this part or Part 4 (commencing with Section 43000) shall take effect immediately upon service.

(2) (A) If an order or determination is issued pursuant to this part or Part 4 (commencing with Section 43000) to the owner or operator of a solid waste facility operating under a solid waste facilities permit issued in accordance with this part, the owner or operator may petition the executive director of the ~~board~~ *Department of Toxic Substances Control*, pursuant to this subparagraph, to stay the effect of the order or determination, or portion thereof, pending the completion of administrative appeals before the hearing panel or hearing officer or the ~~board~~ *Department of Toxic Substances Control*.

(B) A petition submitted pursuant to subparagraph (A) shall be in writing and shall state the extraordinary circumstances that justify the stay. The petition shall also state the grounds, if any, on which a finding may be made that the immediate effect of the order or determination will preclude or interfere with the provision of an essential public service so that the public health and safety or the environment will be adversely affected.

(C) If the executive director finds the immediate effect of the order or determination will preclude or interfere with the provision of an essential public service so that the public health and safety or the environment will be adversely affected, the executive director shall consider and act on the petition within three days from the receipt of the petition. The ~~board~~ *Department of Toxic Substances Control* or the executive director may order the stay to be in effect from the effective date of the order or determination or other appropriate date.

(D) If the executive director does not find that the immediate effect of the order or determination will preclude or interfere with the provision of an essential public service, the ~~board~~ *Department of Toxic Substances Control* shall act upon the petition within 14 days or at its next scheduled public meeting, whichever date is sooner.

(3) (A) If an order or determination is issued pursuant to this part or Part 4 (commencing with Section 43000) to a person that is not the owner or operator of a permitted solid waste facility, the person subject to the order or determination may petition the ~~board~~ *Department of Toxic Substances Control* pursuant to this subparagraph to stay the effect of the order or determination, or portion thereof, pending the completion of administrative appeals before the hearing panel or hearing officer or the ~~board~~ *Department of Toxic Substances Control*.

(B) The ~~board~~ *Department of Toxic Substances Control* shall act on a petition filed pursuant to subparagraph (A) within ~~14~~ ____ days ~~or at its next scheduled public meeting whichever date is sooner~~. The ~~board~~ *Department of Toxic Substances Control* may order the stay to be in effect from the effective date of the order or determination or other appropriate date.

(b) For purposes of this section, service may be effected by any of the following:

(1) Personal delivery.

(2) First-class United States mail, if it is made by certified mail and evidence of delivery is provided.

(3) Express delivery by a national express mail service that provides evidence of delivery.

SEC. 406. Section 45018 of the Public Resources Code is amended to read:

45018. The payment of civil liability assessed in any order issued under this chapter shall be made within 30 days of the date the order becomes final. Any penalties recovered shall be sent to the ~~board~~ *Department of Toxic Substances Control* or to the enforcement agency, whichever brought the action, as provided in subdivision (c) of Section 45014.

SEC. 407. Section 45019 of the Public Resources Code is amended to read:

45019. At least 10 days prior to the date of issuance of an enforcement order which is not for an emergency, or within five days from the date of issuance of an enforcement order for an emergency, or within 15 days from the date of discovery of a violation of a state law, regulation, or term or condition of a solid waste facilities permit for a solid waste facility or disposal site, which is likely to result in an enforcement action, the following agencies shall, to the extent that the enforcement action involves a violation that may also be under the jurisdiction of another state regulatory agency, provide a written statement providing an explanation of, and justification for, the enforcement order or a description of the violation in the following manner:

(a) The enforcement agency, as appropriate, shall provide the statement to the regional water board, the ~~board~~ *Department of Toxic Substances Control*, the air pollution control district or air quality management district, and the Department of Toxic Substances Control.

(b) A regional water board, as appropriate, shall provide the statement to the enforcement agency, ~~the board,~~ the air pollution control district or air quality management district, and the Department of Toxic Substances Control.

(c) An air pollution control district or an air quality management district, as appropriate, shall provide the statement to the enforcement agency, ~~the board,~~ the regional water board, and the Department of Toxic Substances Control.

(d) The Department of Toxic Substances Control, as appropriate, shall provide the report of inspection required by paragraph (1) of subdivision (c) of Section 25185 of the Health and Safety Code to the enforcement agency, ~~the board,~~ the regional water board, and the air pollution control district or air quality management district.

SEC. 408. Section 45020 of the Public Resources Code is amended to read:

45020. (a) Within 30 days from the date of receipt of a notice of the issuance of, or the proposal to issue, an enforcement order pursuant to Section 45022, the regional water board, the enforcement agency, or the air pollution control district or the air quality management district, and the Department of Toxic Substances Control, as appropriate, shall inspect the solid waste facility or disposal site to determine whether any state law, regulation, or term or condition of a permit, which ~~that board~~ *the Department of Toxic Substances Control* or agency is authorized to enforce, is being violated.

(b) Each agency, to the maximum extent allowed by law, shall do all of the following with respect to enforcement activities at solid waste facilities and disposal sites:

(1) Coordinate enforcement activities to eliminate duplication and facilitate compliance.

(2) Notify the owner and operator of the solid waste facility or owner and operator of the disposal site of a violation before imposing an administrative civil penalty.

(3) Prior to imposing an administrative penalty, and upon the request of the owner or operator of the solid waste facility or owner or operator of the disposal site, meet with the owner or operator to clarify the regulatory requirements and to determine what actions, if any, the owner or operator could voluntarily take to bring the solid waste facility or disposal site into compliance by the earliest feasible date. If a contemporaneous enforcement action or investigation dealing with the same violation or with similar violations is being pursued by another regulatory agency, a city attorney, a county counsel, a district attorney, or the Attorney General, the operator may request a meeting with all those investigating and enforcement entities.

(4) Consider the factors prescribed in Section 45016 in determining appropriate enforcement actions.

SEC. 409. Section 45021 of the Public Resources Code is amended to read:

45021. If any board or agency specified in Section 45019 receives a complaint concerning a solid waste facility or disposal site and the ~~board~~ *Department of Toxic Substances Control* or agency determines that it is not authorized to take action concerning the complaint, the ~~board~~ *Department of Toxic Substances Control* or agency shall refer the complaint within 30 days from the date of receipt to another state agency that it determines is authorized to take action.

SEC. 410. Section 45022 of the Public Resources Code is amended to read:

45022. If any agency or board specified in Section 45019 receives a complaint concerning a solid waste facility or disposal site that the agency or board *or the Department of Toxic Substances Control* does not refer to another state agency pursuant to Section 45021, or if the agency or board *or the Department of Toxic Substances Control* receives this complaint referred to it by another agency or board pursuant to Section 45021, the agency or board *or the Department of Toxic Substances Control* shall either take appropriate enforcement action concerning the facility or site pursuant to this part, or refer the complaint to the Attorney General, the district attorney, the city attorney, or the county counsel, whichever is applicable, or, at the earliest feasible date, not to exceed 60 days, provide the person who filed the complaint with a written statement explaining why an enforcement action would not be appropriate.

SEC. 411. Section 45023 of the Public Resources Code is amended to read:

45023. A civil penalty of not more than ten thousand dollars ($10,000) may be imposed upon a person who for each day the violation or operation occurs:

(a) Owns or operates a solid waste facility or disposal site and who intentionally or negligently violates or causes or permits another to violate the terms and conditions of a solid waste facilities permit or a standard, requirement, or order applicable to a solid waste facility or disposal site.

(b) Operates a solid waste facility without a solid waste facilities permit.

(c) With respect only to a solid waste facility or disposal site, intentionally or negligently violates a provision of this division, or a regulation, administrative order, or standard adopted by the ~~board~~ *Department of Toxic Substances Control* or an enforcement agency.

SEC. 412. Section 45024 of the Public Resources Code is amended to read:

45024. Any attorney authorized to act on behalf of the ~~board~~ *Department of Toxic Substances Control* or a local enforcement agency may petition the superior court to impose, assess, and recover the civil penalties authorized by Section 45023. Any penalties recovered pursuant to this section shall be paid, to the maximum extent allowed by law, to the ~~board~~ *Department of Toxic Substances Control* or to the local enforcement agency, whichever is represented by the attorney bringing the action.

SEC. 413. Section 45025 of the Public Resources Code is amended to read:

45025. (a) (1) A violation of Part 4 (commencing with Section 43000) is a misdemeanor punishable by a fine of not less than five hundred dollars ($500) and not more than ten thousand dollars ($10,000) for each violation. Each instance of disposal that violates Section 44000.5 is a separate violation.

(2) In addition to a fine under paragraph (1), a violation punishable under paragraph (1) is punishable by imprisonment in a county jail for not more than six months if any of the following circumstances apply to the person convicted of a violation of this section and cause or threaten to cause serious harm to public health or safety or the environment:

(A) The person knowingly makes a false statement in a permit application or other document used for the purpose of compliance with this chapter.

(B) The person knowingly destroys, alters, or conceals any records required to be maintained pursuant to this chapter.

(C) The person withholds information requested by the enforcement agency.

(D) The person is convicted of more than one violation of this division, or is in violation of more than one regulation adopted pursuant to this division or term and condition of a permit.

(E) Upon receipt of an order from the ~~board~~ *Department of Toxic Substances Control* or a local enforcement agency, the person

fails to correct or make reasonable progress toward correcting a violation.

(b) In addition to any fine imposed upon a conviction, the court may require, as a condition of probation and in addition to any other condition of probation, that the person convicted under this section remove, or pay the cost of removing, any solid waste the person unlawfully disposed, caused, or arranged to be disposed, transported, or accepted for disposal.

SEC. 414. Section 45030 of the Public Resources Code is amended to read:

45030. (a) A party to a hearing held pursuant to Chapter 4 (commencing with Section 44300) of Part 4 may appeal to the ~~board~~ *Department of Toxic Substances Control* to review the written decision of the hearing panel or hearing officer or to review the petitioner's request in the instance of a failure of a hearing panel or hearing officer to render a decision or consider the request for review, or a determination by the governing body not to direct the hearing panel or hearing officer to hold a public hearing, under the following circumstances:

(1) Within 10 days from the date of issuance of a written decision by a hearing panel or hearing officer.

(2) If no decision is issued, within 45 days from the date a request for a hearing was received by the enforcement agency for which there was a failure of a hearing panel or hearing officer to render a decision or consider a petitioner's request pursuant to Section 44310.

(b) An appellant shall commence an appeal to the ~~board~~ *Department of Toxic Substances Control* by filing a written request for a hearing together with a brief summary statement of the legal and factual basis for the appeal.

(c) Within five days from the date the ~~board~~ *Department of Toxic Substances Control* receives the request for a hearing, the ~~board~~ *Department of Toxic Substances Control* shall schedule a hearing on the appeal and notify the appellant and all other parties to the underlying proceeding of the date of the ~~board~~ *Department of Toxic Substances Control's* hearing.

(d) The ~~board~~ *Department of Toxic Substances Control* shall hear the appeal within 60 days from the date the ~~board~~ *Department of Toxic Substances Control* received the request for the appeal.

(e) The ~~board~~ *Department of Toxic Substances Control* shall conduct the hearing on the appeal in accordance with the procedures specified in Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of the Government Code.

SEC. 415. Section 45031 of the Public Resources Code is amended to read:

45031. Within 30 days from the date that an appeal is filed with the ~~board~~ *Department of Toxic Substances Control*, the ~~board~~ *Department of Toxic Substances Control* may do any of the following:

(a) Determine not to hear the appeal if the appellant fails to raise substantial issues.

(b) Determine not to hear the appeal if the appellant failed to participate in the administrative hearing before the hearing panel, except that the ~~board~~ *Department of Toxic Substances Control* shall hear the appeal if the appellant shows good cause for the appellant's failure to appear.

(c) Determine to accept the appeal and to decide the matter on the basis of the record before the hearing panel, or based on written arguments submitted by the parties, or both.

(d) Determine to accept the appeal and hold a hearing, within 60 days, unless all parties stipulate to extending the hearing date.

SEC. 416. Section 45032 of the Public Resources Code is amended to read:

45032. (a) In the ~~board's~~ *Department of Toxic Substances Control's* hearing on the appeal, the evidence before the ~~board~~ *Department of Toxic Substances Control* shall consist of the record before the hearing panel or hearing officer, relevant facts as to any actions or inactions not subject to review by a hearing panel or hearing officer, the record before the local enforcement agency, written and oral arguments submitted by the parties, and any other relevant evidence that, in the judgment of the ~~board~~ *Department of Toxic Substances Control*, should be considered to effectuate and implement the policies of this division.

(b) The ~~board~~ *Department of Toxic Substances Control* may only overturn an enforcement action, and any administrative civil penalty, by a local enforcement agency if it finds, based on substantial evidence, that the action was inconsistent with this division. If the ~~board~~ *Department of Toxic Substances Control* overturns the decision of the local enforcement agency, the hearing

panel, or the hearing officer, or finds that the enforcement agency has failed to act as required, the ~~board~~ *Department of Toxic Substances Control* may do both of the following:

(1) Direct that the appropriate action be taken by the local enforcement agency.

(2) If the local enforcement agency fails to act by the date specified by the ~~board~~ *Department of Toxic Substances Control*, take the appropriate action itself.

SEC. 417. Section 45040 of the Public Resources Code is amended to read:

45040. (a) Within 30 days from the date of service of a copy of a decision or order issued by the ~~board~~ *Department of Toxic Substances Control* pursuant to Section 45031 or 45032, any aggrieved party may file with the superior court a petition for a writ of mandate for review thereof.

(b) (1) The filing of a petition for writ of mandate shall not stay any enforcement action taken or the accrual of any penalties assessed, pursuant to this part or Part 5 (commencing with Section 45000).

(2) Paragraph (1) shall not prohibit the court from granting any appropriate relief within its jurisdiction.

SEC. 418. Section 45041 of the Public Resources Code is amended to read:

45041. The evidence before the court shall consist of the records before the hearing panel or hearing officer and the ~~board~~ *Department of Toxic Substances Control*, if any, including the enforcement agency's records, and any other relevant evidence that, in the judgment of the court, should be considered to effectuate and implement the policies of this division.

SEC. 419. Section 47050 of the Public Resources Code is amended to read:

47050. The ~~board shall, in consultation with the~~ Department of Toxic Substances Control~~,~~ *shall* develop and implement a public information program to provide uniform and consistent information on the proper disposal of hazardous substances found in and around homes. The program may include information, consistent with product labeling, on the proper use and storage of products which contain hazardous substances and on safer substitutes for products which contain hazardous substances.

SEC. 420. Section 47102 of the Public Resources Code is amended to read:

47102. The ~~board~~ *Department of Toxic Substances Control* shall designate a household hazardous waste coordinator to advise and assist local governments and other agencies which offer programs for household hazardous waste management.

SEC. 421. Section 47103 of the Public Resources Code is amended to read:

47103. The ~~board~~ *Department of Toxic Substances Control* shall provide technical assistance to local governments and other agencies which establish household hazardous waste management programs.

SEC. 422. Section 47104 of the Public Resources Code is amended to read:

47104. The ~~board shall prepare, in consultation with the~~ Department of Toxic Substances Control~~,~~ *shall prepare* guidelines and a state policy to guide the efforts of local agencies to provide household hazardous waste collection, recycling, and disposal programs pursuant to this article. The guidelines required by this section shall allow adequate flexibility to local agencies in meeting their individual needs, to the extent that the local agency's program does not conflict with the state policy prepared pursuant to this subdivision.

SEC. 423. Section 47106 of the Public Resources Code is amended to read:

47106. In establishing guidelines on which products should be disposed of as hazardous waste, the ~~board~~ *Department of Toxic Substances Control* shall consider such factors as toxicity, concentration of toxic ingredients in a product, and other appropriate factors. The ~~board~~ *Department of Toxic Substances Control* shall also consider the appropriateness of excluding from any listing of household hazardous wastes specific categories of household products, such as products intended for human consumption, personal hygiene products, and other categories of household products intended for general consumer use.

SEC. 424. Section 47107 of the Public Resources Code is amended to read:

47107. The guidelines and operation plan prepared pursuant to subdivision (a) shall, upon request, be made available to local agencies and the public. The ~~board~~ *Department of Toxic Substances*

Control shall advise county health offices of the availability of these materials and of the informational materials developed pursuant to Article 1 (commencing with Section 47051).

SEC. 425. Section 47108 of the Public Resources Code is amended to read:

47108. In developing the guidelines required by this article, the ~~board~~ *Department of Toxic Substances Control* shall, to the extent feasible, consult existing sources of information, including household hazardous waste collection programs which have been operated in the state and in other states, and industry and academia.

SEC. 426. Section 47120 of the Public Resources Code is amended to read:

47120. (a) The Legislature finds and declares all of the following:

(1) The United States Geological Survey conducted a study in 2002 sampling 139 streams across 30 states and found that 80 percent had measurable concentrations of prescription and nonprescription drugs, steroids, and reproductive hormones.

(2) Exposure, even to low levels of drugs, has been shown to have negative effects on fish and other aquatic species and may have negative effects on human health.

(3) In order to reduce the likelihood of improper disposal of drugs, it is the purpose of this article to establish a program through which the public may return and ensure the safe and environmentally sound disposal of drugs and may do so in a way that is convenient for consumers.

(b) It is the intent of the Legislature in enacting this article:

(1) To encourage a cooperative relationship between the ~~board~~ *Department of Toxic Substances Control* and manufacturers, retailers, and local, state, and federal government agencies in the ~~board's~~ *Department of Toxic Substances Control's* development of model programs to devise a safe, efficient, convenient, cost-effective, sustainable, and environmentally sound solution for the disposal of drugs.

(2) For the programs and systems developed in other local, state, and national jurisdictions to be used as models for the development of pilot programs in California, including, but not limited to, the efforts in Los Angeles, Marin, San Mateo, and Santa Clara Counties, Oregon, Maine, North Carolina, Washington State, British Columbia, and Australia.

(3) To develop a system that recognizes the business practices of manufacturers and retailers and other dispensers and is consistent with and complements their drug management programs.

SEC. 427. Section 47121 of the Public Resources Code is amended to read:

47121. For the purposes of this article, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Consumer" means an individual purchaser or owner of a drug. "Consumer" does not include a business, corporation, limited partnership, or an entity involved in a wholesale transaction between a distributor and retailer.

(b) "Drug" means any of the following:

(1) Articles recognized in the official United States Pharmacopoeia, the official National Formulary, the official Homeopathic Pharmacopoeia of the United States, or any supplement of the formulary or those pharmacopoeias.

(2) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals.

(3) Articles, excluding food, intended to affect the structure or function of the body of humans or other animals.

(4) Articles intended for use as a component of an article specified in paragraph (1), (2), or (3).

(c) "Participant" means any entity which the ~~board~~ *Department of Toxic Substances Control* deems appropriate for implementing and evaluating a model program and which chooses to participate, including, but not limited to, governmental entities, pharmacies, veterinarians, clinics, and other medical settings.

(d) "Sale" includes, but is not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

SEC. 428. Section 47122 of the Public Resources Code is amended to read:

47122. (a) (1) The ~~board~~ *Department of Toxic Substances Control* shall, in consultation with appropriate state, local, and federal agencies, including, but not limited to~~, the Department of Toxic Substances Control~~, the State Water Resources Control Board, and the California State Board of Pharmacy, develop model programs for the collection and proper disposal of drug waste.

Notwithstanding any other provision of law, the ~~board~~ *Department of Toxic Substances Control* shall establish, for participants, criteria and procedures for the implementation of the model programs.

(2) In developing model programs the ~~board~~ *Department of Toxic Substances Control* shall evaluate a variety of models used by other state, local, and other governmental entities, and shall consider a variety of potential participants that may be appropriate for the collection and disposal of drug waste.

(3) No sooner than July 1, 2008, but no later than December 1, 2008, the ~~board~~ *California Integrated Waste Management Board* shall make the model programs available to eligible participants.

(b) The model programs shall at a minimum include all of the following:

(1) A means by which a participant is required to provide, at no additional cost to the consumer, for the safe take back and proper disposal of the type or brand of drugs that the participant sells or previously sold.

(2) A means by which a participant is required to ensure the protection of public health and safety, the environment, and the health and safety of consumers and employees.

(3) A means by which a participant is required to report to the ~~board~~ *Department of Toxic Substances Control* for purposes of evaluation of the program for safety, efficiency, effectiveness, and funding sustainability.

(4) A means by which a participant shall protect against the potential for the diversion of drug waste for unlawful use or sale.

(c) The model programs shall provide notice and informational materials for consumers that provide information about the potential impacts of improper disposal of drug waste and the return opportunities for the proper disposal of drug waste. Those materials may include, Internet Web site links, a telephone number placed on an invoice or purchase order, or packaged with a drug; information about the opportunities and locations for no-cost drug disposal; signage that is prominently displayed and easily visible to the consumer; written materials provided to the consumer at the time of purchase or delivery; reference to the drug take back opportunity in advertising or other promotional materials; or direct communications with the consumer at the time of purchase.

(d) Model programs deemed in compliance with this article shall be deemed in compliance with state law and regulation

concerning the handling, management, and disposal of drug waste for the purposes of implementing the model program.

(e) (1) The ~~board~~ *Department of Toxic Substances Control* may develop regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this article, including regulations that the department determines are necessary to implement the provisions of this article in a manner that is enforceable.

(2) The ~~board~~ *Department of Toxic Substances Control* may adopt regulations to implement this article as emergency regulations. The emergency regulations adopted pursuant to this article shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is hereby deemed an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.

SEC. 429. Section 47123 of the Public Resources Code is amended to read:

47123. Notwithstanding Section 7550.5 of the Government Code, no later than December 1, 2010, the ~~board~~ *Department of Toxic Substances Control* shall report to the Legislature. The report shall include an evaluation of the model programs for efficacy, safety, statewide accessibility, and cost effectiveness. The report shall include the consideration of the incidence of diversion of drugs for unlawful sale and use, if any. The report also shall provide recommendations for the potential implementation of a statewide program and statutory changes.

SEC. 430. Section 47200 of the Public Resources Code is amended to read:

47200. (a) The ~~board~~ *Department of Toxic Substances Control* shall expend funds from the account, upon appropriation by the Legislature, for the making of grants to cities, counties, or other local agencies with responsibility for solid waste management, and for local programs to help prevent the disposal of hazardous wastes at disposal sites, including, but not limited to, programs to expand or initially implement household hazardous waste programs. In making grants pursuant to this section, the ~~board~~ *Department of Toxic Substances Control* shall give priority to funding programs that provide for the following:

(1) New programs for rural areas, underserved areas, and for small cities.

(2) Expansion of existing programs to provide for the collection of additional waste types, innovative or more cost-effective collection methods, or expanded public education services.

(3) Regional household hazardous waste programs.

(b) (1) The total amount of grants made by the ~~board~~ *Department of Toxic Substances Control* pursuant to this section shall not exceed, in any one fiscal year, three million dollars ($3,000,000).

(2) Notwithstanding paragraph (1), the total amount of grants made by the ~~board~~ *Department of Toxic Substances Control* pursuant to this section may exceed three million dollars ($3,000,000) but shall not exceed six million dollars ($6,000,000), in any one fiscal year, if sufficient funds are appropriated from the Integrated Waste Management Account for this purpose.

SEC. 431. Section 47201 of the Public Resources Code is amended to read:

47201. The ~~board~~ *Department of Toxic Substances Control* shall adopt regulations for implementation of this article, including, but not limited to, criteria for selecting grant recipients.

SEC. 432. Section 47202 of the Public Resources Code is amended to read:

47202. All expenses incurred by the ~~board~~ *Department of Toxic Substances Control* in carrying out this article shall be payable from the account. No liability or obligation is imposed upon the state pursuant to this part, and the ~~board~~ *Department of Toxic Substances Control* shall not incur any liability or obligation beyond the extent to which money is provided in the account for the purposes of this article.

SEC. 433. Section 47203 of the Public Resources Code is amended to read:

47203. Upon appropriation by the Legislature, the board shall allocate, from the account, an amount not to exceed sixty thousand dollars ($60,000), to the Hazardous Waste Control Account, for expenditure for the 1993–94 fiscal year, to the Department of Toxic Substances Control, for the development and maintenance, jointly with the board, of a data base of all household hazardous waste collection events, facilities, and programs within the state. On and after July 1, 1994, upon appropriation by the Legislature, the ~~board~~ *Department of Toxic Substances Control* shall allocate an amount from the account of not more than sixteen thousand three hundred dollars ($16,300) in each fiscal year for that purpose.

SEC. 434. Section 47901 of the Public Resources Code is amended to read:

47901. (a) All revenues received by the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* shall be deposited in the specified account in the fund. Any revenue received by the ~~board~~ *Department of Toxic Substances Control or the Department of Conservation* for which no account is specified shall be deposited in the Integrated Waste Management Account created by Section 48001 in the fund. The ~~board~~ *Department of Toxic Substances Control* may establish or modify other subaccounts in the account, as appropriate and necessary for proper administration.

(b) Any funds remaining in the Solid Waste Disposal Site Cleanup and Maintenance Account in the Integrated Waste Management Fund shall be transferred to the Integrated Waste Management Account in the Integrated Waste Management Fund, consistent with Section 16346 of the Government Code.

(c) Any expenditures charged to the Solid Waste Disposal Site Cleanup and Maintenance Account in the fund shall be transferred to the Integrated Waste Management Account.

SEC. 435. Section 48000 of the Public Resources Code is amended to read:

48000. (a) Each operator of a disposal facility shall pay a fee quarterly to the State Board of Equalization which is based on the amount, by weight or volumetric equivalent, as determined by the ~~board~~ *Department of Toxic Substances Control*, of all solid waste disposed of at each disposal site.

(b) The fee for solid waste disposed of shall be one dollar and thirty-four cents ($1.34) per ton. Commencing with the 1995–96 fiscal year, the amount of the fee shall be established by the ~~board~~ *Department of Toxic Substances Control* at an amount that is sufficient to generate revenues equivalent to the approved budget for that fiscal year, including a prudent reserve, but shall not exceed one dollar and forty cents ($1.40) per ton.

(c) The ~~board~~ *Department of Toxic Substances Control* shall notify the State Board of Equalization on the first day of the period in which the rate shall take effect of any rate change adopted pursuant to this section.

(d) The ~~board~~ *Department of Toxic Substances Control* and the State Board of Equalization shall ensure that all the fees for solid waste imposed pursuant to this section that are collected at a transfer station are paid to the State Board of Equalization in accordance with this article.

SEC. 436. Section 48004 of the Public Resources Code is amended to read:

48004. (a) The money in the account shall be used by the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation*, upon appropriation by the Legislature, for the following purposes:

(1) The administration and implementation of this division by the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation, as applicable*.

(2) The state water board's and regional water board's administration and implementation of Division 7 (commencing with Section 13000) of the Water Code at solid waste disposal sites.

(b) It is the intent of the Legislature that an amount which is sufficient to fund state water board and regional water board regulatory activities for solid waste landfills be appropriated from the account by the Legislature in the annual Budget Act. Those persons who are required to pay the fee imposed pursuant to Section 48000 shall not be required to pay the annual fee imposed pursuant to subdivision (d) of Section 13260 of the Water Code with regard to the same discharge.

(c) Notwithstanding subdivisions (a) and (b), if the fee established pursuant to Section 48000 does not generate revenues sufficient to fund the programs specified in this section, or if the

amount appropriated by the Legislature for these purposes is reduced, those reductions shall be equally and proportionally distributed between funding for the solid waste programs of the state water board and the regional water boards and the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation*.

SEC. 437. Section 48005 of the Public Resources Code is amended to read:

48005. Unless otherwise specified, all money received by the ~~board~~ *Department of Toxic Substances Control* shall be deposited in the Integrated Waste Management Account and shall be used by the ~~board~~ *Department of Toxic Substances Control and the Department of Conservation*, upon appropriation by the Legislature, for the purposes for which it was collected or, if not expressly specified for a particular purpose, for the purposes of this division, except Part 6 (commencing with Section 46000), which shall be funded by fees pursuant to Section 46801.

SEC. 438. Section 48006 of the Public Resources Code is amended to read:

48006. The ~~board~~ *Department of Toxic Substances Control* may exempt from all fees any operator of a solid waste landfill that receives less than a monthly average of five tons per operating day of solid waste.

SEC. 439. Section 48020 of the Public Resources Code is amended to read:

48020. (a) For purposes of this article, the following terms have the following meaning:

(1) "Codisposal site" means a hazardous substance release site listed pursuant to Section 25356 of the Health and Safety Code, where the disposal of hazardous substances, hazardous waste, and solid waste has occurred.

(2) "Trust fund" means the Solid Waste Disposal Site Cleanup Trust Fund created pursuant to Section 48027.

(b) The board shall, on January 1, 1994, initiate a program for the cleanup of solid waste disposal sites and for the cleanup of solid waste at codisposal sites where the responsible party either cannot be identified or is unable or unwilling to pay for timely remediation, and where cleanup is needed to protect public health and safety or the environment. *On and after January 1, 2010, the*

Department of Toxic Substances Control shall administer the program.

(c) The ~~board~~ *Department of Toxic Substances Control* shall not expend more than 5 percent of the funds appropriated for the purpose of the program by a statute other than the Budget Act to administer that program, unless a different amount is otherwise appropriated to administer the program in the annual Budget Act. If a different amount is appropriated to administer the program in the annual Budget Act, it shall be set forth in a separate line item. All remaining funds appropriated for the purposes of the program shall be expended on direct cleanup pursuant to subdivision (b) or emergency actions at solid waste facilities, disposal sites, sites involving solid waste handling, and for solid waste at codisposal sites.

SEC. 440. Section 48021 of the Public Resources Code is amended to read:

48021. (a) In prioritizing the sites for cleanup pursuant to Section 48020, the ~~board~~ *Department of Toxic Substances Control* shall consider the degree of risk to public health and safety and the environment posed by conditions at a site, the ability of the site owner to clean up the site without monetary assistance, the ability of the ~~board~~ *Department of Toxic Substances Control* to clean up the site adequately with available funds, maximizing the use of available funds, and other factors as determined by the ~~board~~ *Department of Toxic Substances Control*.

(b) (1) In administering the program authorized by Section 48020, the ~~board~~ *Department of Toxic Substances Control* may expend funds directly for cleanup, provide loans to parties who demonstrate the ability to repay state funds, and provide partial grants to public entities, to assist in site cleanup.

(2) The ~~board~~ *Department of Toxic Substances Control* may expend funds directly for the cleanup of a publicly owned site only if the ~~board~~ *Department of Toxic Substances Control* determines that the public entity lacks resources or expertise to timely manage the cleanup itself.

(3) In addition to the criteria specified in subdivision (a), in considering partial grants that provide greater than 50 percent of the funds directly for cleanup, the ~~board~~ *Department of Toxic Substances Control* shall consider the amount of contributions of moneys or in-kind services from the applicant; the availability of

other appropriate funding sources to remediate the site; the degree of public benefit; the presence of innovative and cost-effective programs to abate or prevent solid waste problems to be addressed by the grants; and other factors as determined by the ~~board~~ *Department of Toxic Substances Control*.

(c) (1) In addition to the expenditures specified in subdivision (b), the ~~board~~ *Department of Toxic Substances Control* may expend a portion of the funds appropriated for the program to abate illegal disposal sites.

(2) For the purposes of this subdivision, the ~~board~~ *Department of Toxic Substances Control* may provide grants to public entities.

(3) Where funds are provided by the ~~board~~ *Department of Toxic Substances Control* to address illegal disposal sites within a jurisdiction, the local enforcement agency shall provide ongoing enforcement to prevent recurring illegal disposal at the site.

(4) For the purposes of this subdivision, an activity to remove or abate solid waste disposed into a municipal storm sewer is eligible to receive a partial grant, if the grant is used for solid waste cleanup, solid waste abatement, or any other activity that mitigates the impact of solid waste, and an ongoing program is established to prevent recurring solid waste disposal into the municipal storm sewer.

(d) In developing and implementing the program, the ~~board~~ *Department of Toxic Substances Control* shall consult with certified local enforcement agencies and the regional water boards.

SEC. 441. Section 48022 of the Public Resources Code is amended to read:

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

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

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

(c) The Solid Waste Disposal and Codisposal Site Cleanup Program established under this article establishes a mechanism

for funding the cleanup of solid waste disposal sites and the solid waste at codisposal sites under specified conditions and circumstances.

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

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

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

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

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

SEC. 442. Section 48022.5 of the Public Resources Code is amended to read:

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

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

(A) Was operated prior to 1972.

(B) Is closed.

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

(2) "Department" means the Department of Toxic Substances Control.

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

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

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

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

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

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

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

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

(B) Appropriate abatement measures for nonsensitive land uses.

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

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

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

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

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

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

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

(g) For sites with existing or proposed sensitive land uses or water quality impacts, or where otherwise requested by the department or a regional board, ~~the board,~~ the department, the State Water Resources Control Board, and the appropriate regional board shall hold a site consultation meeting to determine which agency will provide remediation oversight. If, following a review of the site information, the department or a regional board requests to provide remediation oversight, that request shall be granted. ~~If the department or a regional board does not request to provide remediation oversight, remediation oversight of the site shall remain with the board. In cases where the board requested the meeting, the determination of remediation oversight agency shall be made within 30 days of the board's request for the meeting.~~

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

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

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

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

SEC. 443. Section 48023 of the Public Resources Code is amended to read:

48023. (a) If the ~~board~~ *Department of Toxic Substances Control* expends any funds pursuant to this article, the ~~board~~ *Department of Toxic Substances Control* shall, to the extent feasible, seek repayment from responsible parties in an amount equal to the amount expended, a reasonable amount for the ~~board's~~ *Department of Toxic Substances Control's* cost of contract administration, and an amount equal to the interest that would have been earned on the expended funds.

(b) In implementing this article, the ~~board~~ *Department of Toxic Substances Control* is vested, in addition to its other powers, with all the powers of an enforcement agency under this division.

(c) The amount of any cost incurred by the ~~board~~ *Department of Toxic Substances Control* pursuant to this article shall be recoverable from responsible parties in a civil action brought by the ~~board or, upon the request of the board, by the Attorney General pursuant to Section 40432~~ *Department of Toxic Substances Control*.

SEC. 444. Section 48023.5 of the Public Resources Code is amended to read:

48023.5. (a) In addition to the remedies authorized under Section 48023, any costs or damages incurred under this article by the ~~board~~ *Department of Toxic Substances Control* constitute a lien upon the real property owned by any responsible party that is subject to the remedial action. The lien shall attach regardless of whether the responsible party is insolvent. A lien imposed under this section shall arise at the time costs are first incurred by the ~~board~~ *Department of Toxic Substances Control* with respect to a remedial action at the site.

(b) A lien established under this section shall be subject to the notice and hearing procedures required by due process of the law. Prior to imposing the lien, the ~~board~~ *Department of Toxic Substances Control* shall send the property owner via certified mail a "Notice of Intent to Place A Lien" letter. This letter shall provide that the owner, within 14 calendar days from the date of receipt of the letter, may object to the imposition of the lien either

in writing or through an informal proceeding before a neutral official. This neutral official shall be the ~~board's executive director or his or her designee, who may not have had any prior involvement with the site~~ ____. The issue before the neutral official shall be whether the ~~board~~ *Department of Toxic Substances Control* has a reasonable basis for its determination that the statutory elements for lien placement under this section are satisfied. During this proceeding the property owner may present information or submit documents, or both, to establish that the ~~board~~ *Department of Toxic Substances Control* should not place a lien as proposed. The neutral official shall assure that a record of the proceeding is made, and shall issue a written decision. The decision shall state whether the property owner has established any issue of fact or law to alter the ~~board's~~ *Department of Toxic Substances Control's* intention to file a lien, and the basis for the decision.

(c) The ~~board~~ *Department of Toxic Substances Control* may not be considered a responsible party for a remediated site merely because a lien is imposed under this section.

(d) A lien imposed under this section shall continue until the liability for the costs or damages incurred under this article, or a judgment against the responsible party, is satisfied. However, if it is determined by a court that the judgment against the responsible party will not be satisfied, the ~~board~~ *Department of Toxic Substances Control* may exercise its rights under the lien.

(e) A lien imposed under this section shall have the force and effect of, and the priority of, a judgment lien upon its recordation in the county in which the property subject to the lien is located. The lien shall contain a legal description of the real property that is subject to, or affected by, the remedial action, the assessor's parcel number, and the name of the owner of record, as shown on the latest equalized assessment roll.

(f) All funds recovered under this section on behalf of the ~~board's~~ *Department of Toxic Substances Control's* solid waste disposal and codisposal site cleanup program shall be deposited in the Solid Waste Disposal Site Cleanup Trust Fund established under Section 48027.

SEC. 445. Section 48025 of the Public Resources Code is amended to read:

48025. The ~~board~~ *Department of Toxic Substances Control* may adopt regulations for the implementation of this article.

SEC. 446. Section 48026 of the Public Resources Code is amended to read:

48026. All expenses which are incurred by the ~~board~~ *Department of Toxic Substances Control* in carrying out this article shall be payable solely from the trust fund. No liability or obligation is imposed upon the state pursuant to this part, and the ~~board~~ *Department of Toxic Substances Control* shall not incur a liability or obligation beyond the extent to which money is provided in the trust fund for the purposes of this article.

SEC. 447. Section 48027 of the Public Resources Code is amended to read:

48027. (a) (1) The Legislature hereby finds and declares that effective response to cleanup at solid waste disposal and codisposal sites requires that the state have sufficient funds available in the trust fund created pursuant to subdivision (b).

(2) The Legislature further finds and declares that the maintenance of the trust fund is of the utmost importance to the state and that it is essential that any money in the trust fund be used solely for the purposes authorized in this article and not be used, loaned, or transferred for any other purpose.

(b) The Solid Waste Disposal Site Cleanup Trust Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the trust fund is hereby continuously appropriated to the ~~board~~ *Department of Toxic Substances Control* for expenditure, without regard to fiscal years, for the purposes of this article.

(c) The following money shall be deposited into the trust fund:

(1) Funds appropriated by the Legislature from the Integrated Waste Management Account to the ~~board~~ *Department of Toxic Substances Control* for solid waste disposal or codisposal site cleanup.

(2) Any interest earned on the money in the trust fund.

(3) Any cost recoveries from responsible parties for solid waste disposal or codisposal site cleanup and loan repayments pursuant to this article.

(d) If this article is repealed, the trust fund shall be dissolved and all money in the fund shall be distributed to solid waste landfill operators who have paid into the trust fund during effective life of the trust fund.

(e) Any trust fund distributions received by solid waste landfill operators pursuant to subdivision (c) may be used for only any of the following activities, as related to solid waste landfills:

(1) Solid waste landfill closure and postclosure maintenance operations.

(2) Implementation of Part 258 (commencing with Section 258.1) of Title 40 of the Code of Federal Regulations.

(3) Corrective actions at the solid waste landfill.

(f) The balance in the trust fund each July 1 shall not exceed thirty million dollars ($30,000,000).

SEC. 448. Section 48028 of the Public Resources Code is amended to read:

48028. Any funds appropriated for the purpose of the program that are not expended shall remain in the trust fund for future expenditure by the ~~board~~ *Department of Toxic Substances Control* for the purposes of this article or until this article is repealed.

SEC. 449. Section 48100 of the Public Resources Code is amended to read:

48100. (a) The Legislature hereby finds and declares that illegal disposal of solid waste on property owned by innocent parties is a longstanding problem needing attention and that grants provided under this chapter will support the cleanup of farm and ranch property.

(b) The ~~board~~ *Department of Toxic Substances Control* shall ~~establish a~~ *administer the* farm and ranch solid waste cleanup and abatement grant program for the purposes of cleaning up and abating the effects of illegally disposed solid waste pursuant to this chapter.

(c) (1) The Farm and Ranch Solid Waste Cleanup and Abatement Account is hereby created in the General Fund and may be expended by the ~~board~~ *Department of Toxic Substances Control*, upon appropriation by the Legislature in the annual Budget Act, for the purposes of this chapter.

(2) The following funds shall be deposited into the account:

(A) Money appropriated by the Legislature from the Integrated Waste Management Fund or the California Used Oil Recycling Fund to the ~~board~~ *Department of Toxic Substances Control* for the grant program, or from the California Tire Recycling Management Fund to the ~~board~~ *Department of Toxic Substances Control* for the purposes set forth in ~~subdivision (j) of~~ Section 42889.

(B) Notwithstanding Section 16475 of the Government Code, any interest earned on the money in the account.

(3) The ~~board~~ *Department of Toxic Substances Control* may expend the money in the account for both of the following purposes:

(A) To pay the costs of implementing this chapter, which costs shall not exceed 7 percent of the funds available for the grant program.

(B) To make payments for grants authorized by this chapter.

(4) Upon authorization by the Legislature in the annual Budget Act, the sum of all funds transferred into the account from other funds or accounts shall not exceed one million dollars ($1,000,000) annually.

(5) Notwithstanding any other provision of law, the grant program shall be funded from the following funds:

(A) The Integrated Waste Management Fund.

(B) The California Tire Recycling Management Fund, for the purposes set forth in ~~subdivision (j) of~~ Section 42889.

(C) The California Used Oil Recycling Fund.

(d) For purposes of this chapter, the following definitions shall apply:

(1) "Native American tribe" has the same meaning as tribe, as defined in subdivision (b) of Section 44201.

(2) "Public entity" means a city, county, or resource conservation district.

SEC. 450. Section 48101 of the Public Resources Code is amended to read:

48101. (a) The grant program shall be established to make grants available to public entities and Native American tribes for the purposes described in subdivision (b) of Section 48100 in an amount not to exceed the sum of two hundred thousand dollars ($200,000) per year for any single public entity or Native American tribe, and not to exceed fifty thousand dollars ($50,000) for any single cleanup or abatement project. A Native American tribe or public entity may not expend more than 7 percent of the grant for administrative costs.

(b) The ~~board~~ *Department of Toxic Substances Control* shall give priority to the provision of grants to public entities and Native American tribes that have established innovative and cost-effective programs designed to discourage the illegal disposal of solid waste

and to encourage the proper disposal of solid waste in permitted solid waste disposal facilities.

(c) A grant agreement between the ~~board~~ *Department of Toxic Substances Control* and a public entity or Native American tribe may provide for, but is not limited to, all of the following provisions:

(1) Site-specific cleanup and removal of solid waste that is illegally disposed on farm or ranch property.

(2) Comprehensive, ongoing enforcement programs for the cleanup and removal of solid waste that is illegally disposed of on farm or ranch property.

(3) Waiver of tipping fees or other solid waste fees at permitted solid waste facilities for solid waste that was illegally disposed of on farm or ranch property.

(d) On and after the adoption of grant program regulations by the ~~board~~ *Department of Toxic Substances Control*, any fines levied on, or abatement orders issued against, a farm or ranch owner by the local enforcement agency or other local agency as the result of solid waste disposed of on the owner's farm or ranch property, regarding which the owner has made application to a public entity or Native American tribe for a grant under this chapter, shall be stayed, upon the owner's written request to the local enforcement agency or other local agency, if (1) the local agency makes a decision that the property owner was not responsible for the dumping or (2) the property owner has filed a written appeal of the local agency's decision to the ~~board~~ *Department of Toxic Substances Control* and the ~~board's~~ *Department of Toxic Substances Control's* decision on the matter is pending.

SEC. 451. Section 48103 of the Public Resources Code is amended to read:

48103. (a) The ~~board~~ *Department of Toxic Substances Control* shall adopt regulations to implement this chapter.

(b) The regulations adopted pursuant to this section shall include criteria for grant eligibility and shall establish a process that is open and accessible to the public under which grant applications may be reviewed, ranked, and awarded. The regulations shall also develop a process for a farm or ranch property owner to appeal a public entity's or Native American tribe's determination of responsibility pursuant to Section 48102.

(c) The regulations adopted under this section shall require the applicant public entity or Native American tribe to certify to both of the following:

(1) That the public entity or Native American tribe is the only applicant for funding under the program for any particular farm or ranch property.

(2) That the owner of the farm or ranch property is not responsible for the illegal disposal of the solid waste.

(3) That the public entity or Native American tribe has in place a program that is sufficient to prevent future incidents of illegal solid waste disposal.

(d) If a public entity or Native American tribe denies a grant application, it shall notify the farm or ranch property owner in writing as to why the application was denied.

(e) Nothing in this section is intended to prevent a farm or ranch property owner from receiving reimbursement for solid waste cleanup or abatement costs under the grant program or pursuant to any other law.

SEC. 452. Section 48104 of the Public Resources Code is amended to read:

48104. Each year~~, as part of the annual report required to be submitted pursuant to Section 40507,~~ the~~ board~~ *Department of Toxic Substances Control* shall report to the Governor and the Legislature on all of the following:

(a) Actions the~~ board~~ *Department of Toxic Substances Control* has taken under the grant program.

(b) The costs and effectiveness in cleaning up and abating solid waste illegally disposed of on farm and ranch property.

(c) The number of sites cleaned up and abated in each county.

(d) The number of participant cities, counties, districts, and Native American tribes, and the sites cleaned up and abated through those cities, counties, districts, and Native American tribes.

(e) The types of solid waste cleaned up and abated.

(f) The number of sites not approved for the grant program, and the reasons for that disapproval.

(g) The types of property on which solid waste has been cleaned up and abated.

SEC. 453. Section 48106 of the Public Resources Code is amended to read:

48106. Nothing in this chapter is intended to relieve any party who is responsible for the generation or illegal deposition of the solid waste from liability for removal costs if the party can be identified. Farm or ranch property owners whose property is the subject of solid waste cleanup or abatement under this chapter and who are not responsible for the generation or deposition of the solid waste shall not be subject to any cost recovery action for cleanup or abatement costs borne by public entities or Native American tribes or the ~~board~~ *Department of Toxic Substances Control* under this chapter.

SEC. 454. Section 48202 of the Public Resources Code is amended to read:

48202. (a) The Legislature hereby establishes the Landfill Closure Loan Program to provide financial assistance to operators of older-technology, unlined landfills, who want to pursue early landfill closure in order to mitigate potential environmental problems.

(b) The ~~board~~ *Department of Toxic Substances Control* may expend funds from the Integrated Waste Management Fund, upon appropriation by the Legislature, to make loans to operators of solid waste landfills to assist them in the early closure of their landfills. In granting loans, the ~~board~~ *Department of Toxic Substances Control* shall give highest priority to operators of small, rural, unlined landfills that, if not closed, would represent the most serious potential threat to the public health and safety, or the environment, in the opinion of the ~~board~~ *Department of Toxic Substances Control*.

(c) The ~~board~~ *Department of Toxic Substances Control* may expend money in the fund, upon appropriation by the Legislature, for program administration.

(d) All funds received from the operation of the program, including, but not limited to, principal repayments, recovery of collection costs, income earned on any asset recovered pursuant to loan default, and funds collected through foreclosure actions, shall be deposited in the fund and may be used for purposes authorized by this chapter.

(e) The ~~board~~ *Department of Toxic Substances Control* may set aside moneys in the fund for the purposes of paying costs necessary to protect the state's position as a lender-creditor. These costs shall include, but not be limited to, foreclosure expenses, environmental

reports, auction fees, title searches, appraisals, real estate brokerage fees, attorney fees, mortgage payments, insurance payments, utility costs, repair costs, removal and storage costs for repossessed equipment and inventory, and expenditures to purchase a senior lien in foreclosure or bankruptcy proceedings.

SEC. 455. Section 48204 of the Public Resources Code is amended to read:

48204. Loans made pursuant to this chapter shall be subject to all of the following requirements:

(a) The terms of any approved loan shall be specified in a loan agreement between the borrower and the ~~board~~ *Department of Toxic Substances Control*. All money received as repayment on a loan shall be deposited in the fund.

(b) The ~~board~~ *Department of Toxic Substances Control* shall approve only those loan applications that demonstrate the applicant's financial ability to repay the loan.

(c) Loans may be made only to applicants who are using trust funds or enterprise funds as financial assurance mechanisms to finance landfill closure and postclosure maintenance and who are in compliance with financial assurance requirements for landfill closure and post-closure maintenance.

(d) The term of any loan made pursuant to this section shall be not more than 10 years.

(e) The interest rate of any loan made pursuant to this section may be zero percent.

(f) The ~~board~~ *Department of Toxic Substances Control* may not finance more than five hundred thousand dollars ($500,000) for each landfill closure project.

(g) The Department of Finance may audit the expenditure of the proceeds of any loan made pursuant to this chapter.

SEC. 456. Section 48205 of the Public Resources Code is amended to read:

48205. The ~~board~~ *Department of Toxic Substances Control*, the California Pollution Control Financing Authority, the Treasurer, and other appropriate state officers and agencies shall, to the extent feasible and as appropriate, coordinate activities that will leverage financing for the program and encourage joint activities to protect the public health and the environment.

SEC. 457. Section 48206 of the Public Resources Code is amended to read:

48206. The ~~board~~ *Department of Toxic Substances Control* shall adopt regulations to implement this chapter.

SEC. 458. Section 48502 of the Public Resources Code is repealed.

~~48502. Notwithstanding any other provision of law, the powers and duties of the Department of Toxic Substances Control pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, including those concerning the issuance of permits for hazardous waste disposal sites, enforcement activities related to the handling, transportation, storage, use, processing, and disposal of hazardous wastes, and the development of programs for the recycling and recovery of resources from hazardous wastes, shall not be assumed or duplicated by the board pursuant to its responsibilities, powers, and duties provided in this division.~~

SEC. 459. Section 48632 of the Public Resources Code is amended to read:

48632. The ~~board~~ *Department of Toxic Substances Control* may issue grants or loans pursuant to subdivision (b) of Section 48631 for only the following purposes:

(a) To local governments for providing opportunities for used lubricating oil collection, which are in addition to those included in the local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690). Grants or loans under this subdivision may also be for those purposes identified in subdivision (d).

(b) To nonprofit entities for projects, which may include one or more of the following programs or activities:

(1) Establishing used lubricating oil collection centers.

(2) Providing containers and other materials and supplies that the public can utilize in an environmentally sound manner to store used lubricating oil for pickup or return to a used oil collection center.

(3) Obtaining equipment and establishing procedures to comply with federal, state, and local law regarding the collection, handling, and storage of used oil.

(4) For the purposes identified in subdivision (d).

(c) For either or both of the following purposes:

(1) Research, testing, and demonstration projects for collection technologies and to develop uses for products resulting from the recycling of used oil.

(2) The purposes identified in subdivision (d).

(d) (1) For education and mitigation projects relating to stormwater pollution from used oil and oil byproducts, including, but not limited to, use of storm drain inlet filter devices.

(2) A local government shall not receive a grant or loan pursuant to this section for any purpose identified in paragraph (1) unless the local government certifies that it has a stormwater management program that is approved by the appropriate California regional water quality control board and that the project approved for funding under paragraph (1) is consistent with that approved stormwater management program.

SEC. 460. Section 48634 of the Public Resources Code is amended to read:

48634. In adopting the program required by this article, the ~~board~~ *Department of Toxic Substances Control* shall consider information developed pursuant to the Used Oil Collection Demonstration Grant Program Act of 1990 (Chapter 1.5 (commencing with Section 3475) of Division 3).

SEC. 461. Section 48640 of the Public Resources Code is amended to read:

48640. The ~~board~~ *Department of Toxic Substances Control* shall administer this chapter. For organizational purposes, the ~~board~~ *Department of Toxic Substances Control* may create a new division, bureau, office, or unit to administer this chapter.

SEC. 462. Section 48641 of the Public Resources Code is amended to read:

48641. In addition to any other regulations which the ~~board~~ *Department of Toxic Substances Control* is required by statute to adopt, the ~~board~~ *Department of Toxic Substances Control* may adopt any other rules and regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code which the ~~board~~ *Department of Toxic Substances Control* determines may be necessary or useful to carry out this chapter or any of the ~~board's~~ *Department of Toxic Substances Control's* duties or responsibilities imposed pursuant to this chapter.

SEC. 463. Section 48642 of the Public Resources Code is amended to read:

48642. The ~~board~~ *Department of Toxic Substances Control* may prepare, publish, or issue printed pamphlets, which the ~~board~~ *Department of Toxic Substances Control* determines to be necessary, for the dissemination of information concerning the activities of the ~~board~~ *Department of Toxic Substances Control* pursuant to this chapter.

SEC. 464. Section 48643 of the Public Resources Code is amended to read:

48643. In carrying out this chapter, the ~~board~~ *Department of Toxic Substances Control* may solicit and use any and all expertise available in other state agencies, including, but not limited to, the State Board of Equalization, and, where an existing state agency performs functions of a similar nature to the ~~board's~~ *Department of Toxic Substances Control's* functions, the ~~board~~ *Department of Toxic Substances Control* may contract with or cooperate with that agency in carrying out this chapter.

SEC. 465. Section 48644 of the Public Resources Code is amended to read:

48644. The ~~board~~ *Department of Toxic Substances Control* shall maintain access to a toll-free telephone number which is to be used for the purpose of informing callers of the following:

(a) The permissible methods of recycling or disposing of used oil.

(b) Specific establishments located in the area of the caller that have notified the ~~board~~ *Department of Toxic Substances Control* that they accept used oil.

SEC. 466. Section 48645 of the Public Resources Code is amended to read:

48645. Final approval of applicant and project eligibility standards, scoring and evaluation processes, and awarding of loans or grants under this chapter shall be made in a public meeting of, and pursuant to ~~a vote of~~, *the approval of* the ~~board~~ *Department of Toxic Substances Control*.

SEC. 467. Section 48650 of the Public Resources Code is amended to read:

48650. (a) Every oil manufacturer shall pay to the ~~board~~ *Department of Toxic Substances Control*, on or before the last day of the month following each quarter, an amount equal to four cents

($0.04) for every quart, or sixteen cents ($0.16) for every gallon, of lubricating oil sold or transferred in the state, or imported into the state for use in the state in that quarter. For lubricating oil sold by weight, a weight to volume conversion factor of 7.5 pounds per gallon shall be used to determine the fee. Except as provided in subdivision (b), no payment is required for oil which meets any of the following:

(1) Oil for which a payment has already been made to the ~~board~~ *Department of Toxic Substances Control* pursuant to this section.

(2) Oil exported or sold for export from the state.

(3) Oil sold for use in vessels operated in interstate or foreign commerce.

(4) Oil imported into the state in the engine crankcase, transmission, gear box, or differential of an automobile, bus, truck, vessel, plane, train, or heavy equipment or machinery.

(5) Bulk oil imported into, transferred in, or sold in the state to a motor carrier, as defined in Section 408 of the Vehicle Code, and used in a vehicle designated in subdivisions (a) and (b) of Section 34500 of the Vehicle Code.

(6) The oil otherwise subject to payment pursuant to this subdivision has a volume of five gallons or less.

(b) If oil exempted from payment pursuant to subdivision (a) is subsequently sold or transferred for use, or is used, in this state, and the use does not qualify for exemption pursuant to subdivision (a), the entity which sells, transfers, or uses the oil for a purpose which is not exempt from payment, shall make the payment specified in subdivision (a).

(c) This section shall become operative on January 1, 2000.

SEC. 468. Section 48650.2 of the Public Resources Code is amended to read:

48650.2. For the purposes of this chapter, the ~~board~~ *Department of Toxic Substances Control* may collect the fees pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

SEC. 469. Section 48650.5 of the Public Resources Code is amended to read:

48650.5. (a) Any person who has made a payment pursuant to Section 48650 on lubricating oil exempted from payment pursuant to subdivision (a) of Section 48650, and the payment was made either directly to the ~~board~~ *Department of Toxic Substances*

Control, or indirectly to a vendor from whom it was purchased, by the adding of the amount of the payment to the price of the lubricating oil, shall be reimbursed and repaid the amount of the payment made on that oil, except as otherwise provided in this section.

(b) The claimant of a refund shall present to the ~~board~~ *Department of Toxic Substances Control* a claim supported by the original invoice showing the purchase. The claim shall state the total amount of the lubricating oil purchased by the claimant and the manner and the equipment in which the claimant has used the lubricating oil. The claim shall not be under oath but shall contain, or be accompanied by, a written declaration that it is made under the penalty of perjury.

(c) The ~~board~~ *Department of Toxic Substances Control*, upon the presentation of the claim and the invoice, shall pay the claimant from the payments collected under Section 48650 an amount equal to the payments collected on the lubricating oil in respect to which the refund is claimed.

(d) Any person who willfully makes or subscribes to a claim for refund under this section which the person does not believe to be true and correct as to every material matter is guilty of a felony, and upon conviction thereof shall be subject to the penalties prescribed for perjury by the Penal Code. All applications for refund under this section based upon the exportation of lubricating oil from this state shall be filed with the ~~board~~ *Department of Toxic Substances Control* within the three months after the close of the calendar month in which the lubricating oil is exported or 13 months from the date of the purchase of the lubricating oil, whichever is later. Any application filed after the prescribed time shall not be considered by the ~~board~~ *Department of Toxic Substances Control* or any other agency or officer of the state for any purpose.

(e) In lieu of the collection and refund of the payment on lubricating oil used by a manufacturer in a manner that entitles a purchaser to claim a refund under this section, the ~~board~~ *Department of Toxic Substances Control* may give a credit to the manufacturer upon the filing of a return and the determination of the amount of the fee.

(f) In lieu of the collection and refund of the payment on lubricating oil exported by a licensed manufacturer for use outside

the state in a manner that entitles a manufacturer to claim a refund pursuant to this section, the ~~board~~ *Department of Toxic Substances Control* may give a credit to the distributor upon his or her payment return and the determination of the amount of his or her payment, in accordance with such rules and regulations as the ~~board~~ *Department of Toxic Substances Control* may prescribe.

(g) When an amount represented by a person to a customer as constituting reimbursement for fees due under this chapter is computed upon an amount that is not subject to that fee, or is in excess of that fee amount due, and is actually paid by the customer to the person, the amount so paid shall be returned by the person to the customer, upon notification by the ~~board~~ *Department of Toxic Substances Control* or by the customer that the excess has been ascertained. If the person fails or refuses to return that amount, the person shall remit to the ~~board~~ *Department of Toxic Substances Control* the amount so paid, if the amount was knowingly or mistakenly computed by the person upon an amount that is not subject to the fee, or is in excess of the fee due.

SEC. 470. Section 48651 of the Public Resources Code is amended to read:

48651. (a) The ~~board~~ *Department of Toxic Substances Control* shall pay a recycling incentive to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil collected from the public, or generated by the certified used oil collection center or the industrial generator, and transported by a used oil hauler to the facilities specified in Section 48623.

(b) The ~~board~~ *Department of Toxic Substances Control* shall pay a recycling incentive to an electric utility, as defined in Section 25108, for used lubricating oil generated and used by the electric utility for electrical generation if the electric utility's use of the used lubricating oil meets the requirements of subparagraph (C) of paragraph (2) of subdivision (d) of Section 25143.2 of the Health and Safety Code and the used oil is in compliance with the standards for recycled oil established in paragraph (3) of subdivision (a) of Section 25250.1 of the Health and Safety Code.

(c) A person or entity that generates used industrial oil or a used oil storage facility or a used oil transfer facility that accepts used oil shall cause that oil to be transported by a used oil hauler to a certified used oil recycling facility or an out-of-state recycling

facility registered with the Environmental Protection Agency and operating in substantial compliance with applicable regulatory standards of the state in which the recycling facility is located.

SEC. 471. Section 48652 of the Public Resources Code is amended to read:

48652. The ~~board~~ *Department of Toxic Substances Control* shall set the recycling incentive amount at not less than four cents ($0.04) per quart. The amount may be set at an amount higher than four cents ($0.04) if the ~~board~~ *Department of Toxic Substances Control* determines that a higher amount is necessary to promote recycling of used lubricating oil and sufficient funds are available in the fund. The ~~board~~ *Department of Toxic Substances Control* shall not change the amount of the recycling incentive until at least one year has passed since the amount was last set. The ~~board~~ *Department of Toxic Substances Control* shall continue providing recycling incentives to certified used oil collection centers at the previous rate for one month after setting the recycling incentive at a different rate. The ~~board~~ *Department of Toxic Substances Control* shall not raise the recycling incentive amount unless it finds that the raise will not adversely affect funding required pursuant to Sections 48631, 48653, and 48660.5.

SEC. 472. Section 48653 of the Public Resources Code is amended to read:

48653. The ~~board~~ *Department of Toxic Substances Control* shall deposit all amounts paid pursuant to Section 48650 by manufacturers, civil penalties, or fines paid pursuant to this chapter, and all other revenues received pursuant to this chapter into the California Used Oil Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is to be appropriated solely as follows:

(a) Continuously appropriated to the ~~board~~ *Department of Toxic Substances Control* for expenditure for the following purposes:

(1) To pay recycling incentives pursuant to Section 48651.

(2) To provide a reserve for contingencies, as may be available after making other payments required by this section, in an amount not to exceed one million dollars ($1,000,000).

(3) To make block grants for the implementation of local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690) to cities, based on the city's

population, and counties, based on the population of the unincorporated area of the county, in a total annual amount equal to ten million dollars ($10,000,000) or half of the amount which remains in the fund after the expenditures are made pursuant to paragraphs (1) to (3), inclusive, and subdivision (b), whichever amount is greater, multiplied by the fraction equal to the population of cities and counties which are eligible for block grants pursuant to Section 48690, divided by the population of the state. The ~~board~~ *Department of Toxic Substances Control* shall use the latest population estimates of the state generated by the Population Research Unit of the Department of Finance in making the calculations required by this paragraph.

(4) For expenditures pursuant to Section 48656.

(b) The money in the fund may be expended by the ~~board~~ *Department of Toxic Substances Control* for the administration of this chapter and by the department for inspections and reports pursuant to Section 48661, only upon appropriation by the Legislature in the annual Budget Act.

(c) The money in the fund may be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, upon appropriation by the Legislature in the annual Budget Act, to pay the costs associated with implementing and operating the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100).

(d) Appropriations to the ~~board~~ *Department of Toxic Substances Control* to pay the costs necessary to administer this chapter, including implementation of the reporting, monitoring, and enforcement program pursuant to subdivision (d) of Section 48631, shall not exceed three million dollars ($3,000,000) annually.

(e) The Legislature hereby finds and declares its intent that the sum of two hundred fifty thousand dollars ($250,000) should be annually appropriated from the California Used Oil Recycling Fund in the annual Budget Act to the ~~board~~ *Department of Toxic Substances Control*, commencing with fiscal year 1996–97, for the purposes of Section 48655.

SEC. 473. Section 48655 of the Public Resources Code is amended to read:

48655. The ~~board~~ *Department of Toxic Substances Control* may enter into a contract with the department that will utilize the

resources of the department to provide for greater investigation and enforcement efforts for used lubricating oil handling and storage and transfer facility operations. The department shall assist the ~~board~~ *Department of Toxic Substances Control* in developing the used oil program and providing assistance to local governments in removing barriers to the establishment of used oil collection programs.

SEC. 474. Section 48656 of the Public Resources Code is amended to read:

48656. After all of the expenditures pursuant to Section 48653 have been made, notwithstanding paragraph (4) of subdivision (a) of Section 48653, the balance remaining in the fund shall be available to the ~~board~~ *Department of Toxic Substances Control* for expenditure solely for the implementation of subdivisions (b) and (c) of Section 48631 and Sections 48632 and 48660.5. The ~~board~~ *Department of Toxic Substances Control* shall not expend more than two hundred thousand dollars ($200,000) to implement Section 48660.5 and at least 40 percent of the money remaining in the fund shall be expended for the purposes of subdivision (a) of Section 48632, at least 10 percent shall be expended for the purposes of subdivision (b) of Section 48632, at least 20 percent shall be expended for the purposes of subdivision (c) of Section 48631, and at least 10, but not more than 15, percent shall be expended for the purposes of subdivision (c) of Section 48632.

SEC. 475. Section 48657 of the Public Resources Code is amended to read:

48657. The ~~board~~ *Department of Toxic Substances Control* shall keep accurate books, records, and accounts of all of its dealings, and these books, records, and accounts, and any amounts paid into or from the fund, are subject to an annual audit by an auditing firm selected by the ~~board~~ *Department of Toxic Substances Control*. The auditing firm or the ~~board~~ *Department of Toxic Substances Control* shall also conduct a selective audit of entities making payments to, or receiving payments from, the ~~board~~ *Department of Toxic Substances Control* to determine whether payments required by Section 48650 are being paid to the ~~board~~ *Department of Toxic Substances Control* on all lubricating oil sold in California, and that grants and recycling incentives are being paid out properly by the ~~board~~ *Department of Toxic Substances Control*.

SEC. 476. Section 48660 of the Public Resources Code is amended to read:

48660. (a) No used oil collection center shall be eligible for the payment of recycling incentives until the ~~board~~ *Department of Toxic Substances Control* has certified that the center is in compliance with the requirements specified in subdivision (b). Before certification, the ~~board~~ *Department of Toxic Substances Control* may require the center to submit any information that the ~~board~~ *Department of Toxic Substances Control* determines is necessary to find that the center is in compliance with those requirements. A center shall reapply for certification every two years. The ~~board~~ *Department of Toxic Substances Control* may cancel the certification of a center if the ~~board~~ *Department of Toxic Substances Control* finds, after a public hearing, that the center is not, or has not been, in compliance with subdivision (b). The ~~board~~ *Department of Toxic Substances Control* may withhold the payment of recycling incentives for used lubricating oil collected by a center if the ~~board~~ *Department of Toxic Substances Control* finds that the center was not in compliance with subdivision (b) during the time in which the used lubricating oil was collected.

(b) To be eligible for certification by the ~~board~~ *Department of Toxic Substances Control* and for the payment of recycling incentives, the used oil collection center shall do all of the following:

(1) (A) Accept used lubricating oil from the public at no charge during the hours between 8 a.m. and 8 p.m. that the entity operating as the center is open for business.

(B) The ~~board~~ *Department of Toxic Substances Control* may approve alternative hours for the acceptance of used lubricating oil by an individual center if either of the following conditions is met:

(i) The center accepts used lubricating oil for 12 continuous hours daily.

(ii) The center demonstrates that compliance with Section 279.31 of Title 40 of the Code of Federal Regulations prevents the center from complying with subparagraph (A).

(2) Pay to any person an amount equal to the recycling incentive which the center will receive for used lubricating oil brought to the center in containers by the person. Nothing in this chapter prohibits any person from donating used lubricating oil to a center.

With the exception of centers that generate used lubricating oil by servicing motor vehicles, the recycling incentive may be in the form of a credit that may be applied toward the purchase of goods or services offered by the center, as determined by the ~~board~~ *Department of Toxic Substances Control*. The credit shall be in the form of a voucher or coupon with a value of at least twice the incentive amount to be paid pursuant to Section 48652 and have no other limits for use, unless prescribed by the ~~board~~ *Department of Toxic Substances Control*.

(3) Provide information to the ~~board~~ *Department of Toxic Substances Control* for informing the public of the center's acceptance of used lubricating oil.

(4) Provide notice to the public, through onsite signs and periodic advertising in local media, of the center's acceptance of used lubricating oil from the public.

(A) Onsite signs shall be of a design prescribed by the ~~board~~ *Department of Toxic Substances Control* and exterior signs shall be posted in a location that is easily visible from a public street.

(B) A certified center shall post a combined symbolic and information exterior sign of at least two feet by three feet in size, or shall post an exterior symbolic sign of at least two feet by 18 inches in size. If the exterior symbolic sign is posted, the combined symbolic and informational sign shall be concurrently posted so that it is easily readable from the location where the used oil is received from the public. The exterior symbolic sign shall include the following words in a manner specified by the ~~board~~ *Department of Toxic Substances Control*: "Used Oil Collection Center."

(C) The informational portion of the combined signs shall include the following words, in a manner specified by the ~~board~~ *Department of Toxic Substances Control*: "Used Oil Collection Center—Recycling Incentive Paid for Used Lubricating Oil in Containers During Business Hours from Members of the Public Who Change Their Own Oil."

(D) A center that does not accept used lubricating oil from the public during all of its business hours, but meets the requirements of paragraph (1), shall indicate on the exterior sign the hours when that used oil is accepted at no charge from the public and these hours shall be posted instead of the business hours.

(E) If local zoning ordinances prevent signs of a size consistent with this paragraph, the exterior symbolic sign shall be of the maximum allowable size.

(c) Notwithstanding subdivision (b), a used oil collection center may refuse to accept used lubricating oil which has been contaminated in a manner other than that which would occur through normal use.

(d) Notwithstanding subdivision (b), no used oil collection center shall knowingly accept used lubricating oil for which a payment has not been made pursuant to Section 48650.

SEC. 477. Section 48660.5 of the Public Resources Code is amended to read:

48660.5. (a) If the ~~board~~ *Department of Toxic Substances Control* finds that a shipment of used oil from a certified used oil collection center or a curbside collection program is contaminated by hazardous materials in excess of that which generally occurs in normal use, which renders the used oil infeasible for recycling, and requires that the used oil be destroyed at a substantially higher cost than the cost generally to recycle used oil, the ~~board~~ *Department of Toxic Substances Control* shall, upon application by the used oil collection center or curbside collection program, reimburse the center or program for the additional disposal cost, subject to the eligibility requirements of subdivision (b), except as provided in subdivision (c).

(b) A certified used oil collection center or curbside collection program is eligible for reimbursement only if it demonstrates to the satisfaction of the ~~board~~ *Department of Toxic Substances Control* all of the following:

(1) The center or program has established procedures to ensure that the used oil it generates and accepts from the public will not be mixed with other hazardous wastes, especially halogenated wastes. These procedures shall include, but not be limited to, instructing the public and employees that used oil shall not be mixed with other hazardous waste. The ~~board~~ *Department of Toxic Substances Control* shall not require a center or program to test used oil received from the public as part of these procedures.

(2) The shipment contains not more than five gallons or pounds of contaminants combined, based on the contaminant concentrations and the total volume or weight of the shipment.

(c) In any calendar year, a used oil collection center or curbside collection program shall be reimbursed for not more than one shipment and for not more than five thousand dollars ($5,000) in disposal costs, subject to the availability of funds pursuant to Section 48656.

SEC. 478. Section 48661 of the Public Resources Code is amended to read:

48661. (a) On and after July 1, 1992, the department shall annually inspect used oil recycling facilities.

(b) Within 135 days following inspection, the department shall submit a report to the ~~board~~ *Department of Toxic Substances Control*, describing all of the following:

(1) Any violations of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(2) Any corrective actions ordered or agreed to by the department.

(3) Progress by the facility in correcting violations identified in previous inspections.

(c) In the report required by subdivision (b), the department shall specifically state whether any of the following occurred:

(1) The department has identified violations of subdivision (c) of Section 25250.1 of the Health and Safety Code regarding achievement of minimum standards of purity for recycled oil.

(2) The department has identified violations of regulations requiring financial responsibility assurance for liability, closure, and postclosure obligations.

(3) Where prior contamination has been identified, the facility has an approved corrective action plan and has not been found to be in violation of its requirements.

(4) The department has identified violations that meet the criteria for class 1 violations, as defined in Section 66260.10 of Title 22 of the California Code of Regulations.

SEC. 479. Section 48662 of the Public Resources Code is amended to read:

48662. The ~~board~~ *Department of Toxic Substances Control* shall certify or recertify any used oil recycling facility for which the ~~board has received~~ *Department of Toxic Substances Control has prepared* a report ~~from the department~~ pursuant to Section 48661, unless the ~~board~~ *Department of Toxic Substances Control* determines that the facility is engaged in a repeating or recurring

pattern of noncompliance that poses a significant threat to public health and safety or the environment. If the ~~board~~ *Department of Toxic Substances Control* denies certification, the ~~board~~ *Department of Toxic Substances Control* may subsequently certify a facility if it determines that the facility meets the standards for certification.

SEC. 480. Section 48670 of the Public Resources Code is amended to read:

48670. To be eligible for payment of a recycling incentive, an industrial generator of used lubricating oil, a used oil collection center, or a curbside collection program shall report to the ~~board~~ *Department of Toxic Substances Control*, for each quarter, the amount of lubricating oil purchased and the amount of used lubricating oil that is transported to a certified used oil recycling facility, or to a used oil storage facility or to a used oil transfer facility, or that is transported to an out-of-state recycling facility registered with the Environmental Protection Agency and permitted to operate by the applicable regulatory agency of the state in which the facility is located, or that is used to generate electricity pursuant to subdivision (b) of Section 48651. The reports shall be submitted on or before the 45th day following each quarter, in the form and manner which the ~~board~~ *Department of Toxic Substances Control* may prescribe, and shall include copies of manifests or modified manifest receipts from used oil haulers. The ~~board~~ *Department of Toxic Substances Control* may delegate to the executive officer of the ~~board~~ *Department of Toxic Substances Control* the authority to accept reports submitted after the 45th day and to reduce, eliminate, or approve the amount of incentive fee to be paid due to the late submission of the report. The ~~board~~ *Department of Toxic Substances Control* may provide, by regulation, for a longer reporting period for industrial generators that generate less than 1,000 gallons of used oil annually.

SEC. 481. Section 48671 of the Public Resources Code is amended to read:

48671. Every oil manufacturer who sells, or offers to sell, lubricating or industrial oil in this state shall report to the ~~board~~ *Department of Toxic Substances Control* for each month the amount of lubricating or industrial oil sold. The reports shall be submitted by the day when payment required by Section 48650 is or would be due, in the form and manner which the ~~board~~

Department of Toxic Substances Control may prescribe. However, an oil manufacturer is not required to report to the ~~board~~ *Department of Toxic Substances Control* when the total volume of oil to be reported is five gallons or less.

SEC. 482. Section 48671.5 of the Public Resources Code is amended to read:

48671.5. The manufacturer of every container that contains lubricating oils or industrial oils, and which is intended for sale to consumers in California, shall do either of the following:

(a) Label the containers in at least seven-point typeface as follows:

"Used oil is generally classified as a hazardous waste in California. Do not dispose of used oil in garbage, sewers, or the ground. To find out how to properly recycle used oil in your area, call (800) ____."

The toll-free telephone number on the label shall be the number maintained by the ~~board~~ *Department of Toxic Substances Control* pursuant to Section 48644.

(b) Provide signs or other written material to retailers appropriate for informing consumers of the information that would otherwise be contained in the label set forth in paragraph (a).

SEC. 483. Section 48672 of the Public Resources Code is amended to read:

48672. Beginning ~~May 1, 1992~~ *January 1, 2010*, every used oil hauler shall report to the ~~board~~ *Department of Toxic Substances Control* for each quarter the amount of used oil transported, the location to which it is transported, and the source of the used oil. The hauler shall provide estimates, where feasible, of the amount which is used lubricating oil and the amount which is used industrial oil. The reports shall be submitted on or before the last day of the month following each quarter, in the form and manner which the ~~board~~ *Department of Toxic Substances Control* may prescribe.

SEC. 484. Section 48673 of the Public Resources Code is amended to read:

48673. Beginning July 1, 1992, every used oil recycling facility shall report to the ~~board~~ *Department of Toxic Substances Control* for each quarter the amount of used oil received and the amount

of recycled oil produced. The facility shall provide estimates, where feasible, of the amount which is used lubricating oil and the amount which is used industrial oil. The reports shall be submitted on or before the last day of the month following each quarter, in the form and manner which the ~~board~~ *Department of Toxic Substances Control* may prescribe.

SEC. 485. Section 48674 of the Public Resources Code is amended to read:

48674. After receiving a block grant pursuant to paragraph (4) of subdivision (a) of Section 48653, each local government shall submit an annual report to the ~~board~~ *Department of Toxic Substances Control*, on or before the date specified by the ~~board~~ *Department of Toxic Substances Control*, which includes any amendments to the local used oil collection program adopted pursuant to Section 48690, a description of all measures taken to implement the program, and a description of how the block grant was expended.

SEC. 486. Section 48675 of the Public Resources Code is amended to read:

48675. The ~~board~~ *Department of Toxic Substances Control* shall establish procedures to protect any proprietary information concerning sales, purchases, and operations obtained while collecting information for carrying out this chapter.

SEC. 487. Section 48676 of the Public Resources Code is amended to read:

48676. The ~~board~~ *Department of Toxic Substances Control* shall establish reporting periods for the reporting of accumulated industrial and lubricating oil sales and used oil recycling rates, and each reporting period shall be six months. The ~~board~~ *Department of Toxic Substances Control* shall issue a report based on the information received within 120 days of the end of each reporting period.

SEC. 488. Section 48680 of the Public Resources Code is amended to read:

48680. (a) Except as provided in subdivision (b), in addition to any other civil or criminal penalties, any person convicted of a violation of this chapter is guilty of an infraction, which is punishable by a fine of not more than one hundred dollars ($100) per day for each day the violation occurs.

(b) (1) Every person who, with intent to defraud, does not accurately report the amount of oil sold, collected, or transferred pursuant to Article 8 (commencing with Section 48670), who, with intent to defraud, does not make payments as required by Section 48650, or who knowingly receives or pays a recycling incentive for oil upon which a payment has not been made pursuant to Section 48650 is guilty of fraud. If the money obtained or withheld is four hundred dollars ($400) or less, the fraud is punishable by imprisonment in the county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment. If the money obtained or withheld is more than four hundred dollars ($400), the fraud is punishable by imprisonment in the county jail for not more than one year or imprisonment in the state prison, by a fine not exceeding ten thousand dollars ($10,000), or twice the late or unmade payments plus interest, whichever is greater, or by both that fine and imprisonment.

(2) Any person who claims an exemption pursuant to this chapter which the person knows to be false, and makes that claim for the purpose of willfully evading the payment of any fee imposed pursuant to this chapter, is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than one year. The person shall also be subject to payment of a fine not to exceed five thousand dollars ($5,000). The fine shall be distributed as follows:

(A) Fifty percent to the local jurisdiction which undertook the prosecution.

(B) Fifty percent to the General Fund.

(c) Any person who violates this chapter may be assessed a civil penalty by the ~~board~~ *Department of Toxic Substances Control* of not more than one hundred dollars ($100) per day for each day the violation occurs or continues, pursuant to a hearing and notice.

SEC. 489. Section 48690 of the Public Resources Code is amended to read:

48690. A local government is eligible for a block grant pursuant to paragraph (3) of subdivision (a) of Section 48653, if it develops and submits a local used oil collection program to the ~~board~~ *Department of Toxic Substances Control* pursuant to Section 48691 and files a report pursuant to Section 48674. The ~~board~~ *Department of Toxic Substances Control* shall make a grant to every local government that submits a program and files a report unless the

~~board~~ *Department of Toxic Substances Control* finds that the program or its implementation does not comply with criteria contained in this article. The ~~board~~ *Department of Toxic Substances Control* may make a block grant to another entity that will implement the program of a local government in lieu of making a block grant to that local government with the concurrence of that local government.

SEC. 490. Section 50000 of the Public Resources Code is amended to read:

50000. (a) Until an integrated waste management plan has been approved by the ~~California Integrated Waste Management Board~~ *Department of Conservation, in consultation with the Department of Toxic Substances Control,* pursuant to Division 30 (commencing with Section 40000), no person shall establish a new solid waste facility or transformation facility or expand an existing solid waste facility or transformation facility that will result in a significant increase in the amount of solid waste handled at the facility without a certification by the enforcement agency that one of the following has occurred:

(1) The facility is identified and described in, or found to conform with, a county solid waste management plan that was in compliance with statutes and regulations in existence on December 31, 1989, adopted pursuant to former Title 7.3 (commencing with Section 66700) of the Government Code as that former statute read on December 31, 1989. The conformance finding with that plan shall be in accordance with the procedure for a finding of conformance that was set forth in the plan prior to January 1, 1990.

(2) The facility is identified and described in the most recent county solid waste management plan that has been approved by the county and by a majority of the cities within the county that contain a majority of the population of the incorporated area of the county, except in those counties that have only two cities, in which case, the plan has been approved by the county and by the city that contains a majority of the population of the incorporated area of the county.

(3) Pursuant to the procedures in subdivision (b), the facility has been approved by the county and by a majority of the cities within the county that contain a majority of the population of the incorporated area of the county, except in those counties that have only two cities, in which case, the facility has been approved by

the county and by the city that contains a majority of the population of the incorporated area of the county.

(4) The facility is a material recovery facility and the site identification and description of the facility have been submitted to the task force created pursuant to Section 40950 for review and comment, pursuant to the procedures set forth in subdivision (c). For purposes of this paragraph, "material recovery facility" means a transfer station that is designed to, and, as a condition of its permit, shall, recover for reuse or recycling at least 15 percent of the total volume of material received by the facility.

(5) The facility is identified and described in the countywide siting element that has been approved pursuant to Section 41721.

(b) (1) The review and approval of a solid waste facility or transformation facility that has not been identified or described in a county solid waste management plan shall be initiated by submittal by the person or agency proposing the facility of a site identification and description to the county board of supervisors.

(2) The county shall submit the site identification and description to each city within the county within 20 days from the date that the site identification and description is submitted to the county board of supervisors. The county and each city shall approve or disapprove by resolution the site identification and description within 90 days from the date that the site identification and description are initially submitted to the county or city. Each city shall notify the county board of supervisors of its decision within that 90-day period. If the county or a city fails to approve or disapprove the site identification and description within 90 days, the city or county shall be deemed to have approved the site identification and description as submitted.

(3) If a city or county disapproves the site identification and description, the city or county shall mail notice of its decision by first-class mail to the person or agency requesting the approval within 10 days of the disapproval by the city or county, stating its reasons for the disapproval.

(4) No county or city shall disapprove a proposed site identification and description for a new solid waste facility or transformation facility or an expanded solid waste facility or transformation facility that will result in a significant increase in the amount of solid waste handled at the facility unless it determines, based upon substantial evidence in the record, that

there will be one or more significant adverse impacts within its boundaries from the proposed project.

(5) Within 45 days from the date of a decision by a city or county to disapprove a site identification and description, or a decision by the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* not to concur in the issuance of a permit pursuant to Section 44009, any person may file with the superior court a writ of mandate for review of the decision. The evidence before the court shall consist of the record before the city or county that disapproved the site identification and description or the record before the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* in its determination not to concur in issuance of the permit. Section 1094.5 of the Code of Civil Procedure shall govern the proceedings conducted pursuant to this subdivision.

(c) To initiate the review and comment by the task force required by paragraph (4) of subdivision (a) and subdivision (d), the person or agency proposing the facility shall submit the site identification and description of the facility to the task force. Within 90 days after the site identification and description are submitted to the task force, the task force shall meet and comment on the facility in writing. Those comments shall include, but are not limited to, the relationship between the proposed new or expanded material recovery facility and the requirements of Section 41780. The task force shall transmit those comments to the applicant, to the county, and to all of the cities in the county.

(d) On or before February 1, 1991, each county, by vote of the board of supervisors and the majority of the cities in the county containing a majority of the population of the incorporated area of the county, except in those counties that have only two cities, in which case the vote is subject to approval of the city that contains a majority of the population of the incorporated area of the county, shall adopt two resolutions after holding a public hearing. One resolution shall address solid waste transfer facilities that are designed to, and, as a condition of their permits, shall, recover for reuse or recycling less than 15 percent of the total volume of material received by the facility and that serve more than one jurisdiction. The second resolution shall address solid waste transfer facilities that are designed to, and, as a condition of their permits, shall, recover for reuse or recycling less than 15

percent of the total volume of material received by the facility and that serve only one jurisdiction. These resolutions shall specify whether the facilities shall be subject to the review and approval process described in subdivision (b) or the review and comment process described in subdivision (c). If the resolutions required by this subdivision are not adopted on or before February 1, 1991, those facilities shall be subject to the review process described in subdivision (c).

For purposes of this subdivision, a facility serves only one jurisdiction if it serves only one city, only the unincorporated area of one county, or only one city and county.

SEC. 491. Section 50000.5 of the Public Resources Code is amended to read:

50000.5. (a) Until a countywide integrated waste management plan has been approved by the ~~California Integrated Waste Management Board~~ *Department of Conservation and the Department of Toxic Substances Control* pursuant to Division 30 (commencing with Section 40000), no person shall establish or expand a solid waste facility or transformation facility unless the city or county in which the site is located makes a finding that the establishment or expansion of the facility is consistent with the applicable general plan of the city or county. This finding shall not be made unless the city or county has adopted a general plan which complies with the provisions of Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(b) In addition to the requirements in subdivision (a), any new or expanded solid waste disposal facility or transformation facility shall be deemed to be consistent with the general plan only if both of the following requirements are met:

(1) The facility is located in a land use area designated or authorized for solid waste facilities in the applicable city or county general plan.

(2) The land uses which are authorized adjacent to, or near, the facility are compatible with the establishment, or expansion of, the solid waste disposal facility or transformation facility.

SEC. 492. Section 50001 of the Public Resources Code is amended to read:

50001. (a) Except as provided by subdivision (b), after a countywide or regional agency integrated waste management plan

has been approved by the ~~California Integrated Waste Management Board~~ *Department of Conservation and the Department of Toxic Substances Control* pursuant to Division 30 (commencing with Section 40000), no person shall establish or expand a solid waste facility, as defined in Section 40194, in the county unless the solid waste facility meets one of the following criteria:

(1) The solid waste facility is a disposal facility or a transformation facility, the location of which is identified in the countywide siting element or amendment thereto, which has been approved pursuant to Section 41721.

(2) The solid waste facility is a facility which is designed to, and which as a condition of its permit, will recover for reuse or recycling at least 5 percent of the total volume of material received by the facility, and which is identified in the nondisposal facility element or amendment thereto, which has been approved pursuant to Section 41800 or 41801.5.

(b) Solid waste facilities other than those specified in paragraphs (1) and (2) of subdivision (a) shall not be required to comply with the requirements of this section.

(c) The person or agency proposing to establish a solid waste facility shall prepare and submit a site identification and description of the proposed facility to the task force established pursuant to Section 40950. Within 90 days after the site identification and description is submitted to the task force, the task force shall meet and comment on the proposed solid waste facility in writing. These comments shall include, but are not limited to, the relationship between the proposed solid waste facility and the implementation schedule requirements of Section 41780 and the regional impact of the facility. The task force shall transmit these comments to the person or public agency proposing establishment of the solid waste facility, to the county, and to all cities within the county. The comments shall become part of the official record of the proposed solid waste facility.

(d) The review and comment by the local task force required by subdivision (c) for amendment to an element may be satisfied by the review required by subdivision (a) of Section 41734 for an amendment to an element.

SEC. 493. Section 50001.5 of the Public Resources Code is amended to read:

50001.5. At the request of the ~~board~~ *Department of Conservation or the Department of Toxic Substances Control* or any local governmental entity, the Attorney General shall bring an action to enforce this division.

SEC. 494. Section 50002 of the Public Resources Code is amended to read:

50002. (a) The ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control* may, by regulation, specify classifications of solid waste facilities that are exempt from the requirements of Sections 50000, 50000.5, and 50001. The regulation may be adopted only if the ~~board~~ *Department of Toxic Substances Control* makes all of the following findings:

(1) The exemption is not contrary to the public interest.

(2) The quantity of solid wastes to be disposed of at each site is insignificant.

(3) The nature of the solid wastes poses no significant threat to the public health, the public safety, or the environment.

(b) The application to land of agricultural products derived from municipal sewage sludge for use as a fertilizer material, based on a finding by the ~~board~~ *Department of Toxic Substances Control* that the nature of the solid waste poses no significant threat to the public health, the public safety, or the environment, is exempt from the requirements of Sections 50000 and 50000.5.

SEC. 495. Section 71011 of the Public Resources Code is amended to read:

71011. "Environmental agency" means any of the following:

(a) The Department of Toxic Substances Control, the Department of Pesticide Regulation, the State Air Resources Board, the State Water Resources Control Board, ~~the California Integrated Waste Management Board,~~ and the Office of Environmental Health Hazard Assessment.

(b) A California regional water quality control board.

(c) A district, as defined in Section 39025 of the Health and Safety Code.

(d) An enforcement agency, as defined in Section 40130 of the Public Resources Code.

(e) A county agricultural commissioner with respect to his or her administration of Divisions 6 (commencing with Section 11401) and 7 (commencing with Section 12501) of the Food and Agricultural Code.

(f) The local agency responsible for administering Chapter 6.7 (commencing with Section 25280) of the Health and Safety Code concerning underground storage tanks and any underground storage tank ordinance adopted by a city or county.

(g) The local agency responsible for the administration of the requirements imposed pursuant to Section 13370.5 of the Water Code.

(h) A certified unified program agency as provided in Chapter 6.11 (commencing with Section 25404) of Division 20 of the Health and Safety Code.

(i) Any other state, regional, or local permit agency for the project that participates at the request of the permit applicant upon the permit agency's agreement to be subject to this division.

SEC. 496. Section 71017 of the Public Resources Code is amended to read:

71017. (a) "Council" means the California Environmental Policy Council.

(b) The council is hereby created and consists of the following members or their designees:

(1) The Secretary for Environmental Protection.

(2) The Director of Pesticide Regulation.

(3) The Director of Toxic Substances Control.

(4) The Chairperson of the State Air Resources Board.

(5) The Chairperson of the State Water Resources Control Board.

(6) The Director of the Office of Environmental Health Hazard Assessment.

~~(7) The Chairperson of the California Integrated Waste Management Board.~~

SEC. 497. Section 71071 of the Public Resources Code is amended to read:

71071. (a) On and after February 1, 2005, *the Department of Conservation,* the California Environmental Protection Agency, and its boards, departments, and offices shall provide and produce reports and other documentation pursuant to the guidelines established in Section 71070.

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

SEC. 498. Section 71300 of the Public Resources Code is amended to read:

71300. (a) For purposes of this part "office" means the Office of Education and the Environment of the ~~Integrated Waste Management Board~~ *Department of Toxic Substances Control*, as established pursuant to this section.

(b) The Office of Education and the Environment is hereby established in the ~~Integrated Waste Management Board~~ *Department of Toxic Substances Control*. The office shall report to both the Secretary for Environmental Protection and the ~~board~~ *Secretary of Education*. The office shall dedicate its effort to implementing the statewide environmental educational program prescribed pursuant to this part and the integrated waste management educational requirements of this division. The office, through staffing and resources, shall give a high priority to implementing the statewide environmental education program.

(c) The office, under the direction of the Secretary for Environmental Protection and the ~~board~~ *Secretary of Education*, in cooperation with the State Department of Education, the State Board of Education, and the Secretary for Education, shall develop and implement a unified education strategy on the environment for elementary and secondary schools in the state. The office shall develop a unified education strategy to do all of the following:

(1) Coordinate instructional resources and strategies for providing active pupil participation with onsite conservation efforts.

(2) Promote service-learning opportunities between schools and local communities.

(3) Assess the impact to participating pupils of the unified education strategy on pupil achievement and resource conservation.

(4) On or before June 30, 2006, the office shall report to the Legislature and the Governor on its progress in developing, implementing, and assessing the unified education strategy.

(d) The State Department of Education, State Board of Education, and Secretary for Education, in cooperation with the board, shall develop and implement to the extent feasible, a teacher training and implementation plan, to guide the implementation of the unified education strategy, for the education of pupils, faculty, and administrators on the importance of integrating environmental concepts and programs in schools throughout the state. The strategy

shall project the phased implementation of elementary, middle, and high school programs.

(e) In implementing this part, the office may hold public meetings to receive and respond to comments from affected state agencies, stakeholders, and the public regarding the development of resources and materials pursuant to this part.

(f) In implementing this part, the office shall coordinate with other agencies and groups with expertise in education and the environment, including, but not limited to, the California Environmental Education Interagency Network.

(g) Any instructional materials developed pursuant to this part shall be subject to the requirements of Chapter 1 (commencing with Section 60000) of Part 33 of the Education Code, including, but not limited to, reviews for legal and social compliance before the materials may be used in elementary or secondary public schools.

SEC. 499. Section 71302 of the Public Resources Code is amended to read:

71302. (a) Using the education principles for the environment required in Section 71301, the office, under the direction of the Secretary for Environmental Protection ~~and the board~~, shall develop, in cooperation with the California Environmental Protection Agency, the Resources Agency, the State Department of Education and the State Board of Education, a model environmental curriculum that incorporates these education principles for the environment. The model curriculum shall be aligned with applicable State Board of Education adopted academic content standards in Science, Mathematics, English/Language Arts, and History/Social Sciences, to the extent that any of those content areas are addressed in the model curriculum.

(b) The model curriculum shall be submitted to the Curriculum Development and Supplemental Materials Commission for review. The commission shall submit its recommendation to the Secretary for Environmental Protection and to the Secretary of the Resources Agency by July 1, 2005.

(1) The Secretary for Environmental Protection and the Secretary of the Resources Agency shall review and comment on the model curriculum by January 1, 2006.

(2) The model curriculum along with the comments by the Secretary for Environmental Protection and the Secretary of the

Resources Agency shall be submitted to the State Board of Education for its approval.

SEC. 500. Section 71303 of the Public Resources Code is amended to read:

71303. (a) As determined appropriate by the Superintendent of Public Instruction, the State Department of Education shall incorporate into publications that provide examples of curriculum resources for teacher use, those materials developed by the office that provide information on the education principles for the environment required in Section 71300.

(b) If the Superintendent of Public Instruction determines that materials developed by the office that provide information on the education principles for the environment are not appropriate for inclusion in publications that provide examples of curriculum resources for teacher use, the Superintendent of Public Instruction shall collaborate with the office to make the changes necessary to ensure that the materials are included in that information.

(c) The model environmental curriculum approved by the State Board of Education, pursuant to Section 71302 shall be made available by the office to elementary and secondary schools to the extent that funds are available for this purpose. The State Department of Education shall make the model curriculum available electronically including posting on its Web site.

(d) The State Department of Education, to the extent feasible and to the extent that funds are available for this purpose, shall encourage the development and use of instructional materials and active pupil participation in campus and community environmental education programs. To the extent feasible, the environmental education programs should be considered in the development and promotion of after school programs for elementary and secondary school pupils and state and local professional development activities to provide teachers with content background and resources to assist in teaching about the environment.

(e) (1) The ~~board~~ *Department of Toxic Substances Control* shall assume costs associated with the printing of the approved model curriculum as set forth in subdivision (c). The board shall use, for these purposes, funds that are available for its administrative costs.

(2) From funds available for its administrative costs, the State Department of Education shall post and maintain the model curriculum on its Internet site and pay any costs associated with

any related online questionnaire on its Internet site as set forth in subdivision (c).

(3) The State Department of Education shall explore implementation of this section from its baseline resources dedicated to this purpose and if funding is not available from that source, then funding may be provided to the department, pursuant to appropriation by the Legislature, under Section 71305.

SEC. 501. Section 71305 of the Public Resources Code is amended to read:

71305. (a) The Environmental Education Account is hereby established within the State Treasury. Moneys in the account may, upon appropriation by the Legislature, be expended by the California Environmental Protection Agency, in consultation with the ~~board~~ *Department of Toxic Substances Control*, for the purposes of this part. The ~~board~~ *Department of Toxic Substances Control*, shall provide recommendations to the Secretary for Environmental Protection regarding expenditures from the account. The Secretary for Environmental Protection shall administer this part, including, but not limited to, the account.

(b) Notwithstanding any other provision of law to the contrary, the agency may accept and receive federal, state, and local funds and contributions of funds from a public or private organization or individual. The account may also receive proceeds from a judgment in state or federal court, when the funds are contributed or the judgment specifies that the proceeds are to be used for the purposes if this part. The account may receive those funds, contributions, or proceeds from judgments, that are specifically designated for use for environmental education purposes. Private contributors shall not have the authority to further influence or direct the use of their contributions.

(c) Notwithstanding any other provision of law, a state agency that requires the development of, or encourages the promotion of, environmental education for elementary and secondary school pupils, may contribute to the account.

(d) The agency shall immediately deposit any funds contributed pursuant to subdivision (b) into the account.

SEC. 502. Section 7718 of the Public Utilities Code is amended to read:

7718. (a) The Railroad Accident Prevention and Immediate Deployment Force is hereby created in the California

Environmental Protection Agency. The force shall be responsible for providing immediate onsite response capability in the event of large-scale releases of toxic materials resulting from surface transportation accidents and for implementing the state hazardous materials incident prevention and immediate deployment plan. This force shall act cooperatively and in concert with existing local emergency response units. The force shall consist of representatives of all of the following:

(1) Department of Fish and Game.

(2) California Environmental Protection Agency.

(3) State Air Resources Board.

~~(4) California Integrated Waste Management Board.~~

~~(5)~~

(4) California regional water quality control boards.

~~(6)~~

(5) Department of Toxic Substances Control.

~~(7)~~

(6) Department of Pesticide Regulation.

~~(8)~~

(7) Office of Environmental Health Hazard Assessment.

~~(9)~~

(8) State Department of Health *Care* Services.

~~(10)~~

(9) Department of the California Highway Patrol.

~~(11)~~

(10) Department of Food and Agriculture.

~~(12)~~

(11) Department of Forestry and Fire Protection.

~~(13)~~

(12) Department of Parks and Recreation.

~~(14)~~

(13) Department of Boating and Waterways.

~~(15)~~

(14) California Public Utilities Commission.

~~(16)~~

(15) Any other potentially affected state, local, or federal agency.

~~(17) Office of Emergency Services.~~

(16) California Emergency Management Agency (Cal EMA).

(b) The California Environmental Protection Agency shall develop a state railroad accident prevention and immediate

deployment plan in cooperation with the State Fire Marshal, affected businesses, and all of the entities listed in paragraphs (1) to (17), inclusive, of subdivision (a).

(c) The plan specified in subdivision (b) shall be a comprehensive set of policies and directions that every potentially affected state agency and business shall follow if there is a railroad accident to minimize the potential damage to the public health and safety, property, and environment that might result from accidents involving railroad activities in the state.

SEC. 503. Section 45855 of the Revenue and Taxation Code is amended to read:

45855. Any information regarding solid wastes which is available to the board shall be made available to the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control*.

SEC. 504. Section 45863 of the Revenue and Taxation Code is amended to read:

45863. The board shall, in cooperation with the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control*, the Taxpayers' Rights Advocate, and other interested taxpayer-oriented groups, develop a plan to reduce the time required to resolve petitions for redetermination and claims for refunds. The plan shall include the determination of standard timeframes and special review of cases which take more time than the appropriate standard timeframe.

SEC. 505. Section 45981 of the Revenue and Taxation Code is amended to read:

45981. (a) The board shall provide any information obtained under this part to the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control*.

(b) The ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control* and the board may utilize any information obtained pursuant to this part to develop data on the generation or disposal of solid waste within the state. Notwithstanding any other provision of this chapter, the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control* may make waste generation and disposal data available to the public.

SEC. 506. Section 45982 of the Revenue and Taxation Code is amended to read:

45982. Neither the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances*, nor any person having an administrative duty under Part 9 (commencing with Section 15600) of Division 3 of Title 2 of the Government Code shall disclose the business affairs, operations, or any other proprietary information pertaining to a fee payer, except a fee payer which is a public agency, which was submitted to the board in a report or return required by this part, or permit any report or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not expressly authorized by Section 45981 or this section. However, the Governor may, by general or special order, authorize examination of the records maintained by the board under this part by other state officers, by officers of another state, by the federal government if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor shall not be made public except to the extent and in the manner that the order may authorize that it be made public.

SEC. 507. Section 31560 of the Vehicle Code is amended to read:

31560. (a) A person operating a vehicle, or combination of vehicles, in the transportation of 10 or more used tires or waste tires, or a combination of used tires and waste tires totaling 10 or more, as defined in Section 42950 of the Public Resources Code, shall be registered with the ~~California Integrated Waste Management Board~~ *Department of Toxic Substances Control*, unless specifically exempted, as provided in Chapter 19 (commencing with Section 42950) of Part 3 of Division 30 of the Public Resources Code and in regulations adopted by the board to implement that chapter.

(b) It is unlawful and constitutes an infraction for a person engaged in the transportation of 10 or more used tires or waste tires, or a combination of used tires and waste tires totaling 10 or more, to violate a provision of this article or Section 42951 of the Public Resources Code.

SEC. 508. This act addresses the fiscal emergency declared by the Governor by proclamation on December 19, 2008, pursuant

to subdivision (f) of Section 10 of Article IV of the California Constitution.

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