

AMENDED IN ASSEMBLY APRIL 26, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 59

Introduced by Assembly Member Sher

December 16, 1994

An act to amend Sections 42650, 43202, 43205, 43207, 43209, 43212, 43214, 43215, ~~43310~~, 44001, 44004, 44008, 44009, 44012, 44014, 44015, 44016, 44017, and 44103 of, to add Sections 43212.1, 43215.1, 43222, ~~43310.1, and 44019~~ to, to add Chapter ~~5 (commencing with Section 44820)~~ to Part 4 of *and 43310.1 to*, to add Part 6 (commencing with Section 45030) to, to repeal Sections 44013, 44018, and 44105 of, to repeal and add Sections 44002 and 44005 of, and to repeal and add Chapter 4 (commencing with Section 44300) of Part 4 of, and Part 5 (commencing with Section 45000) of, Division 30 of, the Public Resources Code, relating to waste, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 59, as amended, Sher. Waste: solid waste facilities: permits: enforcement.

(1) Existing law, the California Integrated Waste Management Act of 1989, regulates the management of solid waste. The act authorizes the California Integrated Waste Management Board to establish a comprehensive research and development program, including, but not limited to, the establishment of cooperative research and development facilities at universities and colleges in the state, designed to

achieve specified goals regarding innovative resource management and waste reduction programs.

This bill would authorize the board to establish those cooperative research and development facilities in cooperation with the Department of Conservation, and would make clarifying changes in those provisions.

(2) The act requires the board and certified local enforcement agencies to perform specified functions with regard to the regulation of solid waste management, including with regard to the issuance and enforcement of solid waste facilities permits.

This bill would require each proposed local enforcement agency, as part of the certification process, to establish and maintain an inspection program, as specified, thereby imposing a state-mandated local program.

(3) The act provides that the board may designate and certify a local enforcement agency within each county to carry out specified powers and duties. The act requires the board, if a local enforcement agency is not designated and certified, in addition to its other powers and duties, to be the enforcement agency within the county. The act authorizes the board, when acting as the enforcement agency, to charge reasonable fees to the local governing body to recover its costs, in addition to other specified fee authority.

This bill would require the board, if it is the enforcement agency and a local enforcement agency is then designated and certified by the board, to continue to act as the enforcement agency for the remainder of the fiscal year unless otherwise specified by the board. The bill would ~~require~~ *authorize* the board, when it is the enforcement agency, ~~to charge reasonable and necessary fees, as determined by the board, to recover its costs of operation, as specified. The bill would prohibit the board and the local enforcement agency from, at any time, imposing duplicative fees or charges on the owner or operator of a solid waste facility to 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, and would require the board to collect those fees in a manner determined by the board and developed in consultation with the local governing body.~~ The



bill would require those fees to bear a direct relationship to the reasonable and necessary costs, as determined by the board, of providing for the efficient operation of the activities or programs for which the fee is imposed. The bill would require any fees or charges imposed by the local enforcement agency pursuant to specified provisions of the act to bear a direct relationship to the reasonable and necessary cost, as determined by the enforcement agency, of providing those activities or programs, as specified. The bill would also require, if the board is the enforcement agency, the board and the local governing body, with the exception of the local governing body for Stanislaus County *or Santa Cruz County*, to enter into a specified agreement. The bill would prescribe other related matters.

(4) The act requires any person who proposes to become an operator of a solid waste facility to file with the local enforcement agency having jurisdiction over the facility, or the board if no local enforcement agency is designated and certified, an application for a solid waste facilities permit at least 120 days in advance of the date on which it is desired to commence operation.

The act prohibits the operator of a solid waste facility from making a significant change in the design or operation of any solid waste facility, except in conformance with the terms and conditions of an approved solid waste facilities permit or revised solid waste facilities permit issued by the local enforcement agency, or the board acting as the enforcement agency, to the operator.

This bill would instead require that application to be filed 150 days in advance of the date on which it is desired to commence operations unless the enforcement agency allows the operator to commence operations prior to that date.

The bill would prohibit the operator of a solid waste facility from making any significant change in the design or operation of the solid waste facility, not authorized by the existing permit, unless the terms and conditions of the solid waste facilities permit are revised to reflect the change, or the change is allowed by the enforcement agency, due to specified circumstances, without requiring a revised permit.



The bill would also specify the procedure for changing the person identified as the owner or operator of a solid waste facility on the solid waste facilities permit, and would prescribe related matters.

(5) The act provides for the denial, suspension, or revocation of permits, and generally provides for the administrative enforcement of solid waste management.

This bill would require, if the enforcement agency determines that a person is operating a solid waste facility without a permit or disposing of solid waste in an unauthorized manner, the enforcement agency to issue a cease and desist order, as specified. The bill would prohibit any change in the design or operation of a solid waste facility unless the operator meets specified conditions.

(6) The bill would require that, by January 1, 1996, the board prepare a list of solid waste facilities permits that have not been reviewed in the 5-year period prior to the formation of the list, and which meet certain conditions, as specified.

(7) The act requires solid waste facilities that accept both hazardous wastes and other solid wastes to obtain both a hazardous waste facilities permit from the Department of Toxic Substances Control and a solid waste facilities permit from the board.

This bill would repeal those provisions requiring facilities that accept both hazardous wastes and other solid waste from the requirement to obtain both a hazardous waste facilities permit and a solid waste facilities permit.

~~This~~

The bill would specifically exempt a hazardous waste facility that receives nonhazardous, nonmunicipal solid waste from the requirement to obtain a solid waste facilities permit, if specified conditions are met.

(8) The bill would repeal and recast provisions of the act allowing an applicant to request a hearing if the enforcement agency denies a permit or if the applicant determines that the terms or conditions imposed by the permit are inappropriate, as determined by the applicant. The bill would revise provisions pertaining to the denial, suspension, or revocation of permits. The bill would provide for a permit suspension



where changed conditions at the solid waste facility necessitate a permit revision or modification, as specified.

(9) The bill would also revise and recast provisions pertaining to corrective action and cease and desist orders, provide for civil penalties and ~~compliance orders~~, and specify enforcement procedures.

(10) ~~The act defines “solid waste” as excluding hazardous waste.~~

~~This bill would require the board to regulate the disposal of waste containing asbestos at any waste management unit which is classified under specified regulations, unless the waste management unit is subject to a hazardous waste facilities permit issued by the Department of Toxic Substances Control.~~

~~(11) The bill would make various clarifying and technical changes.~~

(11) 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.

(12) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 42650 of the Public Resources
2 Code is amended to read:
3 42650. (a) The board may establish a research and
4 development program, based on priorities that are
5 consistent with Section 40051, and designed to identify,
6 develop, and refine processes and technologies that will
7 assist state and local governments and private industries
8 to implement innovative resource management and
9 waste reduction programs. The board may conduct
10 research and development programs, upon



1 appropriation therefor by the Legislature, that include,
2 but are not limited to, all of the following:

3 (1) Establishing, in coordination with the Department
4 of Conservation, a recycling extension service within the
5 board to serve as a central clearinghouse for recycling
6 research information.

7 (2) Establishing cooperative research and
8 development facilities at universities and colleges in the
9 state.

10 (3) Developing a research program to study the
11 feasibility of using disposal site mining technology to
12 extend the life of existing disposal sites, recover valuable
13 resources, and to reuse the reclaimed disposal site in an
14 environmentally sound manner.

15 (4) Establishing a research program to identify
16 educational and promotional methods that can effect
17 environmentally positive changes in human behavior.

18 (5) Conducting studies into hazards posed by special
19 wastes and by ash and air emissions from the incineration
20 of waste.

21 (6) Conducting research to develop statistical tools to
22 establish computer-based data bases on waste
23 characteristics, special waste volumes, and county and
24 regional waste capacities.

25 (7) Analyzing disposal site encroachment problems
26 and *assisting local agencies in* the development of
27 effective public policy tools to discourage disposal site
28 encroachment.

29 (b) The board shall submit the results of the research
30 and development programs specified in subdivision (a)
31 in the report required pursuant to Section 40507.

32 SEC. 2. Section 43202 of the Public Resources Code is
33 amended to read:

34 43202. An enforcement agency may be designated by
35 the local governing body and certified by the board to act
36 to carry out this chapter within each jurisdiction. If a local
37 enforcement agency is not designated and certified, the
38 board, in addition to its other powers and duties, shall be
39 the enforcement agency within the jurisdiction, subject



1 to the agreement required pursuant to Section 43212.1 or
2 43310.1.

3 SEC. 3. Section 43205 of the Public Resources Code is
4 amended to read:

5 43205. (a) Except as provided in subdivision (b), if
6 no local enforcement agency is designated and certified,
7 the board shall be the enforcement agency and shall
8 assume all the powers and duties of a local enforcement
9 agency pursuant to this chapter, subject to the agreement
10 required pursuant to Section 43212.1 or 43310.1. If the
11 board is the enforcement agency and a local enforcement
12 agency is then designated and certified by the board, the
13 board shall continue to act as the enforcement agency for
14 the remainder of the fiscal year, with those
15 responsibilities terminating as of June 30, unless
16 otherwise specified by the board.

17 (b) Notwithstanding subdivision (a), if no local
18 enforcement agency is designated and certified for
19 Stanislaus County or Santa Cruz County, the board shall
20 be the enforcement agency, and shall assume all of the
21 powers and duties of a local enforcement agency for that
22 county, but shall not be required to enter into the
23 agreement required pursuant to Sections 43212.1 or
24 43310.1.

25 (c) The board and the local enforcement agency shall
26 not, at any time, impose duplicative fees or charges on the
27 owner or operator of a solid waste facility.

28 SEC. 4. Section 43207 of the Public Resources Code is
29 amended to read:

30 43207. No local governmental department or agency,
31 or any employee thereof, which is the operating unit for
32 a solid waste handling or disposal operation shall be the
33 enforcement agency, or an employee thereof, for the
34 types of solid waste handling or disposal operation it
35 conducts unless authorized by the board to act in that
36 capacity.

37 SEC. 5. Section 43209 of the Public Resources Code is
38 amended to read:



1 43209. The local enforcement agency, within its
2 jurisdiction and consistent with its certification by the
3 board, shall do all of the following:

4 (a) Enforce applicable provisions of this part,
5 regulations adopted under this part, and terms and
6 conditions of permits issued pursuant to Chapter 3
7 (commencing with Section 44001).

8 (b) Request enforcement by appropriate federal,
9 state, and local agencies of their respective laws
10 governing solid waste storage, handling, and disposal.

11 (c) File with the board, upon its request, information
12 the board determines to be necessary.

13 (d) Develop, implement, and maintain inspection,
14 enforcement, permitting, and training programs.

15 (e) Establish and maintain an enforcement program
16 consistent with regulations adopted by the board to
17 implement this chapter, the standards adopted pursuant
18 to this chapter, and the terms and conditions of permits
19 issued pursuant to Chapter 3 (commencing with Section
20 44001). The local enforcement agency may establish
21 specific local standards for solid waste handling and
22 disposal subject to approval by a majority vote of its local
23 governing body, by resolution or ordinance. Any such
24 standard shall be consistent with this division and all
25 regulations adopted by the board.

26 (f) Keep and maintain records of its inspection,
27 enforcement, permitting, training, and regulatory
28 programs, and of any other official action in accordance
29 with regulations adopted by the board.

30 (g) Consult, as appropriate, with the appropriate local
31 health agency concerning all actions which involve
32 health standards. The consultation shall include affording
33 the health agency adequate notice and opportunity to
34 conduct and report the evaluation as it reasonably
35 determines is appropriate.

36 (h) Establish and maintain an inspection program.
37 The inspection program shall be designed to determine
38 whether any solid waste facility is operating without a
39 permit, or in violation of state minimum standards, or in
40 violation of the terms and conditions of its solid waste



1 facilities permit, or may pose a significant threat to public
2 health and safety or to the environment, based on any
3 relevant information. The inspection program shall also
4 ensure frequent inspections of solid waste facilities that
5 have an established pattern of noncompliance with this
6 division, regulations adopted pursuant to this division, or
7 the terms and conditions of a solid waste facilities permit.

8 SEC. 6. Section 43212 of the Public Resources Code is
9 amended to read:

10 ~~43212. (a) Notwithstanding any other provision of~~
11 ~~this division, if the board is the enforcement agency, it~~
12 ~~shall charge reasonable and necessary fees, as determined~~
13 ~~by the board, to recover its costs of operation, to the local~~
14 ~~governing body, a solid waste facility operator or solid~~
15 ~~waste enterprise within the jurisdiction of the~~
16 ~~enforcement agency, or any other regulated person, to be~~
17 ~~imposed and collected in a manner determined by the~~
18 ~~board and developed in consultation with the local~~
19 ~~governing body.~~

20 *43212. (a) If the board is the enforcement agency,*
21 *the board may impose fees to recover its costs of*
22 *operation on the local governing body, a solid waste*
23 *facility operator, or a solid waste enterprise that operates*
24 *within the jurisdiction of the enforcement agency, and*
25 *shall collect those fees in a manner determined by the*
26 *board and developed in consultation with the local*
27 *governing body. Any fees imposed pursuant to this*
28 *section shall bear a direct relationship to the reasonable*
29 *and necessary costs, as determined by the board, of*
30 *providing for the efficient operation of the activities or*
31 *programs for which the fee is imposed.*

32 (b) If the board is the enforcement agency for a
33 county and all of the cities within that county, the local
34 governing body shall be the county board of supervisors
35 for purposes of this section.

36 SEC. 7. Section 43212.1 is added to the Public
37 Resources Code, to read:

38 43212.1. If the board is the enforcement agency, the
39 local governing body and the board shall enter into an
40 agreement which shall identify the jurisdictional



1 boundaries of the enforcement agency; address the
2 powers and duties to be performed by the board as the
3 enforcement agency; any powers and duties to be
4 retained by the local governing body for the enforcement
5 of state minimum standards for solid waste handling and
6 disposal; and identify an estimated workload and
7 anticipated costs to the board.

8 SEC. 8. Section 43214 of the Public Resources Code is
9 amended to read:

10 43214. (a) The board shall develop performance
11 standards for evaluating certified local enforcement
12 agencies and shall periodically review each certified local
13 enforcement agency and its implementation of the
14 permit, inspection, and enforcement program. The
15 board's review shall include periodic inspections of solid
16 waste facilities within the jurisdiction of each local
17 enforcement agency for the purpose of evaluating
18 whether the local enforcement agency is appropriately
19 applying and enforcing state minimum standards at solid
20 waste sites within its jurisdiction.

21 (b) Following initial certification of a local
22 enforcement agency by the board, the board shall
23 conduct a performance review of the local enforcement
24 agency every ~~18 months~~ *three years*, or more frequently
25 as determined by the board.

26 (c) In conducting performance reviews of local
27 enforcement agencies, the board shall, based on the
28 performance standards developed pursuant to
29 subdivision (a), determine whether each local
30 enforcement agency is in compliance with the
31 requirements of this article and the regulations adopted
32 to implement this article. If the board finds that a local
33 enforcement agency is not fulfilling its responsibilities
34 pursuant to this article and if the board also finds that this
35 lack of compliance has contributed to significant
36 noncompliance with state minimum standards at solid
37 waste facilities within the jurisdiction of the local
38 enforcement agency, the board shall withdraw its
39 approval of designation pursuant to Sections 43215 and
40 43216. Notwithstanding Sections 43215 and 43216, if the



1 board finds that conditions at solid waste facilities within
2 the jurisdiction of the local enforcement agency threaten
3 public health and safety or the environment, the board
4 shall, within 10 days of notifying the local enforcement
5 agency, become the enforcement agency until another
6 local enforcement agency is designated locally and
7 certified by the board.

8 (d) The board shall find that a local enforcement
9 agency is not fulfilling its responsibilities pursuant to this
10 article, and may take action as prescribed by subdivision
11 (c), if the board, in conducting its performance review,
12 makes one or more of the following findings with regard
13 to compliance with this part and Part 5 (commencing
14 with Section 45000):

15 (1) The local enforcement agency has failed to ~~inspect~~
16 *exercise due diligence in the inspection of* solid waste
17 facilities and disposal sites.

18 (2) The local enforcement agency has intentionally
19 misrepresented the results of inspections.

20 (3) The local enforcement agency has failed to
21 prepare, or cause to be prepared, permits, permit
22 revisions, or closure and postclosure maintenance plans.

23 (4) The local enforcement agency has approved
24 permits, permit revisions, or closure and postclosure
25 maintenance plans which are not consistent with this part
26 and Part 5 (commencing with Section 45000).

27 (5) The local enforcement agency has failed to take
28 appropriate enforcement actions.

29 (6) The local enforcement agency has ~~demonstrated a~~
30 ~~pattern of disregard for this division, the regulations~~
31 ~~adopted pursuant to this division, or of the policies or~~
32 ~~directives of the board, by either of the following:~~

33 (A) ~~Taking actions that are inconsistent with, or not~~
34 ~~authorized by, those requirements:~~

35 (B) ~~Failing to adequately respond to, and correct,~~
36 ~~violations of those requirements.~~ *failed to comply with, or*
37 *has taken actions that are inconsistent with, or that are*
38 *not authorized by, this division or the regulations adopted*
39 *by the board pursuant to this division. However, nothing*
40 *in this paragraph is intended to affect the authority of*



1 *local enforcement agencies pursuant to subdivision (e) of*
2 *Section 43209.*

3 SEC. 9. Section 43215 of the Public Resources Code is
4 amended to read:

5 ~~43215. The board shall regularly review the activities~~
6 ~~of all local enforcement agencies to determine whether~~
7 ~~each local enforcement agency is fulfilling its~~
8 ~~responsibilities, including, but not limited to, taking~~
9 ~~measures to ensure that solid waste facilities do not~~
10 ~~operate without a permit or in violation of the terms and~~
11 ~~conditions of a solid waste facilities permit or in violation~~
12 ~~of the standards of the board. If the~~

13 *43215. (a) If the board, in conducting the inspection*
14 *and performance review required pursuant to Section*
15 *43214 or this section, finds that the local enforcement*
16 *agency is not fulfilling one or more of its responsibilities,*
17 *the board shall notify the enforcement agency of the*
18 *particular reasons for finding that the enforcement*
19 *agency is not fulfilling its responsibilities and of the*
20 *board's intention to withdraw its approval of the*
21 *designation if, within a time to be specified in that*
22 *notification, but in no event less than 30 days, the*
23 *enforcement agency does not take the corrective action*
24 *specified by the board.*

25 *(b) The board shall adopt regulations that establish a*
26 *process for notice, public hearing, the admission of*
27 *evidence, and final action by the board for partial or full*
28 *withdrawal of the approval of designation pursuant to this*
29 *chapter.*

30 SEC. 10. Section 43215.1 is added to the Public
31 Resources Code, to read:

32 43215.1. The board may, upon the written request of
33 a local enforcement agency, provide legal counsel for
34 purposes of compliance with this part.

35 SEC. 11. Section 43222 is added to the Public
36 Resources Code, to read:

37 43222. Any fees or charges imposed pursuant to this
38 part by any enforcement agency shall bear a direct
39 relationship to the reasonable and necessary cost, as
40 determined by the enforcement agency, of providing the



1 efficient operation of the activities or programs for which
2 the fee is assessed.

3 ~~SEC. 12. Section 43310 of the Public Resources Code~~
4 ~~is amended to read:~~

5 ~~43310. (a) Except as provided in subdivision (e),~~
6 ~~notwithstanding any other provision of this division, if the~~
7 ~~board is the enforcement agency, it shall charge~~
8 ~~reasonable and necessary fees, as determined by the~~
9 ~~board, to recover its costs of operation to the local~~
10 ~~governing body, a solid waste facility operator or solid~~
11 ~~waste enterprises within the jurisdiction of the~~
12 ~~enforcement agency, or any other regulated person, to be~~
13 ~~imposed and collected in a manner determined by the~~
14 ~~board and developed in consultation with the local~~
15 ~~governing body.~~

16 ~~(b) If the board is the enforcement agency for a~~
17 ~~county and all of the cities within the county, the local~~
18 ~~governing body shall be the county board of supervisors~~
19 ~~for purposes of this section.~~

20 ~~(c) Notwithstanding subdivisions (a) and (b), if no~~
21 ~~local enforcement agency is designated and certified for~~
22 ~~Stanislaus County or Santa Cruz County, and the board~~
23 ~~becomes the enforcement agency for that county, the~~
24 ~~board shall impose the fees authorized pursuant to this~~
25 ~~section directly on solid waste facility operators or solid~~
26 ~~waste enterprises, and not the local governing body in~~
27 ~~that county.~~

28 ~~SEC. 13.~~

29 ~~SEC. 12. Section 43310.1 is added to the Public~~
30 ~~Resources Code, to read:~~

31 ~~43310.1. (a) If the board becomes the enforcement~~
32 ~~agency, on or after January 1, 1995, the local governing~~
33 ~~body and the board shall enter into an agreement which~~
34 ~~shall identify the jurisdictional boundaries of the~~
35 ~~enforcement agency; address the powers and duties to be~~
36 ~~performed by the board as the enforcement agency;~~
37 ~~address any powers and duties to be retained by the local~~
38 ~~governing body for the enforcement of state minimum~~
39 ~~standards for solid waste handling and disposal, if the~~
40 ~~board acts as the enforcement agency; and identify an~~



1 estimated workload and anticipated costs to the board.
2 The agreement shall also identify the cost recovery
3 procedures to be followed by the board pursuant to
4 Section 43310.

5 (b) If, *after a good faith effort by the board and the*
6 *local governing body*, no agreement is reached between
7 the local governing body and the board within the 90-day
8 period specified in Section 43216, or within 90 days after
9 a local governing body notifies the board of its intent not
10 to designate a local enforcement agency pursuant to
11 Section 43203, the board shall make the determinations
12 specified in subdivision (a) that would have been the
13 subject of the agreement.

14 ~~SEC. 14.~~

15 *SEC. 13.* Section 44001 of the Public Resources Code
16 is amended to read:

17 44001. Any person who proposes to become an
18 operator of a solid waste facility shall file with the
19 enforcement agency having jurisdiction over the facility,
20 or the board if there is no designated and certified
21 enforcement agency, an application for a solid waste
22 facilities permit at least 150 days in advance of the date on
23 which it is desired to commence operation, unless the
24 enforcement agency ~~allows~~ *issues a permit to* the
25 applicant to commence operations prior to that time.

26 ~~SEC. 15.~~

27 *SEC. 14.* Section 44002 of the Public Resources Code
28 is repealed.

29 ~~SEC. 16.~~

30 *SEC. 15.* Section 44002 is added to the Public
31 Resources Code, to read:

32 44002. No person shall operate a solid waste facility
33 without a solid waste facilities permit if that facility is
34 required to have a permit pursuant to this division. If the
35 enforcement agency determines that a person is so
36 operating a solid waste facility, the enforcement agency
37 shall immediately issue a cease and desist order pursuant
38 to Section 45005 ordering the facility to immediately
39 cease operations, and directing the owner or operator of



1 the facility to obtain a solid waste facilities permit in order
2 to resume operation of the facility.

3 ~~SEC. 17.~~

4 *SEC. 16.* Section 44004 of the Public Resources Code
5 is amended to read:

6 44004. (a) No operator of a solid waste facility shall
7 make any significant change in the design or operation of
8 the solid waste facility not authorized by the existing
9 permit, unless the change is approved by the
10 enforcement agency, and conforms with this division and
11 all regulations adopted pursuant to this division, and the
12 terms and conditions of the solid waste facilities permit
13 are revised to reflect the change.

14 (b) If the operator wishes to change the design or
15 operation of the solid waste facility in a manner that is not
16 authorized by the existing permit, the operator shall file
17 an application for revision of the existing solid waste
18 facilities permit with the enforcement agency. The
19 application shall be filed at least 150 days in advance of the
20 date when the proposed modification is to take place.

21 (c) The enforcement agency shall review the
22 application to determine all of the following:

23 (1) Whether the change conforms with this division
24 and all regulations adopted pursuant to this division.

25 (2) Whether the change requires review pursuant to
26 Division 13 (commencing with Section 21000).

27 (d) Within 30 days from the date of the receipt of the
28 application for a revised permit, the enforcement agency
29 shall inform the operator, and if the enforcement agency
30 is a local enforcement agency, also inform the board, of
31 its determination to do any of the following:

32 (1) Allow the change without a revision to the permit.

33 (2) Disallow the change because it does not conform
34 with the requirements of this division or the regulations
35 adopted pursuant to this division.

36 (3) Require a revision of the solid waste facilities
37 permit to allow the change.

38 (4) Require review under Division 13 (commencing
39 with Section 21000) before a decision is made.



1 (e) The operator has 30 days within which to submit a
2 schedule of compliance or to appeal the decision of the
3 enforcement agency to the hearing panel, as authorized
4 pursuant to Article 2 (commencing with Section 44500)
5 of Chapter 4.

6 (f) Under circumstances which present an immediate
7 danger to the public health and safety or to the
8 environment, as determined by the enforcement agency,
9 the 120-day filing period may be waived.

10 (g) A permit revision is not required for any of the
11 following:

12 (1) The temporary ~~termination~~ *suspension*, not to
13 exceed one year, of the operation of a solid waste facility,
14 other than a disposal facility, unless the continued,
15 uninterrupted operation of an activity at the facility, until
16 otherwise approved by the enforcement agency, is
17 required by either of the following:

18 (A) A permit condition or enforcement agency order,
19 compliance with which is necessary to protect public
20 health and safety or the environment.

21 (B) State minimum standards set forth in board
22 regulations.

23 (2) The temporary ~~termination~~ *suspension* of the
24 operation of a solid waste management unit or device for
25 purposes of maintenance or minor modifications other
26 than a significant change in permit design or operation
27 requirements.

28 (3) The temporary ~~termination~~ *suspension* of receipt
29 of solid waste at a solid waste management facility if the
30 owner or operator is in compliance with all other terms
31 and conditions of the solid waste facilities permit and
32 minimum standards adopted by the board.

33 (4) The local enforcement agency or the board may
34 impose any reasonable conditions on the maintenance of
35 the solid waste facility during the period of temporary
36 ~~termination~~ *suspension*.

37 ~~SEC. 18.~~

38 *SEC. 17.* Section 44005 of the Public Resources Code
39 is repealed.

40 ~~SEC. 19.~~



1 *SEC. 18.* Section 44005 is added to the Public
2 Resources Code, to read:

3 44005. (a) Any owner or operator of a solid waste
4 facility who plans to encumber, sell, transfer, or convey
5 the ownership or operations of a solid waste facility or
6 disposal site to a new owner or operator, shall notify the
7 enforcement agency and the board, 45 days prior to the
8 date of the anticipated transfer. The notification shall be
9 in writing and shall include information as determined by
10 the board, including any financial assurances, if
11 applicable.

12 (b) The enforcement agency and the board shall
13 review the notification documentation and any available
14 records of enforcement actions taken against the
15 proposed transferee, and shall determine, within 30 days
16 of receipt, whether the facility will be operated in
17 compliance with the terms and conditions of an approved
18 permit and any other applicable requirements, including,
19 but not limited to, the requirements of Division 13
20 (commencing with Section 21000). If the solid waste
21 facility will not be operated in compliance with the terms
22 and conditions of an approved permit, or any other
23 applicable requirements of Division 13 (commencing
24 with Section 21000), the new owner or operator shall be
25 required to file an application for a revised or modified
26 solid waste facilities permit.

27 (c) If the enforcement agency or the board
28 determines that the facility will be operated in
29 compliance with the terms and conditions of the existing
30 permit, the enforcement agency may change the name
31 of the owner or operator on the permit.

32 ~~SEC. 20.~~

33 *SEC. 19.* Section 44008 of the Public Resources Code
34 is amended to read:

35 44008. (a) A decision to issue or not issue the permit
36 shall be made by the enforcement agency within 120 days
37 of the time the application is ~~filed~~ *deemed complete*
38 *pursuant to Chapter 4.5 (commencing with Section*
39 *65920) of Division 1 of Title 7 of the Government Code,*
40 unless waived by the applicant.



1 (b) The enforcement agency may only issue the
2 permit pursuant to subdivision (a) if it finds that the
3 proposed solid waste facilities permit is consistent with
4 this division and any regulations adopted by the board
5 pursuant to this division: *applicable to solid waste*
6 *facilities.*

7 ~~SEC. 21.—~~

8 SEC. 20. Section 44009 of the Public Resources Code
9 is amended to read:

10 44009. (a) (1) The board shall, in writing, concur or
11 object to the issuance, modification, or revision of any
12 solid waste facilities permit within 60 days of the board's
13 receipt of any proposed solid waste facilities permit
14 submitted under Section 44007 after consideration of the
15 issues in this section.

16 (2) If the board determines that the permit is not
17 consistent with the state minimum standards adopted
18 pursuant to Section 43020, or is not consistent with
19 Sections 43040, 44007, 44010, 44017, 44150, and 44152 or
20 Division 31 (commencing with Section 50000), it shall
21 object to provisions of the permit, and shall submit those
22 objections to the local enforcement agency for its
23 consideration.

24 (3) Until a countywide integrated waste management
25 plan has been approved by the board pursuant to this
26 division, if the board determines, based on substantial
27 evidence in the record, that issuance of the permit would
28 prevent or substantially impair achievement of the
29 diversion requirements prescribed in Section 41780, the
30 board shall object to the permit and shall submit its
31 determination and specific objections to the local
32 enforcement agency, the applicant, and the city or
33 county within which the facility is located for their
34 consideration.

35 (4) If the board fails to concur or object in writing
36 within 60 days, it shall be deemed to have concurred in
37 the issuance of the permit as submitted to it.

38 (b) Notwithstanding subdivision (a), the board is not
39 required to concur in, or object to, and shall not be
40 deemed to have concurred in, the issuance of a solid waste



1 facilities permit for a disposal facility if the owner or
2 operator is not in compliance with, as determined by the
3 regional water board, an enforcement order issued
4 pursuant to Chapter 5 (commencing with Section 13300)
5 of Division 7 of the Water Code, or if all of the following
6 conditions exist:

7 (1) Waste discharge requirements for the disposal
8 facility issued by the applicable regional water board are
9 pending review in a petition before the state water board.

10 (2) The petition for review of the waste discharge
11 requirements includes a request for a stay of the waste
12 discharge requirements.

13 (3) The state water board has not taken action on the
14 stay request portion of the pending petition for review of
15 waste discharge requirements.

16 (c) In objecting to the issuance, modification, or
17 revision of any solid waste facilities permit pursuant to
18 this section, the board shall, based upon substantial
19 evidence in the record on the matter before the board,
20 state its reasons for objecting. The board shall not object
21 to the issuance, modification, or revision of any solid waste
22 facilities permit unless it finds that the permit is not
23 consistent with state minimum standards adopted
24 pursuant to Section 43020, or is not consistent with
25 Section 43040, 43600, 44007, 44010, 44017, 44150, or 44152,
26 or Division 31 (commencing with Section 50000).

27 ~~SEC. 22.~~

28 *SEC. 21.* Section 44012 of the Public Resources Code
29 is amended to read:

30 44012. When issuing or revising any solid waste
31 facilities permit, the enforcement agency shall ensure
32 that primary consideration is given to protecting public
33 health and safety and preventing environmental damage,
34 and that the long-term protection of the environment is
35 the guiding criterion. To achieve these goals, the
36 enforcement agency may prohibit or condition the
37 handling or disposal of solid waste to protect public health
38 and safety and to protect, rehabilitate, or enhance the
39 environmental quality of the state or to mitigate adverse
40 environmental impacts.



1 ~~SEC. 23.~~

2 *SEC. 22.* Section 44013 of the Public Resources Code
3 is repealed.

4 ~~SEC. 24.~~

5 *SEC. 23.* Section 44014 of the Public Resources Code
6 is amended to read:

7 44014. (a) Upon compliance with Sections 44007,
8 44008, and 44009, and after any necessary hearing, the
9 local enforcement agency shall issue, modify, or revise a
10 solid waste facilities permit if the board has concurred in
11 that issuance, modification, or revision of the permit
12 pursuant to Section 44009.

13 (b) The permit shall contain all terms and conditions
14 which the enforcement agency determines to be
15 appropriate for the operation of the solid waste facility.
16 The operator shall comply with all terms and conditions
17 of the permit.

18 (c) Within 15 days of issuing, modifying, or revising a
19 solid waste facilities permit, the enforcement agency shall
20 transmit to the permittee a copy of the solid waste
21 facilities permit.

22 ~~SEC. 25.~~

23 *SEC. 24.* Section 44015 of the Public Resources Code
24 is amended to read:

25 44015. (a) Any solid waste facilities permit issued or
26 revised under this chapter shall be reviewed and, if
27 necessary, revised at least once every five years.

28 (b) On or before January 1, 1996, the board shall
29 prepare a list of solid waste facilities whose permits have
30 not been reviewed by the enforcement agency in the last
31 five years, indicating the designated enforcement agency
32 having jurisdiction over the solid waste facility. The list
33 shall include, but is not limited to, a solid waste facility
34 that meets any of the following conditions:

35 (1) The solid waste facilities permit was issued on or
36 before January 1, 1989.

37 (2) The facility is accepting more solid waste than is
38 authorized in the current solid waste facilities permit.



1 (3) Any relevant information submitted to the board
2 indicates significant risks to the public health or safety or
3 to the environment.

4 (c) The enforcement agency shall order any solid
5 waste facility on the list to seek a revision or modification
6 of its solid waste facilities permit if the solid waste facility
7 is not in compliance with this division.

8 ~~SEC. 26.~~

9 *SEC. 25.* Section 44016 of the Public Resources Code
10 is amended to read:

11 44016. (a) The enforcement agency may, in
12 accordance with Chapter 4 (commencing with Section
13 44300), suspend or revoke the permit of any solid waste
14 facility designed to convert solid waste from offsite
15 sources into energy or synthetic fuels if the facility utilizes
16 recyclable materials for conversion to energy and if the
17 local agency in whose jurisdiction the materials are
18 collected requires, by ordinance, contract, or otherwise,
19 that recyclable materials within the jurisdiction of that
20 local agency be converted into energy at that facility. This
21 subdivision does not otherwise restrict the ability of a
22 solid waste facility to purchase, collect, transport, or
23 process recyclable materials.

24 (b) As used in this section, “local agency” means any
25 county, city, or district authorized to collect, dispose, or
26 collect and dispose of solid waste, or any joint powers
27 authority formed pursuant to Chapter 5 (commencing
28 with Section 6500) of Division 7 of Title 1 of the
29 Government Code which is authorized to construct and
30 operate a facility for the conversion of solid waste into
31 energy, synthetic fuel, or reusable materials.

32 (c) As used in this section, “recyclable materials”
33 means discarded paper, glass, cardboard, plastic, ferrous
34 metal, or aluminum which has been segregated from
35 other solid waste materials for the purpose of reuse or
36 recycling, except that recyclable materials do not include
37 materials which a local agency, having jurisdiction over
38 the locations where these materials exist, determines
39 could be potentially harmful to the public health, or



1 materials which create a public nuisance, as defined in
2 Section 3480 of the Civil Code.

3 ~~SEC. 27.~~

4 *SEC. 26.* Section 44017 of the Public Resources Code
5 is amended to read:

6 44017. The enforcement agency shall include, in the
7 permit of any solid waste facility designed to convert solid
8 waste into energy or synthetic fuels, a provision which
9 requires the use of operating procedures at the facility to
10 prevent hazardous waste from entering the conversion
11 process.

12 ~~SEC. 28.~~

13 *SEC. 27.* Section 44018 of the Public Resources Code
14 is repealed.

15 ~~SEC. 29.~~ Section 44019 is added to the Public
16 Resources Code, to read:

17 ~~44019. On or after the date that the owner or operator
18 of a solid waste facility commences closure and
19 postclosure maintenance activities, in accordance with an
20 approved closure and postclosure maintenance plan or
21 based on applicable standards existing at the time the
22 facility ceased accepting waste, the solid waste facilities
23 permit shall become null and void for that portion of the
24 solid waste facility for which closure and postclosure
25 maintenance activities have been commenced.~~

26 ~~SEC. 30.~~

27 *SEC. 28.* Section 44103 of the Public Resources Code
28 is amended to read:

29 44103. (a) A solid waste facilities permit is not
30 required for a facility that accepts only hazardous wastes,
31 or only low-level radioactive wastes, or both. A single
32 hazardous waste facilities permit issued by the
33 Department of Toxic Substances Control pursuant to
34 Article 9 (commencing with Section 25200) of Chapter
35 6.5 of, or a single low-level radioactive facilities permit
36 issued by the State Department of Health Services
37 pursuant to Chapter 7.6 (commencing with Section
38 25800) of, Division 20 of the Health and Safety Code shall
39 be the only waste facilities permit necessary for the
40 operation of that facility.



1 (b) A permitted hazardous waste facility may receive
2 nonhazardous, nonmunicipal solid waste without having
3 to obtain a solid waste facilities permit, if all of the
4 following conditions are met:

5 (1) The management of solid waste at the facility does
6 not violate any provision of the hazardous waste facilities
7 permit.

8 (2) The solid waste is not stored, treated, or disposed
9 of in separate units which handle only solid waste, but
10 rather is stored, treated, or disposed of in a manner which
11 is consistent with the proper management of hazardous
12 waste as prescribed by Chapter 6.5 (commencing with
13 Section 25100) of Division 20 of the Health and Safety
14 Code.

15 ~~(3) The facility is operated primarily for the~~
16 ~~management of hazardous waste and the amount of solid~~
17 ~~waste received is incidental to the management of the~~
18 ~~hazardous waste received and represents less than 5~~
19 ~~percent of the total amount of the hazardous waste~~
20 ~~received at the facility annually.~~

21 *(3) The facility accepts only nonputrescible,*
22 *nonmunicipal solid waste, including, but not limited to,*
23 *contaminated soil, blasting dust, empty drums, or other*
24 *solid waste.*

25 *(4) The facility is otherwise subject to requirements*
26 *that are equivalent to, or more stringent than, the*
27 *requirements established for solid waste facilities*
28 *pursuant to this division, and the regulations adopted*
29 *pursuant to this division, pertaining to the following:*

- 30 *(A) Waste acceptance procedures.*
- 31 *(B) Leachate collection and liner requirements.*
- 32 *(C) Employee training for the handling and disposal*
33 *of waste.*
- 34 *(D) Contingency plans and corrective actions.*
- 35 *(E) Financial assurances.*
- 36 *(F) Monitoring of the site.*
- 37 *(G) Closure and post-closure requirements.*
- 38 *(H) Run on and run off controls.*
- 39 *(I) Criteria for siting such facilities.*



1 (c) *If the board determines that a hazardous waste*
2 *disposal facility which accepts solid waste pursuant to this*
3 *section does not meet requirements that are equivalent*
4 *to, or more stringent than, the requirements of this*
5 *division, and any regulations adopted by the board*
6 *pursuant to this division, for the protection of public*
7 *health, safety, or the environment, the board may require*
8 *a solid waste facility permit for the hazardous waste*
9 *disposal facility.*

10 (d) Nothing in this section limits or supersedes any
11 other permit or licensing requirements imposed by other
12 provisions of law.

13 ~~SEC. 31.~~

14 SEC. 29. Section 44105 of the Public Resources Code
15 is repealed.

16 ~~SEC. 32.~~

17 SEC. 30. Chapter 4 (commencing with Section 44300)
18 of Part 4 of Division 30 of the Public Resources Code is
19 repealed.

20 ~~SEC. 33.~~

21 SEC. 31. Chapter 4 (commencing with Section 44300)
22 is added to Part 4 of Division 30 of the Public Resources
23 Code, to read:

24

25 CHAPTER 4. DENIAL, SUSPENSION, OR REVOCATION OF
26 PERMITS

27

28 Article 1. Denial of Permits

29

30 44300. An enforcement agency may deny a solid
31 waste facilities permit application in accordance with the
32 procedures prescribed in Sections 44307, 44308, and
33 44309, in any of the following cases:

34 (a) The application is incomplete or otherwise
35 inadequate.

36 (b) The applicant has not complied with Division 13
37 (commencing with Section 21000).

38 (c) The applicant has failed to demonstrate that the
39 facility will meet minimum regulatory standards.



1 (d) The application contains significant false or
2 misleading information or significant misrepresentations.

3 (e) The agency determines the applicant has, during
4 the previous three years, been convicted of, or been
5 issued a final order for, a class 1 or class 2 violation of this
6 division, or regulations adopted pursuant to this division,
7 or the terms and conditions of the permit, and the
8 violation meets both of the following criteria:

9 (1) The violation demonstrates a chronic recurring
10 pattern of noncompliance which has posed, or may pose,
11 a significant risk to public health and safety or to the
12 environment.

13 (2) The violation has not been corrected or reasonable
14 progress toward correction has not been achieved.

15

16 Article 2. Suspension or Revocation

17

18 44305. (a) An enforcement agency may, in
19 accordance with the procedures prescribed in Sections
20 44307, 44308, and 44309, temporarily suspend a solid waste
21 facilities permit if the enforcement agency determines
22 that changed conditions at the facility necessitate a
23 permit revision or modification to eliminate a significant
24 threat to public health and safety or to the environment.

25 (b) Notwithstanding subdivision (a), the enforcement
26 agency may suspend a solid waste facilities permit prior
27 to holding a hearing if the enforcement agency
28 determines that changed conditions at the facility
29 necessitate a permit revision or modification to prevent
30 or mitigate an imminent and substantial threat to the
31 public health and safety or to the environment. However,
32 any person aggrieved by an action by an enforcement
33 agency to suspend a permit pursuant to this subdivision
34 may appeal the action to a hearing panel established
35 pursuant to Section 44308 or 44309. The hearing panel
36 shall, at the request of the aggrieved party, hear the
37 appeal within three business days of the date when the
38 permit was suspended, or the first day thereafter
39 requested by the aggrieved party in compliance with
40 Chapter 9 (commencing with Section 54950) of Division



1 2 of Title 5 of the Government Code. The hearing panel
 2 shall render its decision on the day the hearing concludes.
 3 The panel may affirm, modify, or rescind the permit
 4 suspension. Any decision of a hearing panel established
 5 pursuant to Section 44308 may be appealed pursuant to
 6 Section 45030.

7 (c) The enforcement agency shall lift the permit
 8 suspension as soon as the changed conditions that
 9 necessitated the suspension pursuant to subdivision (b)
 10 have been corrected.

11 44306. The enforcement agency may revoke a solid
 12 waste facilities permit, in accordance with the procedures
 13 prescribed in Sections 44307, 44308, and 44309, if the
 14 enforcement agency determines any of the following:

15 (a) The permit was obtained by a material
 16 misrepresentation or failure to disclose relevant factual
 17 information.

18 (b) The operator has, during the previous three years,
 19 been convicted of, or been issued a final order for, a class
 20 1 or class 2 violation of this division, regulations adopted
 21 pursuant to this division, or the terms and conditions of
 22 the permit, and the violation meets both of the following
 23 criteria:

24 (1) The violation demonstrates a chronic recurring
 25 pattern of noncompliance which has posed, or may pose,
 26 a significant risk to public health and safety or to the
 27 environment.

28 (2) The violation has not been corrected or reasonable
 29 progress toward correction has not been achieved.

30 44307. After denying, suspending, or revoking a
 31 permit, or issuing a permit that imposes conditions that
 32 are inappropriate, as contended by the applicant, or after
 33 the taking of any enforcement action by the local
 34 enforcement agency, the enforcement agency shall hold
 35 a hearing, if requested to do so, by the person subject to
 36 the action, in accordance with the requirements set forth
 37 in Sections 44308 and 44309. The enforcement agency
 38 shall also hold a hearing upon a petition to the
 39 enforcement agency requesting the enforcement agency



1 to review an alleged failure of the agency to act as
2 required by law.

3 44308. (a) All hearings conducted pursuant to
4 Section 44307 by the local enforcement agency shall be
5 conducted by a hearing panel appointed pursuant to
6 either of the following procedures:

7 (1) The governing body may appoint three of its
8 members as the hearing panel.

9 (2) The chairperson of the governing body may
10 appoint an independent hearing panel consisting of three
11 members.

12 (b) (1) If an independent hearing panel is appointed
13 pursuant to paragraph (2) of subdivision (a), not more
14 than one member of the governing body shall serve on
15 the hearing panel.

16 (2) Members of the independent hearing panel shall
17 be selected for their legal, administrative, or technical
18 abilities in areas relating to solid waste management.

19 (3) At least one member of the independent hearing
20 panel shall be a technical expert with knowledge of solid
21 waste management methods and technology.

22 (4) At least one member of the independent hearing
23 panel shall be a representative of the public at large.

24 (5) A member of an independent hearing panel shall
25 serve for a term of two years, and may not serve more
26 than two consecutive terms.

27 (6) If a member of an independent hearing panel does
28 not complete the member's term, the chairperson of the
29 governing body shall appoint a replacement to serve out
30 the remainder of the unexpired term.

31 (c) Members of the hearing panel may receive per
32 diem and necessary expenses while conducting the
33 hearing.

34 44309. All hearings conducted by the board pursuant
35 to Section 44307, acting as, or on behalf of, the
36 enforcement agency, shall be conducted by a hearing
37 panel of three board members selected by the
38 chairperson of the board.



1 44310. All hearings conducted pursuant to Section
2 44307 or Section 44309 shall be based on the following
3 procedures:

4 (a) (1) The hearing shall be initiated by the filing of
5 a request for a hearing by the person subject to the action
6 within 15 days from the date that person is notified, in
7 writing, of the enforcement agency's intent to act in the
8 manner specified.

9 (2) The enforcement agency shall, within 15 days from
10 the date of receipt of a request for a hearing, provide
11 written notice to the person filing the request notifying
12 the person of the date, time, and place of the hearing, and
13 requiring the person to provide the enforcement agency
14 with a statement of the issues that require a hearing, at
15 least 20 days prior to the date of the hearing.

16 (3) If that person fails to request a hearing or to timely
17 file a statement of issues, the enforcement agency may
18 take the proposed action without a hearing or may, at its
19 discretion, proceed with a hearing before taking the
20 proposed action.

21 (b) The hearing shall be held on the merits of the
22 issues presented, in accordance with the procedures
23 specified in Sections 11507 to 11517, inclusive, of the
24 Government Code.

25 (c) Within 30 days from the date of the hearing, the
26 hearing panel shall issue its decision. The decision shall
27 become effective as provided in Section 45021.

28 ~~SEC. 34. Chapter 5 (commencing with Section 44820)~~
29 ~~is added to Part 4 of Division 30 of the Public Resources~~
30 ~~Code, to read:~~

31
32
33

~~CHAPTER 5. — ASBESTOS CONTAINING WASTE~~

34 ~~44820. Notwithstanding any other provision of law,~~
35 ~~including Section 25143.7 of the Health and Safety Code,~~
36 ~~the board shall regulate the disposal of waste containing~~
37 ~~asbestos, at any waste management unit which is~~
38 ~~classified as a Class II Waste Management Unit, a Class III~~
39 ~~Waste Management Unit, or an unclassified waste~~
40 ~~management unit, as defined in Article 3 (commencing~~



1 ~~with Section 253) of Chapter 15 of Title 23 of the~~
2 ~~California Code of Regulations, as those sections read on~~
3 ~~January 1, 1994, unless the waste management unit is~~
4 ~~subject to a hazardous waste facilities permit issued by the~~
5 ~~Department of Toxic Substances Control.~~

6 ~~SEC. 35.~~

7 *SEC. 32.* Part 5 (commencing with Section 45000) of
8 Division 30 of the Public Resources Code is repealed.

9 ~~SEC. 36.~~

10 *SEC. 33.* Part 5 (commencing with Section 45000) is
11 added to Division 30 of the Public Resources Code, to
12 read:

13
14 PART 5. ENFORCEMENT

15
16 CHAPTER 1. ADMINISTRATIVE ENFORCEMENT

17
18 Article 1. Corrective Action Orders

19
20 45000. (a) The enforcement agency may issue an
21 administrative order requiring the owner or operator of
22 a solid waste facility to take corrective action as necessary
23 to abate a nuisance, or to protect human health and safety
24 or the environment.

25 (b) The local enforcement agency or the board may
26 contract for corrective action after an order issued
27 pursuant to subdivision (a) becomes final and the owner
28 or operator fails to comply with the order by the date
29 specified in the order.

30 (c) If a local enforcement agency or the board expends
31 any funds pursuant to subdivision (b), the owner or
32 operator of the solid waste facility shall reimburse the
33 local enforcement agency or the board for the amount
34 expended, including, but not limited to, a reasonable
35 amount for contract administration, and an amount equal
36 to the interest that would have been earned on the
37 expended funds. The amount expended shall be
38 recoverable in a civil action by the Attorney General,
39 upon request of the local enforcement agency or the
40 board.



1 (d) Any contract entered into by the enforcement
2 agency for corrective action is exempt from approval by
3 the Department of General Services pursuant to Section
4 10295 of the Public Contract Code.

5 (e) Any corrective action shall incorporate by
6 reference any applicable waste discharge requirements
7 issued by the state water board or a regional water board,
8 and shall be consistent with all applicable water quality
9 control plans adopted pursuant to Section 13170 of, and
10 Article 3 (commencing with Section 13240) of Chapter 4
11 of Division 7 of, the Water Code, and state policies for
12 water quality control adopted pursuant to Article 3
13 (commencing with Section 13140) of Chapter 3 of
14 Division 7 of the Water Code, existing at the time of the
15 corrective action or proposed corrective action.

16 45001. Nothing in this division affects the authority of
17 the state water board or a regional water board to issue
18 enforcement orders or take corrective actions with
19 regard to solid waste facilities.

20

21 Article 2. Cease and Desist Orders

22

23 45005. Any person who is operating, or proposes to
24 operate, a solid waste facility, or who is disposing of solid
25 waste in an unauthorized manner, or who owns a solid
26 waste facility and causes or permits the operator to
27 operate the facility (1) in violation of a solid waste
28 facilities permit or in violation of this division, or any
29 regulation adopted pursuant to this division, or (2)
30 without a solid waste facilities permit, or (3) in a manner
31 that causes or threatens to cause a condition of hazard,
32 pollution, or nuisance shall, upon order of the
33 enforcement agency, cease and desist any improper
34 action.

35

36 ~~Article 3. Compliance Orders, Liabilities, and~~
37 ~~Penalties~~

38

39 ~~45010. (a) (1) Prior to issuing a complaint against~~
40 ~~any person on whom civil or administrative penalties may~~



1 ~~be imposed, the enforcement agency shall issue a~~
2 ~~compliance order that lists the alleged violations,~~
3 ~~required actions, a compliance schedule, a proposed~~
4 ~~penalty schedule for each violation, notice of any~~
5 ~~proposed liens that may be imposed on the violator's~~
6 ~~property, and any rights that the operator may have to a~~
7 ~~hearing or appeal. The compliance schedule shall require~~
8 ~~diligent progress to be made to bring the facility into~~
9 ~~compliance.~~

10 (2) ~~If the site for which a compliance order is issued~~
11 ~~pursuant to paragraph (1) is a closed or abandoned site,~~
12 ~~and compliance is not accomplished within a reasonable~~
13 ~~period of time, the unremedied condition shall constitute~~
14 ~~prima facie evidence of negligence. In any action for~~
15 ~~damages against the owner of the property for injury~~
16 ~~caused by the unremedied condition, the burden of~~
17 ~~proving that the injury was not caused by the unremedied~~
18 ~~condition shall be on the owner of the property.~~

19 (3) ~~Upon receipt of a compliance order, the violator~~
20 ~~shall have 22 working days to respond to the alleged~~
21 ~~violations and to meet, if necessary, with the issuing~~
22 ~~agency. Within 22 working days of that response, the~~
23 ~~enforcement agency shall issue a formal complaint if the~~
24 ~~response does not meet the compliance order~~
25 ~~requirements. The formal complaint shall allege the acts~~
26 ~~or failures to act that constitute a basis for liability and any~~
27 ~~penalty or liability that may be imposed.~~

28 (b) ~~Any operator of a solid waste facility or disposal site~~
29 ~~who operates without a solid waste facilities permit, fails~~
30 ~~to substantially comply with the terms and conditions of~~
31 ~~a solid waste facilities permit, or fails to comply with this~~
32 ~~division or the regulations adopted pursuant to this~~
33 ~~division, or any person who owns a solid waste facility or~~
34 ~~disposal site and intentionally or negligently sanctions the~~
35 ~~failure on the part of the operator of the facility to meet~~
36 ~~those requirements, may be subject to a civil penalty~~
37 ~~issued pursuant to this section. Civil penalties may be~~
38 ~~administratively imposed by the enforcement agency but~~
39 ~~shall not exceed five thousand dollars (\$5,000) for Class 1~~
40 ~~violations; two thousand five hundred dollars (\$2,500) for~~



1 ~~Class 2 violations; and one thousand dollars (\$1,000) for~~
2 ~~Class 3 violations, for each day that the unauthorized~~
3 ~~operation or violation occurs.~~

4 ~~45011. Violations of this division, the regulations~~
5 ~~adopted pursuant to this division, or of the terms and~~
6 ~~conditions of a solid waste facilities permit shall be~~
7 ~~considered either class 1, class 2, or class 3 violations~~
8 ~~according to the following standards:~~

9 ~~(a) Class 1 violations consist of violations that pose an~~
10 ~~imminent or substantial threat to public health, safety, or~~
11 ~~the environment, including but not limited to, all of the~~
12 ~~following:~~

13 ~~(1) Operation of a solid waste facility without a solid~~
14 ~~waste facilities permit.~~

15 ~~(2) Accepting solid waste at an unpermitted solid~~
16 ~~waste facility for storage, transfer, processing,~~
17 ~~transformation, or disposal.~~

18 ~~(3) Operation of a solid waste facility in violation of this~~
19 ~~division, regulations adopted pursuant to this division, or~~
20 ~~of terms and conditions of the permit.~~

21 ~~(4) Failure to achieve substantial compliance with any~~
22 ~~order or regulation adopted by the board.~~

23 ~~(5) Failure to maintain an adequate financial~~
24 ~~assurance mechanism for closure, postclosure~~
25 ~~maintenance, and operating liability in accordance with~~
26 ~~regulations adopted by the board.~~

27 ~~(6) Failure to take effective action to control any~~
28 ~~unauthorized release of solid waste, landfill gas, or~~
29 ~~leachate beyond the boundaries of a solid waste facility.~~

30 ~~(b) Class 2 violations consist of violations that pose a~~
31 ~~potential threat to public health, safety, or to the~~
32 ~~environment, including, but not limited to, all of the~~
33 ~~following:~~

34 ~~(1) Operation of a solid waste facility without a solid~~
35 ~~waste facilities permit in violation of this division or the~~
36 ~~regulations adopted pursuant to this division.~~

37 ~~(2) Failure to take effective action to control any~~
38 ~~unauthorized release of any solid waste or landfill gas~~
39 ~~beyond the boundaries of a solid waste facility.~~



1 ~~(3) Operation of a solid waste facility in violation of this~~
2 ~~division, the regulations adopted pursuant to this division,~~
3 ~~or of the terms and conditions of the permit, pertaining~~
4 ~~to the design, construction, operation, maintenance, or~~
5 ~~closure of a solid waste facility.~~

6 ~~(4) Failure to prepare a closure or postclosure~~
7 ~~maintenance plan, or failure to close or maintain a site~~
8 ~~during the postclosure maintenance period as provided~~
9 ~~in the closure or postclosure maintenance plan.~~

10 ~~(e) Class 3 violations consist of violations posing no~~
11 ~~threat, or only a minimal threat, to public health and~~
12 ~~safety or to the environment, including, but not limited~~
13 ~~to, both of the following:~~

14 ~~(1) Operation of a solid waste facility in violation of this~~
15 ~~division or of the regulations adopted pursuant to this~~
16 ~~division.~~

17 ~~(2) Failure to comply with reporting requirements~~
18 ~~adopted by the local enforcement agency or the board.~~

19 ~~(d) The board may adopt regulations that provide~~
20 ~~additional specificity regarding types of violations and the~~
21 ~~applicable administrative penalties.~~

22 ~~45012. (a) For all class 3 violations set forth in Section~~
23 ~~45011, the enforcement agency shall first issue a citation~~
24 ~~to the person committing the violation, setting an~~
25 ~~appropriate penalty not to exceed one thousand dollars~~
26 ~~(\$1,000) for each day the violation occurs.~~

27 ~~(b) The alleged offender shall have 30 days from the~~
28 ~~date the citation is issued to either admit guilt and pay the~~
29 ~~citation in full, or to file with the enforcement agency a~~
30 ~~statement of refusal to pay the penalty set forth in the~~
31 ~~citation. After receipt of a statement of refusal, the~~
32 ~~enforcement agency may serve the alleged offender with~~
33 ~~a complaint pursuant to Section 45010.~~

34 ~~45013.~~

35

36

Article 3. Civil Penalties

37

38 *45010. The Legislature hereby finds and declares as*
39 *follows:*



1 (a) It is the intent of the Legislature that
2 administrative civil penalties should be imposed on the
3 operators of solid waste facilities in a judicious manner
4 and should only be imposed after all feasible efforts have
5 been made by enforcement agencies to provide proper
6 notice of violations to alleged violators as well as a
7 reasonable opportunity to bring solid waste facilities into
8 compliance with this division.

9 (b) Any funds collected through the imposition of
10 administrative civil penalties pursuant to this article shall
11 not be deposited in the General Fund of the local
12 enforcement agency, but instead, shall be deposited in a
13 segregated account and used exclusively for the purpose
14 of bringing a solid waste facility into compliance with this
15 division or to remediate cleanup at an abandoned solid
16 waste disposal site.

17 45011. (a) If an enforcement agency determines that
18 a solid waste facility is in violation of this division, any
19 regulations adopted pursuant to this division applicable
20 to a solid waste facility, or any corrective action or cease
21 and desist order, or poses a potential or actual threat to
22 public health and safety or the environment, the
23 enforcement agency may issue an order establishing a
24 time schedule according to which the facility shall be
25 brought into compliance with this division. The order
26 may also provide for a civil penalty, to be imposed
27 administratively by the enforcement agency, in an
28 amount not to exceed five thousand dollars (\$5,000) for
29 each day on which a violation occurs, if compliance is not
30 achieved in accordance with that time schedule.

31 (b) Prior to issuing an order pursuant to subdivision
32 (a), an enforcement agency shall do both of the following:

33 (1) Notify the operator of the solid waste facility that
34 the facility is in violation of this division, and undertake
35 all reasonable efforts to assist the operator in bringing the
36 facility into compliance by the earliest feasible date.

37 (2) Upon the request of the operator of the solid waste
38 facility, meet with the operator of the solid waste facility
39 to determine what actions, if any, that the operator may



1 voluntarily take to address the violation to bring the
2 facility into compliance by the earliest feasible date.

3 (c) Prior to imposing any administrative civil penalty
4 against an operator of a solid waste facility, the
5 enforcement agency shall do all of the following:

6 (1) Hold a duly noticed public hearing to provide an
7 opportunity for the alleged violation or violations and the
8 amount of any proposed civil penalty to be reviewed by
9 the local governing body.

10 (2) Consider the factors described in subdivision (a) of
11 Section 45016.

12 (3) Consider alternatives to the imposition of an
13 administrative civil penalty that would bring the solid
14 waste facility into compliance and would achieve the
15 same result without imposing the penalty.

16 (d) Any administrative civil penalty imposed pursuant
17 to this section shall be deposited by the enforcement
18 agency into a fund or account that is segregated from the
19 General Fund of the enforcement agency. Funds
20 deposited in the segregated fund or account shall be
21 available for expenditure solely for purposes of bringing
22 solid waste facilities into compliance with this division or
23 with any regulations adopted pursuant to this division, or
24 to remediate the cleanup of abandoned solid waste
25 disposal sites.

26 45012. (a) The board shall not take any enforcement
27 action specified in this part without providing notice to
28 the local enforcement agency of the board's intent to take
29 that action, and allowing the local enforcement agency a
30 reasonable opportunity to take the proposed
31 enforcement action. In taking any such enforcement
32 action, the board is vested, in addition to its other powers,
33 with all of the powers of a local enforcement agency
34 under this division.

35 (b) Notwithstanding subdivision (a), if the board finds
36 that a local enforcement agency's failure to take
37 enforcement action constitutes an imminent threat to
38 public health or safety or to the environment, the board
39 may take the enforcement action, as the board
40 determines is necessary.



1 ~~45014.~~

2 45013. Upon the request of a local enforcement
3 agency, the board shall provide guidance regarding the
4 inspection and investigation of illegal, abandoned, or
5 inactive closed sites, to ensure that public health and
6 safety and the environment are protected, and shall
7 evaluate the performance of the local enforcement
8 agency in conducting those inspections and
9 investigations.

10 ~~45015.~~

11 45014. (a) Upon the failure of any person to comply
12 with any final order or complaint issued by a local
13 enforcement agency or the board, the Attorney General,
14 upon request of the board, shall petition the superior
15 court for the issuance of a preliminary or permanent
16 injunction, or both, as may be appropriate, restraining the
17 person or persons from continuing to violate the order or
18 complaint.

19 (b) Any attorney authorized to act on behalf of the
20 local enforcement agency or the board may petition the
21 superior court for injunctive relief to enforce this part,
22 any term or condition in any solid waste facilities permit,
23 or any standard adopted by the board or the local
24 enforcement agency.

25 (c) In addition to the administrative imposition of civil
26 penalties pursuant to this part, any attorney authorized
27 to act on behalf of the local enforcement agency or the
28 board may petition the superior court to impose, assess,
29 and recover civil penalties authorized by this part. Any
30 civil penalties recovered pursuant to this part shall be
31 paid to the board or to the local enforcement agency,
32 whichever brought the action. Any civil penalties paid to
33 the board shall be deposited in the Solid Waste
34 Enforcement Fund, which is hereby created in the
35 account, to be used exclusively by the board in carrying
36 out its permitting and enforcement activities. Except as
37 provided in Section 47855, any civil penalties paid to the
38 local enforcement agency shall be deposited into a trust
39 account to be used exclusively to support the local



1 enforcement agency in carrying out its responsibilities
2 under this division, including remedial action activities.

3 ~~45016.~~

4 ~~45015.~~ Remedies under this part are in addition to, and
5 do not supersede or limit, any other applicable remedies
6 provided by law.

7 ~~45017.~~

8 ~~45016.~~ In making a determination regarding the
9 allegations in, and the amount of any liability that may be
10 imposed pursuant to, an order or complaint and
11 determining the appropriate outcome, and when
12 determining whether to deny, suspend, or revoke a
13 permit or to deny a permit application, the issuing
14 agency, the board, or a court, as the case may be, shall take
15 into consideration:

16 (a) The nature, circumstances, extent, and gravity of
17 any violation or any condition giving rise to the violation
18 and the various remedies and penalties that are
19 appropriate in the given circumstances, with primary
20 emphasis on protecting the public health and safety and
21 the environment.

22 (b) Whether the violations or conditions giving rise to
23 the violation have been corrected in a timely fashion or
24 reasonable progress is being made.

25 (c) Whether the violations or conditions giving rise to
26 the violation demonstrate a chronic pattern of
27 noncompliance with this division, the regulations
28 adopted pursuant to this division, or with the terms and
29 conditions of a solid waste facilities permit, or pose, or
30 have posed, a serious risk to the public health and safety
31 or to the environment.

32 (d) Whether the violations or conditions giving rise to
33 the violation were intentional.

34 (e) Whether the violations or conditions giving rise to
35 the violation were voluntarily and promptly reported to
36 appropriate authorities prior to the commencement of an
37 investigation by the enforcement agency.

38 (f) Whether the violations or conditions giving rise to
39 the violation were due to circumstances beyond the



1 reasonable control of the violator or were otherwise
2 unavoidable under the circumstances.

3 (g) Whether in the case of violations of this division, or
4 the regulations adopted pursuant to this division, the
5 violator has established one or more of the following
6 programs prior to committing the violation that will help
7 to prevent violations of the type committed in the future:

8 (1) A comprehensive compliance program designed
9 to prevent violations of this division, the regulations
10 adopted pursuant to this division, and of the terms and
11 conditions of the solid waste facilities permit.

12 (2) Employee training programs designed to educate
13 the employees regarding their responsibilities under this
14 division, the regulations adopted pursuant to this division,
15 and the terms and conditions of the solid waste facilities
16 permit.

17 (3) Regular internal audits to monitor the
18 effectiveness of the comprehensive compliance
19 programs described in paragraph (1).

20 (4) Confidential systems for employee reporting of
21 potential statutory, regulatory, or solid waste facilities
22 permit violations and for protecting persons so reporting
23 from retaliatory employment actions.

24 (5) Special incentive programs that promote and
25 reward statutory, regulatory, and permit compliance.

26 ~~45018.~~
27 *45017.* (a) (1) Except as provided in paragraphs (2)
28 and (3) all orders and determinations issued pursuant to
29 this part or Part 4 (commencing with Section 43000) shall
30 take effect immediately after any time period provided
31 for appeal has expired, and a request for a hearing shall
32 stay the effect of that provision of the order pending
33 completion of all appeals.

34 (2) Notwithstanding any other provision of law, any
35 provision of an order issued under this part shall take
36 effect upon service on the affected person if the
37 enforcement agency finds that the actions or inactions
38 associated with that provision may pose an imminent and
39 substantial threat to the public health and safety or to the
40 environment, and a request for a hearing shall not stay the



1 effect of that provision of the order pending completion
2 of all appeals.

3 (3) Notwithstanding any other provision of law, if the
4 enforcement agency determines that any or all provisions
5 of the order are so related that the public health and
6 safety or the environment can be protected only by
7 immediate compliance with the order as a whole, then
8 the order as a whole shall take effect upon issuance by the
9 enforcement agency and a request for a hearing shall not
10 stay the effect of the order as a whole pending completion
11 of all appeals.

12 (b) Any person aggrieved by an order by an
13 enforcement agency which takes effect upon service,
14 based on the finding of an imminent and substantial
15 threat to public health and safety or to the environment,
16 may immediately appeal the order to a hearing panel
17 established pursuant to Section 44307. The hearing panel
18 shall, at the request of the person subject to the order,
19 hear the appeal consistent with the provisions of Sections
20 11125.5 and 54956.5 of the Government Code, as
21 applicable.

22 ~~45019.~~

23 *45018.* The payment of civil liability assessed in any
24 order issued under this chapter shall be made within 30
25 days of the date the order becomes final. Any penalties
26 recovered shall be sent to the board or to the local
27 enforcement agency, whichever brought the action, as
28 provided in subdivision (d) of Section 45041.

29 ~~45020.~~

30 *45019.* At least 10 days prior to the date of issuance of
31 an enforcement order which is not for an emergency, or
32 within five days from the date of issuance of an
33 enforcement order for an emergency, or within 15 days
34 from the date of discovery of a violation of a state law,
35 regulation, or term or condition of a solid waste facilities
36 permit for a disposal site or disposal facility, which is likely
37 to result in an enforcement action, the following agencies
38 shall provide a written statement providing an
39 explanation of, and justification for, the enforcement



1 order or a description of the violation in the following
2 manner:

3 (a) The local enforcement agency shall provide the
4 statement to the regional water board, the board, the air
5 pollution control district or air quality management
6 district, and the Department of Toxic Substances Control.

7 (b) A regional water board shall provide the statement
8 to the local enforcement agency, the board, the air
9 pollution control district or air quality management
10 district, and the Department of Toxic Substances Control.

11 (c) An air pollution control district or an air quality
12 management district shall provide the statement to the
13 local enforcement agency, the board, the regional water
14 board, and the Department of Toxic Substances Control.

15 (d) The Department of Toxic Substances Control shall
16 provide the statement to the local enforcement agency,
17 the board, the regional water board, and the air pollution
18 control district or air quality management district.

19 ~~45021.~~

20 ~~45020.~~ Within 10 days from the date of receipt of a
21 notice of the issuance of, or the proposal to issue, an
22 enforcement order pursuant to Section ~~45023~~ 45022, the
23 regional water board, the enforcement agency, or the air
24 pollution control district or the air quality management
25 district, and the Department of Toxic Substances Control
26 shall inspect the solid waste disposal site to determine
27 whether any state law, regulation, or term or condition of
28 a permit, which that board or agency is authorized to
29 enforce, is being violated.

30 ~~45022.~~

31 ~~45021.~~ If any board or agency specified in Section ~~45023~~
32 ~~45022~~ receives a complaint concerning a solid waste
33 disposal site and the board or agency determines that it
34 is not authorized to take action concerning the complaint,
35 the board or agency shall refer the complaint within 10
36 days from the date of receipt to another state agency
37 which it determines is authorized to take action.

38 ~~45023.~~

39 ~~45022.~~ If any agency or board specified in Section ~~45023~~
40 ~~45021~~ receives a complaint concerning a disposal facility



1 or disposal site which the agency or board does not refer
2 to another state agency pursuant to Section ~~45025~~ 45022,
3 or if the agency or board receives such a complaint
4 referred to it by another agency or board pursuant to
5 Section ~~45025~~ 45022, the agency or board shall either take
6 enforcement action concerning the disposal facility or
7 disposal site *pursuant to this part*, or, within 10 days,
8 provide the person who filed the complaint with a written
9 statement explaining why an enforcement action would
10 not be appropriate.

11 ~~45024.~~

12 45023. Any person who (a) owns or operates a solid
13 waste facility or disposal site and who intentionally or
14 negligently violates or causes or permits another to
15 violate the terms and conditions of a solid waste facilities
16 permit, (b) operates a solid waste facility without a solid
17 waste facilities permit, or (c) intentionally or negligently
18 violates any standard adopted by the board, is subject to
19 a civil penalty not to exceed ten thousand dollars
20 (\$10,000) for each day the violation or operation occurs.

21 ~~45025.~~

22 45024. Any attorney authorized to act on behalf of the
23 board may petition the superior court to impose, assess,
24 and recover the civil penalties authorized by Section
25 ~~45024~~ 45023. Any penalties recovered pursuant to this
26 section shall be paid to the board or to the local
27 enforcement agency, whichever is represented by the
28 attorney bringing the action. Any penalties paid to the
29 local enforcement agency shall be deposited into a trust
30 account to be used exclusively to pay the costs of
31 supporting the local enforcement agency in carrying out
32 its responsibilities under this division ~~and any penalties~~
33 ~~paid to the board shall be deposited in the fund.~~

34 ~~SEC. 37.~~

35 SEC. 34. Part 6 (commencing with Section 45030) is
36 added to Division 30 of the Public Resources Code, to
37 read:

38



PART 6. APPEALS

CHAPTER 1. ENFORCEMENT AGENCY ACTION

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45030. Within 30 days of a written decision by a hearing panel pursuant to the requirements of Section 44307, any aggrieved person may appeal to the board for a review of the decision of the hearing panel. The board may, at any time, on its own motion, review a written decision of the hearing panel. With regard to the review of an administrative civil penalty imposed by a local enforcement agency or a hearing panel, the board shall not reduce the amount of the civil penalty, but may rescind the order imposing the civil penalty if the board determines, based on substantial evidence in the record, that the violation did not occur.

45031. Within 30 days from the date that an appeal is filed with the board, the board 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 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 without a hearing 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.

45032. (a) If the board declines to hear the appeal, it shall notify all parties in writing by appropriate means, and any enforcement agency action stayed pending appeal shall become effective 30 days from the date that the board's notification is made, unless judicial review is



1 sought pursuant to Chapter 2 (commencing with Section
2 45040).

3 (b) If the board accepts the appeal, the evidence
4 before the board shall consist of the record before the
5 hearing panel, or any actions or inactions not subject to
6 review by a hearing panel, the record before the local
7 enforcement agency, and any other relevant evidence
8 which, in the judgment of the board, should be
9 considered to effectuate and implement the policies of
10 this division.

11 (c) The board may only overturn an enforcement
12 action by a local enforcement agency if it finds, based on
13 substantial evidence, that the action was inconsistent
14 with this division. If the board overturns the decision of
15 the local enforcement agency or the hearing panel, or
16 finds that the enforcement agency has failed to act as
17 required, the board may do both of the following:

18 (1) Direct that the appropriate action be taken by the
19 local enforcement agency.

20 (2) Take the appropriate action itself.

21 45033. A failure to appeal to the hearing panel or the
22 board for review, or the refusal of the local enforcement
23 agency, a hearing panel, or the board to hear an appeal
24 does not preclude a person from filing an action with the
25 superior court to contest any action or inaction of the local
26 enforcement agency or the board.

27

28

CHAPTER 2. JUDICIAL REVIEW

29

30 45040. Within 30 days from the date of service of a
31 copy of a decision and order issued by a local enforcement
32 agency or the board under Chapter 1 (commencing with
33 Section 45000), any aggrieved party may file with the
34 superior court a petition for a writ of mandate for review
35 thereof.

36 45041. The evidence before the court shall consist of
37 the records before the hearing panel and the board, if
38 any, including the enforcement agency's records, and any
39 other relevant evidence which, in the judgment of the



1 court, should be considered to effectuate and implement
2 the policies of this division.

3 45042. Except as otherwise provided in this chapter,
4 Section 1094.5 of the Code of Civil Procedure shall govern
5 proceedings pursuant to this article.

6 ~~SEC. 38.~~

7 *SEC. 35.* No reimbursement is required by this act
8 pursuant to Section 6 of Article XIII B of the California
9 Constitution because the local agency or school district
10 has the authority to levy service charges, fees, or
11 assessments sufficient to pay for the program or level of
12 service mandated by this act. Notwithstanding Section
13 17580 of the Government Code, unless otherwise
14 specified in this act, the provisions of this act shall become
15 operative on the same date that the act takes effect
16 pursuant to the California Constitution.

17 ~~SEC. 39.~~

18 *SEC. 36.* This act is an urgency statute necessary for
19 the immediate preservation of the public peace, health,
20 or safety within the meaning of Article IV of the
21 Constitution and shall go into immediate effect. The facts
22 constituting the necessity are:

23 In order to implement the California Integrated Waste
24 Management Act of 1989 more efficiently and to achieve
25 the goals of the act in a timely manner, it is necessary that
26 this measure take effect immediately as an urgency
27 statute.

