Enforcement Advisory Council
Solid Waste Management Through Partnership

July 7, 2011

Rebecca Ng, Chair
California Conference of Directors of Environmental Health
Solid Waste Policy Committee

RE: Minor Violations
EAC Resolution No. 2011-03

Dear Ms. Ng:

On June 29, 2011, the Enforcement Advisory Council (EAC) adopted this Resolution No. 2011-03, which specifies our recommendations to the California Conference of Directors of Environmental Health Solid Waste Policy Committee (SWPC) regarding minor violations. The EAC, in consultation with the statewide Local Enforcement Agency Roundtables, has reviewed the current legislation and implementation of minor violation provisions described in the Public Resources Code sections (PRC) 41050.2, 45000(b), 45002(b), 45003, and 45010.2. Legislation (AB 2679) establishing these statutes, and which includes the minor violation provisions, was chaptered on September 28, 2008. The EAC has monitored the implementation of these provisions and found that they have only been used once.

It is the EAC's finding that there is no regulatory need for the minor violation provision; therefore, it is our recommendation that sections 41050.2, 45000(b), 45002(b), and 45003 be deleted from the PRC and 45010.2 be amended (see summary below). The EAC has found that no LEA is using, or plans to use, the provision in the future. Due to the lack of clarity on the definition of a minor violation and a cumbersome administrative process, implementation of this provision could potentially result in inconsistencies across jurisdictions and would not serve to streamline enforcement efforts, which is at variance with the stated objectives of AB 2679. Potential conflicts with current LEA Enforcement Program Plans were also cited as a concern with the statutory language of the minor violation provisions.

Despite these concerns, the EAC also recognizes that there are risks associated with commencing a legislative process to delete and amend these sections of the PRC. This issue is not such a high priority that the SWPC should seek specific legislation solely for this purpose, but if related legislation or another suitable avenue arises (e.g., cleanup legislation), the EAC recommends the following changes:

- **Delete** PRC Section 40150.2 definition of a "Minor violation."
- **Delete** Section 45000(b), which specifies that an administrative order shall not be issued for a "minor violation" that is immediately corrected in the presence of the inspector.
- **Delete** PRC Section 45002(b), which addresses limitations on hearings for recipients of a Notice to Comply.
- **Delete** PRC Section 45003, which contains provisions for correction of "minor violations."
- **Amend** PRC Section 45010.2 to remove the reference to 45003 as it is suggested that 45003 be deleted from statute.

If the EAC can be of further assistance in this matter, please feel free to contact me at (925) 692-2535 or Joe.Doser@hsd.cccounty.us.

Sincerely,

Joseph G. Doser, Jr., Chair

cc: Mark De Bie, CalRecycle
EAC