

ASSEMBLY BILL

No. 1237

Introduced by Assembly Member Hancock

February 23, 2007

An act to amend Sections 43218, 43219, 43220, 44009, 45012, and 45013 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1237, as introduced, Hancock. Solid waste: solid waste facilities.

(1) The Integrated Waste Management Act requires the Integrated Waste Management Board, in writing, to either concur or object to the issuance, modification, or revision of a solid waste facility permit within 60 days from the date of the board's receipt of a completed proposed solid waste facility permit. If the board fails to concur or object within the 60-day period, the board is deemed to have concurred with the issuance, modification, or revision of the proposed solid waste facility permit.

This bill would extend the time period in which the board may concur or object to 90 days. If the board fails to concur or object within the 90-day period, the board would, instead, be deemed to have objected to the issuance, modification, or revision of the proposed solid waste facility permit.

(2) The act requires the enforcement agency to conduct at least one inspection at each solid waste facility within its jurisdiction each month and requires the board and a local enforcement agency to conduct a joint inspection at least once every 18 months. The board is also authorized to inspect and investigate of solid waste facilities to evaluate a local enforcement agency and to ensure compliance with the state minimum standards.

This bill would require that at least one inspection conducted by the enforcement agency alone or jointly with the board be unannounced. The board would also be authorized to conduct unannounced inspections and investigations of solid waste facilities.

(3) The act prohibits the board from taking any enforcement actions unless it has provided notice to the local enforcement agency and the violator of its intent to take that action, allowed them a reasonable opportunity to correct the violation, and holds a public hearing on the matter. The act also requires the board upon the request of the local enforcement agency, to provide guidance to the local enforcement agency on the inspection and investigation of certain specified disposal sites.

This bill would eliminate the need for a public hearing prior to an enforcement action by the board. The board would be required to provide a local enforcement agency with assistance and guidance regarding the inspection, investigation, enforcement, and remediation of certain specified disposal sites.

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

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

- 1 SECTION 1. Section 43218 of the Public Resources Code is
- 2 amended to read:
- 3 43218. ~~Each~~*An* enforcement agency shall ~~inspect~~ *conduct at*
- 4 *least one unannounced inspection of* each solid waste facility
- 5 within its jurisdiction ~~at least one time~~ each month and shall file,
- 6 within 30 days of the inspection, a written report in a format
- 7 prescribed by the board.
- 8 SEC. 2. Section 43219 of the Public Resources Code is
- 9 amended to read:
- 10 43219. (a) The board may, at its discretion, conduct
- 11 *unannounced* inspections and investigations of solid waste facilities
- 12 in order to evaluate the local enforcement agency and to ensure
- 13 that state minimum standards are met.
- 14 (b) Except as otherwise provided by Section 43220, the board,
- 15 in conjunction with an inspection conducted by the local
- 16 enforcement agency, shall conduct inspections of solid waste
- 17 facilities within the jurisdiction of each local enforcement agency.
- 18 The board shall inspect the types and number of solid waste

1 facilities ~~which~~ *that* are determined by the board to be necessary
2 to adequately evaluate whether the local enforcement agency is
3 ensuring compliance by solid waste facilities with state minimum
4 standards. A written inspection report shall be prepared and
5 submitted within 30 days of the inspection to the local enforcement
6 agency.

7 (c) If the board identifies any significant violation of state
8 minimum standards that were not identified and resolved through
9 previous inspections by the local enforcement agency, the board
10 shall take appropriate action as authorized by Sections 43215 and
11 43216.5.

12 (d) Notwithstanding any other provision of this section and
13 Sections 43215 and 43216, if, as a result of a facility inspection
14 conducted pursuant to subdivision (b), the board finds that
15 conditions at a solid waste facility within the jurisdiction of a local
16 enforcement agency threaten public health and safety or the
17 environment, the board shall, within 10 days of notifying the local
18 enforcement agency, become the enforcement agency until another
19 local enforcement agency is designated locally and certified by
20 the board.

21 SEC. 3. Section 43220 of the Public Resources Code is
22 amended to read:

23 43220. The board, in conjunction with an inspection conducted
24 by the local enforcement agency, shall conduct at least one
25 *unannounced* inspection every 18 months of each solid waste
26 landfill and transformation facility in the state. A written inspection
27 report shall be prepared and submitted within 30 days of the
28 inspection to the local enforcement agency. If the board identifies
29 any significant violation of state minimum standards that was not
30 resolved through previous inspections by the local enforcement
31 agency, the board shall take appropriate action as authorized by
32 Sections 43215 and 43216.5 and subdivision (d) of Section 43219.

33 SEC. 4. Section 44009 of the Public Resources Code is
34 amended to read:

35 44009. (a) (1) The board shall, in writing, concur or object
36 to the issuance, modification, or revision of ~~any~~ *a* solid waste
37 facilities permit within ~~60~~ *90* days from the date of the board's
38 receipt of ~~any~~ *a completed* proposed solid waste facilities permit,
39 *as determined by the board*, submitted under Section 44007 after
40 consideration of the issues in this section.

1 (2) If the board determines that the permit is not consistent with
 2 the state minimum standards adopted pursuant to Section 43020,
 3 or is not consistent with Sections 43040, 43600, 44007, 44010,
 4 44017, 44150, and 44152 or Division 31 (commencing with Section
 5 50000), the board shall object to provisions of the permit and shall
 6 submit those objections to the local enforcement agency for its
 7 consideration.

8 (3) If the board fails to concur or object in writing within the
 9 ~~60-day~~ 90-day period specified in paragraph (1), the board shall
 10 be deemed to have ~~concurred in~~ *objected to* the issuance of the
 11 permit as submitted to it.

12 (b) Notwithstanding subdivision (a), the board is not required
 13 to concur in, or object to, and shall not be deemed to have
 14 concurred in, the issuance of a solid waste facilities permit for a
 15 disposal facility if the owner or operator is not in compliance with,
 16 as determined by the regional water board, an enforcement order
 17 issued pursuant to Chapter 5 (commencing with Section 13300)
 18 of Division 7 of the Water Code, or if all of the following
 19 conditions exist:

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

23 (2) The petition for review of the waste discharge requirements
 24 includes a request for a stay of the waste discharge requirements.

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

28 (c) In objecting to the issuance, modification, or revision of any
 29 solid waste facilities permit pursuant to this section, the board
 30 shall, based on substantial evidence in the record as to the matter
 31 before the board, state its reasons for objecting. The board shall
 32 not object to the issuance, modification, or revision of any solid
 33 waste facilities permit unless the board finds that the permit is not
 34 consistent with the state minimum standards adopted pursuant to
 35 Section 43020, or is not consistent with Section 43040, 43600,
 36 44007, 44010, 44017, 44150, or 44152 or Division 31
 37 (commencing with Section 50000).

38 (d) Nothing in this section is intended to require that a solid
 39 waste facility obtain a waste discharge permit from a regional
 40 water board prior to obtaining a solid waste facilities permit.

1 SEC. 5. Section 45012 of the Public Resources Code is
2 amended to read:

3 45012. (a) *The board may take an enforcement action that a*
4 *local enforcement agency may take under this part.* The board
5 shall not take any enforcement action specified in this part without
6 providing notice to the local enforcement agency and the violator
7 of the board's intent to take that action, *and* allowing the local
8 enforcement agency and the violator a reasonable opportunity to
9 correct the violation, ~~and conducting a public hearing on the matter.~~
10 In taking ~~any such~~ *an* enforcement action, the board is vested, in
11 addition to its other powers, with all of the powers of a local
12 enforcement agency under this division.

13 (b) Notwithstanding subdivision (a), if the board finds that a
14 local enforcement agency's failure to take enforcement action
15 constitutes an imminent threat to public health or safety or to the
16 environment, the board may take the enforcement action, as the
17 board determines is necessary.

18 SEC. 6. Section 45013 of the Public Resources Code is
19 amended to read:

20 45013. The board shall, ~~upon the request of the local~~
21 ~~enforcement agency,~~ provide guidance *and assistance* to the
22 enforcement agency regarding the inspection ~~and~~, investigation,
23 *enforcement, and remediation* of illegal, abandoned, ~~or~~ inactive,
24 *or closed disposal sites;* to ensure that public health and safety and
25 the environment are protected.