

AMENDED IN ASSEMBLY MAY 7, 2013
AMENDED IN ASSEMBLY APRIL 24, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1329

Introduced by Assembly Member V. Manuel Pérez
(Principal coauthor: Assembly Member Alejo)

February 22, 2013

An act to amend Sections 25135.9, 25161, 25162, ~~25178, 25186, 25200, and 25200.5~~ and 25178 of, and to add Sections ~~25122.10, 25135.10, 25135.11, 25135.11~~ and 25150.9 to, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1329, as amended, V. Manuel Pérez. Hazardous waste: environmental justice.

(1) Existing law requires the California Environmental Protection Agency to develop a strategy for identifying and addressing any gaps in existing programs, policies, or activities that may impede the achievement of environmental justice, as defined, and requires each board, department, and office within the agency to review its programs, policies, and activities and identify and address any gaps in its existing programs, policies, or activities that may impede the achievement of environmental justice.

Existing law requires the Department of Toxic Substances Control to prepare and adopt a state hazardous waste management plan by November 30, 1991, and to revise the plan at least once every 3 years.

The state plan is required to be prepared in conjunction with, and take into account, certain local hazardous waste management plans.

This bill would instead require the department to prepare and adopt, by January 1, 2016, a state hazardous waste management plan to address the matter of environmental justice in the management of hazardous waste and to serve as a comprehensive and enforceable planning document for the state. The bill would specify the elements required to be included in the plan and would require the plan to be reviewed and revised, as specified. The bill would require the Director of Toxic Substances Control to approve the plan and to submit the plan to specified committees of the Legislature.

The bill would require the department to adopt regulations to ensure that minority populations and low-income populations are not disproportionately impacted by the adverse human health, social, economic, and environmental effects of the hazardous waste managed pursuant to the hazardous waste control law. Since a violation of the regulations adopted pursuant to the hazardous waste control law is a crime, the bill would impose a state-mandated local program. The bill would allow a person to commence a civil action on that person's own behalf against a person who is alleged to be in violation of those regulations or alleging a failure by the department to perform an act or duty pursuant to specified provisions.

~~(2) Existing law prohibits a person from accepting, treating, storing, or disposing of hazardous waste unless the person holds a hazardous waste facilities permit or authorization, or is operating under a permit-by-rule or a grant of conditional authorization or conditional exemption. The department is required to issue a hazardous waste facilities permit to a facility that, in the judgment of the department, meets specified requirements. The permit is required to be issued for a fixed term and existing law specifies a procedure for the extension of that term. Existing law provides for the enforcement of the hazardous waste control law, including authorizing the department to issue a corrective action order or denying, suspending, or revoking a permit applied for or issued, if the applicant or permitholder has taken specified actions.~~

~~This bill would prohibit the department from issuing a hazardous waste facilities permit to the operator of a hazardous waste landfill facility or the operator of a hazardous waste facility that the department finds has not complied with a corrective action order until the date when~~

~~the director approves the state hazardous waste management plan specified above and submits the plan, as specified.~~

~~The bill would authorize, instead of require, the department to issue a hazardous waste facility permit that meets those requirements and would additionally require the facility to comply with the regulations specified above that the bill would require the department to adopt.~~

~~The bill would define the term “significant noncomplying operation” and would prohibit the department from issuing a hazardous waste facilities permit to a significant noncomplying operation. The bill would prohibit the owner or operator of a significant noncomplying operation from utilizing the existing procedure for the extension of the term of a permit and would authorize the department to revoke a permit, registration, or certificate if the permit holder or applicant engages in activities resulting in the applicant or permit holder meeting the conditions of a significant noncomplying operator.~~

~~(3) Existing law authorizes the department to grant interim status for the operator of certain hazardous waste facilities and prohibits the department from issuing interim status to a person meeting certain conditions.~~

~~The bill would additionally prohibit the department from granting interim status to a person who has been classified as a significant noncomplying operation.~~

~~(4)~~

~~(2) Existing law requires the department to post certain information on or before January 1 of each odd-numbered year on its Internet Web site.~~

~~This bill would revise the information required to be posted and would require the information to be searchable and translated into Spanish.~~

~~(5)~~

~~(3) Existing law prohibits a person from transporting hazardous waste, as specified, if the final destination of the transported hazardous waste is in a state other than this state or in a territory of the United States, unless the facility is issued a permit pursuant to the federal Resource Conservation and Recovery Act of 1976 or the facility is authorized by the state to accept that waste. Existing law requires the department to develop a specified database regarding hazardous waste shipped in and out of state.~~

~~This bill would additionally *instead* prohibit a person from ~~taking that action~~ *transporting hazardous waste, as specified*, if the final destination of the transported hazardous waste is a domestic facility~~

outside the jurisdiction of the state unless ~~those~~ *certain* conditions apply to the facility, including whether the facility is subject to a cooperative agreement, as specified. The bill would revise the information required to be included in the department’s database with regard to hazardous waste shipped in and out of the state’s jurisdiction.

~~(6)~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Legislature finds and declares all of the following:

2 (a) All hazardous waste landfill facilities and the majority of
3 other types of hazardous waste facilities in the state are located in
4 or near low-income Latino communities. The siting and operation
5 of the state’s hazardous waste facilities near low-income Latino
6 communities disparately and adversely affects those communities,
7 in violation of both Section 11135 of the Government Code and
8 Title VI of the Civil Rights Act (42 U.S.C. Sec. 2000d and
9 following).

10 (b) Under Section 11135 of the Government Code and Title VI
11 of the Civil Rights Act, the Department of Toxic Substances
12 Control has a responsibility to prevent racial discrimination in the
13 siting and operation of hazardous waste disposal facilities.

14 (c) California needs a statewide hazardous waste disposal and
15 management plan to promote environmental justice, thereby
16 protecting the civil rights of minority residents in the communities
17 targeted for hazardous waste disposal facilities and other types of
18 hazardous waste management facilities.

19 ~~(d) It is, therefore, the intent of the Legislature to establish a~~
20 ~~moratorium on the issuance of permits to operators of hazardous~~
21 ~~waste landfill facilities or hazardous waste facilities that have failed~~
22 ~~to comply with a corrective action order issued by the department~~
23 ~~until the department has developed a plan to reduce the prevalence~~
24 ~~of hazardous waste facilities in low-income communities.~~

1 ~~SEC. 2.~~ Section 25122.10 is added to the Health and Safety Code,
2 to read:

3 25122.10. ~~“Significant noncomplying operation” means a~~
4 ~~facility, an owner, or an operator that meets either of the following~~
5 ~~conditions:~~

6 ~~(a) The facility, owner, or operator has been issued three separate~~
7 ~~class I violations by the department within a five-year period.~~

8 ~~(b) The department finds that the facility, owner, or operator is~~
9 ~~in substantial deviation from the terms of a permit, order, including~~
10 ~~an order for corrective action, settlement document, corrective~~
11 ~~action, or other enforcement action issued pursuant to this chapter,~~
12 ~~because the facility, owner, or operator has failed to meet the~~
13 ~~requirements of the permit, order, settlement document, corrective~~
14 ~~action, or other enforcement action in a timely manner, or because~~
15 ~~the facility, owner, or operator has otherwise failed to undertake~~
16 ~~those actions specified by the department in the permit, order,~~
17 ~~settlement document, corrective action, or other enforcement~~
18 ~~action.~~

19 ~~SEC. 3.~~

20 *SEC. 2.* Section 25135.9 of the Health and Safety Code is
21 amended to read:

22 25135.9. (a) For purposes of this section, the following
23 definitions shall apply:

24 (1) “Environmental justice” means the fair treatment of people
25 of all races, cultures, and incomes with respect to the development,
26 adoption, implementation, and enforcement of environmental laws,
27 regulations, and policies.

28 (2) “Hazardous waste landfill facility” means a hazardous waste
29 facility that disposes of hazardous waste to land, as specified in
30 Section 25174.1.

31 (b) The department shall, pursuant to this section and in
32 accordance with the requirements of subdivision (d) of Section
33 25170, prepare and adopt a hazardous waste management plan
34 that would address matters of environmental justice in the
35 management of the state’s hazardous waste. The state’s hazardous
36 waste management plan adopted pursuant to this section shall serve
37 as a comprehensive and enforceable planning document for the
38 state to ensure that minority populations and low-income
39 populations are not disproportionately impacted by the adverse

1 human health, social, economic, and environmental effects of
2 hazardous waste management, including disposal.

3 (c) The state hazardous waste management plan shall be
4 prepared and adopted by the department on or before January 1,
5 2016, shall be reviewed annually, and shall be revised to reflect
6 new information at least once every three years.

7 (d) In preparing and adopting the state hazardous waste
8 management plan, and in revising the plan thereafter, the
9 department shall do all of the following:

10 (1) Publish the draft plan or the revised plan in English and
11 Spanish and make it available to the public for review and comment
12 at least three months before final adoption.

13 (2) Conduct workshops and at least six public hearings on the
14 plan or the draft revised plan, one in the southern part of the state,
15 one in the central part of the state, one in the northern part of the
16 state, and one in each community that hosts a hazardous waste
17 landfill facility, to solicit the views of the public, local government,
18 regional councils of governments, and interested parties.

19 (3) Include in the final state hazardous waste management plan
20 and in revisions of the plan, a summary of the comments received
21 and the department's responses to those comments.

22 (e) The state hazardous waste management plan, and each
23 revision of the plan, shall include, but need not be limited to, all
24 of the following elements:

25 (1) An analysis of the hazardous waste streams produced in the
26 state, an accounting of the volumes of hazardous waste produced
27 in each county and region of the state, by type of waste, and
28 estimates of the expected rates of hazardous waste production, by
29 type of waste, during the next five years.

30 (2) An inventory of existing and planned hazardous waste
31 facilities that handle, treat, recycle, dispose, or otherwise manage
32 hazardous wastes produced in the state, which shall include all of
33 the following:

34 (A) The racial and socioeconomic composition of populations
35 within one-half-mile, one-mile, and five-mile radii around each
36 existing or planned hazardous waste facility.

37 (B) A description of each facility and a full and complete
38 summary of the facilities' compliance history, including, but not
39 limited to, the enforcement actions taken by the department or any
40 other state department or board that is within the California

1 Environmental Protection Agency, and the penalties imposed
2 pursuant to those enforcement actions.

3 (C) A determination of the capacity of each existing or planned
4 hazardous waste facility to handle, treat, recycle, dispose, or
5 otherwise manage the waste streams it is authorized to handle,
6 treat, recycle, dispose, or otherwise manage.

7 (D) A description of the current progress and status of each
8 planned hazardous waste facility in achieving operational status,
9 including a timetable for becoming operational.

10 (3) An assessment of the need for additional hazardous waste
11 facilities to manage the volumes of hazardous waste currently
12 produced or which are expected to be produced during the next
13 20 years.

14 (4) An identification of the areas or regions of the state where
15 new or expanded capacity to manage hazardous wastes are needed
16 and the types of facilities that should be sited and constructed.

17 (5) A description of the enforceable policies, programs,
18 incentives, requirements, prohibitions, or other measures necessary
19 to eliminate the disproportionate impact of hazardous waste
20 management, including disposal, on low-income and minority
21 populations, which may include specific measures to reduce the
22 amount of hazardous waste generated within the state.

23 (6) A statement of goals, objectives, and policies currently in
24 effect, or in the process of development, that address environmental
25 justice in the siting and operation of hazardous waste facilities and
26 the management of hazardous wastes during the next five years.

27 (7) A schedule of enforceable actions, including specific dates,
28 for carrying out state, regional, and local actions to implement the
29 state hazardous waste management plan.

30 (f) The director shall approve a hazardous waste management
31 plan prepared in accordance with this section and shall submit the
32 approved plan to the Assembly Committee on Environmental
33 Safety and Toxic Materials and the Assembly Committee on
34 Budget.

35 ~~SEC. 4. Section 25135.10 is added to the Health and Safety~~
36 ~~Code, to read:~~

37 ~~25135.10. (a) Notwithstanding Article 9 (commencing with~~
38 ~~Section 25200), the department shall not issue a hazardous waste~~
39 ~~facilities permit to the operator of a hazardous waste landfill facility~~
40 ~~or the operator of a hazardous waste facility that the department~~

1 ~~finds has not complied with an order issued pursuant to Section~~
2 ~~25187.~~

3 ~~(b) Subdivision (a) shall become inoperative on or after the date~~
4 ~~the director approves the state hazardous waste management plan~~
5 ~~pursuant to subdivision (f) of Section 25135.9 and the director~~
6 ~~submits the plan in accordance with that subdivision.~~

7 ~~SEC. 5.~~

8 *SEC. 3.* Section 25135.11 is added to the Health and Safety
9 Code, to read:

10 25135.11. (a) (1) A person may commence a civil action on
11 that person’s own behalf against a person who is alleged to be in
12 violation of the regulations adopted pursuant to Section 25150.9.

13 (2) A person may commence a civil action on that person’s own
14 behalf alleging a failure by the department to perform an act or
15 duty required under Section ~~25135.9, 25135.10, 25150.9, or 25200~~
16 ~~25135.9 or 25150.9~~ and that is not otherwise a discretionary act
17 or duty.

18 (b) The superior court shall have jurisdiction to enforce a
19 regulation specified in paragraph (1) of subdivision (a), or to order
20 the department to perform an act or duty specified in paragraph
21 (2) of subdivision (a), and to apply any appropriate civil penalties.

22 (c) In an action brought pursuant to paragraph (2) of subdivision
23 (a), the inquiry shall extend to the question of whether the
24 department has proceeded without, or in excess of, its jurisdiction,
25 and whether there was any prejudicial abuse of discretion. The
26 court shall find that an abuse of discretion has been established if
27 the department has not proceeded in the manner required by law,
28 if the act or duty is not supported by the department’s findings, or
29 if the department’s findings are not supported by the evidence. If
30 it is claimed that the findings are not supported by the evidence,
31 the court shall find that an abuse of discretion is established if the
32 court determines that the findings are not supported by the weight
33 of the evidence.

34 ~~SEC. 6.~~

35 *SEC. 4.* Section 25150.9 is added to the Health and Safety
36 Code, to read:

37 25150.9. Upon the approval of the state hazardous waste
38 management plan pursuant to subdivision (f) of Section 25135.9,
39 the department shall adopt regulations to implement the plan to
40 ensure that minority populations and low-income populations are

1 not disproportionately impacted by the adverse health, social,
2 economic, and environmental effects of the hazardous waste
3 managed pursuant to this chapter.

4 ~~SEC. 7.~~

5 *SEC. 5.* Section 25161 of the Health and Safety Code is
6 amended to read:

7 25161. (a) The department may adopt and enforce those
8 regulations, regarding a uniform program for hazardous waste
9 transportation, that are necessary and appropriate to achieve
10 consistency with the findings made by the Federal Highway
11 Administration and the federal Department of Transportation
12 pursuant to Chapter 51 (commencing with Section 5101) of Title
13 49 of the United States Code.

14 (b) The department shall adopt and enforce all rules and
15 regulations that are necessary and appropriate to accomplish the
16 purposes of Section 25160.

17 (c) The department shall develop a database that tracks all
18 hazardous waste shipped in and out of the state's jurisdiction for
19 handling, treatment, storage, disposal, or any combination thereof,
20 which includes all of the following information:

- 21 (1) The jurisdiction receiving the waste.
- 22 (2) Month and year of shipment.
- 23 (3) Type of hazardous waste shipped.
- 24 (4) The manner in which the hazardous waste was handled at
25 its final destination, such as incineration, treatment, recycling, land
26 disposal, or a combination thereof.

27 (d) The department shall include in the biennial report specified
28 in Section 25178 all of the following information:

- 29 (1) The total volume in tons of hazardous waste generated in
30 the state and shipped offsite for handling, treatment, storage,
31 disposal, or any combination thereof.
- 32 (2) The total volume in tons of hazardous waste generated in
33 the state and shipped in and out of the state for handling, treatment,
34 storage, disposal, or any combination thereof, including all of the
35 following information:
 - 36 (A) The jurisdiction receiving the hazardous waste.
 - 37 (B) Month and year of shipment.
 - 38 (C) Type of hazardous waste shipped.

1 (D) The manner in which the hazardous waste was handled at
2 its final destination, such as incineration, treatment, recycling, land
3 disposal, or a combination thereof.

4 ~~SEC. 8.~~

5 *SEC. 6.* Section 25162 of the Health and Safety Code is
6 amended to read:

7 25162. (a) A person shall not transport hazardous waste on
8 the highways of this state, or deliver to a railroad or vessel
9 hazardous waste for transport if the final destination of the
10 transported hazardous waste is a domestic facility outside the
11 jurisdiction of the state, unless one of the following applies:

12 (1) The facility has been issued a permit pursuant to subsection
13 (c) or (g), or has been granted authority to operate pursuant to
14 subsection (e) of Section 3005 of the federal act (42 U.S.C. Sec.
15 6925) by either of the following:

16 (A) The United States Environmental Protection Agency.

17 (B) The state in which the facility is located, if the state has
18 authorization to operate a hazardous waste program pursuant to
19 Section 3006 of the federal act (42 U.S.C. Sec. 6926).

20 (2) The facility is authorized by the state ~~or location~~ in which
21 it is located, pursuant to the applicable laws or regulations of that
22 ~~state or location~~, *state*, to accept the transported hazardous waste
23 for transfer, handling, recycling, storage, treatment, or disposal.

24 (3) The facility is subject to a cooperative agreement executed
25 pursuant to Section 25198.3.

26 (b) A person shall not transport hazardous waste on the highways
27 of this state, or deliver to a railroad or vessel hazardous waste for
28 transport, if the final destination of the transported hazardous waste
29 is a facility that is located on a site that has been listed on the
30 National Priorities List established pursuant to Section 105 of the
31 Comprehensive Environmental Response, Compensation, and
32 Liability Act of 1980, as amended (42 U.S.C. Sec. 9605(a)(8)(B)).

33 (c) A person who knowingly transports or causes the
34 transportation of, or who reasonably should have known that the
35 person was causing the transportation of, hazardous waste in
36 violation of subdivision (a) or (b) shall, upon conviction, be subject
37 to the penalties specified in subdivision (a) of Section 25191.

38 (d) A person who knowingly delivers, or arranges the delivery
39 of, hazardous waste to another person for transport in violation of

1 subdivision (a) or (b) shall, upon conviction, be subject to the
2 penalties specified in subdivision (a) of Section 25191.

3 (e) A person shall not transport hazardous waste that is subject
4 to the requirements of Section 3017 of the federal act (42 U.S.C.
5 Sec. 6938) on the highways of this state or deliver to a railroad or
6 vessel any of this hazardous waste for transport, if the final
7 destination of the transported hazardous waste is a foreign country,
8 unless the shipment is in compliance with the applicable regulations
9 adopted pursuant to Section 25150.2 and either of the following
10 conditions is met:

11 (1) A copy of the foreign country's written consent to receive
12 the hazardous waste, or a copy of the EPA Acknowledgement of
13 Consent, as defined in Section 262.51 of Title 40 of the Code of
14 Federal Regulations, is attached to the manifest required by this
15 article.

16 (2) The hazardous waste shipment is in compliance with the
17 terms of an international agreement between the United States and
18 the receiving foreign country, as provided in subsection (f) of
19 Section 3017 of the federal act (42 U.S.C. Sec. 6938 (f)).

20 (f) A person who knowingly violates, or who reasonably should
21 have known that the person was violating, subdivision (e) shall,
22 upon conviction, be subject to the penalties specified in subdivision
23 (a) of Section 25191.

24 ~~SEC. 9.~~

25 *SEC. 7.* Section 25178 of the Health and Safety Code is
26 amended to read:

27 25178. On or before January 1 of each odd-numbered year, the
28 department shall post on its Internet Web site and translate into
29 Spanish, at a minimum, all of the following:

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

32 (b) The status of the hazardous waste facilities permit program,
33 that shall include all of the following information:

34 (1) A description of the final hazardous waste facilities permit
35 applications received.

36 (2) A searchable list of final hazardous waste facilities permits
37 issued to date.

38 (3) A searchable list of final hazardous waste facilities permits
39 yet to be issued.

1 (4) A complete description of the reasons why the final
2 hazardous waste facilities permits yet to be issued have not been
3 issued.

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

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

6 (e) A searchable list of enforcement actions taken by the
7 department pursuant to this chapter and other enforcement actions
8 relating to hazardous waste management. The list shall specify
9 whether the violations have been corrected and shall include
10 Internet Web links to inspection reports, draft orders, final orders,
11 and enforcement actions taken by other agencies.

12 (f) A searchable list of significant noncomplying operations.

13 (g) Summary data on annual quantities and types of hazardous
14 waste generated, transported, treated, stored, and disposed.

15 (h) Summary data regarding the onsite and offsite disposition
16 of hazardous waste.

17 (i) Research activity initiated by the department.

18 (j) Regulatory action by other agencies relating to hazardous
19 waste management.

20 (k) A revised listing of recyclable materials showing any
21 additions or deletions to the list prepared pursuant to Section 25175
22 that have occurred since the last report.

23 (l) Any other data considered pertinent by the department to
24 hazardous waste management.

25 (m) The information specified in subdivision (c) of Section
26 25161, paragraph (4) of subdivision (b) of Section 25197.1,
27 subdivision (c) of Section 25354, and Section 25334.7.

28 (n) A status report on the cleanup of the McColl Hazardous
29 Waste Disposal Site in Orange County.

30 *SEC. 8. The provisions of this act are severable. If any*
31 *provision of this act or its application is held invalid, that invalidity*
32 *shall not affect other provisions or applications that can be given*
33 *effect without the invalid provision or application.*

34 *SEC. 9. No reimbursement is required by this act pursuant to*
35 *Section 6 of Article XIII B of the California Constitution because*
36 *the only costs that may be incurred by a local agency or school*
37 *district will be incurred because this act creates a new crime or*
38 *infraction, eliminates a crime or infraction, or changes the penalty*
39 *for a crime or infraction, within the meaning of Section 17556 of*
40 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 ~~SEC. 10. Section 25186 of the Health and Safety Code is~~
4 ~~amended to read:~~

5 ~~25186. The department may deny, suspend, or revoke a permit,~~
6 ~~registration, or certificate applied for, or issued, pursuant to this~~
7 ~~chapter in accordance with the procedures specified in Sections~~
8 ~~25186.1 and 25186.2, if the applicant or holder of the permit,~~
9 ~~registration, or certificate, or in the case of a business concern, a~~
10 ~~trustee, officer, director, partner, or a person holding more than 5~~
11 ~~percent of the equity in or debt liability of that business concern,~~
12 ~~has engaged in any of the following:~~

13 ~~(a) A violation of, or noncompliance with, any of the following,~~
14 ~~if the violation or noncompliance shows a repeating or recurring~~
15 ~~pattern or may pose a threat to public health or safety or the~~
16 ~~environment:~~

17 ~~(1) This chapter.~~

18 ~~(2) Chapter 6.7 (commencing with Section 25280).~~

19 ~~(3) Chapter 6.8 (commencing with Section 25300).~~

20 ~~(4) The Porter-Cologne Water Quality Control Act (Division 7~~
21 ~~commencing with Section 13000) of the Water Code).~~

22 ~~(5) The federal act.~~

23 ~~(6) The Hazardous Materials Transportation Act, as amended~~
24 ~~(49 U.S.C. Sec. 5101 et seq.).~~

25 ~~(7) The Comprehensive Environmental Response,~~
26 ~~Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et~~
27 ~~seq.).~~

28 ~~(8) The Toxic Substances Control Act (15 U.S.C. Sec. 2601 et~~
29 ~~seq.).~~

30 ~~(9) Any other equivalent federal or state statute or any~~
31 ~~requirement or regulation adopted pursuant thereto relating to the~~
32 ~~generation, transportation, treatment, storage, recycling, disposal~~
33 ~~or handling of a hazardous waste, as defined in Section 25117, a~~
34 ~~hazardous substance, as defined in Section 25316, or a hazardous~~
35 ~~material, as defined in Section 353 of the Vehicle Code.~~

36 ~~(b) The aiding, abetting, or permitting of a violation of, or~~
37 ~~noncompliance with, any of the following, if the violation or~~
38 ~~noncompliance shows a repeating or recurring pattern or may pose~~
39 ~~a threat to public health or safety or the environment:~~

40 ~~(1) This chapter.~~

- 1 ~~(2) Chapter 6.7 (commencing with Section 25280).~~
- 2 ~~(3) Chapter 6.8 (commencing with Section 25300).~~
- 3 ~~(4) The Porter-Cologne Water Quality Act (Division 7~~
- 4 ~~(commencing with Section 13000) of the Water Code).~~
- 5 ~~(5) The federal act.~~
- 6 ~~(6) The Hazardous Materials Transportation Act, as amended~~
- 7 ~~(49 U.S.C. Sec. 5101 et seq.).~~
- 8 ~~(7) The Comprehensive Environmental Response, Compensation~~
- 9 ~~and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).~~
- 10 ~~(8) The Toxic Substances Control Act (15 U.S.C. Sec. 2601 et~~
- 11 ~~seq.).~~
- 12 ~~(9) Any other equivalent federal or state statute or any~~
- 13 ~~requirement or regulation adopted pursuant thereto relating to the~~
- 14 ~~generation, transportation, treatment, storage, recycling, disposal~~
- 15 ~~or handling of a hazardous waste, as defined in Section 25117, a~~
- 16 ~~hazardous substance, as defined in Section 25316, or a hazardous~~
- 17 ~~material, as defined in Section 353 of the Vehicle Code.~~
- 18 ~~(e) A violation of, or noncompliance with, an order issued by~~
- 19 ~~a state or local agency or by a hearing officer or a court relating~~
- 20 ~~to the generation, transportation, treatment, storage, recycling,~~
- 21 ~~disposal or handling of a hazardous waste, as defined in Section~~
- 22 ~~25117, a hazardous substance, as defined in Section 25316, or a~~
- 23 ~~hazardous material, as defined in Section 353 of the Vehicle Code.~~
- 24 ~~(d) A misrepresentation or omission of a significant fact or other~~
- 25 ~~required information in the application for the permit, registration,~~
- 26 ~~or certificate, or in information subsequently reported to the~~
- 27 ~~department or to a local officer or agency authorized to enforce~~
- 28 ~~this chapter pursuant to Section 25180.~~
- 29 ~~(e) Activities resulting in a federal or state conviction that are~~
- 30 ~~significantly related to the fitness of the applicant or holder of the~~
- 31 ~~permit, registration, or certificate to perform the applicant’s duties~~
- 32 ~~or activities under the permit, registration, or certificate. For the~~
- 33 ~~purposes of this subdivision, “conviction” means a plea or verdict~~
- 34 ~~of guilty or a conviction following a plea of nolo contendere. Any~~
- 35 ~~action that the department may take pursuant to this subdivision~~
- 36 ~~relating to the denial, suspension or revocation of a permit,~~
- 37 ~~registration, or certificate may be based upon a conviction for~~
- 38 ~~which any of the following has occurred:~~
- 39 ~~(1) The time for appeal has elapsed.~~
- 40 ~~(2) The judgment of conviction has been affirmed on appeal.~~

1 ~~(3) Any order granting probation is made suspending the~~
2 ~~imposition of sentence, notwithstanding a subsequent order~~
3 ~~pursuant to Section 1203.4 of the Penal Code permitting that person~~
4 ~~to withdraw the person's plea of guilty, and to enter a plea of not~~
5 ~~guilty, or setting aside the verdict of guilty, or dismissing the~~
6 ~~accusation, information, or indictment.~~

7 ~~(f) Activities resulting in the revocation or suspension of a~~
8 ~~license, permit, registration or certificate held by the applicant or~~
9 ~~holder of the permit, registration or certificate or, if the applicant~~
10 ~~or holder of the permit, registration, or certificate is a business~~
11 ~~concern, by a trustee, officer, director, partner, or a person holding~~
12 ~~more than 5 percent of the equity in, or debt liability of that~~
13 ~~business concern relating to, the generation, transportation,~~
14 ~~treatment, storage, recycling, disposal, or handling of a hazardous~~
15 ~~waste, as defined in Section 25117, a hazardous substance, as~~
16 ~~defined in Section 25316, or a hazardous material, as defined in~~
17 ~~Section 353 of the Vehicle Code.~~

18 ~~(g) Activities resulting in the applicant or permit holder meeting~~
19 ~~the definition of a significant noncomplying operation.~~

20 ~~SEC. 11. Section 25200 of the Health and Safety Code is~~
21 ~~amended to read:~~

22 ~~25200. (a) (1) The department may issue hazardous waste~~
23 ~~facilities permits to use and operate one or more hazardous waste~~
24 ~~management units at a facility that in the judgment of the~~
25 ~~department meet all of the following requirements:~~

26 ~~(A) Meet the building standards published in the California~~
27 ~~Building Standards Code relating to hazardous waste facilities.~~

28 ~~(B) Comply with the regulations adopted pursuant to Section~~
29 ~~25150.9.~~

30 ~~(C) Comply with the other standards and requirements adopted~~
31 ~~pursuant to this chapter.~~

32 ~~(2) The department shall impose conditions on each hazardous~~
33 ~~waste facilities permit specifying the types of hazardous wastes~~
34 ~~that may be accepted for transfer, storage, treatment, or disposal.~~
35 ~~The department may impose any other condition on a hazardous~~
36 ~~waste facilities permit that is consistent with the intent of this~~
37 ~~chapter.~~

38 ~~(3) The department shall not issue a hazardous waste facilities~~
39 ~~permit to a significant noncomplying operation.~~

1 ~~(b) The department may impose, as a condition of a hazardous~~
2 ~~waste facilities permit, a requirement that the owner or operator~~
3 ~~of a hazardous waste facility that receives hazardous waste from~~
4 ~~more than one producer comply with an order of the director that~~
5 ~~prohibits the facility operator from refusing to accept a hazardous~~
6 ~~waste based on geographical origin that is authorized to be accepted~~
7 ~~and may be accepted by the facility without extraordinary hazard.~~

8 ~~(e) (1) (A) A hazardous waste facilities permit issued by the~~
9 ~~department shall be for a fixed term, which shall not exceed 10~~
10 ~~years for a land disposal facility, storage facility, incinerator, or~~
11 ~~other treatment facility.~~

12 ~~(B) Except as provided in subparagraph (C), before the fixed~~
13 ~~term of a permit expires, the owner or operator of a facility~~
14 ~~intending to extend the term of the facility's permit shall submit~~
15 ~~a complete Part A application for a permit renewal. At any time~~
16 ~~following the submission of the Part A application, the owner or~~
17 ~~operator of a facility shall submit a complete Part B application,~~
18 ~~or any portion thereof, as well as any other relevant information,~~
19 ~~as and when requested by the department. To the extent not~~
20 ~~inconsistent with the federal act, when a complete Part A renewal~~
21 ~~application, and any other requested information, has been~~
22 ~~submitted before the end of the permit's fixed term, the permit is~~
23 ~~deemed extended until the renewal application is approved or~~
24 ~~denied and the owner or operator has exhausted all applicable~~
25 ~~rights of appeal.~~

26 ~~(C) If the owner or operator of the hazardous waste facility is~~
27 ~~a significant noncomplying operation, the owner or operator may~~
28 ~~not apply to extend the term of the permit pursuant to subparagraph~~
29 ~~(B).~~

30 ~~(D) This section does not limit or restrict the department's~~
31 ~~authority to impose any additional or different conditions on an~~
32 ~~extended permit that are necessary to protect human health and~~
33 ~~the environment.~~

34 ~~(E) In adopting new conditions for an extended permit, the~~
35 ~~department shall follow the applicable permit modification~~
36 ~~procedures specified in this chapter and the regulations adopted~~
37 ~~pursuant to this chapter.~~

38 ~~(F) When prioritizing pending renewal applications for~~
39 ~~processing and in determining the need for any new conditions on~~

1 ~~an extended permit, the department shall consider any input~~
2 ~~received from the public.~~

3 ~~(2) The department shall review each hazardous waste facilities~~
4 ~~permit for a land disposal facility five years after the date of~~
5 ~~issuance or reissuance, and shall modify the permit, as necessary,~~
6 ~~to assure that the facility continues to comply with the currently~~
7 ~~applicable requirements of this chapter and the regulations adopted~~
8 ~~pursuant to this chapter.~~

9 ~~(3) This subdivision does not prohibit the department from~~
10 ~~reviewing, modifying, or revoking a permit at any time during its~~
11 ~~term.~~

12 ~~(d) (1) When reviewing an application for a permit renewal,~~
13 ~~the department shall consider improvements in the state of control~~
14 ~~and measurement technology as well as changes in applicable~~
15 ~~regulations.~~

16 ~~(2) Each permit issued or renewed under this section shall~~
17 ~~contain the terms and conditions that the department determines~~
18 ~~necessary to protect human health and the environment.~~

19 ~~(e) A permit issued pursuant to the federal act by the~~
20 ~~Environmental Protection Agency in the state for which no state~~
21 ~~hazardous waste facilities permit has been issued shall be deemed~~
22 ~~to be a state permit enforceable by the department until a state~~
23 ~~permit is issued. In addition to complying with the terms and~~
24 ~~conditions specified in a federal permit deemed to be a state permit~~
25 ~~pursuant to this section, an owner or operator who holds that permit~~
26 ~~shall comply with the requirements of this chapter and the~~
27 ~~regulations adopted by the department to implement this chapter.~~

28 ~~SEC. 12. Section 25200.5 of the Health and Safety Code is~~
29 ~~amended to read:~~

30 ~~25200.5.—(a) Except as provided in Sections 25200.7 and~~
31 ~~25200.9, a person who desires to continue the use or operation of~~
32 ~~a hazardous waste facility that was in existence on November 19,~~
33 ~~1980, or that was in existence on the effective date of any statute~~
34 ~~or regulation that subjected that facility to hazardous waste~~
35 ~~facilities permit requirements under this chapter, pending the~~
36 ~~review and decision of the department on the permit application,~~
37 ~~may be granted interim status by the department if the person has~~
38 ~~made application for a permit pursuant to Section 25200, or has~~
39 ~~made application pursuant to Section 25201.6, and, if treating a~~
40 ~~hazardous waste regulated pursuant to the federal act, has complied~~

1 with the requirements of subsection (a) of Section 6930 of Title
2 42 of the United States Code.

3 ~~(b) The person operating under an interim status pursuant to~~
4 ~~this section shall not do any of the following acts:~~

5 ~~(1) Treat, store, transfer, or dispose of hazardous wastes that~~
6 ~~are not specified in Part A of the permit application.~~

7 ~~(2) Employ processes not described in Part A of the permit~~
8 ~~application.~~

9 ~~(3) Exceed the design capacities specified in Part A of the permit~~
10 ~~application.~~

11 ~~(c) A facility operating under interim status is not subject to~~
12 ~~civil or criminal penalties for operating without a permit, but is~~
13 ~~otherwise subject to this chapter and the rules, regulations,~~
14 ~~standards, and requirements issued or adopted pursuant to this~~
15 ~~chapter. Interim status may be granted subject to conditions that~~
16 ~~the department deems necessary to protect public health or the~~
17 ~~environment. Interim status shall not be valid beyond the date of~~
18 ~~the decision of the department on the permit application.~~

19 ~~(d) The department shall not grant interim status to a person to~~
20 ~~operate a hazardous waste facility if the facility has been subject~~
21 ~~to any of the following actions:~~

22 ~~(1) Denial of a hazardous waste facilities permit.~~

23 ~~(2) Suspension, revocation, or termination of a hazardous waste~~
24 ~~facilities permit.~~

25 ~~(3) Termination of a grant of interim status.~~

26 ~~(4) Classification as a significant noncomplying operation.~~

27 ~~(e) For purposes of this section, "Part A of the permit~~
28 ~~application" has the same meaning as defined in Section 66151 of~~
29 ~~Title 22 of the California Code of Regulations, as that section read~~
30 ~~on January 1, 1988.~~

31 ~~(f) A land disposal facility that lost interim status pursuant to~~
32 ~~paragraph (2) or (3) of subsection (e) of Section 6925 of Title 42~~
33 ~~of the United States Code is deemed to have lost interim status~~
34 ~~granted under this section to operate a facility managing hazardous~~
35 ~~waste regulated pursuant to the federal act.~~

36 ~~(g) The termination date for interim status for a land disposal~~
37 ~~facility that is in existence on the effective date of a statute or the~~
38 ~~regulation adopted pursuant to that statute that subjects the facility~~
39 ~~to hazardous waste facilities permit requirements under this~~
40 ~~chapter, and that is granted interim status under this section, is the~~

1 date 12 months after the date on which the facility first becomes
2 subject to the hazardous waste facilities permit requirements, unless
3 one of the following applies:

4 (1) Part A of the facility's permit application specifies that only
5 non-RCRA hazardous waste will be disposed of at the facility, in
6 which case the facility is subject to the termination date specified
7 in Section 25200.11, if the facility is subject to Section 25200.11.

8 (2) The owner or operator of the facility does both of the
9 following:

10 (A) Applies for a final determination regarding the issuance of
11 a hazardous waste facilities permit under Section 25200 for the
12 facility before the date 12 months after the date on which the
13 facility first becomes subject to the hazardous waste facilities
14 permit requirements.

15 (B) Certifies that the facility is in compliance with all applicable
16 groundwater monitoring and financial responsibility requirements.

17 (h) The termination date for interim status for an incinerator
18 facility that submitted an application for a hazardous waste
19 facilities permit before November 8, 1984, is November 8, 1989,
20 unless one of the following applies:

21 (1) Part A of the facility's permit application specifies that only
22 non-RCRA hazardous waste will be incinerated at the facility, in
23 which case the facility is subject to the termination date specified
24 in Section 25200.11, if the facility is subject to Section 25200.11.

25 (2) The owner or operator of the facility applied for a final
26 determination regarding the issuance of a hazardous waste facilities
27 permit under Section 25200 for the facility on or before November
28 8, 1986.

29 (i) The termination date for interim status for any facility, other
30 than a facility specified in subdivision (g) or (h), that submitted
31 an application for a hazardous waste facilities permit before
32 November 8, 1984, is November 8, 1992, unless one of the
33 following applies:

34 (1) Part A of the facility's permit application specifies that only
35 non-RCRA hazardous waste will be transferred, treated, or stored
36 at the facility, and the facility is in compliance with its Part A
37 application, in which case the facility is subject to the termination
38 date specified in Section 25200.11, if the facility is subject to
39 Section 25200.11.

1 ~~(2) The owner or operator of the facility applied for a final~~
2 ~~determination regarding the issuance of a hazardous waste facilities~~
3 ~~permit under Section 25200 for the facility on or before November~~
4 ~~8, 1988.~~

5 ~~(j) On or before July 1, 1993, the department shall take final~~
6 ~~action on each application for a hazardous waste facilities permit,~~
7 ~~to be issued pursuant to Section 25200 that was filed before~~
8 ~~November 8, 1984, for an offsite hazardous waste facility subject~~
9 ~~to subdivision (i), and not subject to Section 25200.7 or 25200.11.~~
10 ~~In taking final action pursuant to this subdivision, the department~~
11 ~~shall either issue the hazardous waste facilities permit or make a~~
12 ~~final denial of the application.~~

13 ~~(k) (1) Notwithstanding any other provision of law or~~
14 ~~regulation, except as provided in paragraph (2), a hazardous waste~~
15 ~~facility operating pursuant to this section shall comply with the~~
16 ~~requirements of Article 4 (commencing with Section 66270.40)~~
17 ~~of Chapter 20 of Division 4.5 of Title 22 of the California Code~~
18 ~~of Regulations.~~

19 ~~(2) The requirements of paragraph (1) do not apply to an inactive~~
20 ~~facility that is no longer accepting offsite hazardous waste and that~~
21 ~~has notified the department of its intent to close.~~

22 ~~SEC. 13. The provisions of this act are severable. If any~~
23 ~~provision of this act or its application is held invalid, that invalidity~~
24 ~~shall not affect other provisions or applications that can be given~~
25 ~~effect without the invalid provision or application.~~

26 ~~SEC. 14. No reimbursement is required by this act pursuant to~~
27 ~~Section 6 of Article XIII B of the California Constitution because~~
28 ~~the only costs that may be incurred by a local agency or school~~
29 ~~district will be incurred because this act creates a new crime or~~
30 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
31 ~~for a crime or infraction, within the meaning of Section 17556 of~~
32 ~~the Government Code, or changes the definition of a crime within~~
33 ~~the meaning of Section 6 of Article XIII B of the California~~
34 ~~Constitution.~~