

**ASSEMBLY BILL**

**No. 686**

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**Introduced by Assembly Member Quirk**

February 21, 2013

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An act to amend Section 25143.2 of the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 686, as introduced, Quirk. Hazardous waste: recyclable materials. Under existing law, recyclable materials are subject to the requirements of the Hazardous Waste Control Law, except as specified. This bill would make technical, nonsubstantive changes to that provision.

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

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

1 SECTION 1. Section 25143.2 of the Health and Safety Code  
2 is amended to read:  
3 25143.2. (a) Recyclable materials are subject to this chapter  
4 and the regulations adopted by the department to implement this  
5 chapter that apply to hazardous wastes, unless the department  
6 issues a variance pursuant to Section 25143, or except as provided  
7 otherwise in subdivision (b), (c), or (d) or in the regulations adopted  
8 by the department pursuant to Sections 25150 and 25151.  
9 (b) Except as otherwise provided in subdivisions (e), (f), and  
10 (g), recyclable material that is managed in accordance with Section

1 25143.9 and is or will be recycled by ~~any one or more~~ of the  
2 following methods shall be excluded from classification as a waste:

3 (1) Used or reused as an ingredient in an industrial process to  
4 make a product if the material is not being reclaimed.

5 (2) Used or reused as a safe and effective substitute for  
6 commercial products if the material is not being reclaimed.

7 (3) Returned to the original process from which the material  
8 was generated, without first being reclaimed, if the material is  
9 returned as a substitute for raw material feedstock, and the process  
10 uses raw materials as principal feedstocks.

11 (c) Except as otherwise provided in subdivision (e), ~~any~~  
12 recyclable material may be recycled at a facility that is not  
13 authorized by the department pursuant to the applicable hazardous  
14 waste facilities permit requirements of Article 9 (commencing  
15 with Section 25200) if either of the following requirements is met:

16 (1) The material is a petroleum refinery waste containing oil  
17 that is converted into petroleum coke at the same facility ~~at which~~  
18 *where* the waste was generated unless the resulting coke product  
19 would be identified as a hazardous waste under this chapter.

20 (2) The material meets all of the following conditions:

21 (A) The material is recycled and used at the same facility ~~at~~  
22 ~~which~~ *where* the material was generated.

23 (B) The material is recycled within the applicable generator  
24 accumulation time limits specified in Section 25123.3 and the  
25 regulations adopted by the department pursuant to paragraph (1)  
26 of subdivision (b) of Section 25123.3.

27 (C) The material is managed in accordance with all applicable  
28 requirements for generators of hazardous wastes under this chapter  
29 and regulations adopted by the department.

30 (d) Except as otherwise provided in subdivisions (e), (f), (g),  
31 and (h), recyclable material that meets the definition of a  
32 non-RCRA hazardous waste in Section 25117.9, is managed in  
33 accordance with Section 25143.9, and meets or will meet ~~any one~~  
34 *or more* of the following requirements is excluded from  
35 classification as a waste:

36 (1) The material can be shown to be recycled and used at the  
37 site where the material was generated.

38 (2) The material qualifies as one or more of the following:

39 (A) The material is a product that has been processed from a  
40 hazardous waste, or has been handled, at a facility authorized by

1 the department pursuant to the facility permit requirements of  
2 Article 9 (commencing with Section 25200) to process or handle  
3 the material, if the product meets both of the following conditions:

4 (i) The product does not contain constituents, other than those  
5 for which the material is being recycled, that render the material  
6 hazardous under regulations adopted pursuant to Sections 25140  
7 and 25141.

8 (ii) The product is used, or distributed or sold for use, in a  
9 manner for which the product is commonly used.

10 (B) The material is a petroleum refinery waste containing oil  
11 that is converted into petroleum coke at the same facility ~~at which~~  
12 *where* the waste was generated, unless the resulting coke product  
13 would be identified as a hazardous waste under this chapter.

14 (C) The material is oily waste, used oil, or spent nonhalogenated  
15 solvent that is managed by the owner or operator of a refinery that  
16 is processing primarily crude oil and is not subject to permit  
17 requirements for the recycling of used oil, ~~of~~ *or by* a public utility,  
18 ~~or of~~ *by* a corporate subsidiary, corporate parent, or subsidiary of  
19 the same corporate parent of the refinery or public utility, and  
20 meets all of the following requirements:

21 (i) The material is either burned in an industrial boiler, an  
22 industrial furnace, an incinerator, or a utility boiler that is in  
23 compliance with all applicable federal and state laws, or is  
24 recombined with normal process streams to produce a fuel or other  
25 refined petroleum product.

26 (ii) The material is managed at the site where it was generated;  
27 managed at another site owned or operated by the generator, a  
28 corporate subsidiary of the generator, a subsidiary of the same  
29 entity of which the generator is a subsidiary, or the corporate parent  
30 of the generator; or, if the material is generated in the course of  
31 oil or gas exploration or production, managed by an unrelated  
32 refinery receiving the waste through a common pipeline.

33 (iii) The material does not contain constituents, other than those  
34 for which the material is being recycled, that render the material  
35 hazardous under regulations adopted pursuant to Sections 25140  
36 and 25141, unless the material is an oil-bearing material or  
37 recovered oil that is managed in accordance with subdivisions ~~(a)~~  
38 *(b)* and *(c)* of Section 25144 or unless the material is used oil  
39 removed from equipment, vehicles, or engines used primarily at  
40 the refinery where it is to be used to produce fuels or other refined

1 petroleum products and the used oil is managed in accordance with  
2 Section 279.22 of Title 40 of the Code of Federal Regulations prior  
3 to insertion into the refining process.

4 (D) The material is a fuel that is transferred to, and processed  
5 into, a fuel or other refined petroleum product at a petroleum  
6 refinery, as defined in paragraph (4) of subdivision (a) of Section  
7 25144, and meets one of the following requirements:

8 (i) The fuel has been removed from a fuel tank and is  
9 contaminated with water or nonhazardous debris, of not more than  
10 2 percent by weight, including, but not limited to, rust or sand.

11 (ii) The fuel has been unintentionally mixed with an unused  
12 petroleum product.

13 (3) The material is transported between locations operated by  
14 the same person who generated the material, if the material is  
15 recycled at the last location operated by that person and all of the  
16 conditions of clauses (i) to (vi), inclusive, of subparagraph (A) of  
17 paragraph (4) are met. If requested by the department or by any  
18 official authorized to enforce this section pursuant to subdivision  
19 (a) of Section 25180, a person handling material subject to this  
20 paragraph, within 15 days from the date of receipt of the request,  
21 shall supply documentation to show that the requirements of this  
22 paragraph have been satisfied.

23 (4) (A) The material is transferred between locations operated  
24 by the same person who generated the material, if the material is  
25 to be recycled at an authorized offsite hazardous waste facility and  
26 if all of the following conditions are met:

27 (i) The material is transferred by employees of that person in  
28 vehicles under the control of that person or by a registered  
29 hazardous waste hauler under contract to that person.

30 (ii) The material is not handled at ~~any~~ an interim location.

31 (iii) The material is not held at ~~any~~ a publicly accessible interim  
32 location for more than four hours unless required by other  
33 provisions of law.

34 (iv) The material is managed in compliance with this chapter  
35 and the regulations adopted pursuant to this chapter prior to the  
36 initial transportation of the material and after the receipt of the  
37 material at the last location operated by that person. Upon receipt  
38 of the material at the last location operated by that person, the  
39 material shall be deemed to have been generated at that location.

- 1 (v) All of the following information is maintained in an  
2 operating log at the last location operated by that person and kept  
3 for at least three years after receipt of the material at that location:
- 4 (I) The name and address of each generator location contributing  
5 material to each shipment received.
  - 6 (II) The quantity and type of material contributed by each  
7 generator to each shipment of material.
  - 8 (III) The destination and intended disposition of all material  
9 shipped offsite or received.
  - 10 (IV) The date of each shipment received or sent offsite.
- 11 (vi) If requested by the department, or by any law enforcement  
12 official, a person handling material subject to this paragraph, within  
13 15 days from the date of receipt of the request, shall supply  
14 documentation to show that the requirements of this paragraph  
15 have been satisfied.
- 16 (B) For purposes of paragraph (3) and subparagraph (A) of this  
17 paragraph, “person” also includes corporate subsidiary, corporate  
18 parent, or subsidiary of the same corporate parent.
- 19 (C) Persons that are a corporate subsidiary, corporate parent,  
20 or subsidiary of the same corporate parent, and that manage  
21 recyclable materials under paragraph (3) or subparagraph (A) of  
22 this paragraph, are jointly and severally liable for any activities  
23 excluded from regulation pursuant to this section.
- 24 (5) The material is used or reused as an ingredient in an  
25 industrial process to make a product if the material meets all of  
26 the following requirements:
- 27 (A) The material is not a wastewater that meets all of the  
28 following criteria:
    - 29 (i) The wastewater is a non-RCRA hazardous waste.
    - 30 (ii) The wastewater contains more than 75 parts per million of  
31 total petroleum hydrocarbons, as determined by use of United  
32 States Environmental Protection Agency Method 1664, Revision  
33 A for Silica Gel Treated N-Hexane Extractable Material.
    - 34 (iii) The wastewater has been transported offsite to a facility,  
35 that is not a publicly owned treatment works, a facility owned by  
36 the generator, or a corporate subsidiary, corporate parent, or a  
37 subsidiary of the same corporate parent of the generator.
  - 38 (B) ~~Any discharges to~~ *Discharges into the* air from the treatment  
39 of the material by the procedures specified in subparagraph (C)  
40 do not contain constituents that are hazardous wastes pursuant to

1 the regulations of the department and are in compliance with  
2 applicable air pollution control laws.

3 (C) The material is not being treated except by one or more of  
4 the following procedures:

5 (i) Filtering.

6 (ii) Screening.

7 (iii) Sorting.

8 (iv) Sieving.

9 (v) Grinding.

10 (vi) Physical or gravity separation without the addition of  
11 external heat or any chemicals.

12 (vii) pH adjustment.

13 (viii) Viscosity adjustment.

14 (6) The material is used or reused as a safe and effective  
15 substitute for commercial products, if the material meets all of the  
16 following requirements:

17 (A) The material is not a wastewater that meets all of the  
18 following criteria:

19 (i) The wastewater is a non-RCRA hazardous waste.

20 (ii) The wastewater contains more than 75 parts per million of  
21 total petroleum hydrocarbons, as determined by use of United  
22 States Environmental Protection Agency Method 1664, Revision  
23 A for Silica Gel Treated N-Hexane Extractable Material.

24 (iii) The wastewater has been transported offsite to a facility  
25 that is not a publicly owned treatment works, or a facility owned  
26 by the generator, or a corporate subsidiary, corporate parent, or a  
27 subsidiary of the same corporate parent of the generator.

28 (B) Any discharges to air from the treatment of the material by  
29 the procedures specified in subparagraph (C) do not contain  
30 constituents that are hazardous wastes pursuant to the regulations  
31 of the department and the discharges are in compliance with  
32 applicable air pollution control laws.

33 (C) The material is not being treated, except by one or more of  
34 the following procedures:

35 (i) Filtering.

36 (ii) Screening.

37 (iii) Sorting.

38 (iv) Sieving.

39 (v) Grinding.

1 (vi) Physical or gravity separation without the addition of  
2 external heat or any chemicals.

3 (vii) pH adjustment.

4 (viii) Viscosity adjustment.

5 (7) The material is a chlorofluorocarbon or  
6 hydrochlorofluorocarbon compound or a combination of  
7 chlorofluorocarbon or hydrochlorofluorocarbon compounds, is  
8 being reused or recycled, and is used in heat transfer equipment,  
9 including, but not limited to, mobile air-conditioning systems,  
10 mobile refrigeration, and commercial and industrial  
11 air-conditioning and refrigeration systems, used in fire  
12 extinguishing products, or contained within foam products.

13 (e) Notwithstanding subdivisions (b), (c), and (d), all of the  
14 following recyclable materials are hazardous wastes and *are* subject  
15 to full regulation under this chapter, even if the recycling involves  
16 use, reuse, or return to the original process as described in  
17 subdivision (b), and even if the recycling involves activities or  
18 materials described in subdivisions (c) and (d):

19 (1) Materials that are a RCRA hazardous waste, as defined in  
20 Section 25120.2, *are* used in a manner constituting disposal, or  
21 *are* used to produce products that are applied to the land, including,  
22 but not limited to, materials used to produce a fertilizer, soil  
23 amendment, agricultural mineral, or an auxiliary soil and plant  
24 substance.

25 (2) Materials that are a non-RCRA hazardous waste, as defined  
26 in Section 25117.9, and *are* used in a manner constituting disposal  
27 or used to produce products that are applied to the land as a  
28 fertilizer, soil amendment, agricultural mineral, or an auxiliary  
29 soil and plant substance. The department may adopt regulations  
30 to exclude materials from regulation pursuant to this paragraph.

31 (3) Materials burned for energy recovery, used to produce a  
32 fuel, or contained in fuels, except materials exempted under  
33 paragraph (1) of subdivision (c) or excluded under subparagraph  
34 (B), (C), or (D) of paragraph (2) of subdivision (d).

35 (4) Materials accumulated speculatively.

36 (5) Materials determined to be inherently wastelike pursuant to  
37 regulations adopted by the department.

38 (6) Used or spent etchants, stripping solutions, and plating  
39 solutions that are transported to an offsite facility operated by a  
40 person other than the generator and either of the following applies:

1 (A) The etchants or solutions are no longer fit for their originally  
2 purchased or manufactured purpose.

3 (B) If the etchants or solutions are reused, the generator and the  
4 user cannot document that they are used for their originally  
5 purchased or manufactured purpose without prior treatment.

6 (7) Used oil, as defined in *paragraph (1) of subdivision (a) of*  
7 *Section 25250.1*, unless one of the following applies:

8 (A) The used oil is *managed in accordance with the applicable*  
9 *requirements of Part 279 (commencing with 279.1) of Title 40 of*  
10 *the Code of Federal Regulations and is excluded under*  
11 ~~subparagraph~~ *any of the following:*

12 (i) *Subparagraph (B) or (C) of paragraph (2) of subdivision*  
13 ~~(d), paragraph (d).~~

14 (ii) *Paragraph (4) of subdivision (d), subdivision (d).*

15 (iii) *Subdivision (b) of Section 25250.1, or Section 25250.3,*  
16 ~~and is managed in accordance with the applicable requirements of~~  
17 ~~Part 279 (commencing with Section 279.1) of Title 40 of the Code~~  
18 ~~of Federal Regulations. 25250.1.~~

19 (iv) *Section 25250.3.*

20 (B) The used oil is used or reused on the site where it was  
21 generated or is excluded under paragraph (3) of subdivision (d),  
22 is managed in accordance with the applicable requirements of Part  
23 279 (commencing with Section 279.1) of Title 40 of the Code of  
24 Federal Regulations, and is not any of the following:

25 (i) Used in a manner constituting disposal or used to produce a  
26 product that is applied to land.

27 (ii) Burned for energy recovery or used to produce a fuel unless  
28 the used oil is excluded under subparagraph (B) or (C) of paragraph  
29 (2) of subdivision (d).

30 (iii) Accumulated speculatively.

31 (iv) Determined to be inherently wastelike pursuant to  
32 regulations adopted by the department.

33 (f) (1) ~~Any~~ A person who manages a recyclable material under  
34 a claim that the material qualifies for exclusion or exemption  
35 pursuant to this section shall provide, upon request, to the  
36 department, the California Environmental Protection Agency, or  
37 ~~any~~ local agency or official authorized to bring an action as  
38 provided in Section 25180, all of the following information:

1 (A) The name, street and mailing address, and telephone number  
2 of the owner or operator of ~~any~~ *the* facility that manages the  
3 material.

4 (B) ~~Any other information~~ *Information* related to the  
5 management by that person of the material requested by the  
6 department, the California Environmental Protection Agency, or  
7 the authorized local agency or official.

8 (2) ~~Any~~ A person claiming an exclusion or an exemption  
9 pursuant to this section shall maintain adequate records to  
10 demonstrate to the satisfaction of the requesting agency or official  
11 that there is a known market or disposition for the material, and  
12 that the requirements of ~~any~~ *an* exemption or exclusion *claimed*  
13 pursuant to this section are met.

14 (3) For purposes of determining that the conditions for exclusion  
15 from classification as a waste pursuant to this section are met, ~~any~~  
16 *a* person, facility, site, or vehicle engaged in the management of  
17 a material under a claim that the material is excluded from  
18 classification as a waste pursuant to this section is subject to  
19 Section 25185.

20 (g) For purposes of Chapter 6.8 (commencing with Section  
21 25300), recyclable materials excluded from classification as a  
22 waste pursuant to this section are not excluded from the definition  
23 of hazardous substances in subdivision (g) of Section 25316.

24 (h) Used oil that fails to qualify for exclusion pursuant to  
25 subdivision (d) solely because the used oil is a RCRA hazardous  
26 waste may be managed pursuant to subdivision (d) if the used oil  
27 is also managed in accordance with the applicable requirements  
28 of Part 279 (commencing with Section 279.1) of Title 40 of the  
29 Code of Federal Regulations.