

Summary of Major Provisions for AB 2679: Enhanced Enforcement

Summary of Major Provisions

Assembly Bill (AB) 2679 was signed into law on September 28, 2008, and took effect on January 1, 2009. It modifies various enforcement sections of the Public Resources Code ([Chapter 500, Statutes of 2008](#)). There were five major changes made with this statute:

1. Establishment of a minor violation program (Section 40150.2 and Section 45003);
2. Streamlined process for assessment of administrative civil penalties (Section 45010.1);
3. Direct CIWMB enforcement upon mutual agreement with a local enforcement agency (Section 45012);
4. Repeal of the automatic stay of an enforcement action upon a request for a hearing (Section 45017); and
5. Establishment of criminal penalties (Section 45025).

The code sections referenced above are discussed in more detail below.

Changes in Definitions

A number of new definitions were added and others were amended or repealed. The only definition repealed was “disposal site owner” (Section 40123).

New definitions include:

- Section 40115.5 “Closed disposal site”
- Section 40116.1 “Composting”
- Section 40150.2 “Minor violation”
- Section 40162 “Owner”
- Section 40194 “Solid waste facility” (Language specifies that, for purposes of Part 5 [Enforcement], “solid waste facility” includes operations that may be carried out pursuant to enforcement agency notification.)

Amended definitions include:

- Section 40120.1 “Disposal” and “dispose”
- Section 40122 “Disposal site” and “site”
- Section 40141 “Hazardous waste”
- Section 40160 “Operator”
- Section 40192 “Solid waste disposal,” “disposal,” and dispose”

Summary of New and Amended Provisions

The five major changes, along with other enforcement-related provisions which were either added, amended or repealed, are detailed below.

- Section 43209(h)(2)-**Amend**. Enforcement agency (EA) inspection program may include public awareness activities, enforcement to prevent illegal dumping and abatement of illegal dumping.
- Section 43214-**Amend**. Adds “disposal sites,” clarifying that Board evaluation of EA includes their oversight of disposal sites, as well as solid waste facilities.
- Section 44000.5-**New**. Solid waste may only be disposed at a permitted solid waste facility (or as otherwise authorized by the Integrated Waste Management Act). Includes disposal, causing or arranging disposal, transporting, and accepting solid waste for disposal.
- Section 44100(c)-**New**. EAs may obtain warrants to allow access to property for cleanups where an administrative order has been issued pursuant to Section 45000 and there is a significant threat to public health or the environment.
- Section 44306(c)-**New**. Failure to pay monetary penalty within 90 days of due date is grounds for revocation of solid waste facilities permit.
- Section 45000(a)-**Amend**. Authorizes the Board, as well as an EA, to issue a corrective action order; adds 44000.5 to list of grounds for corrective action order; adds disposal sites.
- Section 45002-**Amend**. Minor amendment to account for minor violations.
- Section 45003-**New**. Provisions for correction of “minor violations.”
- Section 45005-**Clarifies** section; adds 44000.5 to list of grounds for cease and desist order.

- Section 45010(a)-**Amend**. Clarifies what “reasonable efforts” EAs must make before the EA or Board imposes administrative penalties (see Section 45010.2).
- Section 45010(b)-**Amend**. Expands uses to which EAs may put penalties recovered.
- Section 45010.1-**New**. Authorizes the EA or the Board to issue an administrative penalty for a wide range of violations.
- Section 45010.2-**New**. Before the Board or EA issues an enforcement order (except regarding a “minor violation”), it shall notify the owner or operator of the violation and shall meet with of the owner or operator, upon request, to clarify the requirements and to determine what actions, if any, the owner/operator may take to achieve compliance voluntarily. (Note: This concept was previously located at Section 45012(a).)
- Section 45011-**Amend**. Authorizes the Board, as well as an EA, to issue a compliance order; expands grounds on which compliance order may be issued; adds 44000.5 to list of grounds for compliance order.
- Section 45012(a)-**Amend**. Expands Board’s authority to take enforcement actions to include situations where the EA has made a good faith effort to correct a violation and the EA and Board agree that Board enforcement is desirable. Retains Board’s ability to take enforcement action if the EA’s failure to take enforcement action constitutes an imminent threat to the public health and safety or the environment.
- Section 45013-**Amend**. Eliminates requirement that EAs request guidance or assistance regarding illegal, abandoned, inactive or closed disposal sites.
- Section 45017-**Amend**. Eliminates the automatic stay of enforcement upon an appeal; authorizes Executive Director to stay the effect of an enforcement order given to an owner or operator of a permitted solid waste facility in extraordinary circumstances (that the immediate effect of the enforcement order will adversely affect the public health and safety or the environment); authorizes the Board to stay the effect of an enforcement order given to someone other than the owner or operator of a permitted solid waste facility.
- Section 45019, 45020, 45021, 45022, 45023-**Amend**. Adds “or disposal site.”
- Section 45025-**New**. Criminal penalties-a violation of Part 4 (Sections 43000-44820) is a misdemeanor.

- Section 45033-**Repeal**. Under the Integrated Waste Management Act as revised, persons who seek to challenge Board or EA actions (or inactions) in Superior Court must first exhaust their administrative remedies (e.g., hearings before the local hearing panel and appeals to the Board).
- Section 45040-**Amend**. Specifies that the filing of a writ in Superior Court does not stay an enforcement order or halt the accrual of penalties, unless the court so orders.

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