

AMENDED IN ASSEMBLY MARCH 21, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 483

Introduced by Assembly Member Alpert

February 16, 1995

An act to amend Section 25143.2 of, and to add Sections 25110.13 and 25134.7 to, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 483, as amended, Alpert. Hazardous waste: recycling.

(1) Existing law subjects a recyclable material to the requirements of the hazardous waste control laws, unless the Department of Toxic Substances Control issues a variance or unless the material meets specified requirements, including if the recyclable material meets the definition of a non-RCRA hazardous waste, is managed as specified, and meets certain requirements, ~~including if the material can be shown to be recycled and used at the site where the material was generated.~~ *A recyclable material may be recycled at a facility which is not an authorized hazardous waste facility if the facility meets specified requirements, including if the material is recycled within 90 days of its generation.* A recyclable material which is used in a manner constituting disposal or used to produce products that are applied to the land is considered a hazardous waste. A violation of the laws regulating hazardous waste is a crime.

This bill would ~~require an excluded~~ *extend the time when a recyclable material that is used at the site where the material was generated to be is required to be recycled within 18 at an unauthorized facility to 12* months of its generation. The bill would revise the requirements for recyclable materials that are used or reused as an ingredient or a substitute ingredient in an industrial process to make a product.

The bill would delete, from an exemption from ~~the~~ classification as a recyclable material, certain materials that have been recycled, that are being used as construction material, and that meet the applicable land disposal restrictions treatment standards. The bill would prohibit the department from regulating, as a treatment unit, a unit in which a material is recycled pursuant to the recyclable ~~material~~ *materials* provision.

The bill would make legislative findings and declarations and statements of legislative intent regarding accidental releases involving hazardous waste. The bill would define the terms “certified unified program agency” and “unit.”

~~Since a violation of the bill’s requirements would be the bill would revise the definition of a crime,~~ the bill would impose a state-mandated local program.

(2) 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. The Legislature hereby finds and
- 2 declares and expresses its intent, as follows:
- 3 ~~(a)~~ The predominance of accidental releases
- 4 involving hazardous wastes which have contaminated the
- 5 environment and adversely impacted the health and
- 6 welfare of the people of the state has occurred due to
- 7 accidents on the public highways while the material was



1 being transported or after the material was disposed at
2 disposal facilities. The Legislature intends to minimize
3 those risks by encouraging and providing incentives for
4 the recycling of hazardous waste, so that less hazardous
5 waste will be transported and disposed at disposal
6 facilities. The Legislature also intends to minimize the
7 depletion of the state's natural resources by encouraging
8 recycling operations that will substitute recycled
9 products for products that are derived from the state's
10 natural resources.

11 ~~(b) The recommendations contained in the report~~
12 ~~“Reengineering RCRA for Recycling,” prepared by the~~
13 ~~Definition of Solid Waste Task Force and issued by the~~
14 ~~Environmental Protection Agency, Office of Solid Waste,~~
15 ~~will inhibit the recycling of both solid waste and~~
16 ~~hazardous waste because of its proposed over-regulation.~~
17 ~~This act would instead institute a demonstration program~~
18 ~~for onsite recycling operations for state hazardous wastes~~
19 ~~or for onsite handling of RCRA hazardous wastes in a~~
20 ~~manner that is exempt from federal regulations. Those~~
21 ~~onsite recycling operations which opt to operate under~~
22 ~~the program established by this act would agree to~~
23 ~~register each recycling operation and undergo frequent~~
24 ~~inspections that are designed to protect human health~~
25 ~~and the environment while allowing for the reduction of~~
26 ~~waste, conservation of energy, and preservation of the~~
27 ~~state's natural resources. The onsite recycling operations~~
28 ~~authorized by this act will be allowed to operate free of~~
29 ~~the numerous command and control regulations present~~
30 ~~in current laws.~~

31 SEC. 2. Section 25110.13 is added to the Health and
32 Safety Code, to read:

33 25110.13. “Certified unified program agency” or
34 “CUPA” means a county, city, or local agency certified by
35 the Secretary for Environmental Protection pursuant to
36 Chapter 6.11 (commencing with Section 25404).

37 SEC. 3. Section 25134.7 is added to the Health and
38 Safety Code, to read:

39 25134.7. “Unit” means, for the purposes of onsite
40 treatment or recycling, a combination of tanks or tank



1 systems or containers located together that are plumbed
2 together or otherwise linked so as to form one system and
3 are used in sequence to treat one or more compatible
4 hazardous waste streams.

5 SEC. 4. Section 25143.2 of the Health and Safety Code
6 is amended to read:

7 25143.2. (a) Recyclable materials are subject to the
8 requirements of this chapter and the regulations adopted
9 by the department to implement this chapter which
10 apply to hazardous wastes, unless the department issues
11 a variance pursuant to Section 25143, or except as
12 provided otherwise in subdivision (b), (c), (d), or (i) or
13 the regulations adopted by the department pursuant to
14 Sections 25150 and 25151. For the purposes of this section,
15 recyclable material does not include infectious waste.

16 (b) Except as otherwise provided in subdivisions (e),
17 (f), and (g), recyclable material which is managed in
18 accordance with Section 25143.9 and is or will be recycled
19 by any of the following methods shall be excluded from
20 classification as a waste:

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

24 (2) Used or reused as a safe and effective substitute for
25 commercial products, if the material is not being
26 reclaimed.

27 (3) Returned to the original process from which the
28 material was generated, without first being reclaimed, if
29 the material is returned as a substitute for raw material
30 feedstock, and the process uses raw materials as principal
31 feedstocks.

32 (c) Except as otherwise provided in subdivision (e),
33 any recyclable material may be recycled at a facility
34 which is not authorized by the department pursuant to
35 the applicable hazardous waste facilities permit
36 requirements of Article 9 (commencing with Section
37 25200) if either of the following requirements is met:

38 (1) The material is a petroleum refinery waste
39 containing oil which is converted into petroleum coke at
40 the same facility at which the waste was generated, unless



1 the resulting coke product would be identified as a
2 hazardous waste under this chapter. A waste subject to
3 this paragraph is exempt from this chapter to the same
4 extent the waste is exempt from subsections (q), (r), and
5 (s) of Section 6924 of Title 42 of the United States Code.

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

7 (A) The material is recycled and used at the same
8 facility at which the material was generated.

9 (B) The material is recycled within ~~90 days~~ *12 months*
10 of its generation.

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

15 (d) Except as otherwise provided in subdivisions (e),
16 (f), (g), and (h), recyclable material which meets the
17 definition of a non-RCRA hazardous waste in Section
18 25117.9, is managed in accordance with Section 25143.9,
19 and meets or will meet any of the following requirements
20 is excluded from classification as a waste:

21 (1) The material can be shown to be recycled and used
22 at the site where the material was generated, ~~if the~~
23 ~~material is recycled within 18 months of its generation.~~

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

26 (A) The material is a product, which has been
27 processed from a hazardous waste, or which has been
28 handled, at a facility authorized by the department
29 pursuant to the facility permit requirements of Article 9
30 (commencing with Section 25200) to process or handle
31 the material, if the product meets both of the following
32 conditions:

33 (i) The product does not contain constituents, other
34 than those for which the material is being recycled which
35 render the material hazardous under regulations adopted
36 pursuant to Sections 25140 and 25141.

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

39 (B) The material is a petroleum refinery waste
40 containing oil which is converted into petroleum coke at



1 the same facility at which the waste was generated, unless
2 the resulting coke product would be identified as a
3 hazardous waste under this chapter.

4 (C) The material is oily waste, used oil, or spent
5 nonhalogenated solvent which is managed by the owner
6 or operator of a refinery which is processing primarily
7 crude oil and which is not subject to permit requirements
8 for recycling of used oil, or a public utility, or a corporate
9 subsidiary, corporate parent, or subsidiary of the same
10 corporate parent of the refinery or public utility, and
11 which meets all of the following requirements:

12 (i) The material is either burned in an industrial
13 boiler, an industrial furnace, an incinerator, or a utility
14 boiler which complies with all applicable federal and
15 state laws, or is recombined with normal process streams
16 to produce a fuel.

17 (ii) The material is managed at the site where it was
18 generated; managed at another site owned or operated
19 by the generator, a corporate subsidiary of the generator,
20 a subsidiary of the same entity of which the generator is
21 a subsidiary, or the corporate parent of the generator; or,
22 if the material is generated in the course of oil or gas
23 exploration or production, managed by an unrelated
24 refinery receiving the waste through a common pipeline.

25 (iii) The material does not contain constituents other
26 than those for which the material is being recycled which
27 render the material hazardous under regulations adopted
28 pursuant to Sections 25140 and 25141, unless the material
29 is an oily waste, other than used oil, and those constituents
30 are to be removed at the refinery prior to the use of the
31 material.

32 (D) The material is a fuel which is removed from a fuel
33 tank, is either contaminated with water or by
34 nonhazardous debris, of not more than 2 percent by
35 weight, including, but not limited to, rust or sand, or a fuel
36 unintentionally mixed with an unused petroleum
37 product, and is transferred to, and processed into a fuel
38 at, a refinery which processes primarily crude oil.

39 (3) The material is transported between locations
40 operated by the same person who generated the material,



1 if the material is recycled at the last location operated by
2 that person and all of the conditions of clauses (i) to (vi),
3 inclusive, of subparagraph (A) of paragraph (4) are met.
4 If requested by the department or by any law
5 enforcement official, a person handling material subject
6 to this paragraph shall, within 15 days of the request,
7 supply documentation to show that the requirements of
8 this paragraph have been satisfied.

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

14 (i) The material is transferred by employees of that
15 person in vehicles under the control of that person or by
16 a registered hazardous waste hauler under contract to
17 that person.

18 (ii) The material is not handled at any interim
19 location.

20 (iii) The material is not held at any publicly accessible
21 interim location for more than four hours unless required
22 by other provisions of law.

23 (iv) The material is managed in compliance with the
24 requirements of this chapter and the regulations adopted
25 pursuant to this chapter prior to the initial transportation
26 of the material and after the receipt of the material at the
27 last location operated by that person. Upon receipt of the
28 material at the last location operated by that person, the
29 material shall be deemed to have been generated at that
30 location.

31 (v) All of the following information is maintained in an
32 operating log, kept at the last location operated by that
33 person, for at least three years after receipt of the
34 material:

35 (I) The name and address of each generator location
36 contributing material to each shipment received.

37 (II) The quantity and type of material contributed by
38 each generator to each shipment of material.

39 (III) The destination and intended disposition of all
40 material shipped offsite or received.



1 (IV) The date of each shipment received or sent
2 offsite.

3 (vi) If requested by the department, or by any law
4 enforcement official, a person handling material subject
5 to this paragraph shall, within 15 days of the request,
6 supply documentation to show that the requirements of
7 this paragraph have been satisfied.

8 (B) For purposes of paragraph (3) and subparagraph
9 (A) of paragraph (4), “person” also includes corporate
10 subsidiary, corporate parent, or subsidiary of the same
11 corporate parent.

12 (C) Persons which are a corporate subsidiary,
13 corporate parent, or subsidiary of the same corporate
14 parent, and which manage recyclable materials under
15 paragraph (3) or subparagraph (A) of paragraph (4), are
16 jointly and severally liable for any activities excluded
17 from regulation pursuant to this section.

18 (5) The material is used or reused as an ingredient in
19 an industrial process to make a product, ~~pursuant to the~~
20 ~~following procedures~~, if the material is not being treated
21 before introduction to that process, except by one or
22 more of the ~~following procedures~~ *procedures specified in*
23 *this paragraph*. Any discharges to air from the following
24 procedures that contain constituents which are
25 hazardous wastes pursuant to the department’s
26 regulations shall ~~comply~~ *be in compliance* with
27 applicable air pollution control laws:

28 (A) Filtering.

29 (B) Screening.

30 (C) Sorting.

31 (D) Sieving.

32 (E) Grinding.

33 (F) Physical or gravity separation, without the
34 addition of external heat or any chemicals, except that
35 heating of oily water to temperatures of less than 200
36 degrees Fahrenheit at atmospheric pressure *or the*
37 *addition of demulsifiers to oily water* may be used to
38 enhance physical or gravity separation of the oil, so that
39 the oil may be recovered and used, reused, or recycled.

40 (G) pH adjustment.



1 (H) Viscosity adjustment.

2 ~~(I) Puncturing aerosol cans in a device approved by~~
3 ~~the department, a designated public health director, or a~~
4 ~~certified unified program agency.~~

5 *(I) Puncturing, draining, or crushing of aerosol cans.*

6 (J) Draining containers of paint or other coating
7 materials.

8 (K) Crushing, *wringing, or otherwise squeezing* filters
9 or absorbent materials.

10 (6) The material is used or reused as a safe and
11 effective substitute for commercial products, ~~pursuant to~~
12 ~~the following procedures~~, if the material is not being
13 treated, except by one or more of the ~~following~~
14 ~~procedures~~ *procedures specified in this paragraph*. Any
15 discharges to air from the following procedures that
16 contain constituents which are hazardous wastes
17 pursuant to the department's regulations shall ~~comply be~~
18 *in compliance* with applicable air pollution control laws:

19 (A) Filtering.

20 (B) Screening.

21 (C) Sorting.

22 (D) Sieving.

23 (E) Grinding.

24 (F) Physical or gravity separation, without the
25 addition of external heat or any chemicals, except that
26 heating of oily water to temperatures of less than 200
27 degrees Fahrenheit at atmospheric pressure *or the*
28 *addition of demulsifiers to oily water* may be used to
29 enhance physical or gravity separation of the oil, so that
30 the oil may be recovered and used, reused, or recycled.

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34 ~~the department, a designated public health director, or a~~
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37 (J) Draining containers of paint or other coating
38 materials.

39 (K) Crushing, *wringing, or otherwise squeezing* filters
40 or absorbent materials.



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

10 (e) ~~(1)~~ Notwithstanding subdivisions (b), (c), and
 11 (d), all of the following recyclable materials are
 12 hazardous wastes and subject to full regulation under this
 13 chapter, even if the recycling involves use, reuse, or
 14 return to the original process as described in subdivision
 15 (b), or even if the recycling involves activities or
 16 materials described in subdivisions (c) and (d):

17 ~~(A)~~

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

24 ~~(B) Except as provided in paragraphs (2) and (3),~~

25 (2) (A) *Except as provided in subparagraphs (B) and*
 26 *(C)*, materials which are a non-RCRA hazardous waste,
 27 as defined in Section 25117.9, and used in a manner
 28 constituting disposal or used to produce products that are
 29 applied to the land as a fertilizer, soil amendment,
 30 agricultural mineral, or an auxiliary soil and plant
 31 substance.

32 ~~(2)~~

33 (B) Materials that have been recycled, that are being
 34 used as construction materials, and that meet the
 35 applicable land disposal restrictions treatment standards
 36 listed in the regulations adopted by the department are
 37 exempt from the requirements of subparagraph ~~(B)~~ of
 38 ~~paragraph (1) (A)~~.

39 ~~(3)~~



1 (C) The department may adopt regulations to exclude
2 materials, other than those specified in ~~paragraph (2)~~
3 *subparagraph (B)*, from regulation pursuant to
4 ~~subparagraph (B) of paragraph (1)~~. (A).

5 ~~(4)~~

6 (3) Materials burned for energy recovery, used to
7 produce a fuel, or contained in fuels, except materials
8 exempted under paragraph (1) of subdivision (c) or
9 excluded under subparagraph (B), (C), or (D) of
10 paragraph (2) of subdivision (d).

11 ~~(5)~~

12 (4) Materials accumulated speculatively.

13 ~~(6)~~

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

16 ~~(7)~~

17 (6) Used or spent etchants, stripping solutions, and
18 plating solutions, which are transported to an offsite
19 facility operated by a person other than the generator and
20 which are either of the following:

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

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

27 ~~(8)~~

28 (7) Used oil, as defined in subdivision (a) of Section
29 25250.1, unless one of the following applies:

30 (A) The used oil is excluded under subparagraph (B)
31 or (C) of paragraph (2) of subdivision (d), paragraph (4)
32 of subdivision (d), subdivision (e) of Section 25250.1,
33 Section 25250.2, or Section 25250.3, and is managed in
34 accordance with the applicable requirements of Part 279
35 (commencing with Section 279.1) of Title 40 of the Code
36 of Federal Regulations.

37 (B) The used oil is used or reused on the site where it
38 was generated or is excluded under paragraph (3) of
39 subdivision (d), and is managed in accordance with the
40 applicable requirements of Part 279 (commencing with



1 Section 279.1) of Title 40 of the Code of Federal
2 Regulations, and is not any of the following:

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

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

8 (iii) Accumulated speculatively.

9 (iv) Determined to be inherently wastelike pursuant
10 to regulations adopted by the department.

11 (f) (1) Any person who manages a recyclable
12 material under a claim that the material qualifies for
13 exclusion or exemption pursuant to this section shall
14 provide, upon request, to the department, the
15 Environmental Protection Agency, or any local agency or
16 official authorized to bring an action as provided in
17 Section 25180, all of the following information:

18 (A) The name, street and mailing address, and
19 telephone number of the owner or operator of any facility
20 that manages the material.

21 (B) Any other information related to that person's
22 management of the material requested by the
23 department, the Environmental Protection Agency, or
24 the authorized local agency or official.

25 (2) Any person claiming an exclusion or an exemption
26 shall maintain adequate records to demonstrate to the
27 satisfaction of the requesting agency or official that there
28 is a known market or disposition for the material, and that
29 the requirements of any exemption or exclusion pursuant
30 to this section are met.

31 (3) For purposes of determining that the conditions
32 for exclusion from classification as a waste pursuant to this
33 section are met, any person, facility, site, or vehicle
34 engaged in the management of a material under a claim
35 that the material is excluded from classification as a waste
36 pursuant to this section shall be subject to Section 25185.

37 (g) For purposes of Chapter 6.8 (commencing with
38 Section 25300), recyclable materials excluded from
39 classification as a waste pursuant to this section are not



1 excluded from the definition of hazardous substances in
2 subdivision (g) of Section 25316.

3 (h) Used oil that fails to qualify for exclusion pursuant
4 to subdivision (d), solely because the used oil is a RCRA
5 hazardous waste, may be managed pursuant to
6 subdivision (d) if the used oil is also managed in
7 accordance with the applicable requirements of Part 279
8 (commencing with Section 279.1) of Title 40 of the Code
9 of Federal Regulations.

10 (i) The department shall not regulate, as a treatment
11 unit, a unit in which a material is recycled pursuant to this
12 section.

13 SEC. 5. No reimbursement is required by this act
14 pursuant to Section 6 of Article XIII B of the California
15 Constitution because the only costs that may be incurred
16 by a local agency or school district will be incurred
17 because this act creates a new crime or infraction,
18 eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition
21 of a crime within the meaning of Section 6 of Article
22 XIII B of the California Constitution.

23 Notwithstanding Section 17580 of the Government
24 Code, unless otherwise specified, the provisions of this act
25 shall become operative on the same date that the act
26 takes effect pursuant to the California Constitution.

