

AMENDED IN ASSEMBLY MARCH 23, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2067

Introduced by Assembly Member Cunneen

February 18, 1998

An act to amend Sections 25160, 25179.5, 25205.5, 25205.15, 25250.1, and 25250.7 of, and to add Sections 25121.1, 25160.3, 25160.4, and 25200.19 to, the Health and Safety Code, and to add Article 2.3 (commencing with Section 12179) to Chapter 4 of Part 2 of Division 2 of, and to add and repeal Article 2.1 (commencing with Section 12170) of Chapter 4 of Part 2 of Division 2 of, the Public Contract Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 2067, as amended, Cunneen. Hazardous waste: state agency procurement.

(1) Existing law defines "recyclable material" and "recycled material" for purposes of the hazardous waste control laws. Existing law requires any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest prior to the time the waste is transported or offered for transportation and to submit the manifest to the Department of Toxic Substances Control. Existing law requires the department to impose a fee for each manifest used by a generator but exempts from the fee imposed after June 30,

1998, manifests used solely for hazardous wastes that are recycled.

This bill would define “recycling” for purposes of the hazardous waste control laws, *except the bill would define the term “recycling” for purposes of the fees, taxes, and charges imposed pursuant to those laws to additionally include specified activities.* The bill would allow a generator of hazardous waste and any facility operator who receives hazardous waste to submit an electronic report to the department in lieu of the manifest copy. The bill would ~~require~~ *allow* the department to authorize a transporter or facility operator, for certain shipments of hazardous waste, to implement electronic methods of tracking and reporting these shipments. The bill would additionally exempt, from the manifest fee imposed after June 30, 1998, manifests used for hazardous wastes derived from clean air solvents, as defined.

The bill would allow a hazardous waste facility that meets specified conditions to conduct *bulk, packaged, or containerized* unloading and loading operations, as defined, pursuant to specified criteria, *without being required to modify the facility’s permit.*

(2) The existing Hazardous Waste Treatment Act of 1995 prohibits from land disposal any hazardous waste restricted from land disposal pursuant to the federal Resource Conservation and Recovery Act of 1976 (RCRA), except as specified. Existing law provides that the treatment standards adopted pursuant to the federal act are the minimum treatment standards for that waste *and become effective upon its effective federal date.* ~~A violation of the hazardous waste control laws, including that act, is a crime.~~

This bill would instead provide that any land disposal restriction, including any treatment standard, notification requirement, or recordkeeping requirement *that is* adopted pursuant to RCRA ~~is the minimum treatment standard for that waste. Since the bill would revise the definition of a crime, the bill would impose a state-mandated local program will become effective on that date specified above.~~

(3) Existing law requires every generator of hazardous waste to pay an annual generator fee to the State Board of Equalization but exempts, from those fees, hazardous



materials that are recycled and used onsite, and certain aqueous wastes. Existing law also imposes a fee upon the operators of certain hazardous waste facilities. The revenues from those fees are required to be deposited in the Hazardous Waste Control Account in the General Fund and the money in that account is available, upon appropriation by the Legislature, for expenditure by the department for hazardous waste management.

This bill would additionally exempt, from the generator fee, recyclable materials that are transported offsite ~~for a permitted to an authorized~~ hazardous waste facility for purposes of recycling ~~at that facility~~, *if specified documentation is retained by the generator.*

(4) Existing law defines “used oil” for purposes of the provisions regulating the handling of used oil and provides specified standards of purity for recycled oil, including a specified amount of total halogens. Existing law prohibits any person who generates, stores, or transfers used oil from intentionally contaminating used oil with other hazardous waste, except as specified. *A violation of the laws regulating used oil is a crime.*

This bill would revise the definition of “used oil” to expressly include certain fuel oils and other fuel oil products. The bill would ~~allow~~ *require* used oil generators, ~~or transporters, or collection centers~~ to determine whether used oil contains more than 1,000 ppm total halogens by ~~either testing the use oil or applying knowledge of the content of the used oil~~ *taking specified actions.*

The bill would require that mixtures of used oil and fuel oil be regulated as used oil, thereby imposing a state-mandated local program by creating new crimes.

(5) Existing law declares that it is state policy to conserve and protect resources using recycled resources.

This bill would require all state agencies to purchase rerefined automotive lubricant, recycled antifreeze, recycled solvent, and recycled paint, as defined. The purchase of the listed materials would be required only when they are available, of a fitness and quality equal to their nonrecycled counterparts, as defined, and at the same or lower cost of the



nonrecycled products. The bill would repeal these provisions January 1, 2001.

The bill would also require, fitness and quality being equal, that all state agencies purchase specified types of recycled products, whenever the recycled product is available at a cost no greater than the cost of nonrecycled products, including building and construction materials, outdoor furnishings, indoor furnishings, and landscaping materials, as described.

(6) 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. This act shall be known, and may be
2 cited, as the Hazardous Waste Recycling Enhancement
3 Act of 1998.

4 SEC. 2. Section 25121.1 is added to the Health and
5 Safety Code, to read:

6 25121.1. (a) ~~“Recycling” means the process of~~
7 ~~collecting, transporting, storing, transferring, handling,~~
8 ~~segregating, processing, treating, reusing, and reclaiming~~
9 ~~recyclable materials in accordance with this chapter and~~
10 ~~returning these materials to the economic mainstream in~~
11 ~~the form of raw material for new, reused, or reconstituted~~
12 ~~products that meet the quality standards necessary to be~~
13 ~~used as recycled materials.~~

14 25121.1. (a) *Except as provided in subdivisions (b)*
15 *and (c), “recycling” means the process of using, reusing,*
16 *or reclaiming a recyclable material to produce a recycled*
17 *material.*

18 (b) *“Recycling” does not include disposal, as defined*
19 *in Section 25113 or the placement of hazardous waste in*
20 *an incinerator, as defined in Section 66260.10 of Title 22*



1 of the California Code of Regulations, or as that section
2 may be further amended or revised.

3 (c) Notwithstanding subdivision (a), for purposes of
4 the fees, taxes, and charges imposed pursuant to this
5 chapter, “recycling” means the collecting, transporting,
6 storing, transferring, handling, segregating, processing,
7 using, reusing, and reclaiming of recyclable material to
8 produce recycled material.

9 SEC. 3. Section 25160 of the Health and Safety Code
10 is amended to read:

11 25160. (a) For purposes of this chapter, “manifest”
12 means a shipping document originated and signed by a
13 generator of hazardous waste that contains all of the
14 information required by the department and that
15 complies with all applicable federal and state regulations.

16 (b) (1) Any person generating hazardous waste
17 which is transported, or submitted for transportation, for
18 offsite handling, treatment, storage, disposal, or any
19 combination thereof, shall complete a manifest prior to
20 the time the waste is transported or offered for
21 transportation, and shall designate on that manifest the
22 facility to which the waste is to be shipped for the
23 handling, treatment, storage, disposal, or combination
24 thereof. The manifest shall be completed, as required by
25 the department. The generator shall provide the
26 manifest to the person who will transport the hazardous
27 waste, who is the driver, if the hazardous waste will be
28 transported by vehicle, or the person designated by the
29 railroad corporation or vessel operator, if the hazardous
30 waste will be transported by rail or vessel. The generator
31 shall use the standard California Uniform Hazardous
32 Waste Manifest supplied by the department for all
33 shipments of hazardous waste for which a manifest is
34 required, except as provided in paragraph (2). A manifest
35 shall only be used for the purposes specified in this
36 chapter, including, but not limited to, identifying
37 materials that the person completing the manifest
38 reasonably believes are hazardous waste. Within 30 days
39 from the date of transport, or submission for transport, of
40 hazardous waste, each generator of that hazardous waste



1 shall submit to the department a legible copy of each
2 manifest used. In lieu of submitting a copy of each
3 manifest used, a generator may submit an electronic
4 report meeting the requirements of Section 25160.3 in
5 accordance with a schedule determined by the
6 department. The copy submitted to the department shall
7 contain the signatures of the generator and the
8 transporter.

9 (2) Any person generating hazardous waste which is
10 transported, or submitted for transportation, for offsite
11 handling, treatment, storage, disposal, or any
12 combination thereof, outside of the state, shall complete,
13 whether or not the waste is determined to be hazardous
14 by the importing country or state, a standard California
15 Uniform Hazardous Waste Manifest, or the generator
16 shall complete, in its own form of manifest, the manifest
17 required by the receiving state and shall submit a copy of
18 that manifest to the department within 30 days from the
19 date of the transport, or submission for transport, of the
20 hazardous waste. In lieu of submitting a copy of each
21 manifest used, a generator may submit an electronic
22 report meeting the requirements of Section 25160.3 in
23 accordance with a schedule determined by the
24 department.

25 (3) Within 30 days from the date of transport, or
26 submission for transport, of hazardous waste out of state,
27 each generator of that hazardous waste shall submit to the
28 department a legible copy of each manifest used. The
29 copy submitted to the department shall contain the
30 signatures of the generator, all transporters, excepting
31 intermediate rail transporters, and the out-of-state
32 facility operator. If within 35 days from the date of the
33 initial shipment, or for exports by water to foreign
34 countries, 60 days after the initial shipment, the generator
35 has not received a copy of the manifest signed by all
36 transporters and the facility operator, the generator shall
37 contact the owner or operator of the designated facility
38 to determine the status of the hazardous waste and to
39 request that the owner or operator immediately provide
40 a signed copy of the manifest to the generator. If within



1 45 days from the date of the initial shipment or, for
2 exports by water to foreign countries, 90 days from the
3 date of the initial shipment, the generator has not
4 received a copy of the signed manifest from the facility
5 owner or operator, the generator shall submit an
6 exception report to the department.

7 (4) For shipments of waste that do not require a
8 manifest pursuant to Title 40 of the Code of Federal
9 Regulations, the department, by regulation, may
10 establish manifest requirements that differ from the
11 requirements of this subdivision. The requirements for an
12 alternative form of manifest shall ensure that the
13 hazardous waste is transported by a registered hazardous
14 waste transporter, that the hazardous waste is tracked,
15 and that human health and safety and the environment
16 are protected.

17 (c) (1) The department shall determine the form and
18 manner in which a manifest shall be completed and the
19 information that the manifest shall contain. *The*
20 *information requested on the manifest shall serve as the*
21 *data dictionary for purposes of the developing of an*
22 *electronic reporting format pursuant to Section 71062 of*
23 *the Public Resources Code.* The form of each manifest
24 and the information requested on each manifest shall be
25 the same for all hazardous wastes, regardless of whether
26 the hazardous wastes are also regulated pursuant to the
27 federal act or by regulations adopted by the United States
28 Department of Transportation. However, the form of the
29 manifest and the information required shall be consistent
30 with federal regulations.

31 (2) Pursuant to federal regulations, the department
32 may require information on the manifest in addition to
33 the information required by federal regulations.

34 (d) (1) Any person who transports hazardous waste in
35 a vehicle shall have a manifest in his or her possession
36 while transporting the hazardous waste. The manifest
37 shall be shown upon demand to any representative of the
38 department, any officer of the California Highway Patrol,
39 any local health officer, or any local public officer
40 designated by the director. If the hazardous waste is



1 transported by rail or vessel, the railroad corporation or
2 vessel operator shall comply with Subchapter C
3 (commencing with Section 171.1) of Chapter 1 of Subtitle
4 B of Title 49 of the Code of Federal Regulations and shall
5 also enter on the shipping papers any information
6 concerning the hazardous waste which the department
7 may require.

8 (2) Any person who transports any waste, as defined
9 by Section 25124, and who is provided with a manifest for
10 that waste shall, while transporting that waste, comply
11 with all requirements of this chapter, and the regulations
12 adopted pursuant thereto, concerning the transportation
13 of hazardous waste.

14 (3) Any person who transports hazardous waste shall
15 transfer a copy of the manifest to the facility operator at
16 the time of delivery, or to the person who will
17 subsequently transport the hazardous waste in a vehicle.
18 Any person who transports hazardous waste and then
19 transfers custody of that hazardous waste to a person who
20 will subsequently transport that waste by rail or vessel
21 shall transfer a copy of the manifest to the person
22 designated by the railroad corporation or vessel operator,
23 as specified by Subchapter C (commencing with Section
24 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code
25 of Federal Regulations.

26 (4) Any person transporting hazardous waste by
27 motor vehicle, rail, or water shall certify to the
28 department, at the time of initial registration and at the
29 time of renewal of that registration pursuant to this
30 article, that the transporter is familiar with the
31 requirements of this section, the department regulations,
32 and federal laws and regulations governing the use of
33 manifests.

34 (e) (1) Any facility operator in the state who receives
35 hazardous waste for handling, treatment, storage,
36 disposal, or any combination thereof, which was
37 transported with a manifest pursuant to this section, shall
38 submit a copy of the manifest to the department within
39 30 days from the date of receipt of the hazardous waste.
40 The copy submitted to the department shall contain the



1 signatures of the generator, all transporters, excepting
2 intermediate rail transporters, and the facility operator.
3 In lieu of submitting a copy of each manifest used, a
4 generator may submit an electronic report meeting the
5 requirements of Section 25160.3 in accordance with a
6 schedule determined by the department. In instances
7 where the generator or transporter is not required by the
8 generator's state or federal law to sign the manifest, the
9 facility operator shall require the generator and all
10 transporters, excepting intermediate rail transporters, to
11 sign the manifest before accepting the waste at any
12 facility in this state.

13 (2) Any treatment, storage, or disposal facility
14 receiving hazardous waste generated outside this state
15 may only accept the hazardous waste for treatment,
16 storage, disposal, or any combination thereof, if the
17 hazardous waste is accompanied by a completed standard
18 California Uniform Hazardous Waste Manifest.

19 (3) A facility operator may accept hazardous waste
20 generated offsite that is not accompanied by a properly
21 completed and signed standard California Uniform
22 Hazardous Waste Manifest if the facility operator meets
23 both of the following conditions:

24 (A) The facility operator is authorized to accept the
25 hazardous waste pursuant to a hazardous waste facilities
26 permit or other grant of authorization from the
27 department.

28 (B) The facility operator is in compliance with the
29 regulations adopted by the department specifying the
30 conditions and procedures applicable to the receipt of
31 hazardous waste under these circumstances.

32 (4) This subdivision applies only to shipments of
33 hazardous waste for which a manifest is required
34 pursuant to this section and the regulations adopted
35 pursuant to this section.

36 (f) The department shall make available for review,
37 by any interested party, information regarding the
38 department's progress in adopting revised regulations
39 relating to hazardous waste manifests, including specific



1 requirements for milkrun operations set forth in Section
2 66263.42 of Title 22 of the California Code of Regulations.

3 (g) (1) The department shall make available for
4 review, by any interested party, the department's plans
5 for revising and enhancing its system for tracking
6 hazardous waste for the purposes of protecting human
7 health and the environment, enforcing laws, collecting
8 revenue, and generating necessary reports.

9 (2) On or before April 1, 1997, the department shall
10 make available for review, by any interested party,
11 information regarding the department's progress in
12 revising and enhancing its system for tracking hazardous
13 waste.

14 SEC. 4. Section 25160.3 is added to the Health and
15 Safety Code, to read:

16 25160.3. (a) Notwithstanding the procedures
17 required by subdivisions (b) and (e) of Section 25160, any
18 person generating hazardous waste that is transported or
19 submitted for transportation, for offsite handling,
20 treatment, storage, disposal, or a combination thereof,
21 subject to the manifest requirements of Section 25160,
22 and any facility operator in the state who receives
23 hazardous waste for handling, treatment, storage,
24 disposal, or any combination thereof, that was
25 transported subject to the manifest requirements of
26 Section 25160, may submit an electronic report to the
27 department in lieu of the copy of the manifests required
28 by subdivision (b) or (e) of Section 25160. The electronic
29 report shall contain the information required by the
30 department pursuant to subdivision (c) of Section 25160,
31 and shall be provided according to a schedule determined
32 by the department, but not less than ~~four times a year~~
33 *quarterly*. The department shall specify the form of the
34 electronic report, so that the information it contains may
35 be readily transferred electronically to the department's
36 hazardous waste tracking data base described in Section
37 25161.

38 (b) The signatures required by Section 25160 and
39 retained through the electronic reporting authorized by
40 ~~this section shall comply with the rules of best evidence~~



1 ~~set forth in Article 1 (commencing with Section 1500) of~~
2 ~~Chapter 2 of Division 11 of the Evidence Code. this~~
3 *section shall conform with the electronic signature*
4 *techniques prescribed pursuant to Section 71066 of the*
5 *Public Resources Code. Notwithstanding any other*
6 *provision of law, printed representations of signatures*
7 *and other information submitted in an electronic report*
8 *pursuant to this section shall not be rendered*
9 *inadmissible in any civil or criminal action by the best*
10 *evidence rule and shall be deemed to meet the*
11 *requirements of Section 1507 of the Evidence Code.*

12 (c) The electronic storage of information pursuant to
13 this section shall comply with the requirements of
14 Sections 66263.22 and 66264.71 of Title 22 of the California
15 Code of Regulations regarding manifest record retention
16 requirements for transporters and facility operators.

17 SEC. 5. Section 25160.4 is added to the Health and
18 Safety Code, to read:

19 25160.4. (a) Notwithstanding the manifest
20 procedures set forth in Section 25160, for shipments of
21 hazardous waste that do not require a manifest pursuant
22 to Title 40 of the Code of Federal Regulations, or for
23 shipments of waste transported pursuant to Section
24 66263.42 of Title 22 of the California Code of Regulations,
25 using milkrun manifest procedures, the department ~~shall~~
26 *may* allow a transporter or facility operator to implement
27 electronic methods of tracking and reporting these
28 hazardous waste shipments. ~~The department shall allow~~
29 ~~a transporter or facility operator to implement these~~
30 ~~electronic methods~~ *using the electronic reporting*
31 *standards developed pursuant to Sections 71050 to 71068,*
32 *inclusive, of the Public Resources Code. The department*
33 *may develop procedures to review and evaluate*
34 *electronic waste tracking and reporting methods that*
35 *may be developed by individual transporters or facility*
36 *operators, and shall allow these methods to be*
37 *implemented* whenever the information that can be
38 provided through the use of these methods is consistent
39 with the information provided by the existing manifest



1 systems set forth in Section 25160 and in Section 66263.42
 2 of Title 22 of the California Code of Regulations.

3 (b) If the department authorizes the electronic
 4 methods specified in subdivision (a), the documents
 5 regarding the hazardous waste reported pursuant to
 6 those methods are exempt from the requirements for
 7 retention and from the requirements for the submittal of
 8 manifest copies and shipping documents, as set forth in
 9 Section 25160. *The department may consult with the*
 10 *Department of the California Highway Patrol, the Office*
 11 *of Emergency Services, and other appropriate*
 12 *emergency response agencies, to develop an alternative*
 13 *shipping document to accompany hazardous waste*
 14 *shipments for which electronic tracking has been used in*
 15 *lieu of a paper manifest, as described in subdivision (a).*
 16 *This alternative shipping document shall contain only the*
 17 *data that the department determines essential to ensure*
 18 *that onroad enforcement and emergency response*
 19 *personnel have appropriate access to information needed*
 20 *to ensure compliance with the requirements of this*
 21 *chapter; and to protect human health and the*
 22 *environment.*

23 (c) This section does not relieve a transporter of the
 24 federal transportation and shipping paper requirements
 25 of Title 49 of the Code of Federal Regulations.

26 SEC. 6. Section 25179.5 of the Health and Safety Code
 27 is amended to read:

28 25179.5. (a) Notwithstanding any other provision of
 29 law, except as provided in this article, any hazardous
 30 waste restricted from land disposal by the federal act, or
 31 by the Environmental Protection Agency pursuant to the
 32 federal act, or by the department pursuant to Section
 33 25179.6, is prohibited from land disposal in the state,
 34 unless one of the following circumstances apply:

35 (1) The hazardous waste, or the producer of the
 36 hazardous waste is granted a variance, extension,
 37 exclusion, or exemption by the administrator of the
 38 Environmental Protection Agency or by the department.

39 (2) The waste is treated in accordance with an
 40 applicable treatment standard.



1 (3) The federal restriction is stayed or otherwise
2 conditioned by an appropriate court of law.

3 (4) It is a solid hazardous waste generated in the
4 cleanup or decontamination of any site contaminated
5 only by hazardous waste that has not been restricted or
6 prohibited by the federal act or prohibited by the
7 Environmental Protection Agency pursuant to the
8 federal act, and which does not meet the treatment
9 standards established by the department pursuant to
10 Section 25179.6, if the department or other federal, state,
11 or local agency with authority to approve the cleanup or
12 decontamination has approved the disposal of the waste.

13 ~~(b) Any land disposal restriction, including any~~
14 ~~treatment standard, notification requirement, or~~
15 ~~recordkeeping requirement, that is adopted or amended~~

16 *(b) Any treatment standard that is adopted or*
17 *amended* by the Environmental Protection Agency
18 pursuant to subsection (m) of Section 6924 of the federal
19 act, for a hazardous waste prohibited from land disposal
20 pursuant to subdivision (a) and that is in effect, is the
21 minimum treatment standard required to be met before
22 the hazardous waste may be disposed of, using land
23 disposal, in the state. Any land disposal restriction,
24 including any treatment standard, notification
25 requirement, or recordkeeping requirement that is
26 adopted or amended by the Environmental Protection
27 Agency shall become effective in the state upon the
28 effective date of that adoption or amendment, as
29 specified in the final rule published in the Federal
30 Register. Except as provided in Section 25179.6, any
31 extension, variance, or exemption from the ~~land disposal~~
32 ~~restriction, including any treatment standard,~~
33 ~~notification requirement, or recordkeeping requirement~~
34 ~~that is~~ *treatment standard* granted by the Administrator
35 of the Environmental Protection Agency shall also apply
36 in this state.

37 (c) Subdivision (b) applies only to hazardous waste
38 land disposal restrictions, standards, or criteria enforced
39 by the department and does not limit or affect the



1 standards adopted by any other local, state, or federal
2 agency.

3 (d) Any hazardous waste or treated hazardous waste
4 that meets all applicable treatment standards pursuant to
5 this section may be disposed of to land at a hazardous
6 waste disposal facility that has been issued a hazardous
7 waste facilities permit allowing that disposal, if the
8 disposal is conducted in compliance with this chapter, the
9 applicable regulations adopted by the department, and
10 the requirements of the permit issued by the department.

11 SEC. 7. Section 25200.19 is added to the Health and
12 Safety Code, to read:

13 25200.19. (a) A hazardous waste facility that has
14 obtained a hazardous waste facilities permit to receive
15 hazardous wastes from offsite locations, and that is not
16 otherwise limited or subject to conditions in the permit
17 concerning the receipt of hazardous wastes from offsite
18 locations, may conduct *bulk, packaged, or containerized*
19 hazardous waste loading and unloading operations in
20 accordance with this section *and shall not be required to*
21 *otherwise modify the facility's hazardous waste facilities*
22 *permit to conduct those operations.*

23 (b) A hazardous waste facility that has a hazardous
24 waste facilities permit that does not otherwise restrict the
25 shipment or transport of hazardous wastes to offsite
26 locations, and that is not otherwise limited or subject to
27 conditions in the permit concerning the shipment of
28 wastes to offsite locations, may conduct *bulk, packaged,*
29 *or containerized* hazardous waste loading operations in
30 accordance with this section *and shall not be required to*
31 *otherwise modify the facility's hazardous waste facilities*
32 *permit to conduct those operations.*

33 (c) Unloading and loading operations subject to this
34 section shall be conducted in accordance with all of the
35 following requirements, *unless otherwise specified in the*
36 *hazardous waste facilities permit:*

37 (1) As part of a loading or unloading operation
38 conducted within the boundary of a permitted hazardous
39 waste facility, the hazardous waste shall not be held
40 longer than 10 days outside of a permitted unit at the



1 ~~facility, unless a longer time period is specified in the~~
2 ~~hazardous waste facilities permit. facility on a transport~~
3 ~~vehicle.~~

4 (2) Except as may otherwise be allowed by this
5 chapter, all loading and unloading operations shall be
6 conducted within the boundary of the permitted facility.

7 (3) The amount of hazardous waste that is held within
8 the facility boundary for loading and unloading, ~~when~~
9 ~~added to other wastes in addition to the other wastes~~
10 ~~present~~ at the facility, shall not exceed the permitted
11 capacity of the facility.

12 (4) *The loading or unloading of bulk hazardous waste*
13 *may be conducted between tanks and vehicles,*
14 *containers and vehicles, and units and vehicles, if the*
15 *operation is conducted within a secondary containment*
16 *area, or other area authorized by the department by*
17 *permit or variance for bulk hazardous waste loading and*
18 *unloading operations, within the hazardous waste facility.*

19 (d) *For purposes of properly managing incoming*
20 *shipments of hazardous waste that are rejected by the*
21 *facility operator, the loading and unloading of bulk*
22 *hazardous waste pursuant to this section may also be*
23 *conducted from vehicle to vehicle if both of the following*
24 *requirements are met:*

25 (1) *The wastes are compatible with the vehicle and*
26 *contents of the vehicle.*

27 (2) *The loading and unloading operation is conducted*
28 *within a secondary containment area or other area*
29 *authorized by the department by permit or variance for*
30 *bulk hazardous waste loading or unloading operations*
31 *within the hazardous waste facility.*

32 (e) For purposes of this section, the following
33 definitions apply:

34 (1) "Loading" means activities associated with
35 ~~removing hazardous waste from a container, tank,~~
36 ~~vehicle removing packaged or containerized hazardous~~
37 *waste from an authorized unit or removing bulk*
38 *hazardous waste from an authorized container, tank, or*
39 *unit within a permitted hazardous waste facility, placing*
40 *it on a transport vehicle within the facility, and shipping*



1 the waste offsite to another location in accordance with
2 this chapter.

3 (2) “Unloading” means activities associated with the
4 receipt of a *bulk, packaged, or containerized* hazardous
5 waste at a permitted hazardous ~~waste facility from an~~
6 ~~offsite location, and placing that waste facility from an~~
7 *offsite location, by means of a transport vehicle, and*
8 *placing that packaged or containerized hazardous waste*
9 *into an authorized unit or placing that bulk hazardous*
10 *waste into a an authorized container, tank, vehicle, or*
11 unit within the facility in accordance with this chapter.

12 SEC. 8. Section 25205.5 of the Health and Safety Code
13 is amended to read:

14 25205.5. (a) In addition to the fee imposed pursuant
15 to Section 25174.1, every generator of hazardous waste, in
16 the amounts specified in subdivision (c), shall pay the
17 board a generator fee for each generator site for each
18 calendar year, or portion thereof, unless the generator
19 has paid a facility fee or received a credit, as specified in
20 Section 25205.2, for each specific site, for the calendar
21 year for which the generator fee is due.

22 (b) The base fee rate for the fee imposed pursuant to
23 subdivision (a) is two thousand seven hundred
24 forty-eight dollars (\$2,748).

25 (c) (1) Each generator who generates an amount
26 equal to, or more than, five tons, but less than 25 tons, of
27 hazardous waste during the prior calendar year shall pay
28 5 percent of the base rate.

29 (2) Each generator who generates an amount equal to,
30 or more than, 25 tons, but less than 50 tons, of hazardous
31 waste during the prior calendar year shall pay 40 percent
32 of the base rate.

33 (3) Each generator who generates an amount equal to,
34 or more than, 50 tons, but less than 250 tons, of hazardous
35 waste during the prior calendar year shall pay the base
36 rate.

37 (4) Each generator who generates an amount equal to,
38 or more than, 250 tons, but less than 500 tons, of hazardous
39 waste during the prior calendar year shall pay five times
40 the base rate.



1 (5) Each generator who generates an amount equal to,
2 or more than, 500 tons, but less than 1,000 tons, of
3 hazardous waste during the prior calendar year shall pay
4 10 times the base rate.

5 (6) Each generator who generates an amount equal to,
6 or more than, 1,000 tons, but less than 2,000 tons, of
7 hazardous waste during the prior calendar year shall pay
8 15 times the base rate.

9 (7) Each generator who generates an amount equal to,
10 or more than, 2,000 tons of hazardous waste during the
11 prior calendar year shall pay 20 times the base rate.

12 (d) The base rate established pursuant to subdivision
13 (b) was the base rate for the 1997 calendar year and the
14 board shall adjust the base rate annually to reflect
15 increases or decreases in the cost of living, during the
16 prior fiscal year, as measured by the Consumer Price
17 Index issued by the Department of Industrial Relations or
18 by a successor agency.

19 (e) The establishment of the annual operating fee
20 pursuant to this section is exempt from Chapter 3.5
21 (commencing with Section 11340) of Part 1 of Division 3
22 of Title 2 of the Government Code.

23 (f) The following materials are not hazardous wastes
24 for purposes of this section:

25 (1) Hazardous materials which are recycled, and used
26 onsite, and are not transferred offsite.

27 (2) Recyclable materials which are transported offsite
28 to a ~~permitted hazardous waste~~ *an authorized* facility for
29 purposes of ~~recycling at that offsite facility in accordance~~
30 ~~with this chapter.~~ *recycling, if written documentation is*
31 *retained by the generator for not less than three years*
32 *that the recyclable materials have been recycled, in*
33 *accordance with all applicable requirements.*

34 (3) Aqueous waste treated in a treatment unit
35 operating, or which subsequently operates, pursuant to a
36 permit-by-rule, or pursuant to Section 25200.3 or 25201.5.
37 However, hazardous waste generated by a treatment unit
38 treating waste pursuant to a permit-by-rule, by a unit
39 which subsequently obtains a permit-by-rule, or other



1 authorization pursuant to Section 25200.3 or 25201.5 is
2 hazardous waste for purposes of this section.

3 (g) The fee imposed pursuant to this section shall be
4 paid in accordance with Part 22 (commencing with
5 Section 43001) of Division 2 of the Revenue and Taxation
6 Code.

7 (h) (1) The amendment of this section made by
8 Chapter 1125 of the Statutes of 1991 does not constitute
9 a change in, but is declaratory of, existing law.

10 (2) The amendment of subdivision (a) of this section
11 made by Chapter 259 of the Statutes of 1996 does not
12 constitute a change in, but is declaratory of, existing law.

13 SEC. 9. Section 25205.15 of the Health and Safety
14 Code is amended to read:

15 25205.15. (a) Except for the first four manifests used
16 in a calendar year by a business with less than 100
17 employees, and except as provided in subdivision (b), the
18 department shall impose a fee of twelve dollars (\$12) for
19 each California Uniform Hazardous Waste Manifest form
20 used on or before June 30, 1998, by any person in the
21 following manner:

22 (1) The Governor may order the department to
23 refund three-quarters of the amount of manifest fees paid
24 on manifests used during the 1991 calendar year.

25 (2) On and after the 1992 calendar year, for all
26 manifests used on or before June 30, 1998, the manifest fee
27 shall be assessed on all manifests used in the calendar year
28 ending prior to the start of the fiscal year in which the
29 billing occurs.

30 (b) The manifest fee for any manifest that is used on
31 or before June 30, 1998, solely for wastes that are to be
32 recycled is six dollars (\$6) and the total amount of
33 manifest fees paid in a calendar year for these manifests
34 shall not exceed five thousand dollars (\$5,000) for each
35 hazardous waste identification number issued either by
36 the department or the Environmental Protection
37 Agency.

38 (c) On and after June 30, 1998, in addition to any fees
39 to cover printing and distribution costs, the department
40 shall impose a manifest fee of seven dollars and fifty cents



1 (\$7.50) for each California Hazardous Waste Manifest
2 form used after June 30, 1998, by any person, in the
3 following manner:

4 (1) Except as provided in paragraph (2), on and after
5 July 1, 1998, the department shall bill generators for each
6 California Uniform Hazardous Waste Manifest form,
7 manifest number, or electronic equivalent used after
8 June 30, 1998. The billing frequency specified by the
9 department may range from monthly to quarterly, with
10 the payment by the generator required within 30 days
11 from the date of receipt of the billing, and shall be
12 determined based on consultation with the regulated
13 community. In preparing the bills, the department shall
14 distinguish between manifests used solely for recycled
15 hazardous wastes and those used for nonrecycled
16 hazardous wastes.

17 (2) On July 1, 2000, the department shall determine if
18 revenues from the manifest fee as collected pursuant to
19 paragraph (1) will equal or exceed one million seven
20 hundred thousand dollars (\$1,700,000) for the 1999–2000
21 fiscal year. If the department determines that the
22 manifest fee revenues will not equal or exceed one
23 million seven hundred thousand dollars (\$1,700,000) for
24 the 1999–2000 fiscal year, the manifest fee shall instead,
25 commencing July 1, 2000, be collected at the time of
26 original sale of the manifest or distribution of manifest
27 numbers or electronic equivalent to users by the
28 department for all manifests that will be used after June
29 30, 1998.

30 (3) The manifest fee shall not be collected on the use
31 of California Hazardous Waste Recycling Manifests that
32 are used solely for hazardous wastes that are recycled or
33 for hazardous wastes derived from clean air solvents.

34 (4) The department shall implement a system for the
35 use of manifests that distinguishes between recycling
36 manifests used solely for hazardous wastes that are to be
37 recycled or to transport hazardous waste derived from
38 clean air solvents and general manifests that may be used
39 for transporting waste for any purpose.

1 (5) If a person uses a recycling or clean air solvent
2 manifest that is designated for recycled or clean air
3 solvent hazardous wastes for other types of hazardous
4 waste, the person shall pay the manifest fee provided for
5 in this subdivision and an additional error correction fee
6 of twenty dollars (\$20) per manifest, as required pursuant
7 to Section 25160.5. However, the department shall
8 provide the manifest user with a reasonable opportunity
9 to notify the department of any incorrect use of the
10 recycling or clean air solvent manifest and provide the
11 department with the appropriate manifest fee payment
12 without additional fines, penalties, or payment of the
13 error correction fee.

14 (6) The department may adopt regulations to
15 implement and administer the manifest fee system
16 imposed pursuant to this subdivision.

17 (d) (1) The department shall expend the sum of one
18 million dollars (\$1,000,000) from the manifest fees
19 deposited in the Hazardous Waste Control Account, upon
20 appropriation by the Legislature in the annual Budget
21 Act, to cover the one-time costs of implementing changes
22 to the hazardous waste manifest tracking system during
23 the 1998–99 fiscal year.

24 (2) On and after July 1, 1999, commencing with
25 1999–2000 fiscal year and annually thereafter, the
26 department shall expend, upon appropriation by the
27 Legislature in the annual Budget Act, not less than one
28 million fifty thousand dollars (\$1,050,000) from the
29 manifest fees, deposited in the Hazardous Waste Control
30 Account, to establish a program to encourage hazardous
31 waste generators to implement pollution prevention
32 measures. The program shall be administered pursuant to
33 administrative and expenditure criteria to be established
34 by the Legislature.

35 (e) The manifest fees shall be deposited in the
36 Hazardous Waste Control Account and be available for
37 expenditure, upon appropriation by the Legislature.

38 (f) For the purposes of this section, “clean air solvent”
39 means a solvent, including aqueous solutions, that are
40 required or approved for use by regulations adopted by



1 the State Air Resources Board, an air pollution control
2 district, or an air quality management district, to meet air
3 emission standards adopted by that board or district and,
4 pursuant to those regulations, is required to be used
5 instead of another solvent that was used and recycled
6 prior to the adoption of those regulations.

7 SEC. 10. Section 25250.1 of the Health and Safety
8 Code is amended to read:

9 25250.1. (a) As used in this article, the following
10 terms have the following meaning:

11 (1) (A) “Used oil” means any oil that has been refined
12 from crude oil, or any synthetic oil, that has been used,
13 and, as a result of use or as a consequence of extended
14 storage, or spillage, has been contaminated with physical
15 or chemical impurities. Examples of used oil are spent
16 lubricating fluids which have been removed from an
17 engine crankcase, transmission, gearbox, or differential of
18 an automobile, bus, truck, vessel, plane, heavy
19 equipment, or machinery powered by an internal
20 combustion engine; industrial oils, including compressor,
21 turbine, and bearing oil; hydraulic oil; metal-working oil;
22 refrigeration oil; railroad drainings, and fuel oils and other
23 fuel oil products, including diesel fuel oil and any other
24 fuel oils with a minimum flashpoint of 100 degrees
25 Fahrenheit.

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

27 (i) Oil which has a flashpoint below 100 degrees
28 Fahrenheit or which has been mixed with hazardous
29 waste, other than minimal amounts of vehicle fuel.

30 (ii) (I) Wastewater, the discharge of which is subject
31 to regulation under either Section 307(b) or 402 of the
32 Clean Water Act, including wastewaters at facilities
33 which have eliminated the discharge of wastewater,
34 contaminated with de minimis quantities of used oil.

35 (II) For purposes of this clause, “de minimis quantities
36 of used oil” are small spills, leaks, or drippings from
37 pumps, machinery, pipes, and other similar equipment
38 during normal operations, or small amounts of oil lost to
39 the wastewater treatment system during washing or
40 draining operations.



1 (III) This exception does not apply if the used oil is
2 discarded as a result of abnormal manufacturing
3 operations resulting in substantial leaks, spills, or other
4 releases or to used oil recovered from wastewaters.

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

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

9 (v) (I) Oil containing more than 1000 ppm total
10 halogens, which shall be presumed to be a hazardous
11 waste because it has been mixed with halogenated
12 hazardous waste listed in Subpart D (commencing with
13 Section 261.30) of Part 261 of Title 40 of the Code of
14 Federal Regulations.

15 (II) A person may rebut the presumption specified in
16 subclause (I) by demonstrating that the used oil does not
17 contain hazardous waste, including, but not limited to, in
18 the manner specified in subclause (III).

19 (III) The presumption specified in subclause (I) is
20 rebutted if it is demonstrated that the used oil that is the
21 source of total halogens at a concentration of more than
22 1000 ppm is solely either household waste, as defined in
23 Section 261.4(b)(1) of Title 40 of the Code of Federal
24 Regulations, or is collected from conditionally exempt
25 small quantity generators, as defined in Section 261.5 of
26 Title 40 of the Code of Federal Regulations. Nothing in
27 this subclause shall be construed as authorizing any
28 person to violate the prohibition specified in Section
29 25250.7.

30 (2) “Board” means the California Integrated Waste
31 Management Board.

32 (3) (A) “Recycled oil” means any oil, produced from
33 used oil, which has been prepared for reuse and which
34 achieves minimum standards of purity, in liquid form, as
35 established by the department.

36 (B) The following standards of purity are in effect for
37 recycled oil unless the department, by regulation,
38 establishes more stringent standards, and are the only
39 allowed exceptions to the criteria adopted pursuant to
40 Section 25141:



1 (i) Flashpoint: minimum standards set by the
2 American Society for Testing and Materials for the
3 recycled products. However, recycled oil to be burned
4 for energy recovery shall have a minimum flashpoint of
5 100 degrees Fahrenheit.

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

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

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

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

10 (vi) Total halogens: 3000 mg/kg or less. However,
11 recycled oil shall be demonstrated by testing to contain
12 not more than 1000 mg/kg total halogens listed in
13 Appendix VIII of Part 261 (commencing with Section
14 261.1) of Title 40 of the Code of Federal Regulations.

15 (vii) Total polychlorinated biphenyls (PCBs): 2
16 mg/kg or less.

17 (C) Compliance with the specifications of
18 subparagraph (B) shall not be met by blending or
19 diluting used oil with crude or virgin oil and shall be
20 determined in accordance with the procedures for
21 identification and listing of hazardous waste adopted in
22 regulations by the department. Persons authorized by the
23 department to recycle oil shall maintain records of
24 volumes and characteristics of incoming used oil and
25 outgoing recycled oil and documentation concerning the
26 recycling technology utilized to demonstrate to the
27 satisfaction of the department or other enforcement
28 agencies that the recycling has been achieved in
29 compliance with this subdivision.

30 (D) This paragraph does not apply to oil that is to be
31 disposed of or used in a manner constituting disposal.

32 ~~(E) A used oil generator, used oil transporter, or used
33 oil collection center shall determine whether the used oil
34 that they managed contains more than 1,000 ppm total
35 halogens by either testing the used oil or applying
36 knowledge of the halogen content of the used oil in light
37 of the materials or processes used.~~

38 *(E) For purposes of ensuring that the halogen content
39 of used oil is less than 1000 ppm, a used oil generator that
40 is not a conditionally exempt small quantity generator or*



1 a used oil recycling center shall determine whether that
2 used oil contains more than 1000 ppm total halogens by
3 either testing the used oil or applying knowledge of the
4 halogen content of the used oil in light of the materials or
5 processes used. If the used oil generator chooses to apply
6 knowledge to determine the halogen content of used oil,
7 the used oil generator shall certify, with the generator's
8 signature on a bill of lading, that the oil does not contain
9 more than 1000 ppm halogens.

10 (F) For purposes of ensuring that the used oil
11 transported by a used oil transporter has a halogen
12 content of less than 1000 ppm, the transporter shall either
13 maintain test data for each load collected, or accept and
14 maintain a generator's certification as to the halogen
15 content of the used oil. If a registered transporter accepts
16 the generator's certification, the transporter shall take a
17 two ounce retain sample of the generator's used oil to
18 confirm the certification.

19 Before a used oil transporter unloads the used oil
20 subject to this subparagraph at a transfer or recycling
21 facility, the total used oil load shall be tested for halogen
22 content. If the halogen content is greater than 1000 ppm
23 total halogens, each two ounce retain sample shall be
24 tested for halogen content to determine the point of
25 generation of the halogens. The transporter shall
26 maintain testing records at transfer and recycling
27 facilities for each load and each retain sample and these
28 records and samples shall be available to the department
29 for three years subsequent to the date of transport.

30 (4) "Used oil recycling facility" means a facility which
31 reprocesses or re-refines used oil.

32 (5) "Used oil storage facility" means a storage facility,
33 as defined in subdivision (b) of Section 25123.3, which
34 stores used oil.

35 (6) "Used oil transfer facility" means a transfer facility,
36 as defined in subdivision (a) of Section 25123.3, that either
37 stores used oil for periods greater than six days, or greater
38 than 10 days for transfer facilities in areas zoned industrial
39 by the local planning agency, or that transfers used oil
40 from one container to another.



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

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

6 (B) The used oil is not hazardous pursuant to the
7 criteria adopted pursuant to Section 25141 for
8 constituents other than those listed in paragraph (3) of
9 subdivision (a).

10 (C) The used oil is not mixed with any waste listed as
11 a hazardous waste in Part 261 (commencing with Section
12 261.1) of Chapter 1 of Title 40 of the Code of Federal
13 Regulations.

14 (2) Used oil recycling facilities that are the first to
15 claim that the used oil meets the requirements specified
16 in paragraph (1) shall maintain an operating log and
17 copies of certification forms as specified in Section
18 25250.19. Any person who generates used oil, and who
19 claims that the used oil is exempt from regulation
20 pursuant to this subdivision, shall notify the department,
21 in writing, of that claim and shall comply with the testing
22 and recordkeeping requirements of Section 25250.19
23 prior to its reuse. In any action to enforce this article, the
24 burden is on the generator or recycling facility,
25 whichever first claimed that the used oil meets the
26 standards and criteria, and on the transporter or the user
27 of the used oil, whichever has possession, to prove that the
28 oil meets those standards and criteria.

29 SEC. 11. Section 25250.7 of the Health and Safety
30 Code is amended to read:

31 25250.7. (a) No person who generates, stores, or
32 transfers used oil shall intentionally contaminate used oil
33 with other hazardous waste, other than minimal amounts
34 of vehicle fuel.

35 (b) Mixtures of used oil and fuel oils and other fuel oil
36 products shall be regulated as used oil under this article.

37 SEC. 12. Article 2.1 (commencing with Section
38 12170) is added to Chapter 4 of Part 2 of Division 2 of the
39 Public Contract Code, to read:

40



1 Article 2.1. Recycled Fluid, Paint, and Solvent

2
3 12170. (a) Fitness and quality being equal, all state
4 agencies shall purchase the following recycled products,
5 instead of nonrecycled products, whenever the recycled
6 products are available at the same cost, or at a lower cost,
7 than the total costs of the nonrecycled products:

8 (1) Rerefined automotive lubricants, including, but
9 not limited to, rerefined motor oil, crank case oil, engine
10 oil, transmission fluid, and power steering fluid, for all
11 state vehicles, including, but not limited to, all fleet cars,
12 trucks, and buses.

13 (2) Recycled antifreeze fluid.

14 (3) Recycled solvent.

15 (4) Recycled paint.

16 (b) For the purposes of this section, the following
17 definitions shall apply:

18 (1) "Available" means providing comparable delivery
19 services and packaging specifications as the agency
20 requires from all suppliers of that product. The agency
21 shall not establish specifications that unnecessarily
22 prevent the use of recycled products.

23 (2) "Fitness and quality" means all specifications
24 required of the product for its specific use, including
25 those required of a manufacturer's warranty, are met.
26 Procuring agencies may set special standards for motor oil
27 used in engines that operate under extreme conditions,
28 including law enforcement vehicles that run at excessive
29 speeds or for long periods of operation.

30 (3) "Recycled antifreeze fluid" and "recycled
31 solvents" means having a recycled content of at least 70
32 percent recycled materials.

33 (4) (A) "Recycled paint" means having a recycled
34 content consisting of at least 50 percent postconsumer
35 paint. Preconsumer or secondary paint does not qualify
36 as "recycled paint" pursuant to this subparagraph.

37 (5) "Rerefined motor oil" means having a base oil
38 content consisting of at least 70 percent rerefined oil.

39 (B) If paint containing 50 percent postconsumer
40 content is unavailable, a state agency may substitute paint



1 with the maximum amount of postconsumer content, but
2 not less than 10 percent postconsumer content.

3 12171. This article shall remain in effect only until
4 January 1, 2001, and as of that date is repealed, unless a
5 later enacted statute that is enacted before January 1,
6 2001, deletes or extends that date.

7 SEC. 13. Article 2.3 (commencing with Section
8 12179) is added to Chapter 4 of Part 2 of Division 2 of the
9 Public Contract Code, to read:

10

11

Article 2.3. Recycled Building Materials

12

13 12179. (a) Fitness and quality being equal, all state
14 agencies shall purchase the following types of recycled
15 products whenever the recycled product is available at a
16 cost not greater than the cost of nonrecycled products:

17 (1) Building and construction materials, including, but
18 not limited to, plastic, lumber, concrete and asphalt
19 pavement, insulation, and roofing materials, including
20 roofing materials containing fly ash.

21 (2) Outdoor furnishings, including, but not limited to,
22 picnic tables, benches, garage and recycling receptacles,
23 signposts, parking stops, and playground equipment.

24 (3) Indoor furnishings, including, but not limited to,
25 flooring, carpeting, ceiling tile, and interior wall systems.

26 (4) Landscaping materials, including, but not limited
27 to, compost, mulch, and soil amendment.

28 (b) For the purposes of this section, the following
29 terms have the following meaning:

30 (1) "Available" means providing comparable delivery
31 services and packaging specifications as the agency
32 requires from all suppliers of that product. A state agency
33 shall not establish specifications that unnecessarily
34 prevent the use of recycled products.

35 (2) "Fitness and quality" means all specifications
36 required of the product for its specific use, including
37 those required of a manufacturer's warranty, are met.

38 SEC. 14. No reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution because the only costs that may be incurred



1 by a local agency or school district will be incurred
2 because this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition
6 of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

8 Notwithstanding Section 17580 of the Government
9 Code, unless otherwise specified, the provisions of this act
10 shall become operative on the same date that the act
11 takes effect pursuant to the California Constitution.

