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Environmental Protection

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Environmental Protection

Environmental Protection; air pollution

Health and Safety Code §39261 (amended).
SB 547 (Alquist); STATS 1973, Ch 1110

Section 39261 of the Health and Safety Code provides a civil penalty for any person who intentionally or negligently violates: (1) rules or regulations which prohibit or limit the discharge of air contaminants and which are adopted by a county or regional air pollution control district or the State Air Resources Board; or (2) specified provisions concerning nonvehicular pollution control. The penalty imposed shall not exceed $500 for each day of violation. Chapter 1110 has amended Section 39261 to permit *any* control district, rather than only a county or regional district and the State Air Resources Board, to utilize this method of enforcing air pollution control.

COMMENT

The intent of this enactment is to provide the Bay Area Air Pollution Control District with an effective deterrent against persons who intentionally or negligently violate the district's air pollution rules and regulations [S.B. 547, STATS. 1973, c. 1110, §3]. Prior to amendment, Section 39261 was subject to the interpretation that the Bay Area district, having been created by special legislation [See CAL. HEALTH & SAFETY CODE ch. 2.5 (commencing with §24345] and therefore not constituting a "county" or "regional" district, was not included within the provisions of Section 39261. Such an interpretation would limit the Bay Area district in its methods of enforcing air pollution control to those specified within the special legislation. These methods include a misdemeanor penalty for an unlawful open fire (§24361.5) and the authority to seek an injunction against violators of the district air pollution rules and regulations (§24368.6). In addition, Article 13.6 (commencing with §24369) of the Health and Safety Code provides the Bay Area district with authority similar to that of Section 39261, but in a much more limited form. Section 39261, as amended, is not subject to the above-mentioned narrow inter-

pretation and provides the Bay Area district with a broad civil penalty deterrent to air pollution.

See Generally:

1) CAL. HEALTH & SAFETY CODE §24345 *et seq.* (Bay Area Air Pollution Control District).
2) 2 PAC. L.J., REVIEW OF SELECTED 1970 CALIFORNIA LEGISLATION 410 (1971).
3) Stevens, *Air Pollution and the Federal System: Responses to Felt Necessities*, 22 HAST. L.J. 661, 666 (1971).
4) Comment, *Regional Control of Air and Water Pollution in the San Francisco Bay Areas*, 55 CAL. L. REV. 702 (1967).

Environmental Protection; California Pollution Control Financing Authority

Health and Safety Code §§39636, 39637 (new); §§39604, 39615 (amended); Revenue and Taxation Code §201.5 (new).
AB 542 (KNOX); STATS 1973, Ch. 277
(Effective August 15, 1973)

In 1972 Assembly Constitutional Amendment Number 81 was adopted by the people of California to authorize the legislature to issue revenue bonds to finance private pollution control projects. Division 27 (commencing with §39600) was subsequently added to the Health and Safety Code by Chapter 1257 of the Statutes of 1972 in order to implement the constitutional amendment. Chapter 1257 created the California Pollution Control Financing Authority and authorized it to issue and sell tax exempt revenue bonds and bond anticipation notes to finance the installation of pollution control equipment on private industrial facilities [See 4 PAC. L.J., REVIEW OF SELECTED 1972 CALIFORNIA LEGISLATION 496 (1973)].

Chapter 277 has amended Section 39604 of the Health and Safety Code to declare the California Pollution Control Financing Authority to be a *political subdivision* of the State of California. Section 39615 has also been amended to require that pollution control projects be financed in such order of priority as the authority may determine, and specifies the following factors which the authority may take into consideration in determining such priority: (1) certification and recommendation of the State Water Resources Control Board, the State Air Resources Board, or the Resources Agency; (2) location of the proposed project; (3) nature of the proposed project; (4) time of application; and (5) any other factors the authority may deem pertinent. Prior to amendment, projects were eligible for financing in the order in which *requests* for financing were received by the author-

ity. These new "priority" provisions are applicable to any application filed prior to the effective date of this chapter.

Chapter 277 has added Section 39636 to Division 27 of the Health and Safety Code to provide that the authority is not required to pay any property taxes or assessments on any project, property acquired by or for the authority under Division 27, or income therefrom so long as the authority holds title to such project or the property or facilities comprised in the project. Such exemption of the authority from taxation on any project ceases when title thereto is transferred from the authority to any participating party. The provisions of this section, however, do not exempt any participating party from taxation with respect to any project, or the property or facilities comprised in any project, which may otherwise be applicable to such participating party. Section 39637 has also been added to Division 27 to provide that upon dissolution of the authority the title to all properties owned by it shall vest in and become the property of the state.

Chapter 277 has added Section 201.5(a) to the Revenue and Taxation Code to provide that possessory interests in real and personal property acquired by or for the authority are subject to taxation. If the amount of such taxation pursuant to subdivision (a) is less than the amount of tax which would have been imposed if the participating party owned the pollution control facility, the contract or lease between the authority and such party shall provide that the difference between the amount of tax paid pursuant to subdivision (a) and the amount determined on the basis of the full cash value of the property shall be paid by such party to the tax collector for the taxing agency at the same time as the property tax is paid. There is, however, no possessory interest tax on *personal* property in California [See 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Taxation* §57(d) (7th ed. 1960)].

See Generally:

1) 1 WITKIN, SUMMARY OF CALIFORNIA LAW, *Personal Property* §31 (7th ed. 1960) (fixtures taxable as real property).
2) 3 WITKIN, SUMMARY OF CALIFORNIA LAW, *Taxation* §§55-60 (7th ed. 1960) (taxable and exempt property).
3) 4 PAC. L.J., REVIEW OF SELECTED 1972 CALIFORNIA LEGISLATION 496 (1973).

Environmental Protection; endangered animals

Fish and Game Code §12016 (repealed); §12004 (amended).

AB 1865 (Kapiloff); STATS 1973, Ch 837

Support: Animal Protection Institute; Coalition Against Poisoning Wildlife; Sierra Club

Chapter 837 has repealed Section 12016 and amended Section 12004 of the Fish and Game Code to increase the penalty for a violation of Section 2052 or 2053 from a fine of not more than $500 or imprisonment for not more than six months, or both, to a penalty of a fine of not more than $1,000 or imprisonment for a term not to exceed one year, or both. Section 2052 prohibits, with exceptions prescribed by Section 2053, the sale and importation into the state, or the taking, possessing, or selling within the state, of any species or subspecies of animal that the Fish and Game Commission finds is an endangered or rare animal.

See Generally:
1) CAL. PEN. CODE §§653o, 653p (prohibition against importation or possession of specified endangered species).

Environmental Protection; protection of mammals from dogs

Fish and Game Code §3960 (amended).
SB 955 (Nejedly); STATS 1973, Ch 509

Chapter 509 has amended Section 3960 of the Fish and Game Code to make it unlawful to permit any dog to: (1) pursue any big game mammal during the closed season on such mammal; (2) pursue any fully protected, rare, or endangered mammal at any time; or (3) pursue any mammal in a game refuge or ecological reserve in which hunting is unlawful. As amended, employees of the Department of Fish and Game may capture any dog which is not under the reasonable control of its owner or handler and which is pursuing any big game or any fully protected, rare, or endangered mammal in violation of this section. Such employees are permitted to capture or dispatch any dog which is inflicting injury or immediately threatening to inflict injury to animals which cannot be pursued. No criminal or civil liability shall accrue to any department employee as a result of enforcement of this section. Owners of dogs with identification which have been captured or killed pursuant to this section will be notified within 72 hours. Prior to amendment, Section 3960 only made it unlawful to permit or allow any dog to run, track, or trail any deer, antelope, or elk.

See Generally:
1) CAL. ADMIN. CODE tit. 14, §§253, 350 *et seq.* (big game), §630 *et seq.* (ecological reserve).
2) CAL. FISH & GAME CODE §1580 *et seq.* (ecological reserve), §3508 (control of hunting dogs), §3950 *et seq.* (game mammals).
3) CAL. FOOD & AGRIC. CODE §31101 *et seq.* (killing and seizure of dogs).

Environmental Protection; pest control

Food and Agricultural Code §§6305, 42654 (amended).
SB 423 (Way); STATS 1973, Ch 446
Support: Department of Food and Agriculture

Section 6305 of the Food and Agricultural Code prohibits any person from importing into or shipping within the state any live insect or pest unless such transportation is authorized by either the state Director of Food and Agriculture or the United States Department of Agriculture [See 7 U.S.C. §150bb]. Exceptions are provided for the transportation or importation of honey bees of the species Apis mellifera and weeds used for identification. The inspecting officer is required to immediately destroy an unauthorized shipment unless he determines that the shipment cannot cause damage to the agriculture of the state. Pursuant to Section 9 of the Food and Agricultural Code, a violation of Section 6305 constitutes a misdemeanor [See CAL. PEN. CODE §§16, 17, 19, 19a].

Chapter 446 has amended Section 6305 to: (1) provide that such unauthorized transportation is unlawful only if willful; and (2) expand the exceptions to include beneficial or useful insects of common occurrence in the state, and insects or other organisms of public or animal health interest which are not plant pests, when such insects or organisms are imported, shipped, or transported by a governmental public health agency.

See Generally:
1) CAL. FOOD & AGRIC. CODE §§5025, 5344, 7206, 7501 (pest control).
2) 1 WITKIN, CALIFORNIA CRIMES, *Willfulness* §57 (1963).
3) 4 PAC. L.J., REVIEW OF SELECTED 1972 CALIFORNIA LEGISLATION 517, 524 (1973).

Environmental Protection; public records

Government Code §6254.7 (amended).
SB 156 (Biddle); STATS 1973, Ch 186
(Effective July 9, 1973)
Support: State Air Resources Board

Chapter 186 has amended Section 6254.7 of the Government Code to include air pollution emission data, including emission data which constitute trade secrets, within the definition of public records. Previously, *all* trade secrets were specifically exempted from the classification of public records. Section 6254.7, as amended, also specifies that data which are trade secrets and used in the process of calculating

the emission data will not be classified as public records. Pursuant to Section 6253 of the Government Code, public records are open to inspection at all times during the office hours of the state or local agency, and every citizen has a right to inspect any public record, subject to exceptions provided.

COMMENT

The intent behind this enactment was to have state law conform with federal law [14 U.S.C. §1857f-6 (1955)] which makes all air pollution emission data public records, even though such data may constitute trade secrets [S.B. 156, CAL. STATS. 1973, c. 186, §3]. The basic effect of Chapter 186 is to provide the public with access to all air pollution emission data while still barring, under certain circumstances, such access to the method and information used to calculate the data.

See Generally:
1) CAL. GOV'T CODE §§6252(d), 6253, 6254.7(d) (public records and trade secrets).
2) 4 PAC. L.J., REVIEW OF SELECTED 1972 CALIFORNIA LEGISLATION 591 (1971).

Environmental Protection; waste wood and brush burning

Health and Safety Code §39297.8 (new); §39297.6 (amended).
AB 1706 (Seeley); STATS 1973, Ch 831
(Effective September 25, 1973)
SB 1120 (Cusanovich); STATS 1973, Ch 948

Chapter 948 has amended Section 39297.6 of the Health and Safety Code to provide that, notwithstanding Section 39296 (prohibiting use of open fires for disposal of designated waste products), the governing body of an air pollution control district may, with respect to wood waste on property being developed for commercial or residential purposes, or with respect to the disposal of brush cuttings on property where the brush was grown and the cuttings are the result of brush clearance work done in compliance with local ordinances to reduce fire hazards, authorize the disposal of such at the request of any person or upon its own motion by open fires on the property where it was deposited or grown. Previously, this section was limited to the disposal of wood waste, and the air pollution district (rather than the governing body of the district) could authorize such disposal only upon another person's request. This section still specifies that the authorization allows burning only on permissive burn days (as designated by the Air Resources Board pursuant to §39298) and that the district must develop

criteria for such disposal to improve combustibility and reduce the smoke level. However, the requirement that the county health officer within the air pollution control district had to first make a finding that it was more beneficial in terms of the general public health to burn the waste on location rather than dispose of it by other means has been eliminated, and the section now requires only that the governing body of the district find that it is more desirable to dispose by burning than by other available means, such as sanitary land fills.

Additionally, the amended statute now provides that the governing body of the district may adopt rules and regulations for authorizing such burning of wood and brush wastes to review each proposed burn prior to issuance of the permit. Alternatively, the governing body can delegate to the district air pollution control officer the authority to approve or disapprove each proposed burn after consideration of the amount of waste to be burned, the season of the year, the ambient air quality, and proximity to developed areas.

Chapter 948 has also changed the deadline beyond which no such authorization shall be granted from July 1, 1975, to January 1, 1977, *unless* the Air Resources Board finds that an alternative method of disposal has been developed which is technologically and economically feasible and decides to stop wood burning at an earlier date.

Chapter 831 has added Section 39297.8 to the Health and Safety Code to permit the use of open outdoor fires to dispose of Russian thistle (*Salsola Kali*) when authorized by a chief of a fire department, or fire protection agency of a city, county, or fire protection district, or a county agircultural commissioner, or an air pollution officer.

COMMENT

As amended, Section 39297.6 makes two significant changes from prior law. First, local governing bodies are now free to regulate the issuance of permits for wood and brush waste burning. Although implementation of local regulations on waste burning will likely be delegated to the district air pollution control officer, local government now has a stronger measure of control in this area. Secondly, in extending the deadline, the legislature is acknowledging that the state is having difficulty finding an economical alternative means of disposing of wood and brush wastes. The extension is a practical recognition of the fact that strict enforcement of the deadline would cause serious "overload" problems on available sanitary landfill sites. However, it ignores the problem which continued burning may cause the state in meeting the requirements of the Federal Clean Air Act [42 U.S.C.

§1857c-5 (1971)]. Only further experience will determine whether the results of operating under Section 39297.6 and related open-air burning statutes are potentially in conflict with the requirements which are being placed on the state by the federal government.

See Generally:
1) CAL. HEALTH & SAFETY CODE §39295 *et seq.*
2) 4 PAC. L.J., REVIEW OF SELECTED 1972 CALIFORNIA LEGISLATION 494, 495 (1973)
3) 2 PAC. L.J., REVIEW OF SELECTED 1970 CALIFORNIA LEGISLATION 407 (1971).

Environmental Protection; Z'berg-Nejedly Forest Practice Act of 1973

Public Resources Code Article 2 (commencing with §630), Chapter 8 (commencing with §4521) (repealed); Article 2 (commencing with §630), Chapter 8 (commencing with §4511) (new).
AB 227 (Z'berg); STATS 1973, Ch 880
Support: Sierra Club; Planning and Conservation League; National Audubon Society; California Forest Protective Association

Creates the State Board of Forestry and Division of Forestry; enacts the Z'berg-Nejedly Forest Practice Act of 1973; establishes districts and district technical advisory committees; provides for adoption of rules and regulations; sets forth resource conservation standards for timber operations; establishes permit requirements; establishes regulations on the harvesting of timber; provides for penalties and enforcement; allows for conversion of timberlands to other uses.

Chapter 880 repeals Article 2 (commencing with §630) of the Public Resources Code and adds a new Article 2 creating the State Board of Forestry. Section 630 of the new statutes establishes a State Board of Forestry consisting of nine members appointed by the Governor, selected and approved for appointment on the basis of their educational and professional qualifications and experience in watershed management, forest management practices, fish and wildlife, range management, forest economics, or land use planning. Five members shall be chosen from the general public, three members from the forest products industry, and one member from the range livestock industry. At no time shall any of the members selected from the general public be persons with a direct financial interest in timberlands within the meaning of Section 1120 of the Government Code (conflict of interest). Sections 632 through 638 provide for the procedures for operation of the board, term of office and compensation for board members,

the appointment of an executive officer (director), and general conflict of interest provisions.

Sections 640 through 645 deal with the board's relations with the other branches of government and with the public in forming its policies and obtaining support in implementing them. The board shall annually determine state needs for forest management research and recommend the conduct of needed projects to the Governor and the legislature. The board shall also provide for a statewide program of research in the technical phases of forest management and may accept funds from the United States or from any person to aid in carrying out such projects or other operations of the Division of Forestry. The board may conduct such programs independently or by contract with any other person, public or private organization, or federal or state agency. State agencies are required to submit to the board for review and comment, plans for and results of all investigations that relate to or have an effect on forest resource utilization. The board has authority to prepare and implement a forest management information storage and retrieval program regarding forest land conditions in the state to assist in the timely formation of programs and policies. Such a program can be coordinated with other data storage and retrieval programs of other state agencies. The board may review existing forest management data storage, retrieval, and analysis systems in the universities of the state and may utilize such programs as a model. The board is also charged with implementing a public information program on matters involving forest management and shall maintain an information file on forest management research and similar matters.

Sections 646 through 648 deal with the office of the State Forester. The State Forester, who must be a registered professional forester, shall be Chief of the Division of Forestry and shall administer the policies of the board under the supervision of the director.

The Z'berg-Nejedly Forest Practices Act repeals Chapter 8 (commencing with §4521) of the Public Resources Code and adds a new Chapter 8 (commencing with §4511). Article 1 (commencing with §4511) defines the policy of the state and the intent of the legislature. In the previous act, the equivalent sections of the code emphasized developing the productivity of the timberlands, economic welfare of the forest industry, and maximum sustained productivity of the forests. The new sections reflect a marked change in that they now declare that state policy is to encourage prudent and responsible forest resource management calculated to serve *both* the public's need for timber and the public's need for watershed protection, fisheries and

wildlife, and recreational opportunities for this and future generations. The goal of maximum sustained production of timber products is to be achieved while giving consideration to recreation, wildlife, watershed, range and forage, fisheries, and aesthetic enjoyment. Where feasible, the use of timberlands is to be such that productivity of the timberland is to be restored, enhanced, and maintained.

Section 4514 states that no provision of the Act or any rule or regulation of the board is to be a limitation on: (1) the power of any city or county to declare, prohibit, and abate nuisances; (2) the power of the Attorney General, at the request of the board or on his own motion, to bring an action in the name of the state to enjoin any pollution or nuisance; (3) on the power of any other state agency to enforce any law which it is authorized or required to enforce or administer; or (4) on the right of any person to maintain an appropriate action for relief against any private nuisance (as defined in §3479 *et seq.*) or for any other private relief. Further, any person may commence an action in his own behalf against the board or the State Forester for a writ of mandate to compel the board or the State Forester to carry out any duty imposed upon them under the provisions of this chapter. Section 4516 holds that notwithstanding any provision of this chapter, individual counties and the California Tahoe Regional Planning Agency shall have the right to adopt rules and regulations by ordinance or resolution which are stricter than those provided under this chapter and its regulations. Such county or agency rules and regulations may include matters relating to soil erosion, protection of stream character and water quality, flood control, reforestation methods, mass soil movements, location and grade of roads and skid trails, evacuation and fill requirements, slash and debris disposal, haul routes and schedules, and performance bond requirements. Section 4517 provides that the provisions of this chapter are severable, and that if any provision of the chapter or its application are held invalid, it shall not affect the other provisions or their application.

Article 2 (commencing with §4521) provides definitions of the key terms used in the chapter. This list is expanded from that given in the old statutes, particularly in now defining technical terms associated with harvesting and stocking. The new act also provides that the chapter does not apply to any person who engages in the activities herein regulated as an employee, with wages as his sole compensation.

Article 3 (commencing with §4531) provides for the establishment of districts and committees. Section 4531 provides that the board shall divide the state into not less than three districts. In establishing

these districts, the board shall take into account differing physical characteristics, including soil type and principal forest crops. Insofar as possible, the board shall group together lands which have similar characteristics and will best be served by similar regulations. Boundaries of the districts may be altered by the board with time as deemed necessary. The board must appoint a district technical advisory committee in each of the districts created. Each committee shall consist of nine members charged with representing the public interest. All members shall be appointed on the basis of their educational qualifications, knowledge, and experience in ecology, soil science, watershed hydrology, range management, forest recreation, forest products management and economics, or fish and wildlife habitat. Section 4534 provides that five members of each committee shall be selected from the general public, three members from the forest products industry, and one from the range livestock industry. This "interest" make-up corresponds to that of the board. At no time shall a majority of the members or any member selected from the general public be persons with a direct financial interest within the meaning of Section 1120 of the Government Code (conflict of interest). The technical advisory committees shall meet at least once a year, and meetings shall be open to the public, with notice of such meetings provided at least ten days in advance, except that 24-hour notice may be given when meetings are necessary to discuss unforeseen emergency conditions. Section 4540 provides that each district committee shall advise the board in the establishment of district forest practice rules to govern timber operations within that district. In advising the board, the committee shall not interfere with any of the powers or duties of the board. The committees are charged to consult with and carefully evaluate the recommendations of concerned federal, state, and local agencies, institutions, civic and public interest organizations, and private organizations and individuals.

Article 4 (commencing with §4551) provides for the adoption of rules and regulations. Section 4551 provides that the board shall adopt district forest practice rules and regulations in accordance with the policies set forth in this act in order to ensure a continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, wildlife, and water resources. The rules and regulations for timber operations shall also include measures for fire prevention, soil erosion control, watershed and flood control, stocking, protection against timber operations which destroy young timber growth, and preparation of timber harvesting plans. In developing these rules, the

board shall consider the recommendations of the Department of Fish and Game, the State Water Resources Control Board, and state and local air resources authorities. Section 4552 states that the rules and regulations adopted by the board shall be based on a study of factors which significantly affect the present and future condition of timberlands, and shall be used as standards by persons preparing timber harvesting plans. The rules and regulations shall be continuously revised based on the recommendations of district technical advisory committees, interested state and local agencies, civic and public interest organizations, and private organizations and individuals. Except for emergency situations, the board shall not adopt or revise rules and regulations unless a public hearing is first held respecting same, and thirty days' notice is given of such a hearing.

Article 5 (commencing with §4561) sets forth resource conservation standards for timber operations to insure that a cover of trees of commercial species, sufficient to adequately utilize the suitable and available growing space, is maintained or established after completion of timber operations. The resource conservation standards define minimum acceptable stocking. Minimal acceptable stocking, in detailed technical terms which describe the tree sizes and density which must exist within five years after timber operations, are spelled out in the new statute. However, the standards given in the new sections only constitute minimum interim requirements until the board adopts resource conservation standards for each district. The board is required to adopt standards which are equal to or stricter than those of this chapter by January 1, 1975, and report those standards to the legislature. Prior to their adoption, the standards given in the code shall apply to all timber harvested from the effective date of this chapter. Exceptions to these rules are provided in Sections 4561.3, 4561.5, and 4561.6. Section 4562 provides that in order to reduce the incidence and spread of fire on timberlands, the board shall adopt rules in the fire protection zone (as such zone is defined by the board), including land along either side of a right-of-way, public roads, and other areas the board deems necessary, to govern the disposal of solid non-forest wastes and slash created by timber operations. Section 4562.5 focuses on soil erosion and declares that it is the purpose of this act to insure that soil erosion associated with timber operations is adequately controlled to protect soil resources, forest productivity, and water quality. The prevention, retardation, and control of accelerated erosion are the principal goals of this section. The board shall conduct investigations of soil characteristics and erosion rates so as

to develop and apply soil conservation standards and shall, by January 1, 1976, publish and disseminate this information and set regulations for each district to govern timber operations that may cause significant soil disturbance. Section 4652.7 states that the purpose of this section is to insure the protection of beneficial uses derived from the physical form, water quality, and biological capability of streams. Accordingly, the board shall adopt rules for the control of timber operations which will threaten to result in unreasonable effects on the waters of the state. These rules shall provide regulation of: (1) disposal of petroleum products, sanitary wastes, and cleaning agents in proper dumps or waste treatment facilities to prevent them from entering streams; (2) construction of logging road and tractor trail stream crossings to assure substantially unimpaired flow of water and assure free passage of fish both upstream and downstream; (3) activities causing damage to unmerchantable streamside vegetation, particularly hardwood trees; (4) skidding or log-hauling operations through or across streams by tractors or other heavy equipment to minimize damage to stream banks; and (5) timber operations which may cause slash, debris, fill, or side-cast earth to be carried into streams.

Article 6 (commencing with §4571) provides that no person shall engage in timber operations until he has obtained a permit from the board. The board shall, by regulation, prescribe the form and content of the permit and establish a reasonable fee for filing. The board may deny a permit for any of the following reasons: (1) the applicant is not the real party in interest; (2) material misrepresentation or false statement of a material fact; (3) conviction within one year of application of unlawfully operating without a permit; and (4) failure or refusal of the applicant to comply with the rules and regulations of the board and the provisions of this chapter within three years prior to the date of application. Permits shall only be good within the calendar year issued, and applications for renewal may be denied by the board until any violations by the applicant of which the applicant has been notified and given a reasonable opportunity to correct are corrected on such reasonable terms and conditions as the board may direct. Since a permit is subject to future legislation, it is not transferable. A permit may be suspended or revoked by the director for any of the reasons defined above, for refusal to allow inspections, or for violations of any of the rules or regulations of the board. The board may delegate its authority to the State Forester.

Article 7 (commencing with §4581) establishes regulations on the harvesting of timber, particularly with respect to the filing of timber

harvesting plans. No person may conduct timber operations unless a timber harvesting plan, prepared by a registered professional forester, has been submitted for such operations to the State Forester. Such plan is required in addition to the permit required pursuant to Section 4571. The timber harvesting plan shall be filed with the State Forester by a person who owns, leases, or otherwise controls or operates on all or any portion of timberland and who plans to harvest the timber thereon. The plan shall be a public record and shall include the names and addresses of the timber owners and operators and a description of the land on which the work is to be done including a geological survey map or equivalent showing the location of all streams, proposed and existing logging roads, and the boundaries of the timberlands to be stocked after timber operations. The harvesting plan shall also include a description of the methods and logging equipment to be used, an outline of the methods to be used to avoid excessive accelerated erosion from timber operations to be conducted in the vicinity of a stream, special provisions (if any) to protect any unique area within the area of timber operations, expected dates of commencement and completion, and any other information the board requires by regulation to meet the rules and standards of this chapter. Notice of the filing of timber harvesting plans shall be made by the State Forester to any person who, in writing, requests such notification. Timber harvesting plans shall be applicable to the particular property or properties and shall be based upon such characteristics of the property as vegetation type, soil type and stability, topography, geology, climate, and stream characteristics.

Upon receipt of the harvesting plan, the State Forester shall place a copy in file for public inspection and shall transmit a copy to the Department of Fish and Game, the appropriate California water quality control board, county planning agency, and if the area is within its jurisdiction, to the California Tahoe Regional Planning Agency. Section 4604, discussed *infra,* calls for the State Forester to make an inspection within ten days of the submission of the plan. Under the provisions of Section 4582.7, the State Forester shall have fifteen days from the date the initial inspection is completed or, if the State Forester determines that such an inspection is not required, fifteen days from the date of filing (or such longer period as may be mutually agreed upon by the State Forester and the person filing the timber harvesting plan) to review the plan to determine if it is in conformance with the rules and regulations of the board or with the provisions of this chapter. If the State Forester determines that such plan is not in

compliance, he shall return the plan, stating his reasons and advising the person submitting the plan of his right to a hearing before the board, and timber operations shall not commence. A person to whom the plan is returned may within ten days from receipt of such plan request a public hearing before the board, and the board shall schedule a public hearing to review the plan to determine if it is in conformance with rules and regulations. Timber operations shall await board approval of the plan, and board action shall occur within thirty days of filing of the appeal or such longer period as may be mutually agreed upon between the board and the person filing the appeal. If the State Forester has not acted within fifteen days, or such longer period as was mutually agreed to, the timber harvesting plan shall have been deemed to have been approved, and timber operations may commence pursuant to the plan. A timber harvesting plan shall conform to all standards and rules which are in effect at the time the plan becomes effective. All timber operations shall conform to any changes or modifications of the standards and rules made thereafter unless prior to the adoption of such changes or modifications substantial liabilities for timber operations have been incurred in good faith and in reliance on the standards and rules in effect at the time the harvesting plan was originally approved, and adherence to the new rules or modifications would cause unreasonable additional expense to the owner or operator. An exception to this is that stocking standards in effect at the time of commencement of timber operations pursuant to a harvesting plan shall remain in effect for any timber harvested under the plan.

The registered professional forester who prepared the timber harvesting plan or any other registered professional forester employed by the owner or operator shall report to the owner or operator if there are deviations of any sort from the plan which in his judgment threaten attainment of the resource conservation standards or other regulations of this chapter. If the board finds that the registered professional forester has made any material misstatement of fact in the filing of any timber harvesting plan or other report required under this chapter, it shall take disciplinary action against him as provided under Section 652.7 (suspension or revocation of license). The board may exempt from the provisions of this act any person engaging in forest management whose activities are limited to the planting, growing, removal, or harvest of Christmas trees or trees for other ornamental purposes, or of dead, diseased, or dying trees of any size.

Section 4585 requires that within one month after completion of

the work described in the timber harvest plan, excluding work for stocking, a report shall be filed by the timber owner or his agent that all work, except stocking, has been completed. Within six months after receipt of this work completion report, the State Forester shall determine by inspection whether the work described in the timber harvesting plan was properly completed in conformance with the rules and regulations of the board and the standards of this chapter. If so, the State Forester shall issue a report of satisfactory completion of all items except stocking. If not, the State Forester shall take such corrective action as he deems appropriate in accordance with the provisions of Section 4601 *et seq.* (penalties and enforcement). Every timber harvesting plan shall be effective for a period of not more than three years, except that stocking work may continue for a longer period but not to exceed five years after the conclusion of other work. Amendments to the original timber harvesting plan may be submitted detailing proposed changes from the original. Substantial deviations from the original plan shall not be undertaken until such amendment has been acted on by the State Forester in accordance with the above procedures. An amendment shall not extend the effective period of the plan. The board shall specify those deviations which may be undertaken by an operator without submission of an amended plan to the State Forester, but which must be subsequently reported to the State Forester, and shall provide for the manner of so reporting. Notwithstanding any provisions of this act, a registered professional forester may in an emergency, on behalf of a timber owner or operator, file an "emergency notice" with the State Forester that shall allow immediate commencement of timber operations. Such emergency notice shall include, under penalty of perjury, a declaration that a bona fide emergency exists which requires immediate harvest activities. Such emergencies shall be defined by the board and may include the necessity to harvest in order to remove fire-killed or damaged timber, or insect- or disease-infected timber, or to undertake emergency repair to roads.

Article 8 (commencing with §4601) deals with inspections, injunctions, liens, enforcement of performance, and penalties associated with noncompliance with the regulations of the board. Section 4601 establishes criminal sanctions: any person who willfully violates any provision of this chapter or any rule or regulation of the board is guilty of a misdemeanor, and shall be punishable by a fine of not more than $500 or by imprisonment in the county jail for not more than six months, or both. Such person is guilty of a separate misdemeanor

offense under this section for each day in which an order for corrective action issued by the State Forester is violated. The Attorney General may on his own motion, or at the request of the board, bring an action to enforce compliance with the rules and regulations of the board and the provisions of this chapter.

Section 4604 provides that the State Forester make an initial inspection of timber operations within ten days from the date of filing of the timber harvesting plan, or such longer period as may be mutually agreed upon by the State Forester and the person submitting the plan, except that such inspection need not be made if the State Forester determines that it would not add substantive information he deems necessary to enforce the provisions of this chapter. The State Forester shall make inspections as follows: (1) during the period of commencement of timber operations; (2) when timber operations are well underway; (3) following completion of timber operations; and (4) at such other times as he deems necessary to enforce provisions of this chapter.

Section 4605 provides that the State Forester may bring an action to enjoin the violation, or threatened violation, of any provision of this chapter or the rules and regulations of the board. Any such proceedings shall be in accordance with Section 525 (injunction, grant, and enforcement) of the Code of Civil Procedure. If in such a proceeding it shall appear from the facts shown by affidavit or verified complaint that any such violation has occurred or is threatened, the court may issue a temporary restraining order restraining and ordering the immediate discontinuance of any timber operation in which the violation has occurred or is threatened pending a hearing on the matter. The court may, upon a finding that immediate and irreparable harm is threatened to soil resources or the water of the state by virtue of erosion, pollution, or contamination, order the defendant to take appropriate emergency corrective action, authorize the State Forester to order the defendant to take such corrective action, or authorize the State Forester directly to take emergency action to correct a violation of this chapter. Any expenses incurred by the State Forester in taking action in conformity with such order shall be a lien upon the property upon which such action was taken when notice of the lien is recorded. Section 4606 provides that if upon any hearing to show cause why a preliminary injunction should not be issued the court should find that the defendant is in violation of any rules and regulations of the Forest Practices Act, the court may not only order the discontinuance of any timber operations in which such violation

has occurred, but may also enjoin any further timber operations by the defendant in this state until the violations complained of have been corrected or until satisfactory provisions have been approved by the court for the violations to be corrected at a specified date. Any defendant in such proceedings may enter into a written agreement with the State Forester assuring that he will resume operations in compliance with the provisions of this chapter or the rules and regulations of the board and correct the violations on such reasonable terms and conditions as the State Forester may require. Upon approval by the court, any temporary restraining order, temporary injunction, or permanent injunction may include (or be amended to include) an order that any defendant entering into such an agreement comply with the terms of such agreement as a condition for engaging in any timber operations enjoined by the order or injunction. The court may require a cash deposit or bond payable to the division in such amount as the court deems proper to insure correction of any violation in accordance with the agreement. The court may make any other reasonable orders to carry out the intent of this enactment.

Sections 4607 through 4610 deal with the State Forester's authority to take appropriate steps to correct any violation. Prior to taking any corrective action, other than emergency corrective action, the State Forester shall serve a written notice upon the person responsible for the violation. The notice shall include a statement of the corrective action to be taken, a date not less than 30 days from the service of notice by which the correction is to be taken, and a statement that if such corrective action is not taken on or before the date specified the State Forester may take corrective action and charge such person for the costs thereof. The notice shall also include a statement that if such person disagrees with the proposed corrective action or the charging of costs thereof, he may within ten days from the service of the notice request a public hearing before the board. Service of documents where required under this chapter may be made by registered or certified mail, but personal service is not precluded. The State Forester may record such notice in each county wherein the land in violation is situated, together with a statement that any and all expenses incurred by the State Forester in taking the necessary corrective steps shall be a lien against the land. Upon satisfactory proof that corrective action has been completed, the State Forester shall record a notice to that effect. Any expenses then incurred by the State Forester shall be a lien on the property upon which such action was taken when notice of the lien is recorded. Notice of the lien, particu-

larly identifying the property on which the action was taken, the amount of the lien, and the owner of the property shall be recorded (if at all) by the State Forester in the office of the county recorder in the county in which the property is situated within one year after the first expenditures or 90 days after the completion of such action, whichever comes first. Upon such recordation, the lien shall have the same force and effect as a judgment lien, except that it shall attach only to property described in the lien and shall continue for ten years from the time of recording unless otherwise discharged. The lien may be extended periodically for an additional ten years. The State Forester may at any time release all or any portion of the lien if the amount owed is sufficiently secured by a lien on other property, or if the release or subordination of the lien will not jeopardize the collection of the amount owed.

If the corrective action is not taken by the date specified in the notice, the State Forester may take, or contract for, such corrective action and recover the expenses of same. Where the person responsible makes a request for a public hearing, the board, after at least fifteen days written notice, shall hold a public hearing to hear the objections to the proposed action. At the conclusion of the hearing, the board may make an order specifying the action to be taken by the person responsible to correct the violation, set the time limits for such action, and authorize the State Forester to take such action himself if the party responsible does not act within the required time frame. The expenses incurred by the State Forester in taking any corrective action shall be increased by $250 or ten percent, whichever is higher, to cover administrative costs. Neither the State Forester nor any person authorized by him shall be liable for civil action in trespass for entering upon any lands to take the corrective action necessary.

Article 9 (commencing with §4621) deals with the rights of a person to convert timberlands to other uses and the procedures to be followed in doing so. A person, corporation, or agency wishing to convert timberlands to other uses must file an application with the board. Approval of the application for conversion shall be conditioned on the granting of the necessary rezoning or use permit (if required). No timber may be cut except in compliance with the rules and regulations of the board and the provisions of this act, excluding the requirements for stocking, and the timber harvesting plan need not be prepared by a registered professional forester. No harvesting operations shall commence until granting of a rezoning or use permit (as may be required) and until the conversion permit is re-

corded in the county recorder's office in the county in which the timberland to be converted is located. The application shall be accompanied by an affidavit that the applicant has a present bona fide intent to convert the land to a use other than timber growing. The board may require such other proof of intent as it deems necessary. The board shall deny a timberland conversion permit for any of the following reasons: (1) the applicant is not the real party in interest; (2) material misrepresentation or false statement in the application; (3) the applicant does not have a bona fide intention to convert the land; or (4) failure or refusal of the applicant to comply with the rules or regulations of the board or the provisions of this chapter. A person whose application for a conversion permit has been denied shall be entitled to a hearing before the board. If the board then finds the applicant does have a bona fide intention to convert the land, it shall approve the application authorizing the applicant to remove all trees, provided he otherwise complies with all requirements of this chapter. If at any time the board finds the applicant has failed to conform to the intent to convert, as set forth in the application and proofs, the board may revoke the permit and require full compliance with this chapter. Any permit revocation shall be recorded in the same manner as the original permit. Notwithstanding the above provisions, no public agency shall be required to submit a timber harvesting plan or an application for conversion where the purpose of its timber operations is to construct or maintain right-of-way on its own or other public property.

All stocking requirements which were in existence prior to January 1, 1974, will remain in effect for all timberland harvested prior to January 1, 1974. All forest practice rules excluding stocking rules which were in effect on December 31, 1973, shall remain in full force and effect until superseded by new or interim rules adopted by the board pursuant to the new code. Procedure and fees for permits under provisions of law which were in existence on December 31, 1973, shall remain in effect through December 31, 1974.

COMMENT

In September 1971 the court of appeal in *Bayside Timber Company v. Board of Supervisors* [20 Cal. App. 3d 1, 97 Cal. Rptr. 431 (1971)] concluded that the Forest Practice Act then in effect was violative of the state and federal constitutions. The Supreme Court of California declined to hear an appeal. The Z'berg-Nejedly Forest Practices Act of 1973 is a response to the elements declared unconsti-

tutional in *Bayside* and is a sweeping change in policy with respect to the management of our state's natural resources. To appreciate the impact of the changes wrought by the new enactment, a brief review of the old legislation is in order [See Chapter 8, Forest Practice Act, CAL. STATS. 1965, c. 1144, at 2825, 2851, *as amended,* CAL. STATS. 1970, c. 1437, at 2788].

Under the prior enactment, management of private timber cutting operations in the state was under the control of a state board and four district forest practice committees. The composition of the eight-person state board was as follows: three members who were forest products owners or operators, one member associated with range livestock management, one member from agriculture, one member from the water resources management field, and two members from the general public. The six-person district committees were made up of four members from timber operations and ownership and two members from the general public. The district committees were responsible for establishing their own rules and regulations for timber resource management, with the state board functioning in a "review and approve" capacity. To make control by the timber interests even stronger, the statutes in effect at the time of the *Bayside* decision required review and approval of any district timber harvesting rules and regulations by two-thirds of the timber owners and operators living in the district [CAL. PUB. RES. CODE §§4572, 4573, *repealed by,* CAL. STATS. 1971, c. 752, at 1487]. Thus no regulation could be placed on private timber lands unless such regulation was approved by the district committee (four of six members were timber owners), ratified by two-thirds of the timber owners or operators in the district, and then reviewed and approved by the state board. The net effect of this administrative scheme was to place complete control of all logging and timber harvesting operations on private lands (which accounts for eighty percent of the state's timber production) in the hands of the timber products operators and owners in the area. Inevitably, the unwillingness of the timber interests to accept controls on harvesting practices which would raise costs or interfere with increasing timber production had led to massive erosion of the fragile Northern California topsoil in many areas, with a corresponding devastation to streams (through silting), fishing (particularly salmon and steelhead), and wildlife. Also, the lack of effective enforcement had led to gross abuses of the land by "fly-by-night" logging operators who could effectively denude a large area using the most destructive methods of operation (in terms of damage to soil and streams), and be gone from

legal sight before any actions could be brought. The abuse of the environment had reached such massive proportions that the court took judicial notice of it in *Bayside* and leaned heavily on a review of the ecological havoc being caused by the private timber interests [See Comment, *Trees, Earth, Water, and Ecological Upheaval: Logging Practices and Watershed Protection in California*, 54 CAL. L. REV. 1117 (1966)]. The *Bayside* court, reviewing both the destruction and the impact on the rights of others, decided that private logging and timber operations had become a matter of fundamental public concern, and took up the constitutional issues.

The *Bayside* court struck the Forest Practices Act for two key reasons. First, the statutes established a situation wherein the conduct of private logging operations was established by law exclusively by individuals with a pecuniary interest in the timber industry. Without agreement of the private timber ownership, no power in California had authority to impose rules to insure reasonable environmental and public protection from logging abuses. The court found this to be a denial of due process of law to the interested and affected public and also noted that the procedures of the statutes violate an age-old principle of our law that no man should judge or preside over disputed matters in which he has a pecuniary interest. Secondly, the court found that the legislature had delegated to the private timber owners and operators the power to formulate rules which would have the force of law, but had done so with no adequate guidelines or standards to prevent abuse of that delegated authority. The court emphasized the view that both standards and *safeguards* were needed to prevent arbitrariness and abuse; and since no safeguards had been defined by the legislature, the court found "constitutional taint" in the legislature's delegation of its power to the timber owners and operators.

The 1973 Z'berg-Nejedly Forest Practices Act makes a number of critical changes in the statutes in order to answer the objections raised in *Bayside.* First, the make-up of both the state board and district committee has been changed to make the timber interests' representation a numerical minority. Review by the timber owners and operators of the district had earlier been abolished [CAL. STATS. 1971, c. 752, at 1487 (repealing §4572)]. The board now adopts rules and regulations with the district serving in a "recommend and advise" capacity—a reversal of their previous roles. An important corollary of this new rule is that the role of the State Forester now emerges in a much different light. Since he is the chief administrative officer of the board (through its director), he now is in a position

to pass judgment on district operations and enforce his interpretation of the rules as well as help generate new rules as needed. In the past, since the district committees controlled all rules and regulations, the State Forester's role was predominantly advisory, and hence his capability for enforcement was relatively weak. By changing the situs of power to "make the rules," the new statutes thus enormously increase the power of the State Forester. This change should, in turn, result in stronger enforcement. In addition, no member of either the board or district committees can sit in review of any situation where a conflict of interest may be present due to his having a direct pecuniary interest in the timber operation affected. Thus the legislature met the constitutional issue of improper delegation of its powers to persons with a pecuniary interest by switching the power to make regulations from the timber interests to the board (and its delegatee, the State Forester).

Secondly, the legislature met the "safeguards" issue with several other provisions of the new act: (1) many provisions of the act are now sufficiently detailed in terms of forest practices that they provide adequate standards as to what rules and regulations can and cannot be set by the board; (2) the board, in formulating rules and regulations, must hold public hearings and must consult and cooperate with other state agencies and civic organizations; and (3) annually, the State Forester must report to the Senate on enforcement of this act, and the board must similarly report on its actions during the year and make recommendations for legislation needed to carry out the provisions of the act. Although it did not raise it as a constitutional issue, *Bayside* noted that the state does not have exclusive control over the field of forest resources management. The court commented but did not rule on the previous code section [CAL. PUB. RES. CODE §4582, CAL. STATS. 1970, c. 712, at 1338] which allowed San Mateo, Marin, and Santa Clara counties to impose "stricter" restrictions than those adopted by the district committees. In the new enactment, the legislature, as possibly an additional safeguard, has broadened this provision so that *all* counties can now pass local ordinances regulating logging operations which are stricter than those of the board. Thus a given county can now require its own permits and establish forest practice rules and regulations which protect local interests. One potential impact of this rule is that environmental protection groups who feel that the state board has lapsed into too much of a symbiotic relationship with the timber industry can attack the problem at a county government level and perhaps achieve a greater measure of protection

for soil, streams, or wildlife. As a further "safeguard," the new act empowers the Attorney General either on his own or at the request of any citizen to bring an action: (1) whenever it appears that board members have acted in violation of the conflict of interest provisions; (2) to enjoin any pollution or public nuisance; and (3) when necessary to force compliance with the rules and regulations of the board. And lastly, the Act provides that any citizen may commence an action against the board or the State Forester for a writ of mandate to compel them to carry out any duty imposed on them under the provisions of the new chapter. All in all, these appear to be an impressive array of "safeguards" not heretofore present in legislation in the natural resources area.

The legislature, however, went well beyond the two key constitutional points raised in *Bayside* and implemented some sweeping changes in California's approach to natural resource management. First, it declared that the intent of the Forest Practices Act was not only to encourage and protect timber production in the state, but also to protect the general public's needs in other areas. Whereas the previous statute was almost exclusively concerned with needs of the timber-producing industry, the new legislation expresses equal concern for watershed protection (from soil erosion and logging techniques), fisheries, wildlife, and recreation needs of the public at large. Indicative of this concern is the new requirement on the operator (requisite to getting a permit) to submit a Timber Harvesting Plan, in advance of operations, which explicitly describes how the timber operator will make certain he has complied with the provisions of this act particularly relating to stream protection. The new bill is also a major change from the past philosophy in that it expresses concern for and attempts to provide for the needs of future generations. In this vein, another key new provision is the requirement for stocking. Timber harvesters must now after completion of operations provide for a reforestation of the cut area. This not only provides for future crops of timber but also helps prevent the disastrous soil erosion problems of years past. Significantly, in Oregon and Washington, where most timber operations are on public, not private, lands and are conducted by major wood products companies who are interested in long-term operations, stocking has been a requirement for many years [See ORE. REV. STAT. §527.010 *et seq.* (1972)]. Also new to this act is the strong provision for inspection and penalties. In the past, inspections of private logging operations, although generally called for in the statute, occurred less than once a year, compared to weekly inspections used in federally

approved logging work [Comment, *Trees et al.*, 54 CAL. L. REV. 1117, 1128 (1966)]. The new statute calls for inspections to be made by the State Forester at every major stage of each timber harvesting operation. thus insuring compliance with provisions of the Act. Further, the penalties for violation are now much stronger since they accumulate for each day of noncompliance. Thus the new statute appears to overcome a major shortcoming of the old in that penalties can now approach the cost of repairing damage done and are potentially large enough so as not to be simply "written off" as a minor business expense.

A question must be raised, however, as to whether, in spite of all the changes made by the legislature, the new bill has any constitutional defects. As indicated above, the legislature provided numerous "safeguards" on its delegated power, and directly approached the problem of representation on committees by those with a "pecuniary interest" by making forest industry representatives on the board and district committees a minority membership. The question has been raised as to whether any members of the board or district committee can fairly be drawn from members of the industry being regulated [See Comment, *Delegation of Power to Regulatory Agencies: Standards and Due Process in the Bayside Timber Case,* 1 ECOLOGY L.Q. 773, 785 (1971)]. The *Bayside* court finds serious fault [20 Cal. App. 3d at 13, 97 Cal. Rptr. at 439, quoting a Michigan case] with a regulatory board that is not impartial in its composition. It emphasizes the principle that no man should sit in judgment over matters in which he has a pecuniary interest. This concept could well be used to attack the presence of any forest industry members (owners or operators) who preside over the formulation and application of rules and regulations which will apply to their own individual operations and interests. Further, the court expressly noted that merely changing the forest industry membership from a majority to a minority was not enough to solve this problem, although the issue is clouded by the fact that at the time of the decision, real control was still vested in the timber owners and operators since the provision requiring a two-thirds vote of approval from them was still in effect. Only a future test will determine if *Bayside's* apparent insistence on a one hundred percent impartial board is a constitutional requirement.

Lastly, it is worth noting that some of the weaknesses of the previous legislation which appeared to contribute to ineffective enforcement have managed to survive (although in somewhat different form) in the new legislation. For example, the conversion "loophole" (chang-

ing land from timberland use) is still present for the unscrupulous person with no real intention other than denuding the land's timber. The new act makes the "loophole" more difficult to use, but it is still there (See Article 9, §4621). Also, although the inspection requirements of the new act are tougher than under the prior enactment, they are meaningless unless the State Forester is staffed and budgeted with personnel to do the job which in the past has not been the case [Comment, *Trees et al.*, 54 CAL. L. REV. at 1129]. And since inspections are still legally at the discretion of the State Forester, control over the budget of the Division of Forestry can determine the effectiveness of this act. Further, Section 4561.5 apparently gives the board discretion to reduce permanent stocking standards when the growing timber does not meet the standards of the act. This could well be another loophole through which special interests could take an industry-sympathetic board. Lastly, the members of the District Technical Advisory Committee continue to serve without pay, raising the question as to whether special interests are more likely to volunteer services than the disinterested general public.

See Generally:
1) Bayside Timber Co. v. Board of Supervisors, 20 Cal. App. 3d 1, 97 Cal. Rptr. 431 (1971).
2) Comment, *Trees, Earth, Water, and Ecological Upheaval: Logging Practices and Watershed Protection in California*, 54 CAL. L. REV. 1117 (1966).
3) Comment, *Delegation of Power to Regulatory Agencies: Standards and Due Process in the Bayside Timber Case*, 1 ECOLOGY L.Q. 773 (1971).

Environmental Protection; Nejedly-Z'berg-Dills Solid Waste Management and Resource Recovery Act of 1972

Government Code §66752.5 (new); §66719 (amended).
SB 529 (Nejedly); STATS 1973, Ch 1156

In 1972 the legislature established a comprehensive plan for the management and recovery of solid waste materials [CAL. GOV'T CODE tit. 7.3 (commencing with §66700)]. The scope of this act was limited by Section 66719 which defines "solid waste" as all putrescible and nonputrescible solid and semi-solid wastes, including, but not limited to, manure, garbage, rubbish, industrial and construction wastes, and other solid and semi-solid wastes. This section has been amended to include liquid wastes within the definition of "solid waste."

See Generally:
1) 4 PAC. L.J., REVIEW OF SELECTED 1972 CALIFORNIA LEGISLATION 503 (1973).