

ASSEMBLY BILL

No. 926

Introduced by Assembly Member Rainey

February 22, 1995

An act to amend Sections 11553, 12805, and 65962.5 of the Government Code, to amend Sections 25150, 25218.10, 25250.1, 33459.1, and 33459.2 of the Health and Safety Code, to amend Sections 10507.5, 10860, 12153, 12155, 12164.5, 12165, 12166, 12167, 12167.1, 12225, and 12301 of the Public Contract Code, to amend Sections 3477.1, 15004, 40110, 42605, 44202, 44203, 50000, 50000.5, 50001, and 50002 of, to add Section 40183 to, and to repeal and add Chapter 3 (commencing with Section 40400) of Part 1 of Division 30 of, the Public Resources Code, to amend Section 7718 of the Public Utilities Code, and to amend Sections 45855, 45863, 45981, and 45982 of the Revenue and Taxation Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 926, as introduced, Rainey. Solid waste management: reorganization.

Under existing law, the California Integrated Waste Management Board is created in the California Environmental Protection Agency and is vested with specified powers and duties under the California Integrated Waste Management Act of 1989 and other provisions pertaining to the management of solid waste.

This bill would abolish the California Integrated Waste Management Board, create the Division of Integrated Waste Management in the Resources Agency, administered by the

Secretary of the Resources Agency, and transfer the powers and duties of the abolished board to the division and the secretary. The bill would make related changes.

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

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

1 SECTION 1. Section 11553 of the Government Code
 2 is amended to read:
 3 11553. ~~Effective January 1, 1988, an~~ (a) An annual
 4 salary of eighty-one thousand six hundred thirty-five
 5 dollars (\$81,635) shall be paid to each of the following:
 6 ~~(a)~~
 7 (1) Chairperson of the Unemployment Insurance
 8 Appeals Board.
 9 ~~(b)~~
 10 (2) Chairperson of the Agricultural Labor Relations
 11 Board.
 12 ~~(c)~~
 13 (3) President of the Public Utilities Commission.
 14 ~~(d)~~
 15 (4) Chairperson of the Fair Political Practices
 16 Commission.
 17 ~~(e)~~
 18 (5) Chairperson of the Energy Resources
 19 Conservation and Development Commission.
 20 ~~(f)~~
 21 (6) Chairperson of the Public Employment Relations
 22 Board.
 23 ~~(g)~~
 24 (7) Chairperson of the Workers' Compensation
 25 Appeals Board.
 26 ~~(h)~~
 27 (8) Administrative Director of the Division of
 28 Industrial Accidents.
 29 ~~(i)~~
 30 (9) Chairperson of the State Water Resources Control
 31 Board.



1 ~~(j) Chairperson and each member of the California~~
2 ~~Integrated Waste Management Board.~~

3 (b) The annual compensation provided by this section
4 shall be increased in any fiscal year in which a general
5 salary increase is provided for state employees. The
6 amount of the increase provided by this section shall be
7 comparable to, but shall not exceed, the percentage of the
8 general salary increases provided for state employees
9 during that fiscal year.

10 SEC. 2. Section 12805 of the Government Code is
11 amended to read:

12 12805. The Resources Agency consists of the ~~State Air~~
13 ~~Resources Board~~ *California Coastal Commission, the*
14 *California Conservation Corps, the California Tahoe*
15 *Conservancy, the Colorado River Board, the State Coastal*
16 *Conservancy, the State Energy Resources Conservation*
17 *and Development Commission, the State Water*
18 ~~Resources Control Board and each California regional~~
19 ~~water quality control board,~~ the State Lands Commission,
20 the Division of State Lands, *the Division of Integrated*
21 *Waste Management,* and the following departments:
22 Conservation; Fish and Game; Forestry and Fire
23 Protection; ~~Navigation and Ocean Development Boating~~
24 ~~and Waterways;~~ Parks and Recreation; and Water
25 Resources.

26 SEC. 3. Section 65962.5 of the Government Code is
27 amended to read:

28 65962.5. (a) The Department of Toxic Substances
29 Control shall compile and update as appropriate, but at
30 least annually, and shall submit to the Secretary for
31 Environmental Protection, a list of all of the following:

32 (1) All hazardous waste facilities subject to corrective
33 action pursuant to Section 25187.5 of the Health and
34 Safety Code.

35 (2) All land designated as hazardous waste property or
36 border zone property pursuant to Article 11
37 (commencing with Section 25220) of Chapter 6.5 of
38 Division 20 of the Health and Safety Code.

39 (3) All information received by the Department of
40 Toxic Substances Control pursuant to Section 25242 of the



1 Health and Safety Code on hazardous waste disposals on
2 public land.

3 (4) All sites listed pursuant to Section 25356 of the
4 Health and Safety Code.

5 (5) All sites included in the Abandoned Site
6 Assessment Program.

7 (b) The State Department of Health Services shall
8 compile and update as appropriate, but at least annually,
9 and shall submit to the Secretary for Environmental
10 Protection, a list of all public drinking water wells which
11 contain detectable levels of organic contaminants and
12 which are subject to water analysis pursuant to Section
13 4026.2 or 4026.3 of the Health and Safety Code.

14 (c) The State Water Resources Control Board shall
15 compile and update as appropriate, but at least annually,
16 and shall submit to the Secretary for Environmental
17 Protection, a list of all of the following:

18 (1) All underground storage tanks for which an
19 unauthorized release report is filed pursuant to Section
20 25295 of the Health and Safety Code.

21 (2) All solid waste disposal facilities from which there
22 is a migration of hazardous waste and for which a
23 California regional water quality control board has
24 notified the Department of Toxic Substances Control
25 pursuant to subdivision (e) of Section 13273 of the Water
26 Code.

27 (3) All cease and desist orders issued after January 1,
28 1986, pursuant to Section 13301 of the Water Code, and all
29 cleanup or abatement orders issued after January 1, 1986,
30 pursuant to Section 13304 of the Water Code, which
31 concern the discharge of wastes which are hazardous
32 materials.

33 (d) The local enforcement agency, as designated
34 pursuant to Section 18051 of Title 14 of the California
35 Code of Regulations, shall compile as appropriate, but at
36 least annually, and shall submit to the ~~California~~
37 ~~Integrated Waste Management Board~~ *Division of*
38 *Integrated Waste Management in the Resources Agency*,
39 a list of all solid waste disposal facilities from which there
40 is a known migration of hazardous waste. The ~~California~~



1 ~~Integrated Waste Management Board~~ *Division of*
 2 *Integrated Waste Management* shall compile the local
 3 lists into a statewide list which shall be submitted to the
 4 Secretary for Environmental Protection and shall be
 5 available to any person who requests the information.

6 (e) The Secretary for Environmental Protection shall
 7 consolidate the information submitted pursuant to this
 8 section and distribute it in a timely fashion to each city
 9 and county in which sites on the lists are located. The
 10 secretary shall distribute the information to any other
 11 person upon request. The secretary may charge a
 12 reasonable fee to persons requesting the information,
 13 other than cities, counties, or cities and counties, to cover
 14 the cost of developing, maintaining, and reproducing and
 15 distributing the information.

16 (f) Before a lead agency accepts as complete an
 17 application for any development project which will be
 18 used by any person, the applicant shall consult the lists
 19 sent to the appropriate city or county and shall submit a
 20 signed statement to the local agency indicating whether
 21 the project and any alternatives are located on a site
 22 which is included on any of the lists compiled pursuant to
 23 this section and shall specify any list. If the site is included
 24 on a list, and the list is not specified on the statement, the
 25 lead agency shall notify the applicant pursuant to Section
 26 65943. The statement shall read as follows:

27
 28 HAZARDOUS WASTE AND SUBSTANCES
 29 STATEMENT
 30

31 The development project and any alternatives proposed
 32 in this application are contained on the lists compiled
 33 pursuant to Section 65962.5 of the Government Code.
 34 Accordingly, the project applicant is required to submit
 35 a signed statement which contains the following
 36 information:

- 37
- 38 Name of applicant:
- 39 Address:
- 40 Phone number:



- 1 Address of site (street name and number if available, and
- 2 ZIP Code):
- 3 Local agency (city/county):
- 4 Assessor's book, page, and parcel number:
- 5 Specify any list pursuant to Section 65962.5 of the
- 6 Government Code:
- 7 Regulatory identification number:
- 8 Date of list:

9 _____
 10 Applicant, date

11
 12 (g) The changes made to this section by the act
 13 amending this section, which ~~takes~~ *took* effect January 1,
 14 1992, apply only to projects for which applications have
 15 not been deemed complete on or before January 1, 1992,
 16 pursuant to Section 65943.

17 SEC. 4. Section 25150 of the Health and Safety Code
 18 is amended to read:

19 25150. (a) The department shall adopt, and revise
 20 when appropriate, standards and regulations for the
 21 management of hazardous wastes to protect against
 22 hazards to the public health, ~~to~~ domestic livestock, ~~to~~
 23 wildlife, or ~~to~~ the environment.

24 (b) The department shall apply the standards and
 25 regulations adopted pursuant to subdivision (a) to the
 26 management of hazardous waste.

27 (c) Except as provided in subdivision (d), the
 28 department may limit the application of the standards
 29 and regulations adopted or revised pursuant to
 30 subdivision (a) at facilities operating pursuant to a
 31 hazardous waste facilities permit in any manner which
 32 the department determines to be appropriate, including,
 33 but not limited to, requiring these facilities to apply for,
 34 and receive, a permit modification prior to the
 35 application of the standards and regulations.

36 (d) The department shall not adopt or revise
 37 standards and regulations which result in the imposition
 38 of any requirements for the management of a RCRA
 39 waste which is less stringent than a corresponding



1 requirement adopted by the Environmental Protection
2 Agency pursuant to the Resource Conservation and
3 Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et
4 seq.).

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

10 (f) Before the adoption of regulations, the department
11 shall notify all agencies of interested local governments,
12 including, but not limited to, local governing bodies, local
13 planning agencies, local health authorities, local building
14 inspection departments, the Department of Food and
15 Agriculture, the Department of the California Highway
16 Patrol, the Department of Fish and Game, the
17 Department of Industrial Relations, the Division of
18 Industrial Safety, the State Air Resources Board, the State
19 Water Resources Control Board, the State Fire Marshal,
20 *California* regional water quality control boards, the State
21 Building Standards Commission, and the ~~California~~
22 *Division of Integrated Waste Management Board in the*
23 *Resources Agency*.

24 SEC. 5. Section 25218.10 of the Health and Safety
25 Code is amended to read:

26 25218.10. The department and the ~~California~~ *Division*
27 *of Integrated Waste Management Board in the Resources*
28 *Agency* shall jointly develop and maintain a data base of
29 all household hazardous waste collection events, facilities,
30 and programs within the state. The department and the
31 ~~California~~ *Division of Integrated Waste Management*
32 ~~Board~~ shall both maintain that information, as a
33 cooperative effort, and shall make information from the
34 data base available to the public upon request. However,
35 the department and the ~~California~~ *Division of Integrated*
36 *Waste Management Board* shall implement this section
37 only to the extent that funds are appropriated therefor by
38 the Legislature.

39 SEC. 6. Section 25250.1 of the Health and Safety Code
40 is amended to read:

1 25250.1. (a) As used in this article, the following
2 terms have the following meaning:

3 (1) (A) “Used oil” means any oil that has been refined
4 from crude oil, or any synthetic oil, that has been used,
5 and, as a result of use or as a consequence of extended
6 storage, or spillage, has been contaminated with physical
7 or chemical impurities. Examples of used oil are spent
8 lubricating fluids which have been removed from an
9 engine crankcase, transmission, gearbox, or differential of
10 an automobile, bus, truck, vessel, plane, heavy
11 equipment, or machinery powered by an internal
12 combustion engine; industrial oils, including compressor,
13 turbine, and bearing oil; hydraulic oil; metal-working oil;
14 refrigeration oil; and railroad drainings.

15 (B) “Used oil” does not include any of the following:

16 (i) Oil which has a flashpoint below 100° F or which has
17 been mixed with hazardous waste, other than minimal
18 amounts of vehicle fuel.

19 (ii) Waste water, the discharge of which is subject to
20 regulation under either Section 307(b) or 402 of the Clean
21 Water Act, including waste waters at facilities which have
22 eliminated the discharge of waste water, contaminated
23 with de minimis quantities of used oil. For purposes of this
24 subparagraph, “de minimis quantities of used oil” are
25 small spills, leaks, or drippings from pumps, machinery,
26 pipes, and other similar equipment during normal
27 operations, or small amounts of oil lost to the waste water
28 treatment system during washing or draining operations.
29 This exception shall not apply if the used oil is discarded
30 as a result of abnormal manufacturing operations
31 resulting in substantial leaks, spills, or other releases or to
32 used oil recovered from waste waters.

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

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

37 (v) Oil containing more than 1000 ppm total halogens.
38 That oil shall be presumed to be a hazardous waste
39 because it has been mixed with halogenated hazardous
40 waste listed in Subpart D (commencing with Section



1 261.30) of Part 261 of Title 40 of the Code of Federal
2 Regulations. Persons may rebut that presumption by
3 demonstrating that the used oil does not contain
4 hazardous waste.

5 (2) “Board” or “division” means the ~~California~~
6 *Division of Integrated Waste Management Board in the*
7 *Resources Agency*.

8 (3) (A) “Recycled oil” means any oil, produced from
9 used oil, which has been prepared for reuse and which
10 achieves minimum standards of purity, in liquid form, as
11 established by the department. This subdivision does not
12 apply to oil which is to be disposed or used in a manner
13 constituting disposal. The following standards of purity
14 are in effect for recycled oil unless the department, by
15 regulation, establishes more stringent standards, and are
16 the only allowed exceptions to the criteria adopted
17 pursuant to Section 25141:

18 (i) Flashpoint: minimum standards set by the
19 American Society for Testing and Materials for the
20 recycled products. However, recycled oil to be burned
21 for energy recovery shall have a minimum flashpoint of
22 100° F.

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

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

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

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

27 (vi) Total halogens: 3000 mg/kg or less. However,
28 recycled oil shall be demonstrated by testing to contain
29 not more than 1000 mg/kg total halogens listed in
30 Appendix VIII of Part 261 (commencing with Section
31 261.1) of Title 40 of the Code of Federal Regulations.

32 (vii) Total polychlorinated biphenyls (PCBs): 2
33 mg/kg or less.

34 (B) Compliance with the specifications of
35 subparagraph (A) shall not be met by blending or
36 diluting used oil with crude or virgin oil and shall be
37 determined in accordance with the procedures for
38 identification and listing of hazardous waste adopted in
39 regulations by the department. Persons authorized by the
40 department to recycle oil shall maintain records of



1 volumes and characteristics of incoming used oil and
2 outgoing recycled oil and documentation concerning the
3 recycling technology utilized to demonstrate to the
4 satisfaction of the department or other enforcement
5 agencies that the recycling has been achieved in
6 compliance with this subdivision.

7 (4) "Used oil recycling facility" means a facility which
8 reprocesses or rerefines used oil.

9 (5) "Used oil storage facility" means a storage facility,
10 as defined in subdivision (a) of Section 25123.3, which
11 stores used oil.

12 (6) "Used oil transfer facility" means a transfer facility,
13 as defined in subdivision (c) of Section 25123.3, that either
14 stores used oil for periods greater than 144 hours or that
15 transfers used oil from one container to another.

16 (b) (1) Unless otherwise specified, used oil which
17 meets all of the following conditions is not subject to
18 regulation by the department:

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

21 (B) The used oil is not hazardous pursuant to the
22 criteria adopted pursuant to Section 25141 of constituents
23 other than those listed in paragraph (3) of subdivision
24 (a).

25 (C) The used oil is not mixed with any waste listed as
26 a hazardous waste in Part 261 (commencing with Section
27 261.1) of Chapter 1 of Title 40 of the Code of Federal
28 Regulations.

29 (2) Used oil recycling facilities that are the first to
30 claim that the used oil meets the requirements specified
31 in paragraph (1) shall maintain an operating log and
32 copies of certification forms as specified in Section
33 25250.19. Any person who generates used oil, and who
34 claims that the oil is exempt from regulation pursuant to
35 this subdivision, shall notify the department, in writing,
36 of that claim and shall comply with the testing and
37 recordkeeping requirements of Section 25250.19 prior to
38 its reuse. In any action to enforce this article, the burden
39 is on the generator, transporter, or recycling facility,
40 whichever first claimed that the used oil meets the



1 standards and criteria, and on the user of the used oil to
2 prove that the oil meets those standards and criteria.

3 SEC. 7. Section 33459.1 of the Health and Safety Code
4 is amended to read:

5 33459.1. (a) An agency may take any actions which
6 the agency determines are necessary and which are
7 consistent with other state and federal laws to remedy or
8 remove a release of hazardous substances on, under, or
9 from property within a project area, subject to the
10 conditions specified in subdivision (b). The agency shall
11 request cleanup guidelines from the department and
12 shall provide the department and local health and
13 building departments with notification of any cleanup
14 activity pursuant to this section at least 30 days before the
15 commencement of the activity. If an action taken by an
16 agency to remedy or remove a release of a hazardous
17 substance is not satisfactory to the department or the
18 California regional water quality control board, the
19 department or the California regional water quality
20 control board may require the agency to take, or cause
21 the taking of, additional action to remedy or remove the
22 release, as provided by applicable law. If methane or
23 landfill gas is present, the agency shall obtain written
24 approval from the ~~California~~ *Division of* Integrated
25 Waste Management ~~Board~~ *in the Resources Agency* prior
26 to taking that action.

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

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

32 (2) The party determined to be responsible for the
33 release by the agency has been notified by the agency or
34 has received adequate notice from the department, a
35 California regional water quality control board, the
36 Environmental Protection Agency, or other
37 governmental agency with relevant authority and has
38 been given 60 days to respond and to propose a remedial
39 action plan, and the responsible party has not agreed
40 within an additional 60 days to implement a plan to

1 remedy or remove the release that has been found by the
2 agency to be consistent, to the maximum extent possible,
3 with the priorities, guidelines, criteria, and regulations
4 contained in the National Contingency Plan and
5 published pursuant to Section 9605 of Title 42 of the
6 United States Code for similar releases, situations, or
7 events.

8 (3) The party determined to be responsible for the
9 release has entered into the agreement specified in
10 paragraph (2), but the legislative body of the agency
11 subsequently determines that the plan is not being
12 carried out in an appropriate and timely manner by the
13 responsible party.

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

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

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

21 (d) This section shall remain in effect only until
22 January 1, 1999, and as of that date is repealed, unless a
23 later enacted statute, which is enacted before January 1,
24 1999, deletes or extends that date.

25 SEC. 8. Section 33459.2 of the Health and Safety Code
26 is amended to read:

27 33459.2. (a) Within a project area, an agency may
28 take any actions which the agency determines are
29 necessary and which are consistent with other state and
30 federal laws to remedy or remove hazardous waste from
31 property if the agency obtains written approval from the
32 department or a California regional water quality control
33 board, as appropriate, prior to taking that action. In
34 addition, if methane or landfill gas is present, the agency
35 shall also obtain written approval from the ~~California~~
36 *Division of Integrated Waste Management —Board in the*
37 *Resources Agency* prior to taking that action.

38 (b) The terms “remove,” “remedy,” and “hazardous
39 waste,” as used in this section, have the same meaning



1 given those terms by Sections 25323, 25322, and 25117,
2 respectively.

3 (c) This section shall become operative January 1,
4 1999.

5 SEC. 9. Section 10507.5 of the Public Contract Code
6 is amended to read:

7 10507.5. It is the intent of the Legislature to
8 encourage the procurement of recycled paper products
9 by the University of California by developing guidelines
10 to encourage the procurement of recycled paper
11 products where suitable for the uses intended and where
12 the quality is equal and the price is equal or less than
13 nonrecycled paper products. It is also the intent of the
14 Legislature that the regents report annually to the
15 Legislature, the Governor, and the ~~California~~ *Division of*
16 *Integrated Waste Management Board in the Resources*
17 *Agency* commencing January 1, 1991, on the percentage
18 of the total dollar amount of recycled paper products
19 purchased or procured under this article.

20 SEC. 10. Section 10860 of the Public Contract Code is
21 amended to read:

22 10860. (a) The trustees shall revise the procedures
23 and specifications for purchases of paper products to give
24 preference, wherever feasible, to the purchase of paper
25 products containing recycled paper products pursuant to
26 Section 10855.

27 (b) The trustees shall give purchase preference to
28 recycled paper products when both of the following
29 apply:

30 (1) The products can be substituted for, and cost ~~no~~
31 *not* more than, nonrecycled paper products.

32 (2) The products meet all applicable standards and
33 regulations.

34 (c) To encourage the use of postconsumer waste, the
35 trustees' specifications shall require recycled paper
36 product contracts to be awarded to the bidder whose
37 paper product contains the greater percentage of
38 postconsumer waste if the fitness and quality and price
39 meet the requirements in Sections 10855 and 10860.



1 (d) The trustees shall set the following goals for the
2 purchasing of recycled paper products:

3 (1) By January 1, 1992, at least 35 percent of the total
4 dollar amount of paper products purchased or procured
5 by the trustees shall be purchased as a recycled paper
6 product.

7 (2) By January 1, 1994, at least 40 percent of the total
8 dollar amount of paper products purchased or procured
9 by the trustees shall be purchased as a recycled paper
10 product.

11 (3) By January 1, 1996, at least 50 percent of the total
12 dollar amount of paper products purchased or procured
13 by the trustees shall be purchased as a recycled paper
14 product.

15 (e) If at any time a goal has not been met, the trustees
16 and the Department of General Services, in consultation
17 with the ~~California~~ *Division of Integrated Waste*
18 ~~Management Board~~ *—in the Resources Agency*, shall
19 review procurement policies and shall make
20 recommendations for immediate revisions to ensure that
21 each goal is met. Revisions include, but are not limited to,
22 providing a purchasing preference and altering the goals.
23 The trustees and the Department of General Services, in
24 consultation with the ~~board~~ *Division of Integrated Waste*
25 *Management*, shall present its conclusions and
26 recommendations on these revisions of procurement
27 policies to the Legislature and the Governor in the
28 department's annual report pursuant to Section 12225.

29 SEC. 11. Section 12153 of the Public Contract Code is
30 amended to read:

31 12153. The Legislature finds and declares all of the
32 following:

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

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

39 (c) It is in the best interest of reducing the increasing
40 burden on communities disposing of the state's solid



1 waste for the state to take a role in developing an
2 integrated state solid waste management policy, which
3 includes source reduction, recycling, composting, market
4 development, incineration, and landfills. Since recycling
5 is a necessary component, the state shall encourage the
6 use of recycled products to ensure that the state's
7 industries have sufficient and adequate markets for
8 products regeneratively utilizing the state's solid waste as
9 recycled resources.

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

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

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

32 (g) It is the intent of the Legislature, whenever
33 economically feasible and as markets allow, to continually
34 expand the policies of the state to utilize recycled
35 resources in the daily operations of the state. This
36 includes, but is not limited to, the procurement and
37 purchase of recycled materials, the use of recycled
38 resources in the performance of a service or project for
39 the state, the purchase of equipment used for the



1 collection and sale of waste materials generated by the
2 state.

3 (h) It is the intent of the Legislature that the
4 Department of General Services work with all state
5 departments, agencies, the Legislature, the ~~California~~
6 *Division of Integrated Waste Management Board in the*
7 *Resources Agency*, and the Department of Conservation
8 to draft, establish, and implement policies which ensure
9 the procurement and use of recycled resources.

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

13 SEC. 12. Section 12155 of the Public Contract Code is
14 amended to read:

15 12155. As used in this chapter, the following
16 definitions shall apply:

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

19 (b) "Director" means the Director of General
20 Services.

21 (c) "Procuring agency" means the Department of
22 General Services and any other state department or
23 agency having delegated procurement authority granted
24 pursuant to Section 10333 with an annual total dollar limit
25 above one million dollars (\$1,000,000) as prescribed by
26 the Office of Procurement within the Department of
27 General Services.

28 (d) "Board" or "division" means the ~~California~~
29 *Division of Integrated Waste Management Board*, as
30 defined pursuant to Section 40110 of the ~~Public Resources~~
31 ~~Code in the Resources Agency~~.

32 SEC. 13. Section 12164.5 of the Public Contract Code
33 is amended to read:

34 12164.5. (a) It is the intent of the Legislature that for
35 the current state waste paper collection program, the
36 ~~California Integrated Waste Management Board~~ *division*
37 shall provide participating locations with public
38 information awareness and training to state and
39 legislative employees. Additionally, the ~~California~~
40 ~~Integrated Waste Management Board~~ *division* shall



1 provide training for personnel, including but not limited
2 to, state and buildings and grounds personnel, responsible
3 for the collection of waste materials. This training shall
4 include, but is not limited to, educating and training the
5 personnel concerning the separation and collection of
6 recyclable materials.

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

13 (c) It is also the intent of the Legislature that the
14 department, in consultation with the ~~California~~
15 ~~Integrated Waste Management Board~~ *division*, shall
16 submit a new recycling plan, which includes but is not
17 limited to, the collection and sale of waste materials
18 generated by state and legislative employees. ~~This~~ *The*
19 plan shall be submitted to the appropriate legislative
20 policy committees on or before August 31, 1990. The plan
21 may be phased in utilizing those office facilities and
22 collecting those waste materials most conducive to
23 operation of a source separation program, but shall be
24 fully implemented by June 1, 1991.

25 SEC. 14. Section 12165 of the Public Contract Code is
26 amended to read:

27 12165. (a) After implementing a recycling plan
28 pursuant to subdivision (c) of Section 12164.5, the
29 ~~California Integrated Waste Management Board~~ *division*
30 shall establish, implement, and maintain a recycling plan
31 for the Legislature, which may include all legislative
32 offices and individual members' district offices; all state
33 offices whether in state-owned buildings or leased
34 facilities in Sacramento, Los Angeles, and San Francisco
35 Counties; and in any other areas that the ~~board~~ *division*
36 determines to be feasible. The plan shall include the
37 provisions for the recycling of office paper, corrugated
38 cardboard, newsprint, beverage containers (as defined in
39 Section 14503 of the Public Resources Code), waste oil,

1 and any other material at the discretion of the ~~board~~
2 *division*.

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

19 (c) The ~~board~~ *division* shall provide participating
20 locations with public awareness information and training
21 to state and legislative employees, including, but not
22 limited to, the proper separation and disposal of
23 recyclable resources. Additionally, the ~~board~~ *division*
24 shall provide training for personnel, including, but not
25 limited to, state buildings and grounds personnel,
26 responsible for the collection of waste materials. This
27 training shall include, but is not limited to, educating and
28 training the personnel concerning the separation and
29 collection of recyclable materials.

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

34 SEC. 15. Section 12166 of the Public Contract Code is
35 amended to read:

36 12166. The ~~California Integrated Waste Management~~
37 ~~Board~~ *division* may contract as necessary for the recycling
38 of products which have been returned pursuant to
39 Section 12165.



1 SEC. 16. Section 12167 of the Public Contract Code is
2 amended to read:

3 12167. Revenues received from ~~this~~ *the* plan or any
4 other activity involving the collection and sale of
5 recyclable materials in state and legislative offices located
6 in state-owned and state-leased buildings, such as the sale
7 of waste materials through recycling programs operated
8 by the ~~California Integrated Waste Management Board~~
9 *division* or in agreement with the ~~board~~ *division*, shall be
10 deposited in the Integrated Waste Management Account
11 in the Integrated Waste Management Fund and are
12 hereby continuously appropriated to the ~~board~~ *division*,
13 without regard to fiscal years, until June 30, 1994, for the
14 purposes of offsetting recycling program costs. On and
15 after July 1, 1994, the funds in the Integrated Waste
16 Management Account may be expended by the ~~board~~
17 *division*, only upon appropriation by the Legislature, for
18 the purpose of offsetting recycling program costs.

19 SEC. 17. Section 12167.1 of the Public Contract Code
20 is amended to read:

21 12167.1. Notwithstanding Section 12167, upon
22 approval by the ~~California Integrated Waste~~
23 ~~Management Board~~ *division*, revenues derived from the
24 sale of recyclable materials by state agencies and
25 institutions that do not exceed two thousand dollars
26 (\$2,000) annually are hereby continuously appropriated,
27 without regard to fiscal years, for expenditure by those
28 state agencies and institutions for the purposes of
29 offsetting recycling program costs. Revenues that exceed
30 two thousand dollars (\$2,000) annually shall be available
31 for expenditure by those state agencies and institutions
32 when appropriated by the Legislature. Information on
33 the quantities of recyclable materials collected for
34 recycling shall be provided to the ~~board~~ *division* on an
35 annual basis ~~according to~~ *in accordance with* a schedule
36 determined by the ~~board~~ *division* and participating
37 agencies.

38 SEC. 18. Section 12225 of the Public Contract Code is
39 amended to read:

1 12225. On or before August 31, 1991, and every year
2 thereafter, the department, in consultation with the
3 ~~board~~ *division*, shall prepare a report to the Legislature
4 describing the purchase and procurement of products
5 purchased by the state before and after January 1, 1990.
6 The report shall detail as much as possible, the amount of
7 recycled products utilized by state contractors before and
8 after the enactment of this chapter. The report shall
9 include, but not be limited to, the following:

10 (a) Listed by department, the total dollar amounts,
11 volume, and number of contracts of individual products
12 purchased by the department and any other agency
13 having delegated procurement authority pursuant to
14 Section 10333.

15 (b) Total dollar amounts, volume, and number of
16 contracts of each product purchased by the state, which
17 includes the Legislature, the California State University,
18 and the University of California systems.

19 (c) A list of individual recycled products purchased
20 pursuant to Sections 10507.5 and 10860, inclusive, this
21 chapter and Chapter 5 (commencing with Section
22 12300).

23 (d) The total dollar amounts, volume, and number of
24 contracts of individual products, whether recycled or
25 nonrecycled, purchased by the state.

26 (e) The total dollar amounts, volume, and number of
27 contracts of recycled products including recycled paper
28 and compost products purchased pursuant to Sections
29 10507.5 and 10860, inclusive, this chapter, and Chapter 5
30 (commencing with Section 12300).

31 (f) The total dollar amount and volume of compost
32 and co-compost products utilized by the state pursuant to
33 Section 12183 or any other state or local program.

34 (g) For recycled paper products purchased by
35 procuring agencies, the total number of contracts, dollar
36 amounts, and volume of those contracts that were eligible
37 for the preference pursuant to Section 12162.

38 (h) For each recycled product, including recycled
39 paper and compost products, the total dollar amounts,
40 volume, and number of contracts that were eligible a



1 preference or a combination thereof pursuant to Sections
2 4533, 7095, and 14838 of the Government Code.

3 (i) Total number of bids for each product listed in
4 Section 12157, whether or not a contract was awarded the
5 bid.

6 (j) The range of dollar amounts for bids on
7 procurement contracts which include, but is not limited
8 to, contracts for the procurement of individual recycled
9 products listed in Section 12157.

10 (k) For each waste material, total revenue dollars and
11 volume generated from the state waste materials
12 collection program pursuant to Section 12165.

13 (l) Recommendations to the Legislature as to
14 revisions of the percentage amounts contained in the
15 secondary material and postconsumer material
16 definitions for individual products which will result in
17 greater procurement of recycled products composed of
18 recycled resources that would otherwise be disposed of as
19 solid waste in the state's disposal facilities.

20 (m) (1) Recommendations on specific products
21 available containing secondary postconsumer material
22 which are procured by the state, used in the performance
23 of a service or project for the state, and used in state
24 construction contracts.

25 (2) These products shall be recommended as
26 candidates for the application of the recycled paper
27 product preference described in Section 12162.

28 (n) The ~~California Integrated Waste Management~~
29 ~~Board~~ *division*, in consultation with the department, shall
30 identify those products purchased in either large volumes
31 or high dollar amounts by the state which are available as
32 a recycled product. The ~~board~~ *division* shall include this
33 list in the department's annual report and shall revise this
34 list as products purchased by the state become feasibly
35 available in recycled form.

36 SEC. 19. Section 12301 of the Public Contract Code is
37 amended to read:

38 12301. The following definitions govern the
39 interpretation of this chapter:



1 (a) “Department” means the Department of General
2 Services.

3 (b) “Board” or “division” means the ~~California~~
4 ~~Division of~~ Integrated Waste Management Board, ~~as~~
5 ~~defined pursuant to Section 40110 of the Public Resources~~
6 ~~Code in the Resources Agency.~~

7 (c) “Recycled paper product” means all paper and
8 woodpulp products containing postconsumer and
9 secondary materials. “Postconsumer material” means a
10 finished material which would normally be disposed of as
11 a solid waste, having completed its life cycle as a
12 consumer item. “Secondary material” means fragments
13 of finished products or finished products of a
14 manufacturing process, which has converted a virgin
15 resource into a commodity of real economic value, and
16 includes postconsumer material, but does not include
17 fibrous waste generated during the manufacturing
18 process such as fibers recovered from wastewater or
19 trimmings of paper machine rolls (mill broke), wood
20 slabs, chips, sawdust, or other wood residue from a
21 manufacturing process. “Recycled paper product” means
22 a paper product with not less than 50 percent, by fiber
23 weight, consisting of secondary and postconsumer
24 material with not less than 10 percent of fiber weight
25 consisting of postconsumer material.

26 For fine grades of paper such as uncoated printing and
27 writing grades, “recycled paper” means either of the
28 following:

29 (1) For text and cover grades and cotton fiber papers,
30 not less than 50 percent by fiber weight consisting of
31 secondary and postconsumer material with not less than
32 20 percent of fiber weight consisting of postconsumer
33 material.

34 (2) For other uncoated printing and writing grades,
35 not less than 20 percent by fiber weight consisting of
36 postconsumer material.

37 Effective January 1, 1999, for both paragraphs (1) and
38 (2), the postconsumer material content shall be increased
39 to 30 percent of fiber weight.



1 (d) “Recycled product” means all materials, goods,
2 and supplies, excluding paper products, no less than 50
3 percent of the total weight of which consists of secondary
4 and postconsumer material with not less than 10 percent
5 of its total weight consisting of postconsumer material. A
6 recycled product shall include any product which could
7 have been disposed of as solid waste having completed its
8 life cycle as a consumer item, but otherwise is refurbished
9 for reuse without substantial alteration of its form.
10 “Postconsumer material” means a finished material
11 which would have been disposed of as a solid waste,
12 having completed its life cycle as a consumer item, and
13 does not include manufacturing wastes. “Secondary
14 material” means fragments of finished products or
15 finished products of a manufacturing process, which has
16 converted a resource into a commodity of real economic
17 value, and includes postconsumer material, but does not
18 include excess virgin resources of the manufacturing
19 process.

20 SEC. 20. Section 3477.1 of the Public Resources Code
21 is amended to read:

22 3477.1. “Board” or “division” means the ~~California~~
23 *Division of Integrated Waste Management Board in the*
24 *Resources Agency.*

25 SEC. 21. Section 15004 of the Public Resources Code
26 is amended to read:

27 15004. “Board” or “division” means the ~~California~~
28 *Division of Integrated Waste Management Board in the*
29 *Resources Agency.*

30 SEC. 22. Section 40110 of the Public Resources Code
31 is amended to read:

32 40110. “Board” or “division,” *except where the*
33 *context refers to Division 30 (commencing with Section*
34 *40000) of this code,* means the ~~California~~ *Division of*
35 *Integrated Waste Management Board in the Resources*
36 *Agency.*

37 SEC. 23. Section 40183 is added to the Public
38 Resources Code, to read:

39 40183. “Secretary” means the Secretary of the
40 Resources Agency.

1 SEC. 24. Chapter 3 (commencing with Section 40400)
2 of Part 1 of Division 30 of the Public Resources Code is
3 repealed.

4 SEC. 25. Chapter 3 (commencing with Section 40400)
5 is added to Part 1 of Division 30 of the Public Resources
6 Code, to read:

7

8 CHAPTER 3. DIVISION OF INTEGRATED WASTE
9 MANAGEMENT

10 40400. There is in the Resources Agency the Division
11 of Integrated Waste Management. Any reference in any
12 law or regulation to the State Solid Waste Management
13 Board, the California Waste Management Board, or the
14 California Integrated Waste Management Board shall be
15 deemed to mean the division. The Secretary of the
16 Resources Agency shall administer the functions of the
17 division.

18 40401. The secretary may appoint legal counsel,
19 clerical and secretarial employees, technical personnel,
20 and other staff, and acquire facilities that the secretary
21 determines to be necessary for the performance of the
22 functions of the division. The staff of the division shall be
23 subject to the relevant system and procedures of the state
24 civil service. The State Civil Service Act (Part 2
25 (commencing with Section 18500) of Division 5 of Title
26 2 of the Government Code) is applicable to that
27 personnel.

28 40402. The Attorney General shall represent the
29 secretary and the state in litigation concerning affairs of
30 the division, unless the Attorney General chooses to
31 represent another state agency which is a party to the
32 action. In that case, the legal counsel of the division shall
33 represent the division. Sections 11041, 11042, and 11043 of
34 the Government Code are not applicable to the division.

35 40403. The secretary may hold any hearings and
36 conduct any investigations in any part of the state
37 necessary to carry out the powers and duties of the
38 secretary. The secretary shall have the same powers as are
39 conferred upon heads of departments of the state by



1 Article 2 (commencing with Section 11180) of Chapter 2
2 of Part 1 of Division 3 of Title 2 of the Government Code.

3 40404. (a) The secretary shall adopt regulations, as
4 necessary, to carry out this division. The secretary shall
5 make copies of proposed regulations available to any
6 person, upon request.

7 (b) (1) The secretary shall adopt emergency
8 regulations regarding city, county, and regional agency
9 source reduction and recycling elements and nondisposal
10 facility elements, required to be submitted to the division
11 pursuant to Section 41791.5, pursuant to the
12 Administrative Procedure Act (Chapter 3.5
13 (commencing with Section 11340) of Part 1 of Division 3
14 of Title 2 of the Government Code). The adoption of
15 emergency regulations pursuant to this subdivision shall
16 be filed with the Office of Administrative Law at the
17 earliest feasible date, but not later than December 31,
18 1996, and shall be deemed to be an emergency and
19 necessary for the immediate preservation of the public
20 peace, health, or safety. The emergency regulations shall
21 not alter the deadlines for the submission of countywide
22 and regional agency integrated waste management plans
23 specified in Section 41791.

24 (2) Prior to adopting the emergency regulations
25 required pursuant to paragraph (1), the secretary shall,
26 in addition to any requirements of the Administrative
27 Procedure Act, do all of the following:

28 (A) Make available to any person, upon request, a
29 copy of the proposed emergency regulations at least 30
30 days prior to adoption.

31 (B) Hold at least two public hearings in different parts
32 of the state in order to receive public comment on the
33 emergency regulations.

34 (C) Publish notice in the California Regulatory Notice
35 Register of the proposed adoption of the emergency
36 regulations, the identity of a contact person at the division
37 from whom copies of the proposed regulations may be
38 obtained, and the dates, times, and locations of the public
39 hearings that are required pursuant to subparagraph (B).



1 (c) Notwithstanding subdivision (e) of Section 11346.1
2 of the Government Code, any emergency regulations
3 adopted pursuant to subdivision (b) shall remain in effect
4 for not more than three years from the date of adoption.

5 40405. The secretary shall maintain the division
6 headquarters in the County of Sacramento, and may
7 establish regional offices in any part of the state that the
8 secretary determines to be necessary for the efficient
9 operation of the division.

10 40406. In order to carry out the powers and duties of
11 the division, the secretary may enter into any contracts
12 that the secretary determines to be necessary.

13 40407. The secretary may accept grants, gifts, and
14 donations for the purposes specified in this division.

15 40408. The division may render technical assistance
16 and make recommendations concerning potential solid
17 waste disposal sites upon the request of the board of
18 supervisors of any county. The secretary may request any
19 state agency to assist the division in rendering technical
20 assistance and making recommendations pursuant to this
21 section.

22 40409. The division is designated as the state solid
23 waste management agency for all purposes stated in the
24 Federal Resource Conservation and Recovery Act of 1976
25 (42 U.S.C. Sec. 6901 et seq.) and any other federal act
26 heretofore and hereafter enacted affecting solid waste.

27 40410. The secretary shall file an annual report with
28 the Legislature on or before March 31 of each year. The
29 report shall summarize progress achieved by the division
30 in implementing, or assisting in the implementation of,
31 programs established pursuant to this division and shall
32 include all of the following:

33 (a) A review of the division's administrative policies
34 and management structure to determine whether or not
35 administrative, budgetary, or statutory changes are
36 needed to ensure the most effective and efficient
37 implementation of this division.

38 (b) A description of the actions taken and progress
39 made by the division to implement this division and to
40 further the goals and objectives of this division as set forth



1 in Article 1 (commencing with Section 40000) and Article
2 2 (commencing with Section 40050) of Chapter 1.

3 (c) A review of all statutory deadlines established for
4 the division under this division and a status report on
5 division actions taken to comply with those deadlines.

6 (d) A review of market development strategies
7 undertaken by the division pursuant to this division to
8 ensure that markets exist for materials diverted from solid
9 waste facilities, and recommendations for administrative
10 and legislative actions which will promote expansion of
11 those markets.

12 (e) A review of actions taken by the division to better
13 educate and inform individuals and public and private
14 sector entities who generate solid waste on the
15 importance of source reduction, recycling, and
16 composting of solid waste, and recommendations for
17 administrative or legislative actions that will better
18 inform and educate these parties.

19 (f) A review of the effectiveness of those provisions of
20 the Revenue and Taxation Code that provide tax credits
21 and deductions to individuals and businesses to promote
22 more effective implementation of this division.

23 (g) A review of the effectiveness of the programs
24 developed pursuant to Sections 40912, 40913, and 40914.

25 (h) Recommendations, with proposed implementing
26 regulations, for providing technical assistance to counties
27 and cities that meet the criteria specified in Section 41782,
28 so that those counties and cities will be able to meet the
29 objectives of this division. The recommendations shall,
30 among other things address the following matters:

31 (1) Assistance in developing methods of raising
32 revenue at the local level to fund rural integrated waste
33 management programs.

34 (2) Assistance in developing alternative methods of
35 source reduction, recycling, and composting of solid
36 waste suitable for rural local governments.

37 SEC. 26. Section 42605 of the Public Resources Code
38 is amended to read:

39 42605. The State Department of Education shall
40 encourage participation in the integrated waste



1 management education program established pursuant to
 2 this chapter in cooperation with the ~~California Integrated~~
 3 ~~Waste Management Board~~ *division* to satisfy the teaching
 4 requirements of the science framework adopted by the
 5 State Board of Education.

6 SEC. 27. Section 44202 of the Public Resources Code
 7 is amended to read:

8 44202. (a) Upon receipt of a written request from
 9 any tribe considering a proposal to construct each solid
 10 waste facility in that tribe's Indian country within this
 11 state, the secretary shall convene negotiations for
 12 purposes of reaching a cooperative agreement pursuant
 13 to this article, which will define the respective rights,
 14 duties, and obligations of the state and the tribe
 15 concerning the approval, development, and operation of
 16 the facility. In convening the negotiations, the secretary
 17 shall consult with the ~~California Integrated Waste~~
 18 ~~Management Board~~ *division*, the ~~State Water Resources~~
 19 ~~Control Board~~ *state water board*, the appropriate
 20 ~~California~~ regional water ~~quality control~~ board, the State
 21 Air Resources Board, and the appropriate air pollution
 22 control district or air quality management district.

23 (b) This article does not apply to any facility located on
 24 Indian country within the state if it meets all of the
 25 following requirements:

- 26 (1) The facility is owned and operated solely by a tribe.
- 27 (2) All solid waste accepted by the facility is generated
 28 by that particular tribe.
- 29 (3) Appropriate federal agencies have approved the
 30 facility.

31 SEC. 28. Section 44203 of the Public Resources Code
 32 is amended to read:

33 44203. (a) The secretary may enter into any
 34 cooperative agreement which meets the requirements of
 35 this article.

36 (b) (1) Each cooperative agreement shall include,
 37 but shall not be limited to, all requirements determined
 38 to be necessary to meet the requirements of subdivision

39 (e) to do all of the following:

- 40 (1) ~~(1)~~



1 (A) Protect water quality, as determined by the ~~State~~
2 ~~Water Resources Control Board~~ *state water board* or the
3 appropriate ~~California~~ regional water-quality control
4 board.

5 ~~(2)~~

6 (B) Protect air quality, as determined by the State Air
7 Resources Board or the appropriate air pollution control
8 officer.

9 ~~(3)~~

10 (C) Provide for proper management of solid wastes, as
11 determined *to be necessary* by the ~~California Integrated~~
12 ~~Waste Management Board~~ *division*.

13 ~~(4)~~

14 (2) In making these determinations, the state agencies
15 shall consider any applicable federal environmental and
16 public health and safety laws.

17 (c) A decision by the secretary whether to enter into
18 a cooperative agreement shall be based on a good faith
19 determination concerning whether a proposed
20 cooperative agreement meets the requirements of this
21 article. The secretary shall take this action within 130 days
22 of a written request by the tribe that the secretary
23 approve a draft cooperative agreement. At least 60 days
24 prior to determining whether to enter into a cooperative
25 agreement, the secretary shall provide notice, and make
26 available for public review and comment, drafts of his or
27 her proposed action and drafts of the findings and
28 determinations that are required by this section. The
29 secretary shall hold a public hearing in the affected area
30 on the proposed action within the time period for taking
31 that action, as specified in this section. Within 10 days
32 after the close of the public review and comment period,
33 the agencies shall complete the determinations required
34 by this section and the secretary shall issue a final
35 decision.

36 (d) The findings and determinations of the secretary
37 and relevant agencies made pursuant to this section shall
38 explain material differences between state laws and
39 regulations and the proposed tribal or federal
40 functionally equivalent provisions. The findings and



1 determinations do not need to explain each difference
2 between the state and tribal or federal requirements as
3 long as they identify and evaluate whether the material
4 differences meet the requirements of this article,
5 including, but not limited to, providing at least as much
6 protection for public health and safety and the
7 environment as would the state requirements.

8 (e) Any cooperative agreement executed pursuant to
9 this article shall provide for regulation of the solid waste
10 facility through inclusion in the agreement of design,
11 permitting, construction, siting, operation, monitoring,
12 inspection, closure, postclosure, liability, enforcement,
13 and other regulatory provisions applicable to a solid waste
14 facility, or which relate to any environmental
15 consequences that may be caused by facility construction
16 or operation, that are functionally equivalent to all of the
17 following:

18 (1) Article 4 (commencing with Section 13260) of
19 Chapter 4 of, Chapter 5 (commencing with Section
20 13300) of, and Chapter 5.5 (commencing with Section
21 13370) of, Division 7 of the Water Code.

22 (2) Chapter 3 (commencing with Section 41700) of,
23 Chapter 4 (commencing with Section 42300) of, and
24 Chapter 5 (commencing with Section 42700) of, Part 4 of,
25 and Part 6 (commencing with Section 44300) of, Division
26 26 of the Health and Safety Code.

27 (3) This division.

28 (4) All regulations adopted pursuant to the statutes
29 specified in this section.

30 (5) Any other provision of state environmental, public
31 health, and safety laws and regulations germane to the
32 solid waste facility proposed by the tribe.

33 (f) The tribal organizational structures or other means
34 of implementing the requirements specified in
35 subdivision (e) are not required to be the same as the
36 state organizational structures or means of implementing
37 its system of regulation.

38 (g) ~~Neither the~~ *The* approval of any cooperative
39 agreement ~~nor amendments,~~ *any amendment* to the
40 agreement, ~~nor any~~ *or a* determination of sufficiency



1 ~~provided in~~ pursuant to subdivision (a) of Section 44205;
2 shall *not* constitute a “project” as defined in Section 21065
3 and shall not be subject to review pursuant to the
4 California Environmental Quality Act (Division 13
5 (commencing with Section 21000)).

6 (h) Each cooperative agreement shall provide for the
7 incorporation of the standards and requirements
8 germane to the protection of the environment, public
9 health, and safety listed in subdivision (e), as enacted, or
10 as those provisions may be amended after January 1, 1992,
11 or after the effective date of any cooperative agreement,
12 if those standards and requirements meet both of the
13 following requirements:

14 (1) The standards and requirements do not
15 discriminate against a tribe which has executed a
16 cooperative agreement, or a lessee of the tribe, and are
17 applicable to, or not more stringent than, other rules
18 applicable to other similar or analogous facilities or
19 operations outside Indian country.

20 (2) Adequate notice and opportunity for comment on
21 the incorporation of new and amended standards or
22 requirements are provided to the tribe, facility owner,
23 and operator to facilitate any physical or operational
24 changes in the facility in accordance with state law.

25 SEC. 29. Section 50000 of the Public Resources Code
26 is amended to read:

27 50000. (a) Until a countywide integrated waste
28 management plan has been approved by the ~~California~~
29 *Division of Integrated Waste Management Board in the*
30 *Resources Agency* pursuant to Division 30 (commencing
31 with Section 40000), no person shall establish a new solid
32 waste facility or transformation facility or expand an
33 existing solid waste facility or transformation facility
34 which will result in a significant increase in the amount
35 of solid waste handled at the facility without a
36 certification by the local enforcement agency that one of
37 the following has occurred:

38 (1) The facility is identified and described in or found
39 to conform with a county solid waste management plan
40 which was in compliance with the law and regulations



1 existing on December 31, 1989, adopted pursuant to
 2 former Title 7.3 (commencing with Section 66700) of the
 3 Government Code as it read on December 31, 1989. The
 4 conformance finding with that plan shall be in
 5 accordance with the procedure for a finding of
 6 conformance which was set forth in the plan prior to
 7 January 1, 1990.

8 (2) The facility is identified and described in the most
 9 recent county solid waste management plan which has
 10 been approved by the county and by a majority of the
 11 cities within the county which contain a majority of the
 12 population of the incorporated area of the county, except
 13 in those counties which have only two cities, in which
 14 case, the plan has been approved by the county and by
 15 the city which contains a majority of the population of the
 16 incorporated area of the county.

17 (3) Pursuant to the procedures in subdivision (b), the
 18 facility has been approved by the county and by a
 19 majority of the cities within the county which contain a
 20 majority of the population of the incorporated area of the
 21 county, except in those counties which have only two
 22 cities, in which case, the facility has been approved by the
 23 county and by the city which contains a majority of the
 24 population of the incorporated area of the county.

25 (4) The facility is a material recovery facility and the
 26 site identification and description of the facility has been
 27 submitted to the task force created pursuant to Section
 28 40950 for review and comment, pursuant to the
 29 procedures set forth in subdivision (c). For purposes of
 30 this paragraph, "material recovery facility" means a
 31 transfer station which is designed to, and, as a condition
 32 of its permit, shall, recover for reuse or recycling at least
 33 15 percent of the total volume of material received by the
 34 facility.

35 (b) (1) The review and approval of a solid waste
 36 facility or transformation facility which has not been
 37 identified or described in a county solid waste
 38 management plan shall be initiated by submittal by the
 39 person or agency proposing the facility of a site



1 identification and description to the county board of
2 supervisors.

3 (2) The county shall submit the site identification and
4 description to each city within the county within 20 days
5 from the date that the site identification and description
6 is submitted to the county board of supervisors. The
7 county and each city shall approve or disapprove by
8 resolution the site identification and description within 90
9 days after the site identification and description is initially
10 submitted to the county or city. Each city shall notify the
11 county board of supervisors of its decision within that
12 90-day period. If the county or a city fails to approve or
13 disapprove the site identification and description within
14 90 days, the city or county shall be deemed to have
15 approved the site identification and description as
16 submitted.

17 (3) If a city or county disapproves the site
18 identification and description, the city or county shall
19 mail notice of its decision by first-class mail to the person
20 or agency requesting the approval within 10 days of the
21 disapproval by the city or county, stating its reasons for
22 the disapproval.

23 (4) No county or city shall disapprove a proposed site
24 identification and description for a new solid waste
25 facility or transformation facility or an expanded solid
26 waste facility or transformation facility which will result
27 in a significant increase in the amount of solid waste
28 handled at the facility unless it determines, based upon
29 substantial evidence in the record, that there will be one
30 or more significant adverse impacts within its boundaries
31 from the proposed project.

32 (5) Within 45 days of a decision by a city or county to
33 disapprove a site identification and description, or a
34 decision by the board not to concur in the issuance of a
35 permit pursuant to Section 44009, any person may file
36 with the superior court a writ of mandate for review of
37 the decision. The evidence before the court shall consist
38 of the record before the city or county which disapproved
39 the site identification and description or the record
40 before the board in its determination not to concur in



1 issuance of the permit. Section 1094.5 of the Code of Civil
2 Procedure shall govern the proceedings conducted
3 pursuant to this subdivision.

4 (c) To initiate the review and comment by the task
5 force required by paragraph (4) of subdivision (a) and
6 subdivision (d), the person or agency proposing the
7 facility shall submit the site identification and description
8 of the facility to the task force. Within 90 days after the site
9 identification and description is submitted to the task
10 force, the task force shall meet and comment on the
11 facility in writing. Those comments shall include, but are
12 not limited to, the relationship between the proposed
13 new or expanded material recovery facility and the
14 requirements of Section 41780. The task force shall
15 transmit those comments to the applicant, to the county,
16 and to all of the cities in the county.

17 (d) (1) On or before February 1, 1991, each county,
18 by vote of the board of supervisors and the majority of the
19 cities in the county containing a majority of the
20 population of the incorporated area of the county, except
21 in those counties which have only two cities, in which case
22 the vote is subject to approval of the city which contains
23 a majority of the population of the incorporated area of
24 the county, shall adopt two resolutions after holding a
25 public hearing. One resolution shall address solid waste
26 transfer facilities which are designed to, and, as a
27 condition of their permits, shall, recover for reuse or
28 recycling less than 15 percent of the total volume of
29 material received by the facility and which serve more
30 than one jurisdiction. The second resolution shall address
31 solid waste transfer facilities which are designed to, and,
32 as a condition of their permits, shall, recover for reuse or
33 recycling less than 15 percent of the total volume of
34 material received by the facility and which serve only one
35 jurisdiction. These resolutions shall specify whether the
36 facilities shall be subject to the review and approval
37 process described in subdivision (b) or the review and
38 comment process described in subdivision (c). If the
39 resolutions required by this subdivision are not adopted



1 on or before February 1, 1991, those facilities shall be
2 subject to the review process described in subdivision (c).

3 (2) For purposes of this subdivision, a facility serves
4 only one jurisdiction if it serves only one city, only the
5 unincorporated area of one county, or only one city and
6 county.

7 SEC. 30. Section 50000.5 of the Public Resources Code
8 is amended to read:

9 50000.5. (a) Until a countywide integrated waste
10 management plan has been approved by the ~~California~~
11 *Division of* Integrated Waste Management ~~Board~~
12 pursuant to Division 30 (commencing with Section
13 40000), no person shall establish or expand a solid waste
14 facility or transformation facility unless the city or county
15 in which the site is located makes a finding that the
16 establishment or expansion of the facility is consistent
17 with the applicable general plan of the city or county.
18 This finding shall not be made unless the city or county
19 has adopted a general plan which complies with the
20 provisions of Article 5 (commencing with Section 65300)
21 of Chapter 3 of Division 1 of Title 7 of the Government
22 Code.

23 (b) In addition to the requirements in subdivision (a),
24 any new or expanded solid waste disposal facility or
25 transformation facility shall be deemed to be consistent
26 with the general plan only if both of the following
27 requirements are met:

28 (1) The facility is located in a land use area designated
29 or authorized for solid waste facilities in the applicable
30 city or county general plan.

31 (2) The land uses which are authorized adjacent to, or
32 near, the facility are compatible with the establishment,
33 or expansion of, the solid waste disposal facility or
34 transformation facility.

35 SEC. 31. Section 50001 of the Public Resources Code
36 is amended to read:

37 50001. (a) Except as provided by subdivision (b),
38 after a countywide integrated waste management plan
39 has been approved by the ~~California~~ *Division of*
40 Integrated Waste Management ~~Board~~ pursuant to



1 Division 30 (commencing with Section 40000), no person
2 shall establish or expand a solid waste facility, as defined
3 in Section 40194, in the county unless the solid waste
4 facility meets one of the following criteria:

5 (1) The solid waste facility is a disposal facility or a
6 transformation facility, the location of which is identified
7 in the countywide siting element or amendment thereto,
8 which has been approved pursuant to Section 41721.

9 (2) The solid waste facility is a facility which is
10 designed to, and which as a condition of its permit, will
11 recover for reuse or recycling at least 5 percent of the
12 total volume of material received by the facility, and
13 which is identified in the nondisposal facility element or
14 amendment thereto, which has been approved pursuant
15 to Section 41800 or 41801.5.

16 (b) Solid waste facilities other than those specified in
17 paragraphs (1) and (2) of subdivision (a) shall not be
18 required to comply with the requirements of this section.

19 (c) The person or agency proposing to establish a solid
20 waste facility shall prepare and submit a site
21 identification and description of the proposed facility to
22 the task force established pursuant to Section 40950.
23 Within 90 days after the site identification and description
24 is submitted to the task force, the task force shall meet and
25 comment on the proposed solid waste facility in writing.
26 These comments shall include, but are not limited to, the
27 relationship between the proposed solid waste facility
28 and the implementation schedule requirements of
29 Section 41780 and the regional impact of the facility. The
30 task force shall transmit these comments to the person or
31 public agency proposing establishment of the solid waste
32 facility, to the county, and to all cities within the county.
33 The comments shall become part of the official record of
34 the proposed solid waste facility.

35 (d) The review and comment by the local task force
36 required by subdivision (c) for amendment to an
37 element may be satisfied by the review required by
38 subdivision (a) of Section 41734 for an amendment to an
39 element.



1 SEC. 32. Section 50002 of the Public Resources Code
2 is amended to read:

3 50002. (a) The ~~California~~ *Division of* Integrated
4 Waste Management—~~Board~~ may, by regulation, specify
5 classifications of solid waste facilities that are exempt
6 from the requirements of Sections 50000, 50000.5, and
7 50001. The regulation may be adopted only if the board
8 makes all of the following findings:

9 (1) The exemption is not contrary to the public
10 interest.

11 (2) The quantity of solid wastes to be disposed of at
12 each site is insignificant.

13 (3) The nature of the solid wastes poses no significant
14 threat to the public health, the public safety, or the
15 environment.

16 (b) The application to land of agricultural products
17 derived from municipal sewage sludge for use as a
18 fertilizer material, based on a finding by the ~~board~~
19 *Division of Integrated Waste Management* that the
20 nature of the solid waste poses no significant threat to the
21 public health, the public safety, or the environment, is
22 exempt from the requirements of Sections 50000 and
23 50000.5.

24 SEC. 33. Section 7718 of the Public Utilities Code is
25 amended to read:

26 7718. (a) The Railroad Accident Prevention and
27 Immediate Deployment Force is hereby created in the
28 California Environmental Protection Agency. The force
29 shall be responsible for providing immediate onsite
30 response capability in the event of large-scale releases of
31 toxic materials resulting from surface transportation
32 accidents and for implementing the state hazardous
33 materials incident prevention and immediate
34 deployment plan. ~~This~~ *The* force shall act cooperatively
35 and in concert with existing local emergency response
36 units. The force shall consist of representatives of all of the
37 following:

38 (1) Department of Fish and Game.

39 (2) California Environmental Protection Agency.

40 (3) State Air Resources Board.

- 1 (4) ~~California~~ *Division of* Integrated Waste
- 2 *Management Board in the Resources Agency.*
- 3 (5) California regional water quality control boards.
- 4 (6) Department of Toxic Substances Control.
- 5 (7) Department of Pesticide Regulation.
- 6 (8) Office of Environmental Health Hazard
- 7 Assessment.
- 8 (9) State Department of Health Services.
- 9 (10) Department of the California Highway Patrol.
- 10 (11) Department of Food and Agriculture.
- 11 (12) Department of Forestry and Fire Protection.
- 12 (13) Department of Parks and Recreation.
- 13 (14) Department of Boating and Waterways.
- 14 (15) California Public Utilities Commission.
- 15 (16) Any other potentially affected state, local, or
- 16 federal agency.
- 17 (17) Office of Emergency Services.
- 18 (b) The California Environmental Protection Agency
- 19 shall develop a state railroad accident prevention and
- 20 immediate deployment plan in cooperation with the
- 21 State Fire Marshal, affected businesses, and all of the
- 22 entities listed in paragraphs (1) to (17), inclusive, of
- 23 subdivision (a).
- 24 (c) The plan specified in subdivision (b) shall be a
- 25 comprehensive set of policies and directions that every
- 26 potentially affected state agency and business shall follow
- 27 if there is a railroad accident to minimize the potential
- 28 damage to the public health and safety, property, and
- 29 environment that might result from accidents involving
- 30 railroad activities in the state.
- 31 SEC. 34. Section 45855 of the Revenue and Taxation
- 32 Code is amended to read:
- 33 45855. Any information regarding solid wastes which
- 34 is available to the board shall be made available to the
- 35 ~~California~~ *Division of* Integrated Waste Management
- 36 ~~Board~~ *in the Resources Agency.*
- 37 SEC. 35. Section 45863 of the Revenue and Taxation
- 38 Code is amended to read:
- 39 45863. The board shall, in cooperation with the
- 40 ~~California~~ *Division of* Integrated Waste Management



1 ~~Board~~ *in the Resources Agency*, the Taxpayers' Rights
2 Advocate, and other interested taxpayer-oriented
3 groups, develop a plan to reduce the time required to
4 resolve petitions for redetermination and claims for
5 refunds. The plan shall include the determination of
6 standard timeframes and special review of cases which
7 take more time than the appropriate standard timeframe.

8 SEC. 36. Section 45981 of the Revenue and Taxation
9 Code is amended to read:

10 45981. (a) The board shall provide any information
11 obtained under this part to the ~~California~~ *Division of*
12 *Integrated Waste Management Board—*~~in the Resources~~
13 *Agency*.

14 (b) The ~~California—~~*Division of* Integrated Waste
15 Management ~~Board~~ and the board may utilize any
16 information obtained pursuant to this part to develop
17 data on the generation or disposal of solid waste within
18 the state. Notwithstanding any other provision of this
19 chapter, the ~~California~~ *Division of* Integrated Waste
20 Management ~~Board~~ may make waste generation and
21 disposal data available to the public.

22 SEC. 37. Section 45982 of the Revenue and Taxation
23 Code is amended to read:

24 45982. Neither the ~~California~~ *Division of* Integrated
25 Waste Management ~~Board~~, nor any person having an
26 administrative duty under Part 9 (commencing with
27 Section 15600) of Division 3 of Title 2 of the Government
28 Code shall disclose the business affairs, operations, or any
29 other proprietary information pertaining to a fee payer,
30 except a fee payer which is a public agency, which was
31 submitted to the board in a report or return required by
32 this part, or permit any report or copy thereof or any book
33 containing any abstract or particulars thereof to be seen
34 or examined by any person not expressly authorized by
35 Section 45981 or this section. However, the Governor
36 may, by general or special order, authorize examination
37 of the records maintained by the board under this part by
38 other state officers, by officers of another state, by the
39 federal government if a reciprocal arrangement exists, or
40 by any other person. The information so obtained



1 pursuant to the order of the Governor shall not be made
2 public except to the extent and in the manner that the
3 order may authorize that it be made public.

4 SEC. 38. (a) The California Integrated Waste
5 Management Board in the California Environmental
6 Protection Agency is hereby abolished. The Division of
7 Integrated Waste Management in the Resources Agency
8 succeeds to, and is vested with, all of the powers, duties,
9 responsibilities, and jurisdiction of the former California
10 Integrated Waste Management Board.

11 (b) The Secretary of the Resources Agency may use
12 the unexpended balance of funds available for use in
13 connection with the performance of the functions
14 specified in subdivision (a).

15 SEC. 39. Any officer or employee of the former
16 California Integrated Waste Management Board who is
17 serving in the state civil service, other than as a
18 temporary employee, and who is engaged in the
19 performance of a function vested in the Division of
20 Integrated Waste Management pursuant to Section 38 of
21 this act shall be transferred to the Division of Integrated
22 Waste Management. The status, position, and rights of
23 that person shall not be affected by the transfer and shall
24 be retained by the person as an officer or employee of the
25 Division of Integrated Waste Management, pursuant to
26 the State Civil Service Act (Part 2 (commencing with
27 Section 18500) of Division 5 of Title 2 of the Government
28 Code), except as to a position exempted from civil
29 service.

30 SEC. 40. The Division of Integrated Waste
31 Management shall have possession and control of all
32 records, papers, offices, equipment, supplies, moneys,
33 funds, appropriations, licenses, permits, agreements,
34 contracts, claims, judgments, land, and other property,
35 real or personal, connected with the administration of, or
36 held for the benefit or use of, the former California
37 Integrated Waste Management Board.

38 SEC. 41. (a) Any regulation or other action, adopted,
39 prescribed, taken, or performed by an agency or officer
40 in the administration of a program, the performance of a



1 power, duty, or responsibility, or the exercise of any
2 jurisdiction transferred by this act shall remain in effect
3 and shall be deemed to be a regulation or action of the
4 agency or officer to whom the program, power, duty,
5 responsibility, or jurisdiction is transferred.

6 (b) No suit, action, or other proceeding lawfully
7 commenced by or against any agency or other officer of
8 the state, in relation to the administration of any program
9 or the discharge of any power, duty, responsibility, or
10 jurisdiction transferred by this act, shall abate by reason
11 of the transfer of the program, power, duty,
12 responsibility, or jurisdiction under this act.

