

**Senate Bill No. 46**

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Passed the Senate      September 9, 1999

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*Secretary of the Senate*

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Passed the Assembly      September 8, 1999

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 1999, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to amend Sections 40401, 40507, 40912, 41770, 41780, 41780.1, 41821, 44002, 44004, 44305, 45000, 45011, 45023, 48027, 48621, 48623, 48630, 48643, 48650, 48651, 48653, 48660.5, 48661, 48670, 48672, 48673, 48674, and 48690 of, to amend, renumber, and add Section 41820.5 of, to add Sections 48645, 48654, 48671.8, and 48692 to, to repeal and add Section 48634 of, and to repeal Article 9 (commencing with Section 3460) of Chapter 1 of, and Chapter 1.5 (commencing with Section 3475) of, Division 3 of, the Public Resources Code, relating to recycling, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 46, Sher. Solid waste management.

(1) The existing California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, establishes an integrated waste management program. Under existing law, the board consists of 6 members, including 2 members appointed by the Governor who represent the public.

This bill would require the board to include one member appointed by the Governor who has served as an elected member of a city council or a county board of supervisors, or as a city mayor, for at least one term within 2 years of his or her appointment to a first term on the board, and would reduce the number of gubernatorial appointees on the board who represent the public from 2 to one.

The bill would specify that this change shall not be construed to affect the appointment of a former city council member and mayor to the board made in August, 1999.

(2) Under existing law, the act requires each city, county, city and county, and regional agency, if any, to develop a source reduction and recycling element of an



integrated waste management plan containing specified components. The first revision of the element, by January 1, 2000, is required to divert 50% of the solid waste subject to the element, except as specified.

This bill would instead require the first revision, and each subsequent revision, to provide for that 50% diversion on and after January 1, 2000. The bill would revise the requirements for the granting of a time extension from these diversion requirements. The bill would require the board by July 1, 2000, to develop a revised source reduction and recycling element. The bill would define related terms for purposes of the act.

(3) Existing law requires an enforcement agency to make a decision whether to issue a solid waste facilities permit pursuant to a specified procedure. The enforcement agency is authorized to take specified enforcement actions against a solid waste facility that is in violation of the act, including issuance of a cease and desist order.

This bill would revise the enforcement authority of the enforcement agency, as specified. The bill would delete obsolete provisions regarding the enforcement agency's authority to stay the issuance of a cease and desist order.

(4) The act includes the California Oil Recycling Enhancement Act, which establishes a program to encourage the recycling of oil. Under other existing law, there are the Used Oil Recycling Act and the Used Oil Collection Demonstration Program Act of 1990, administered by the board.

This bill would repeal and reenact certain provisions of the Used Oil Recycling Act and the Used Oil Demonstration Program Act of 1990 as part of the California Oil Recycling Enhancement Act, including provisions that require the board to coordinate activities and functions with all other state agencies in information gathering, requiring the board, and every state officer and employee, to encourage the purchase of recycled oil products, as described, requiring the board to encourage the procurement of rerefined automotive and industrial oils for all state and local uses, under specified



circumstances, and requiring any person who sells to consumers more than 500 gallons of lubricating or other oil annually in containers for use off the premises to inform purchasers, as prescribed.

The bill would require the board to prescribe guidelines for the deposit of up to 5 gallons of used oil at no cost. The bill would authorize the board to conduct a program for recycling used oil filters and would make a declaration of Legislative intent regarding the funding of the program.

(5) The bill would also make technical and conforming changes in the solid waste management act.

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

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

SECTION 1. Article 9 (commencing with Section 3460) of Chapter 1 of Division 3 of the Public Resources Code is repealed.

SEC. 2. Chapter 1.5 (commencing with Section 3475) of Division 3 of the Public Resources Code is repealed.

SEC. 3. Section 40401 of the Public Resources Code is amended to read:

40401. The board shall consist of the following members:

(a) One member appointed by the Governor who has private sector experience in the solid waste industry.

(b) One member appointed by the Governor who has served as an elected or appointed official of a nonprofit environmental protection organization whose principal purpose is to promote recycling and the protection of air and water quality.

(c) One member appointed by the Governor who has served as an elected member of a city council or county board of supervisors, or as a city mayor, for at least one term within two years of his or her appointment to a first term on the board.

(d) One member appointed by the Governor who shall represent the public.



(e) One member appointed by the Senate Committee on Rules who shall represent the public.

(f) One member appointed by the Speaker of the Assembly who shall represent the public.

SEC. 4. Section 40507 of the Public Resources Code is amended to read:

40507. (a) On or before March 1 of each year, the board shall file an annual report with the Legislature highlighting significant programs or actions undertaken by the board to implement programs pursuant to this division during the prior calendar year. The report shall include, but is not limited to, the information described in subdivision (b).

(b) The board shall file annual progress reports with the Legislature covering the activities and actions undertaken by the board in the prior fiscal year. The board shall prepare the progress reports throughout the calendar year, as determined by the board, on the following programs:

- (1) The local enforcement agency program.
- (2) The research and development program.
- (3) The public education program.
- (4) The market development program.
- (5) The used oil program.
- (6) The planning and local assistance program.
- (7) The site cleanup program.

(c) The progress report shall specifically include, but is not limited to, all of the following information:

(1) Pursuant to paragraph (1) of subdivision (b), the status of the certification and evaluation of local enforcement agencies pursuant to Chapter 2 (commencing with Section 43200) of Part 4.

(2) Pursuant to paragraph (2) of subdivision (b), all of the following information:

(A) The results of the research and development programs established pursuant to Chapter 13 (commencing with Section 42650) of Part 3.

(B) A report on information and activities associated with the establishment of the Plastics Recycling Information Clearinghouse, pursuant to Section 42520.



(C) A report on the progress in implementing the monitoring and control program for the subsurface migration of landfill gas established pursuant to Section 43030, including recommendations, as needed, to improve the program.

(D) A report on the comparative costs and benefits of the recycling or conversion processes for waste tires funded pursuant to Chapter 17 (commencing with Section 42860) of Part 3.

(3) Pursuant to paragraph (3) of subdivision (b), all of the following information:

(A) A review of actions taken by the board to educate and inform individuals and public and private sector entities who generate solid waste on the importance of source reduction, recycling, and composting of solid waste, and recommendations for administrative or legislative actions that will inform and educate these parties.

(B) A report on the effectiveness of the public information program required to be implemented pursuant to Chapter 12 (commencing with Section 42600) of Part 3, including recommendations on administrative and legislative changes to improve the program.

(C) A report on the status and effectiveness of school district source reduction and recycling programs implemented pursuant to Chapter 12.5 (commencing with Section 42620) of Part 3, including recommendations on administrative and legislative changes to improve the program's effectiveness.

(D) A report on the effectiveness of the integrated waste management educational program and teacher training plan implemented pursuant to Section 42603, including recommendations on administrative and legislative changes which will improve the program.

(E) A summary of available and wanted materials, a profile of the participants, and the amount of waste diverted from disposal sites as a result of the California Materials Exchange Program established pursuant to subdivision (a) of Section 42600.



(4) Pursuant to paragraph (4) of subdivision (b), all of the following information:

(A) A review of market development strategies undertaken by the board pursuant to this division to ensure that markets exist for materials diverted from solid waste facilities, including recommendations for administrative and legislative actions that will promote expansion of those markets. The recommendations shall include, but not be limited to, all of the following:

(i) Recommendations for actions to develop more direct liaisons with private manufacturing industries in this state to promote increased utilization of recycled feedstock in manufacturing processes.

(ii) Recommendations for actions that can be taken to assist local governments in the inclusion of recycling activities in county overall economic development plans.

(iii) Recommendations for actions to utilize available financial resources for expansion of recycling industry capacity.

(iv) Recommendations to improve state, local, and private industry product and material procurement practices.

(B) Development and implementation of a program to assist local agencies in the identification of markets for materials that are diverted from disposal facilities through source reduction, recycling, and composting pursuant to Section 40913.

(C) A report on the Recycling Market Development Zone Loan Program provided for in subdivision (c) of Section 42010, pursuant to subdivision (f) of Section 42010.

(D) A report on implementation of the Compost Market Program pursuant to Chapter 5 (commencing with Section 42230) of Part 3.

(E) A report on the progress in developing and implementing the comprehensive Market Development Plan, pursuant to Article 2 of Chapter 1 (commencing with Section 42005) of Part 3.



(F) The number of retreaded tires purchased by the Department of General Services during the prior fiscal year pursuant to Section 42414.

(G) The results of the study performed in consultation with the Department of General Services pursuant to Section 42416 to determine if tire retreads, procured by the department, have met all quality and performance criteria of a new tire, including any recommendations to expand, revise, or curtail the program.

(H) The number of recycled lead-acid batteries purchased during the prior fiscal year by the Department of General Services pursuant to Section 42443.

(I) A list of established price preferences for recycled paper products for the prior fiscal year pursuant to paragraph (1) of subdivision (c) of Section 12162 of the Public Contract Code.

(J) A report on the implementation of the white office paper recovery program pursuant to Chapter 10 (commencing with Section 42560) of Part 3.

(5) Pursuant to paragraph (5) of subdivision (b), both of the following information:

(A) A report on the annual audit of the used oil recycling program established pursuant to Chapter 4 (commencing with Section 48600) of Part 7.

(B) A summary of industrial and lubricating oil sales and recycling rates, the results of programs funded pursuant to Chapter 4 (commencing with Section 48600) of Part 7, recommendations, if any, for statutory changes to the program, including changes in the amounts of the payment required by Section 48650 and the recycling incentive, and plans for present and future programs to be conducted over the next two years.

(6) Pursuant to paragraph (6) of subdivision (b), all of the following information:

(A) The development by the board of the model countywide or regional siting element and model countywide or regional agency integrated waste management plan pursuant to Section 40912, including its effectiveness in assisting local agencies.



(B) The adoption by the board of a program to provide assistance to cities, counties, or regional agencies in the development and implementation of source reduction programs pursuant to subdivision (b) of Section 40912.

(C) The development by the board of model programs and materials to assist rural counties and cities in preparing city and county source reduction and recycling elements pursuant to Section 40914.

(D) A report on the number of tires that are recycled or otherwise diverted from disposal in landfills or stockpiles.

(E) A report on the development and implementation of recommendations, with proposed implementing regulations, for providing technical assistance to counties and cities that meet criteria specified in Section 41782, so that those counties and cities will be able to meet the objectives of this division. The recommendations shall, among other things, address both of the following matters:

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

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

(F) A report on the status and implementation of the “Buy Recycled” program established pursuant to subdivision (d) of Section 42600, including the waste collection and recycling programs established pursuant to Sections 12164.5 and 12165 of the Public Contract Code.

(7) Pursuant to paragraph (7) of subdivision (b), a description of sites cleaned up under the Solid Waste Disposal and Codisposal Site Cleanup Program established pursuant to Article 2.5 (commencing with Section 48020) of Chapter 2 of Part 7, a description of remaining sites where there is no responsible party or the responsible party is unable or unwilling to pay for cleanup, and recommendations for any needed legislative changes.



SEC. 5. Section 40912 of the Public Resources Code is amended to read:

40912. (a) The board shall develop a model countywide or regional siting element and a model countywide or regional agency integrated waste management plan that will establish prototypes of the content and format that counties or regional agencies may use in meeting the requirements of this part.

(b) On or before July 1, 2000, the board shall develop a model revised source reduction and recycling element that will establish prototypes of the content and format of that element that cities, counties, or regional agencies may use in meeting the requirements of this part.

(c) The board shall adopt a program to provide assistance to cities, counties, or regional agencies in the development and implementation of source reduction programs. The program shall include, but not be limited to, the following:

(1) The development of model source reduction programs and strategies that may be used at the local and regional level.

(2) Ongoing analysis of public and private sector source reduction programs that may be provided to cities, counties, and regional agencies in order to assist them in complying with Article 3 (commencing with Section 41050) of Chapter 2 and Article 3 (commencing with Section 41350) of Chapter 3.

(3) Assistance to cities, counties, and regional agencies in the development of source reduction programs for commercial and industrial generators of solid waste that include the development of source reduction strategies designed for specific types of commercial and industrial generators.

(d) The board shall, to the maximum extent feasible, utilizing existing resources, provide local jurisdictions and private businesses with information, tools, and mathematical models to assist with meeting or exceeding the 50-percent diversion requirement pursuant to Section 41780. The board shall act as a solid waste information clearinghouse.



SEC. 6. Section 41770 of the Public Resources Code is amended to read:

41770. (a) Each countywide or regional agency integrated waste management plan, and the elements thereof, shall be reviewed, revised, if necessary, and submitted to the board every five years in accordance with the schedule set forth under Chapter 7 (commencing with Section 41800).

(b) Any revisions to a countywide or regional agency integrated waste management plan, and the elements thereof, shall use a waste disposal characterization method that the board shall develop for the use of the city, county, or regional agency. The city, county, or regional agency shall conduct waste disposal characterization studies, as prescribed by the board, if it fails to meet the diversion requirements of Section 41780, at the time of the five-year revision of the source reduction and recycling element.

(c) The board may review and revise its regulations governing the contents of revised source reduction and recycling elements to reduce duplications in one or more components of these revised elements.

SEC. 7. Section 41780 of the Public Resources Code is amended to read:

41780. (a) Each city or county source reduction and recycling element shall include an implementation schedule which shows both of the following:

(1) For the initial element, the city or county shall divert 25 percent of all solid waste from landfill disposal or transformation by January 1, 1995, through source reduction, recycling, and composting activities.

(2) Except as provided in Sections 41783, 41784, and 41785, for the first and each subsequent revision of the element, the city or county shall divert 50 percent of all solid waste on and after January 1, 2000, through source reduction, recycling, and composting activities.

(b) Nothing in this part prohibits a city or county from implementing source reduction, recycling, and composting activities designed to exceed these goals.



SEC. 8. Section 41780.1 of the Public Resources Code is amended to read:

41780.1. (a) Notwithstanding any other requirement of this part, for the purposes of determining the amount of solid waste that a regional agency is required to divert from disposal or transformation through source reduction, recycling, and composting to meet the diversion requirements of Section 41780, the regional agency shall use the solid waste disposal projections in the source reduction and recycling elements of the regional agency's member agencies, or in the regional agency's source reduction and recycling element. The method prescribed in Section 41780.2 shall be used to determine the maximum amount of disposal allowable to meet the diversion requirements of Section 41780.

(b) Notwithstanding any other requirement of this part, for the purposes of determining the amount of solid waste that a city or county is required to divert from disposal or transformation through source reduction, recycling, and composting to meet the diversion requirements of Section 41780, the city or county shall use the solid waste disposal projections in the source reduction and recycling elements of the city or county. The method prescribed in Section 41780.2 shall be used to determine the maximum amount of disposal allowable to meet the diversion requirements of Section 41780.

(c) To determine achievement of the diversion requirements of Section 41780 in 1995 and in the year 2000, projections of disposal amounts from the source reduction and recycling elements shall be adjusted to reflect annual increases or decreases in population and other factors affecting the waste stream, as determined by the board. The board shall study the factors that affect the generation and disposal of solid waste and shall develop a standard methodology and guidelines to be used by cities, counties, and regional agencies in adjusting disposal projections as required by this section.

(d) The amount of additional diversion required to be achieved by a regional agency to meet the diversion requirements of Section 41780 shall be equal to the sum



of the diversion requirements of its member agencies. To determine the maximum amount of disposal allowable for the regional agency to meet the diversion requirements of Section 41780, the maximum amount of disposal allowable for each member agency shall be added together to yield the agency disposable maximum.

SEC. 9. Section 41820.5 of the Public Resources Code is amended and renumbered to read:

41820.6. (a) In addition to its authority under Section 41820, the board may, after a public hearing, grant a time extension from the diversion requirements of Section 41780 to a city if both of the following conditions exist:

(1) The city was incorporated pursuant to Division 3 (commencing with Section 56000) of Title 5 of the Government Code on or after January 1, 2000.

(2) The county within which the city is located did not include provisions in its franchises which ensured that the now incorporated area would comply with the diversion requirements of Section 41780.

(b) The board may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows how the city shall divert 50 percent of the city's estimated generation amount of solid waste from landfills or transformation facilities, within three years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

SEC. 10. Section 41820.5 is added to the Public Resources Code, to read:

41820.5. (a) In addition to its authority under Section 41820, the board may, after a public hearing, grant a time extension from the diversion requirements of Section 41780 to a city if both of the following conditions exist:

(1) The city was incorporated pursuant to Division 3 (commencing with Section 56000) of Title 5 of the Government Code after January 1, 1990, and before January 1, 2000.



(2) The county within which the city is located did not include provisions in its franchises that ensured that the now incorporated area would comply with the diversion requirements of Section 41780.

(b) The board may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows both of the following:

(1) For the initial element, the city shall divert 25 percent of all solid waste from landfill or transformation facilities within three years from the date on which the board approves the element, through source reduction, recycling, and composting activities.

(2) For the first revision of the element, the city shall divert 50 percent of all solid waste from landfill or transformation facilities within eight years from the date on which the board approves the element, through source reduction, recycling, and composting activities.

SEC. 11. Section 41821 of the Public Resources Code is amended to read:

41821. (a) Each year following the board's approval of a city, county, or regional agency's source reduction and recycling element, household hazardous waste element, and nondisposal facility element, the city, county, or regional agency shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 41780.

(1) The annual report shall be due on or before August 1 of the year following board approval of the source reduction and recycling element, the household hazardous waste element, and the nondisposal facility element, and on or before August 1 in each subsequent year. The information in this report shall encompass the previous calendar year, January 1 to December 31, inclusive.

(2) Each city, county, and regional agency whose first annual report is due after 1996, shall include information on progress in reducing solid waste as required by Section 41780 for calendar year 1995 and each subsequent



calendar year. After the first annual report, each annual report shall encompass the previous calendar year.

(b) Each jurisdiction's annual report to the board shall, at a minimum, include the following:

(1) Calculations of annual disposal reduction.

(2) Information on the changes in waste generated or disposed of due to increases or decreases in population, economics, or other factors complying with subdivision (c) of Section 41780.1.

(3) A summary of progress made in implementing the source reduction and recycling element and the household hazardous waste element.

(4) If the jurisdiction has been granted a time extension by the board pursuant to Section 41820, the jurisdiction shall include a summary of progress made in meeting the source reduction and recycling element implementation schedule pursuant to paragraph (2) of subdivision (a) of Section 41780 and complying with the jurisdiction's plan of correction, prior to the expiration of the time extension.

(5) If the jurisdiction has been granted an alternative source reduction, recycling, and composting requirement pursuant to Section 41785, the jurisdiction shall include a summary of progress made towards meeting the alternative requirement as well as an explanation of current circumstances that support the continuation of the alternative requirement.

(6) Other information relevant to compliance with Section 41780.

(c) The board shall use, but is not limited to the use of, the annual report in the determination of whether the jurisdiction's source reduction and recycling element needs to be revised.

SEC. 12. Section 44002 of the Public Resources Code is amended to read:

44002. No person shall operate a solid waste facility without a solid waste facilities permit if that facility is required to have a permit pursuant to this division. If the enforcement agency determines that a person is so operating a solid waste facility, the enforcement agency



shall immediately issue a cease and desist order pursuant to Section 45005 ordering the facility to immediately cease operations, and directing the owner or operator of the facility to obtain a solid waste facilities permit in order to resume operation of the facility.

SEC. 13. Section 44004 of the Public Resources Code is amended to read:

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

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

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

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

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

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

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

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



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

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

(e) The operator has 30 days within which to appeal the decision of the enforcement agency to the hearing panel, as authorized pursuant to Article 2 (commencing with Section 44305) of Chapter 4.

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

(g) (1) A permit revision is not required for the temporary suspension of activities at a solid waste facility if the suspension meets either of the following criteria:

(A) The suspension is for the maintenance or minor modification of a solid waste unit or of solid waste management equipment.

(B) The suspension is for temporarily ceasing the receipt of solid waste at a solid waste management facility and the owner or operator is in compliance with all other applicable terms and conditions of the solid waste facilities permit and minimum standards adopted by the board.

(2) Any owner or operator of a solid waste facility who temporarily suspends operations shall remain subject to the closure and postclosure maintenance requirements of this division and to any other requirement imposed by federal law pertaining to the operation of a solid waste facility.

(3) The enforcement agency may impose any reasonable conditions relating to the maintenance of the solid waste facility, environmental monitoring, and periodic reporting during the period of temporary suspension. The board may also impose any reasonable conditions determined to be necessary to ensure compliance with applicable state standards.

SEC. 14. Section 44305 of the Public Resources Code is amended to read:



44305. (a) An enforcement agency may, after holding a public hearing in accordance with the procedures set forth in Section 44310, temporarily suspend a solid waste facilities permit if the enforcement agency determines that changed conditions at the facility necessitate a permit revision to eliminate a significant threat to public health and safety or to the environment.

(b) Notwithstanding subdivision (a), the enforcement agency may suspend a solid waste facilities permit prior to holding a hearing if the enforcement agency determines that changed conditions at the facility necessitate a permit revision or modification to prevent or mitigate an imminent and substantial threat to the public health and safety or to the environment. However, any person aggrieved by an action by an enforcement agency to suspend a permit pursuant to this subdivision may appeal the action to a hearing panel established pursuant to Section 44308 or 44309. The hearing panel shall, at the request of the aggrieved party, hear the appeal within three business days of the date when the permit was suspended, or the first day thereafter requested by the aggrieved party in compliance with Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code. The hearing panel shall render its decision on the day the hearing concludes. The panel may affirm, modify, or rescind the permit suspension. Any decision of a hearing panel established pursuant to Section 44308 or 44309 may be appealed pursuant to Section 45030.

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

SEC. 15. Section 45000 of the Public Resources Code is amended to read:

45000. (a) Except as provided in subdivision (b), the enforcement agency may issue an administrative order requiring the owner or operator of a solid waste facility or disposal site to take corrective action as necessary to



abate a nuisance, or to protect human health and safety or the environment.

(b) An administrative order shall not be issued for any minor violation that is corrected immediately in the presence of the inspector. Immediate compliance in that manner shall be noted in the inspection report.

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

(d) If an enforcement agency or the board expends any funds pursuant to subdivision (c), the owner or operator of the solid waste facility or disposal site shall reimburse the enforcement agency or the board for the amount expended, including, but not limited to, a reasonable amount for contract administration, and an amount equal to the interest that would have been earned on the expended funds. The amount expended shall be recoverable in a civil action by the Attorney General, upon request of the local enforcement agency or the board.

(e) Any contract for corrective action entered into by the board is exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

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

SEC. 16. Section 45011 of the Public Resources Code is amended to read:



45011. (a) (1) Except as provided in paragraph (2), if an enforcement agency determines that a solid waste facility is in violation of this division, any regulations adopted pursuant to this division applicable to a solid waste facility, or any corrective action or cease and desist order, or poses a potential or actual threat to human health and safety or to the environment, the enforcement agency may issue an order establishing a time schedule according to which the facility shall be brought into compliance with this division. The order may also provide for a civil penalty, to be imposed administratively by the enforcement agency, in an amount not to exceed five thousand dollars (\$5,000) for each day on which a violation occurs, and not to exceed a total amount of fifteen thousand dollars (\$15,000) in any one calendar year if compliance is not achieved in accordance with that time schedule.

(2) (A) Notwithstanding paragraph (1), an enforcement agency shall not impose a civil penalty pursuant to this section for the first three minor violations of the same requirement or standard established under this division, or any regulations adopted pursuant to this division applicable to a solid waste facility, identified at a solid waste facility.

(B) For purposes of this paragraph, a “minor violation” is a violation that does not pose any threat to the public health, safety, or to the environment, and which does not pertain to the actual design or operation of a solid waste facility but only to a strictly procedural aspect of the solid waste facilities permit.

(b) Prior to issuing an order that imposes a civil penalty pursuant to subdivision (a), an enforcement agency shall do both of the following:

(1) Notify the operator of the solid waste facility that the facility is in violation of this division.

(2) Upon the request of the operator of the solid waste facility, meet with the operator of the solid waste facility to clarify regulatory requirements and to determine what actions, if any, that the operator may voluntarily take to



bring the facility into compliance at the earliest feasible date.

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

(1) Notify the local governing body of its intent to impose a penalty. Upon receipt of the notification, the local governing body may direct the hearing panel established pursuant to Section 44308 or 44309 to hold a duly noticed public hearing to provide an opportunity for the alleged violation or violations and the amount of any proposed civil penalty to be reviewed by the hearing panel pursuant to Section 44310.

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

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

SEC. 17. Section 45023 of the Public Resources Code is amended to read:

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

SEC. 18. Section 48027 of the Public Resources Code is amended to read:

48027. (a) (1) The Legislature hereby finds and declares that effective response to cleanup at solid waste disposal and codisposal sites requires that the state have sufficient funds available in the trust fund created pursuant to subdivision (b).

(2) The Legislature further finds and declares that the maintenance of the trust fund is of the utmost importance to the state and that it is essential that any money in the



trust fund be used solely for the purposes authorized in this article and not be used, loaned, or transferred for any other purpose.

(b) The Solid Waste Disposal Site Cleanup Trust Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the trust fund is hereby continuously appropriated to the board for expenditure, without regard to fiscal years, for the purposes of this article.

(c) The following money shall be deposited into the trust fund:

(1) Funds appropriated by the Legislature from the account to the board for solid waste disposal or codisposal site cleanup.

(2) Any interest earned on the money in the trust fund.

(3) Any cost recoveries from responsible parties for solid waste disposal or codisposal site cleanup and loan repayments pursuant to this article.

(d) If this article is repealed, the trust fund shall be dissolved and all money in the fund shall be distributed to solid waste landfill operators who have paid into the trust fund during the effective life of the trust fund.

(e) Any trust fund distributions received by solid waste landfill operators pursuant to subdivision (d) may be used for only any of the following activities, as related to solid waste landfills:

(1) Solid waste landfill closure and postclosure maintenance operations.

(2) Implementation of Part 258 (commencing with Section 258.1) of Title 40 of the Code of Federal Regulations.

(3) Corrective actions at the solid waste landfill.

(f) The balance in the trust fund each July 1 shall not exceed thirty million dollars (\$30,000,000).

SEC. 19. Section 48621 of the Public Resources Code is amended to read:

48621. "Used oil" means used oil, as defined in Section 25250.1 of the Health and Safety Code. Used oil does not include articles contaminated with de minimis quantities



of used oil, such as used oil filters, oily rags, and scrap metal.

SEC. 20. Section 48623 of the Public Resources Code is amended to read:

48623. “Used oil hauler” means a hazardous waste hauler registered pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code who transports used oil.

SEC. 21. Section 48630 of the Public Resources Code is amended to read:

48630. The board shall operate a used oil recycling program that promotes and develops alternatives to the illegal disposal of used oil.

SEC. 22. Section 48634 of the Public Resources Code is repealed.

SEC. 23. Section 48634 is added to the Public Resources Code, to read:

48634. The board shall prescribe guidelines for providing safe and conveniently located facilities for the deposit of used oil by persons possessing up to five gallons at one time, at no cost to those persons.

SEC. 24. Section 48643 of the Public Resources Code is amended to read:

48643. (a) In carrying out this chapter, the board may solicit and use any and all expertise available in other state agencies, including, but not limited to, the State Board of Equalization, and, where an existing state agency performs functions of a similar nature to the board’s functions, the board may contract with or cooperate with that agency in carrying out this chapter.

(b) In carrying out this chapter, the board shall coordinate activities and functions with other state agencies, including, but not limited to, the department and the state water board, to avoid duplication in reporting and information gathering.

(c) Nothing in this chapter shall be construed to affect the jurisdiction of the department including, but not limited to, its jurisdiction over used oil and used oil filters.

SEC. 25. Section 48645 is added to the Public Resources Code, to read:



48645. The board, and every state officer and employee responsible for the procurement of oils for state uses, shall encourage the purchase of recycled oil products that are represented as substantially equivalent to products made from new oil in accordance with Section 48692.

SEC. 26. Section 48650 of the Public Resources Code, as amended by Section 3 of Chapter 822 of the Statutes of 1995, is amended to read:

48650. (a) Every oil manufacturer shall pay to the board, on or before the last day of the month following each quarter, an amount equal to four cents (\$0.04) for every quart, or sixteen cents (\$0.16) for every gallon, of lubricating oil sold or transferred in the state, or imported into the state for use in the state in that quarter. For lubricating oil sold by weight, a weight to volume conversion factor of 7.5 pounds per gallon shall be used to determine the fee. Except as provided in subdivision (b), no payment is required for oil which meets any of the following:

(1) Oil for which a payment has already been made to the board pursuant to this section.

(2) Oil exported or sold for export from the state.

(3) Oil sold for use in vessels operated in interstate or foreign commerce.

(4) Oil imported into the state in the engine crankcase, transmission, gear box, or differential of an automobile, bus, truck, vessel, plane, train, or heavy equipment or machinery.

(5) Bulk oil imported into, transferred in, or sold in the state to a motor carrier, as defined in Section 408 of the Vehicle Code, and used in a vehicle designated in subdivisions (a) and (b) of Section 34500 of the Vehicle Code.

(6) The oil otherwise subject to payment pursuant to this subdivision has a volume of five gallons or less, except that the board may establish a higher volume, not to exceed 500 gallons, if the board determines that such a volume is more cost-effective.



(b) If oil exempted from payment pursuant to subdivision (a) is subsequently sold or transferred for use, or is used, in this state, and the use does not qualify for exemption pursuant to subdivision (a), the entity which sells, transfers, or uses the oil for a purpose which is not exempt from payment, shall make the payment specified in subdivision (a).

SEC. 27. Section 48651 of the Public Resources Code is amended to read:

48651. (a) The board shall pay a recycling incentive to every industrial generator, curbside collection program, and certified used oil collection center, for used lubricating oil collected from the public, or generated by the certified used oil collection center or the industrial generator, and transported by a used oil hauler to the facilities specified in subdivision (a) of Section 48670.

(b) The board shall pay a recycling incentive to an electric utility, as defined in Section 25108, for used lubricating oil generated and used by the electric utility for electrical generation if the electric utility's use of the used lubricating oil meets the requirements of subparagraph (C) of paragraph (2) of subdivision (d) of Section 25143.2 of the Health and Safety Code and the used oil is in compliance with the standards for recycled oil established in paragraph (3) of subdivision (a) of Section 25250.1 of the Health and Safety Code.

(c) A person or entity that generates used industrial oil or a used oil storage facility or a used oil transfer facility that accepts used oil shall cause that oil to be transported by a used oil hauler to a certified used oil recycling facility or an out-of-state recycling facility that processes the used oil into recycled oil that is registered with the Environmental Protection Agency and permitted to operate by the applicable regulatory agency of the state in which the recycling facility is located.

SEC. 28. Section 48653 of the Public Resources Code is amended to read:

48653. The board shall deposit all amounts paid pursuant to Section 48650 by oil manufacturers, civil penalties or fines paid pursuant to this chapter, and all



other revenues received pursuant to this chapter into the California Used Oil Recycling Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is to be appropriated solely as follows:

(a) Continuously appropriated to the board for expenditure for the following purposes:

(1) To pay recycling incentives pursuant to Section 48651.

(2) To provide a reserve for contingencies, as may be available after making other payments required by this section, in an amount not to exceed one million dollars (\$1,000,000).

(3) To make block grants for the implementation of local used oil collection programs adopted pursuant to Article 10 (commencing with Section 48690) to cities based on the city's population, and to counties based on the population of the unincorporated area of the county, in a total annual amount equal to ten million dollars (\$10,000,000) or half of the amount that remains in the fund after the expenditures are made pursuant to paragraphs (1) and (2) and subdivision (b), whichever amount is greater, multiplied by the fraction equal to the population of cities and counties that are eligible for block grants pursuant to Section 48690, divided by the population of the state. The board shall use the latest population estimates of the state generated by the Population Research Unit of the Department of Finance in making the calculations required by this paragraph.

(4) For expenditures pursuant to Section 48656.

(b) The money in the fund may be expended by the board for the administration of this chapter and by the department for inspections and reports pursuant to Section 48661, only upon appropriation by the Legislature in the annual Budget Act.

(c) The money in the fund may be transferred to the Farm and Ranch Solid Waste Cleanup and Abatement Account in the General Fund, upon appropriation by the Legislature in the annual Budget Act, to pay the costs associated with implementing and operating the Farm



and Ranch Solid Waste Cleanup and Abatement Grant Program established pursuant to Chapter 2.5 (commencing with Section 48100).

(d) Appropriations to the board to pay the costs necessary to administer this chapter, including implementation of the reporting, monitoring, and enforcement program pursuant to subdivision (d) of Section 48631, shall not exceed three million dollars (\$3,000,000) annually.

(e) The Legislature hereby finds and declares its intent that the sum of two hundred fifty thousand dollars (\$250,000) should be annually appropriated from the fund in the annual Budget Act to the board, commencing with fiscal year 1996–97, for the purposes of Section 48655.

(f) The Legislature hereby finds and declares its intent that the sum of one hundred fifty thousand dollars (\$150,000) should be annually appropriated from the California Used Oil Recycling Fund in the annual Budget Act to the board, commencing with fiscal year 2000–01, to pay the costs to administer a used oil filter collection program pursuant to Section 48654.

SEC. 29. Section 48654 is added to the Public Resources Code, to read:

48654. The board may conduct a program for recycling used oil filters in conjunction with the used oil program adopted pursuant to this chapter. In conducting this program, the board shall consider the information developed as a result of the pilot program conducted pursuant to Section 48695. Any program established pursuant to this section shall develop opportunities for the public to dispose used oil filters at no cost to the public and may include grants to local governments to provide for local used oil filter collection program support.

SEC. 30. Section 48660.5 of the Public Resources Code is amended to read:

48660.5. (a) If the board finds that a shipment of used oil from a certified used oil collection center or a curbside collection program is contaminated by hazardous materials in excess of that which generally occurs in normal use, which renders the used oil infeasible for



recycling, and requires that the used oil be destroyed at a substantially higher cost than the cost generally to recycle used oil, the board shall, upon application by the used oil collection center or curbside collection program, reimburse the center or program for the additional disposal cost, subject to the eligibility requirements of subdivision (b), except as provided in subdivision (c).

(b) A certified used oil collection center or curbside collection program is eligible for reimbursement only if it demonstrates to the satisfaction of the board all of the following:

(1) The center or program has established procedures to ensure that the used oil it generates and accepts from the public will not be mixed with other hazardous wastes, especially halogenated wastes. These procedures shall include, but not be limited to, instructing the public and employees that used oil shall not be mixed with other hazardous waste. The board shall not require a center or program to test used oil received from the public as part of these procedures.

(2) The shipment contains not more than five gallons or 30 pounds of contaminants combined, based on the contaminant concentrations and the total volume or weight of the shipment.

(c) In any calendar year, a used oil collection center or curbside collection program shall be reimbursed for not more than one shipment and for not more than five thousand dollars (\$5,000) in disposal costs, subject to the availability of funds pursuant to Section 48656.

SEC. 31. Section 48661 of the Public Resources Code is amended to read:

48661. (a) The department shall annually inspect used oil recycling facilities.

(b) Within 135 days from the date of inspection, the department shall submit a report to the board, describing all of the following:

(1) Any violations of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.



(2) Any corrective actions ordered or agreed to by the department.

(3) Progress by the facility in correcting violations identified in previous inspections.

(c) In the report required by subdivision (b), the department shall specifically state whether any of the following occurred:

(1) The department has identified violations of subparagraph (B) of paragraph (3) of subdivision (a) of Section 25250.1 of the Health and Safety Code regarding achievement of minimum standards of purity for recycled oil.

(2) The department has identified violations of regulations requiring financial responsibility assurance for liability, closure, and postclosure obligations.

(3) Where prior contamination has been identified, the facility has an approved corrective action plan and has not been found to be in violation of its requirements.

(4) The department has identified violations that meet the criteria for class 1 violations, as defined in Section 66260.10 of Title 22 of the California Code of Regulations.

SEC. 32. Section 48670 of the Public Resources Code is amended to read:

48670. (a) To be eligible for payment of a recycling incentive, an industrial generator of used lubricating oil, a used oil collection center, or a curbside collection program shall report to the board, for each quarter, the amount of lubricating oil purchased and the amount of used lubricating oil that is transported to any of the following:

(1) A certified used oil recycling facility.

(2) A used oil storage facility.

(3) A used oil transfer facility.

(4) An out-of-state recycling facility that processes the used oil into recycled oil that is registered with the Environmental Protection Agency and permitted to operate by the applicable regulatory agency of the state in which the facility is located.



(5) An electric utility that uses recycled oil to generate electricity pursuant to subdivision (b) of Section 48651.

(b) The reports shall be submitted on or before the 45th day following each quarter, in the form and manner that the board may prescribe, and shall include copies of manifests or modified manifest receipts from used oil haulers. The board may delegate to the executive officer of the board the authority to accept reports submitted after the 45th day and to reduce, eliminate, or approve the amount of incentive fee to be paid due to the late submission of the report.

(c) For payment process streamlining purposes, the board may provide, by regulation, for longer reporting periods, based on the volume of oil recycled or the amount of the monetary claim requested.

SEC. 33. Section 48671.8 is added to the Public Resources Code, to read:

48671.8. The board shall adopt regulations requiring any person who sells to consumers more than 500 gallons of lubricating or other oil annually in containers for use off the premises to inform purchasers by posting at or near the point of purchase either the locations of conveniently located used oil collection facilities or the board's toll-free 800 number, in the form and manner that the board may prescribe.

SEC. 34. Section 48672 of the Public Resources Code is amended to read:

48672. Every used oil hauler shall report to the board for each quarter the amount of used oil transported, the location to which it was transported, and the source of the used oil. The hauler shall provide estimates, where feasible, of the amount that is used lubricating oil and the amount that is used industrial oil. The reports shall be submitted on or before the last day of the month following each quarter, in the form and manner that the board may prescribe.

SEC. 35. Section 48673 of the Public Resources Code is amended to read:

48673. Every used oil recycling facility shall report to the board for each quarter the amount of used oil



received and the amount of recycled oil produced. The facility shall provide estimates, where feasible, of the amount that is used lubricating oil and the amount that is used industrial oil. The reports shall be submitted on or before the last day of the month following each quarter, in the form and manner that the board may prescribe.

SEC. 36. Section 48674 of the Public Resources Code is amended to read:

48674. After receiving a block grant pursuant to paragraph (3) of subdivision (a) of Section 48653, each local government shall submit an annual report to the board, on or before the date specified by the board, which includes any amendments to the local used oil collection program adopted pursuant to Section 48690, a description of all measures taken to implement the program, and a description of how the block grant was expended.

SEC. 37. Section 48690 of the Public Resources Code is amended to read:

48690. A local government is eligible for a block grant pursuant to paragraph (3) of subdivision (a) of Section 48653, if it develops and submits a local used oil collection program to the board pursuant to Section 48691 and files a report pursuant to Section 48674. The board shall make a grant to every local government which submits a program and files a report unless the board finds that the program or its implementation does not comply with criteria contained in this article. The board may make a block grant to another entity that will implement the program of a local government in lieu of making a block grant to that local government with the concurrence of that local government.

SEC. 38. Section 48692 is added to the Public Resources Code, to read:

48692. The board shall encourage the procurement of rerefined automotive and industrial oils for all state and local uses, whenever those rerefined oils are available at prices that are competitive with those of new oil produced for the same purpose pursuant to Article 7.6 (commencing with Section 10405) of Chapter 2 of Part 2



of Division 2 of, and Sections 12170 and 12210 of, the Public Contract Code.

SEC. 39. Notwithstanding any other provision of law, nothing in the amendments to Section 40401 of the Public Resources Code made by Section 3 of this act shall be construed to affect the August 1999 appointment of a person who is a former city council member and a former mayor to the California Integrated Waste Management Board, and that appointment shall be deemed to meet the eligibility requirements of subdivision (c) of Section 40401 of the Public Resources Code.

SEC. 40. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to assist local agencies in achieving the 50 percent solid waste diversion goals by January 1, 2000, as provided in Section 41780 of the Public Resources Code, it is necessary for this act to take effect immediately.



Approved \_\_\_\_\_, 1999

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*Governor*

