

West's Annotated California Codes [Currentness](#)

Water Code ([Refs & Annos](#))

Division 7. Water Quality ([Refs & Annos](#))

▢ [Chapter 4. Regional Water Quality Control](#) ([Refs & Annos](#))

→ [Article 4. Waste Discharge Requirements](#) ([Refs & Annos](#))

→ **§ 13260. Reports; actual or proposed waste discharge; fees; regulations; exemptions**

(a) All of the following persons shall file with the appropriate regional board a report of the discharge, containing the information which may be required by the regional board:

(1) Any person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the state, other than into a community sewer system.

(2) Any person who is a citizen, domiciliary, or political agency or entity of this state discharging waste, or proposing to discharge waste, outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.

(3) Any person operating, or proposing to construct, an injection well.

(b) No report of waste discharge need be filed pursuant to subdivision (a) if the requirement is waived pursuant to [Section 13269](#).

(c) Every person subject to subdivision (a) shall file with the appropriate regional board a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge.

(d)(1)(A) Each person who is subject to subdivision (a) or (c) shall submit an annual fee according to a fee schedule established by the state board.

(B) The total amount of annual fees collected pursuant to this section shall equal that amount necessary to recover costs incurred in connection with the issuance, administration, reviewing, monitoring, and enforcement of waste discharge requirements and waivers of waste discharge requirements.

(C) Recoverable costs may include, but are not limited to, costs incurred in reviewing waste discharge reports, prescribing terms of waste discharge requirements and monitoring requirements, enforcing and evaluating compliance with waste discharge requirements and waiver requirements, conducting surface water and groundwater monitoring and modeling, analyzing laboratory samples, and reviewing documents prepared for the purpose of regulating the discharge of waste, and administrative costs incurred in connection with carrying

out these actions.

(D) In establishing the amount of a fee that may be imposed on any confined animal feeding and holding operation pursuant to this section, including, but not limited to, any dairy farm, the state board shall consider all of the following factors:

(i) The size of the operation.

(ii) Whether the operation has been issued a permit to operate pursuant to [Section 1342 of Title 33 of the United States Code](#).

(iii) Any applicable waste discharge requirement or conditional waiver of a waste discharge requirement.

(iv) The type and amount of discharge from the operation.

(v) The pricing mechanism of the commodity produced.

(vi) Any compliance costs borne by the operation pursuant to state and federal water quality regulations.

(vii) Whether the operation participates in a quality assurance program certified by a regional water quality control board, the state board, or a federal water quality control agency.

(2)(A) Subject to subparagraph (B), any fees collected pursuant to this section shall be deposited in the Waste Discharge Permit Fund, which is hereby created. The money in the fund is available for expenditure by the state board, upon appropriation by the Legislature, solely for the purposes of carrying out this division.

(B)(i) Notwithstanding subparagraph (A), the fees collected pursuant to this section from stormwater dischargers that are subject to a general industrial or construction stormwater permit under the national pollutant discharge elimination system (NPDES) shall be separately accounted for in the Waste Discharge Permit Fund.

(ii) Not less than 50 percent of the money in the Waste Discharge Permit Fund that is separately accounted for pursuant to clause (i) is available, upon appropriation by the Legislature, for expenditure by the regional board with jurisdiction over the permitted industry or construction site that generated the fee to carry out stormwater programs in the region.

(iii) Each regional board that receives money pursuant to clause (ii) shall spend not less than 50 percent of that money solely on stormwater inspection and regulatory compliance issues associated with industrial and construction stormwater programs.

(3) Any person who would be required to pay the annual fee prescribed by paragraph (1) for waste discharge requirements applicable to discharges of solid waste, as defined in [Section 40191 of the Public Resources Code](#), at a waste management unit that is also regulated under Division 30 (commencing with [Section 40000 of the Public Resources Code](#)), shall be entitled to a waiver of the annual fee for the discharge of solid waste at the waste management unit imposed by paragraph (1) upon verification by the state board of payment of the fee imposed by [Section 48000 of the Public Resources Code](#), and provided that the fee established pursuant to [Section 48000 of the Public Resources Code](#) generates revenues sufficient to fund the programs specified in [Section 48004 of the Public Resources Code](#) and the amount appropriated by the Legislature for those purposes is not reduced.

(e) Each person discharges waste in a manner regulated by this section shall pay an annual fee to the state board. The state board shall establish, by regulation, a timetable for the payment of the annual fee. If the state board or a regional board determines that the discharge will not affect, or have the potential to affect, the quality of the waters of the state, all or part of the annual fee shall be refunded.

(f)(1) The state board shall adopt, by emergency regulations, a schedule of fees authorized under subdivision (d). The total revenue collected each year through annual fees shall be set at an amount equal to the revenue levels set forth in the Budget Act for this activity. The state board shall automatically adjust the annual fees each fiscal year to conform with the revenue levels set forth in the Budget Act for this activity. If the state board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the Budget Act, the state board may further adjust the annual fees to compensate for the over and under collection of revenue.

(2) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with [Section 11340 of Part 1 of Division 3 of Title 2 of the Government Code](#)). The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with [Section 11340 of Part 1 of Division 3 of Title 2 of the Government Code](#)), any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(g) The state board shall adopt regulations setting forth reasonable time limits within which the regional board shall determine the adequacy of a report of waste discharge submitted under this section.

(h) Each report submitted under this section shall be sworn to, or submitted under penalty of perjury.

(i) The regulations adopted by the state board pursuant to subdivision (f) shall include a provision that annual fees shall not be imposed on those who pay fees under the national pollutant discharge elimination system until the time when those fees are again due, at which time the fees shall become due on an annual basis.

(j) Any person operating or proposing to construct an oil, gas, or geothermal injection well subject to paragraph (3) of subdivision (a), shall not be required to pay a fee pursuant to subdivision (d), if the injection well is regulated by the Division of Oil and Gas of the Department of Conservation, in lieu of the appropriate California regional water quality control board, pursuant to the memorandum of understanding, entered into between the state board and the Department of Conservation on May 19, 1988. This subdivision shall remain operative until the memorandum of understanding is revoked by the state board or the Department of Conservation.

(k) In addition to the report required by subdivision (a), before any person discharges mining waste, the person shall first submit both of the following to the regional board:

(1) A report on the physical and chemical characteristics of the waste that could affect its potential to cause pollution or contamination. The report shall include the results of all tests required by regulations adopted by the board, any test adopted by the Department of Toxic Substances Control pursuant to [Section 25141 of the Health and Safety Code](#) for extractable, persistent, and bioaccumulative toxic substances in a waste or other material, and any other tests that the state board or regional board may require, including, but not limited to, tests needed to determine the acid-generating potential of the mining waste or the extent to which hazardous substances may persist in the waste after disposal.

(2) A report that evaluates the potential of the discharge of the mining waste to produce, over the long term, acid mine drainage, the discharge or leaching of heavy metals, or the release of other hazardous substances.

(l) Except upon the written request of the regional board, a report of waste discharge need not be filed pursuant to subdivision (a) or (c) by a user of recycled water that is being supplied by a supplier or distributor of recycled water for whom a master recycling permit has been issued pursuant to [Section 13523.1](#).

§ 13260.1. Repealed by Stats.1989, c. 642, § 6, operative Jan. 1, 1994

§ 13260.2. Establishment of fee to recover costs in reviewing, processing and enforcing “no exposure” certifications; deposit of revenue

(a) The state board shall establish a fee in an amount sufficient to recover its costs in reviewing, processing, and enforcing “no exposure” certifications issued to facilities that apply for those certifications in accordance with a general industrial stormwater permit.

(b) Revenue generated pursuant to this section shall be deposited in the Waste Discharge Permit Fund.

§ 13260.3. Report to Governor and Legislature on expenditure of annual fees collected pursuant to § 13260

On or before January 1 of each year, the state board shall report to the Governor and the Legislature on the expenditure of annual fees collected pursuant to [Section 13260](#).

§ 13261. Failure to furnish report or pay fee; false report; civil liability

(a) A person who fails to furnish a report or pay a fee under [Section 13260](#) when so requested by a regional board is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b).

(b)(1) Civil liability may be administratively imposed by a regional board or the state board in accordance with Article 2.5 (commencing with [Section 13323](#)) of Chapter 5 for a violation of subdivision (a) in an amount not exceeding one thousand dollars (\$1,000) for each day in which the violation occurs. Civil liability shall not be imposed by the regional board pursuant to this section if the state board has imposed liability against the same person for the same violation.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with [Section 13350](#)) and Article 6 (commencing with [Section 13360](#)) of Chapter 5 for a violation of subdivision (a) in an amount not exceeding five thousand dollars (\$5,000) for each day the violation occurs.

(c) A person who discharges or proposes to discharge hazardous waste, as defined in [Section 25117 of the Health and Safety Code](#), who knowingly furnishes a false report under [Section 13260](#), or who either willfully fails to furnish a report or willfully withholds material information under [Section 13260](#) despite actual knowledge of that requirement, may be liable in accordance with subdivision (d) and is guilty of a misdemeanor.

This subdivision does not apply to any waste discharge that is subject to Chapter 5.5 (commencing with [Section 13370](#)).

(d)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with [Section 13323](#)) of Chapter 5 for a violation of subdivision (c) in an amount not exceeding five thousand dollars (\$5,000) for each day the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with [Section 13350](#)) and Article 6 (commencing with [Section 13360](#)) of Chapter 5 for a violation of subdivision (c) in an amount not exceeding twenty-five thousand dollars (\$25,000).

§ 13262. Injunction

The Attorney General, at the request of the regional board or the state board, shall petition the superior court for the issuance of a temporary restraining order, temporary injunction, or permanent injunction, or combination thereof, as may be appropriate, requiring any person not complying with [Section 13260](#) to comply therewith.

§ 13263. Discharge requirements; considerations by regional board; review of requirements; notice of requirements; no vested right; master reclamation permit

(a) The regional board, after any necessary hearing, shall prescribe requirements as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge, except discharges into a community sewer system, with relation to the conditions existing in the disposal area or receiving waters upon, or into which, the discharge is made or proposed. The requirements shall implement any relevant water quality control plans that have been adopted, and shall take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of [Section 13241](#).

(b) A regional board, in prescribing requirements, need not authorize the utilization of the full waste assimilation capacities of the receiving waters.

(c) The requirements may contain a time schedule, subject to revision in the discretion of the board.

(d) The regional board may prescribe requirements although no discharge report has been filed.

(e) Upon application by any affected person, or on its own motion, the regional board may review and revise requirements. All requirements shall be reviewed periodically.

(f) The regional board shall notify in writing the person making or proposing the discharge or the change therein of the discharge requirements to be met. After receipt of the notice, the person so notified shall provide adequate means to meet the requirements.

(g) No discharge of waste into the waters of the state, whether or not the discharge is made pursuant to waste discharge requirements, shall create a vested right to continue the discharge. All discharges of waste into waters of the state are privileges, not rights.

(h) The regional board may incorporate the requirements prescribed pursuant to this section into a master recycling permit for either a supplier or distributor, or both, of recycled water.

(i) The state board or a regional board may prescribe general waste discharge requirements for a category of discharges if the state board or that regional board finds or determines that all of the following criteria apply to the discharges in that category:

(1) The discharges are produced by the same or similar operations.

(2) The discharges involve the same or similar types of waste.

- (3) The discharges require the same or similar treatment standards.
- (4) The discharges are more appropriately regulated under general discharge requirements than individual discharge requirements.
- (j) The state board, after any necessary hearing, may prescribe waste discharge requirements in accordance with this section.

§ 13263.1. Mining waste discharges; revision of discharge requirements

Before a regional board issues or revises waste discharge requirements pursuant to [Section 13263](#) for any discharge of mining waste, the regional board shall first determine that the proposed mining waste discharge is consistent with a waste management strategy that prevents the pollution or contamination of the waters of the state, particularly after closure of any waste management unit for mining waste.

§ 13263.2. Hazardous waste groundwater treatment facilities; exemptions from permit requirements; conditions

The owner or operator of a facility that treats groundwater which qualifies as a hazardous waste pursuant to Chapter 6.5 (commencing with [Section 25100](#)) of Division 20 of the Health and Safety Code is exempt from the requirement to obtain a hazardous waste facility permit pursuant to [Section 25201 of the Health and Safety Code](#) for the treatment of groundwater if all of the following conditions are met:

- (a) The facility treats groundwater which is extracted for the purposes of complying with one or more of the following:
 - (1) Waste discharge requirements prescribed pursuant to [Section 13263](#).
 - (2) A cleanup or abatement order issued pursuant to [Section 13304](#).
 - (3) A written authorization issued by a regional board or local agency designated pursuant to [Section 25283 of the Health and Safety Code](#).
 - (4) An order or approved remedial action plan issued pursuant to Chapter 6.8 (commencing with [Section 25300](#)) of Division 20 of the Health and Safety Code.
- (b) The facility meets, at a minimum, all of the following operating standards:

- (1) The treatment does not require a hazardous waste facilities permit pursuant to the Resource Conservation and Recovery Act, as amended ([42 U.S.C. Sec. 6901 et seq.](#)).
- (2) The facility operator prepares and maintains written operating instructions and a record of the dates, amounts, and types of waste treated.
- (3) The facility operator prepares and maintains a written inspection schedule and log of inspections conducted.
- (4) The records specified in paragraphs (2) and (3) are maintained by the owner or operator of the facility for a period of three years.
- (5) The owner or operator maintains adequate records to demonstrate that it is in compliance with all of the pretreatment standards and with all of the applicable industrial waste discharge requirements issued by the agency operating the publicly owned treatment works into which the wastes are discharged.
- (6)(A) Upon terminating the operation of any treatment process or unit exempted pursuant to this section, the owner or operator that conducted the treatment removes or decontaminates all waste residues, containment system components, soils, and other structures or equipment contaminated with hazardous waste from the unit. The removal of the unit from service shall be conducted in a manner that does both of the following:
 - (i) Minimizes the need for further maintenance.
 - (ii) Eliminates the escape of hazardous waste, hazardous constituents, leachate, contaminated runoff, or waste decomposition products to the environment after the treatment process ceases operation.
- (B) Any owner or operator who permanently ceases operation of a treatment process or unit that is exempted pursuant to this section shall provide written notification to the regional board or local agency upon completion of all activities required by this subdivision.
- (7) The waste is managed in accordance with all applicable requirements for generators of hazardous waste under Chapter 6.5 (commencing with [Section 25100](#)) of Division 20 of the Health and Safety Code and the regulations adopted by the Department of Toxic Substances Control pursuant to that chapter.
- (c) The groundwater is treated at the site where it is extracted in compliance with one or more of paragraphs (1), (2), (3), and (4) of subdivision (a).
- (d) All other regulatory requirements applicable to the facility pursuant to Chapter 6.5 (commencing with [Section 25100](#)) of Division 20 of the Health and Safety Code are met by the owner or operator.

(e) The treatment of the contaminated groundwater is not performed under corrective action required by [Section 25200.10 of the Health and Safety Code](#).

§ 13263.3. Legislative findings and declarations; definitions; pollution prevention plans

<Section added by [Stats.1999, c. 92 \(A.B.1104\), § 3](#). See, also, another section of the same number added by [Stats.1999, c. 93 \(S.B.709\), § 3](#).>

(a) The Legislature finds and declares that pollution prevention should be the first step in a hierarchy for reducing pollution and managing wastes, and to achieve environmental stewardship for society. The Legislature also finds and declares that pollution prevention is necessary to achieve the federal goal of zero discharge of pollutants into navigable waters.

(b)(1) For the purposes of this section, “pollution prevention” means any action that causes a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water and includes any of the following:

(A) “Input change,” which means a change in raw materials or feedstocks used in a production process or operation so as to reduce, avoid, or eliminate the generation of pollutants discharged in wastewater.

(B) “Operational improvement,” which means improved site management so as to reduce, avoid, or eliminate the generation of pollutants discharged in wastewater.

(C) “Production process change,” which means a change in a process, method, or technique that is used to produce a product or a desired result, including the return of materials or their components for reuse within the existing processes or operations, so as to reduce, avoid, or eliminate the generation of pollutants discharged in wastewater.

(D) “Product reformulation,” which means changes in design, composition, or specifications of end products, including product substitution, so as to reduce, avoid, or eliminate the generation of problem pollutants discharged in wastewater.

(2) For the purposes of this section, “pollution prevention” does not include actions that merely shift a pollutant in wastewater from one environmental medium to another environmental medium, unless clear environmental benefits of such an approach are demonstrated.

(c)(1) For the purposes of this section, “discharger” means any entity required to obtain a national pollutant discharge elimination system (NPDES) permit pursuant to the Clean Water Act ([33 U.S.C. Sec. 1251 et seq.](#)), or any entity subject to the pretreatment program as defined in Part 403 (commencing with [Section 403.1](#)) of

subchapter N of Chapter 1 of Part 403 of Title 40 of the Code of Federal Regulations.

(2) For the purposes of this section, “industrial discharger” means any discharger other than a publicly owned treatment works (POTW).

(d)(1) The state board, a regional board, or a POTW may require a discharger subject to its jurisdiction to complete a pollution prevention plan if any of the following apply:

(A) A discharger is determined to be a chronic violator and the board or the POTW determines that pollution prevention could achieve compliance.

(B) The discharger contributes, or has the potential to contribute, to the formation of a toxic hot spot as defined in [Section 13391.5](#).

(C) The discharger discharges a pollutant for which the permitted level is lower than the practical quantification limit and the state board, a regional board, or the POTW determines that additional reductions of the pollutant are necessary.

(D) The board determines pollution prevention is necessary to achieve a water quality objective.

(2) The state board, a regional board, or a POTW may require an industrial discharger subject to its jurisdiction to complete a pollution prevention plan that includes all of the following:

(A) An analysis of the pollutants that the facility discharges into water or introduces into POTWs, a description of the sources of the pollutants, and a comprehensive review of the processes used by the discharger that result in the generation and discharge of the pollutants.

(B) An analysis of the potential for pollution prevention to reduce the generation of the pollutants, including the application of innovative and alternative technologies and any adverse environmental impacts resulting from the use of those methods.

(C) A detailed description of the tasks and time schedules required to investigate and implement various elements of pollution prevention techniques.

(D) A statement of the discharger's pollution prevention goals and strategies, including priorities for short-term and long-term action.

(E) A description of the discharger's intended pollution prevention activities for the immediate future.

(F) A description of the discharger's existing pollution prevention methods.

(G) A statement that the discharger's existing and planned pollution prevention strategies do not constitute cross-media pollution transfers, and information that supports that statement.

(H) Toxic chemical release data for those dischargers subject to Section 313 of the Emergency Planning and Community Right to Know Act of 1986 ([42 U.S.C. Sec. 11023](#)).

(I) Proof of compliance with the Hazardous Waste Source Reduction and Management Review Act of 1989 (Article 11.9 (commencing with [Section 25244.12](#)) of Chapter 6.5 of Division 20 of the Health and Safety Code) if the discharger is also subject to that act.

(J) An analysis of the relative costs and benefits of the possible pollution prevention activities.

(3) A regional board may require a POTW to complete a pollution prevention plan that includes all of the following:

(A) An estimate of all of the sources of a pollutant contributing, or potentially contributing, to the loadings of a pollutants in the treatment plant influent.

(B) An analysis of the methods that could be used to prevent the discharge of the pollutants into the POTW, including application of local limits to industrial or commercial dischargers regarding pollution prevention techniques, public education and outreach, or other innovative and alternative approaches to reduce discharges of the pollutant to the POTW. The analysis also shall identify sources, or potential sources, not within the ability or authority of the POTW to control, such as pollutants in the potable water supply, airborne pollutants, pharmaceuticals, or pesticides, and estimate the magnitude of those sources, to the extent feasible.

(C) An estimate of load reductions that may be attained through the methods identified in subparagraph (B).

(D) A plan for monitoring the results of the pollution prevention program.

(E) A description of the tasks, cost, and time required to investigate and implement various elements in the pollution prevention plan.

(F) A statement of the POTW's pollution prevention goals and strategies, including priorities for short-term and long-term action, and a description of the POTW's intended pollution prevention activities for the immediate future.

(G) A description of the POTW's existing pollution prevention programs.

(H) An analysis, to the extent feasible, of any adverse environmental impacts, including cross-media impacts or substitute chemicals, that may result from the implementation of the pollution prevention program.

(I) An analysis, to the extent feasible, of the costs and benefits that may be incurred to implement the pollution prevention program.

(e) The state board or the regional board may establish a schedule of actions identified in the pollution prevention plans for the discharger.

(f) The state board or regional board shall solicit comments from the public on a pollution prevention plan prepared pursuant to this section and address the public comments when determining what schedule of actions, if any, to establish for the discharger pursuant to this section.

(g) The state board and regional boards shall make the pollution prevention plans available for public review, except to the extent that information is classified as confidential because it is a trade secret. Trade secret information shall be set forth in an appendix that is not available to the public.

(h) Any costs incurred by the state board or a regional board resulting from actions required by this section shall be paid for from revenue generated by the fees imposed by [Section 13260](#).

(i) The state board or regional board may assess civil penalties pursuant to [Section 13385](#) against a discharger for failure to complete a pollution prevention plan ordered by the state board or a regional board, or for failure to comply with a schedule of actions ordered by the state board or a regional board pursuant to this section.

(j) A POTW may assess civil penalties and civil administrative penalties pursuant to [Sections 54740, 54740.5, and 54740.6 of the Government Code](#) against an industrial discharger for failure to complete a pollution prevention plan when ordered by the POTW, for submitting a plan that does not comply with the act, or for failure to comply with a schedule of actions ordered by the POTW pursuant to this section, unless the regional board has assessed penalties for the same action.

(k) A discharger may change its pollution prevention plan, including withdrawing from a pollution prevention measure approved by the state board, a regional board, or a POTW, if the discharger determines that the measure will have a negative impact on product quality, the safe operation of the facility, or the environmental aspects of the facilities operation, and the discharger demonstrates to the board or the POTW an alternative measure that achieves that same pollution prevention objective.

(l) The state board shall adopt a format to be used by dischargers for completing the plan required by this section. The format shall address all of the factors the discharger is required to include in the plan. The board may include any other factors determined by the board to be necessary to carry out this section. The adoption of the format pursuant to this section is not subject to Chapter 3.5 (commencing with [Section 11340](#)) of [Part 1](#)

of Division 3 of Title 2 of the Government Code.

§ 13263.3. Legislative findings and declarations; definitions; pollution prevention plans

<Section added by Stats.1999, c. 93 (S.B.709), § 3. See, also, another section of the same number added by Stats.1999, c. 92 (A.B.1104), § 3.>

(a) The Legislature finds and declares that pollution prevention should be the first step in a hierarchy for reducing pollution and managing wastes, and to achieve environmental stewardship for society. The Legislature also finds and declares that pollution prevention is necessary to support the federal goal of zero discharge of pollutants into navigable waters.

(b)(1) For the purposes of this section, “pollution prevention” means any action that causes a net reduction in the use or generation of a hazardous substance or other pollutant that is discharged into water and includes any of the following:

(A) “Input change,” which means a change in raw materials or feedstocks used in a production process or operation so as to reduce, avoid, or eliminate the generation of pollutants discharged in wastewater.

(B) “Operational improvement,” which means improved site management so as to reduce, avoid, or eliminate the generation of pollutants discharged in wastewater.

(C) “Production process change,” which means a change in a process, method, or technique that is used to produce a product or a desired result, including the return of materials or their components for reuse within the existing processes or operations, so as to reduce, avoid, or eliminate the generation of pollutants discharged in wastewater.

(D) “Product reformulation,” which means changes in design, composition, or specifications of end products, including product substitution, so as to reduce, avoid, or eliminate the generation of problem pollutants discharged in wastewater.

(2) For the purposes of this section, “pollution prevention” does not include actions that merely shift a pollutant in wastewater from one environmental medium to another environmental medium, unless clear environmental benefits of such an approach are identified to the satisfaction of the state board, the regional board, or POTW.

(c) For the purposes of this section, “discharger” means any entity required to obtain a national pollutant discharge elimination system (NPDES) permit pursuant to the Clean Water Act (33 U.S.C. Sec. 1251 et seq.), or any entity subject to the pretreatment program as defined in Part 403 (commencing with Section 403.1) of

Subchapter N of Chapter 1 of Part 403 of Title 40 of the Code of Federal Regulations.

(d)(1) The state board, a regional board, or a POTW may require a discharger subject to its jurisdiction to complete and implement a pollution prevention plan if any of the following apply:

(A) A discharger is determined by the state board to be a chronic violator, and the state board, a regional board, or the POTW determines that pollution prevention could assist in achieving compliance.

(B) The discharger significantly contributes, or has the potential to significantly contribute, to the creation of a toxic hot spot as defined in [Section 13391.5](#).

(C) The state board, a regional board, or a POTW determines pollution prevention is necessary to achieve a water quality objective.

(D) The discharger is subject to a cease and desist order issued pursuant to [Section 13301](#) or a time schedule order issued pursuant to [Section 13300](#) or [13308](#).

(2) A pollution prevention plan required of a discharger other than a POTW pursuant to paragraph (1) shall include all of the following:

(A) An analysis of one or more of the pollutants, as directed by the state board, a regional board, or a POTW, that the facility discharges into water or introduces into POTWs, a description of the sources of the pollutants, and a comprehensive review of the processes used by the discharger that result in the generation and discharge of the pollutants.

(B) An analysis of the potential for pollution prevention to reduce the generation of the pollutants, including the application of innovative and alternative technologies and any adverse environmental impacts resulting from the use of those methods.

(C) A detailed description of the tasks and time schedules required to investigate and implement various elements of pollution prevention techniques.

(D) A statement of the discharger's pollution prevention goals and strategies, including priorities for short-term and long-term action.

(E) A description of the discharger's existing pollution prevention methods.

(F) A statement that the discharger's existing and planned pollution prevention strategies do not constitute cross media pollution transfers unless clear environmental benefits of such an approach are identified to the

satisfaction of the state board, the regional board, or the POTW, and information that supports that statement.

(G) Proof of compliance with the Hazardous Waste Source Reduction and Management Review Act of 1989 (Article 11.9 (commencing with [Section 25244.12](#)) of Chapter 6.5 of Division 20 of the Health and Safety Code) if the discharger is also subject to that act.

(H) An analysis, to the extent feasible, of the relative costs and benefits of the possible pollution prevention activities.

(I) A specification of, and rationale for, the technically feasible and economically practicable pollution prevention measures selected by the discharger for implementation.

(3) The state board or a regional board may require a POTW to complete and implement a pollution prevention plan that includes all of the following:

(A) An estimate of all of the sources of a pollutant contributing, or potentially contributing, to the loading of that pollutant in the treatment plant influent.

(B) An analysis of the methods that could be used to prevent the discharge of the pollutants into the POTW, including application of local limits to industrial or commercial dischargers regarding pollution prevention techniques, public education and outreach, or other innovative and alternative approaches to reduce discharges of the pollutant to the POTW . The analysis also shall identify sources, or potential sources, not within the ability or authority of the POTW to control, such as pollutants in the potable water supply, airborne pollutants, pharmaceuticals, or pesticides, and estimate the magnitude of those sources, to the extent feasible.

(C) An estimate of load reductions that may be attained through the methods identified in subparagraph (B).

(D) A plan for monitoring the results of the pollution prevention program.

(E) A description of the tasks, cost, and time required to investigate and implement various elements in the pollution prevention plan.

(F) A statement of the POTW's pollution prevention goals and strategies, including priorities for short-term and long-term action, and a description of the POTW's intended pollution prevention activities for the immediate future.

(G) A description of the POTW's existing pollution prevention programs.

(H) An analysis, to the extent feasible, of any adverse environmental impacts, including cross media impacts

or substitute chemicals, that may result from the implementation of the pollution prevention program.

(I) An analysis, to the extent feasible, of the costs and benefits that may be incurred to implement the pollution prevention program.

(e) The state board, a regional board, or a POTW may require a discharger subject to this section to comply with the pollution prevention plan developed by the discharger after providing an opportunity for comment at a public proceeding with regard to that plan.

(f) The state board, regional boards, and POTWs shall make the pollution prevention plans available for public review, except to the extent that information is classified as confidential because it is a trade secret. Trade secret information shall be set forth in an appendix that is not available to the public.

(g) The state board or regional board may assess civil liability pursuant to [paragraph \(1\) of subdivision \(c\) of Section 13385](#) against a discharger for failure to complete a pollution prevention plan required by the state board or a regional board, for submitting a plan that does not comply with the act, or for not implementing a plan, unless the POTW has assessed penalties for the same action.

(h) A POTW may assess civil penalties and civil administrative penalties pursuant to [Sections 54740, 54740.5, and 54740.6 of the Government Code](#) against a discharger for failure to complete a pollution prevention plan when required by the POTW, for submitting a plan that does not comply with the act, or for not implementing a plan, unless the state board or a regional board has assessed penalties for the same action.

(i) A discharger may change its pollution prevention plan, including withdrawing from a pollution prevention measure required by the state board, a regional board, or a POTW, if the discharger determines that the measure will have a negative impact on product quality, the safe operation of the facility, or the environmental aspects of the facility's operation, or the discharger determines that the measure is economically impracticable or technologically infeasible. Where practicable and feasible, the discharger shall replace the withdrawn measure with a measure that will likely achieve similar pollution prevention objectives. A measure may be withdrawn pursuant to this subdivision only with the approval of the executive officer of the state board or the regional board, or the POTW.

(j) The state board shall adopt a sample format to be used by dischargers for completing the plan required by this section. The sample format shall address all of the factors the discharger is required to include in the plan. The board may include any other factors determined by the board to be necessary to carry out this section. The adoption of the sample format pursuant to this section is not subject to Chapter 3.5 (commencing with [Section 11340](#)) of Part 1 of Division 3 of Title 2 of the Government Code.

(k) The state board, a regional board, or POTW may not include a pollution prevention plan in any waste discharge requirements or other permit issued by that agency.

(l) This section prevails over Section 13263.3, as added to the Water Code by Assembly Bill 1104 of the 1999-2000 Regular Session.

§ 13263.5. Injection wells; issuance or revision of waste discharge requirements; EPA administration requests

(a) When the regional board issues waste discharge requirements pursuant to [Section 13263](#), or revises waste discharge requirements pursuant to [subdivision \(g\) of Section 25159.17 of the Health and Safety Code](#), for any injection well into which hazardous waste is discharged, the waste discharge requirements shall be based upon the information contained in the hydrogeological assessment report prepared pursuant to [Section 25159.18 of the Health and Safety Code](#) and shall include conditions in the waste discharge requirements to ensure that the waters of the state are not polluted or threatened with pollution.

(b) If the state board applies to the federal Environmental Protection Agency to administer the Underground Injection Control Program pursuant to Part 145 (commencing with [Section 145.1](#)) of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations, that application shall not include a request to administer the Underground Injection Control Program for any oil, gas, or geothermal injection wells supervised or regulated by the Division of Oil and Gas pursuant to [Section 3106](#) or [3714 of the Public Resources Code](#).

§ 13263.6. Pollution prevention plans; effluent limitations

<Section added by [Stats.1999, c. 92 \(A.B.1104\), §44](#). See, also, another section of the same number added by [Stats.1999, c. 93 \(S.B.709\), § 4](#).>

(a) A publicly owned treatment works (POTW) may require pollution prevention plans as described in [Section 13263.3](#) as part of the pretreatment requirements applicable to significant industrial users.

(b) The state board or a regional board shall prescribe effluent limitations as part of the waste discharge requirements of a POTW for all substances that the most recent toxic chemical release data reported to the state emergency response commission pursuant to Section 313 of the Emergency Planning and Community Right to Know Act of 1986 ([42 U.S.C. Sec. 11023](#)) indicate are discharged into the POTW and that the state board or a regional board has determined has the reasonable potential to impair water quality.

§ 13263.6. Effluent limitations

<Section added by [Stats.1999, c. 93 \(S.B.709\), § 4](#). See, also, another section of the same number added by [Stats.1999, c. 92 \(A.B.1104\), § 4](#).>

(a) The regional board shall prescribe effluent limitations as part of the waste discharge requirements of a POTW for all substances that the most recent toxic chemical release data reported to the state emergency response commission pursuant to Section 313 of the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. Sec. 11023) indicate as discharged into the POTW, for which the state board or the regional board has established numeric water quality objectives, and has determined that the discharge is or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to, an excursion above any numeric water quality objective.

(b) This section prevails over Section 13263.6, as added to the Water Code by Assembly Bill 1104 of the 1999-2000 Regular Session.

§ 13264. New discharge, change in discharge, or construction of injection well; prohibited activities; injunctive relief; use of penalty funds

(a) No person shall initiate any new discharge of waste or make any material changes in any discharge, or initiate a discharge to, make any material changes in a discharge to, or construct, an injection well, prior to the filing of the report required by Section 13260 and no person shall take any of these actions after filing the report but before whichever of the following occurs first:

(1) The issuance of waste discharge requirements pursuant to Section 13263.

(2) The expiration of 140 days after compliance with Section 13260 if the waste to be discharged does not create or threaten to create a condition of pollution or nuisance and any of the following applies:

(A) The project is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(B) The regional board is the lead agency for purposes of the California Environmental Quality Act, a negative declaration is required, and at least 105 days have expired since the regional board assumed lead agency responsibility.

(C) The regional board is the lead agency for the purposes of the California Environmental Quality Act, and environmental impact report or written documentation prepared to meet the requirements of Section 21080.5 of the Public Resources Code is required, and at least one year has expired since the regional board assumed lead agency responsibility.

(D) The regional board is a responsible agency for purposes of the California Environmental Quality Act, and at least 90 days have expired since certification or approval of environmental documentation by the lead agency.

(3) The issuance of a waiver pursuant to [Section 13269](#).

(b) The Attorney General, at the request of a regional board, shall petition the superior court for the issuance of a temporary restraining order, preliminary injunction, or permanent injunction, or combination thereof, as may be appropriate, prohibiting any person who is violating or threatening to violate this section from doing any of the following, whichever is applicable:

(1) Discharging the waste or fluid.

(2) Making any material change in the discharge.

(3) Constructing the injection well.

(c)(1) Notwithstanding any other provision of law, moneys collected under this division for a violation pursuant to paragraph (2) of subdivision (a) shall be deposited in the Waste Discharge Permit Fund and separately accounted for in that fund.

(2) The funds described in paragraph (1) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state or for the purposes authorized in [Section 13443](#).

§ 13265. Discharging waste; offense; civil penalty; exception

(a) Any person discharging waste in violation of [Section 13264](#), after such violation has been called to his attention in writing by the regional board, is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (b). Each day of such discharge shall constitute a separate offense.

(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with [Section 13323](#)) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Articles 5 (commencing with [Section 13350](#)) and 6 (commencing with [Section 13360](#)) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(c) Any person discharging hazardous waste, as defined in [Section 25117 of the Health and Safety Code](#), in violation of [Section 13264](#) is guilty of a misdemeanor and may be liable civilly in accordance with subdivision (d). That liability shall not be imposed if the discharger is not negligent and immediately files a report of the

discharge with the board, or if the regional board determines that the violation of [Section 13264](#) was insubstantial.

This subdivision shall not be applicable to any waste discharge which is subject to Chapter 5.5 (commencing with [Section 13370](#)).

(d)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with [Section 13323](#)) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Articles 5 (commencing with [Section 13350](#)) and 6 (commencing with [Section 13360](#)) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.

§ 13266. Notice from local agency; filing of subdivision map or building permit application

Pursuant to such regulations as the regional board may prescribe, each city, county, or city and county shall notify the regional board of the filing of a tentative subdivision map, or of any application for a building permit which may involve the discharge of waste, other than discharges into a community sewer system and discharges from dwellings involving five-family units or less.

§ 13267. Investigation of water quality; reports; inspection of facilities

(a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.

(b)(1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.

(2) When requested by the person furnishing a report, the portions of a report that might disclose trade secrets

or secret processes may not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies. However, these portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report.

(c) In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with [Section 1822.50](#)) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.

(d) The state board or a regional board may require any person, including a person subject to a waste discharge requirement under [Section 13263](#), who is discharging, or who proposes to discharge, wastes or fluid into an injection well, to furnish the state board or regional board with a complete report on the condition and operation of the facility or injection well, or any other information that may be reasonably required to determine whether the injection well could affect the quality of the waters of the state.

(e) As used in this section, “evidence” means any relevant evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in a civil action.

(f) The state board may carry out the authority granted to a regional board pursuant to this section if, after consulting with the regional board, the state board determines that it will not duplicate the efforts of the regional board.

§ 13268. Failure to furnish specified reports or statements; falsifying information; offense; civil liability; criminal penalties

(a)(1) Any person failing or refusing to furnish technical or monitoring program reports as required by [subdivision \(b\) of Section 13267](#), or failing or refusing to furnish a statement of compliance as required by [subdivision \(b\) of Section 13399.2](#), or falsifying any information provided therein, is guilty of a misdemeanor, and may be liable civilly in accordance with subdivision (b).

(2) Any person who knowingly commits any violation described in paragraph (1) is subject to criminal penalties pursuant to subdivision (e).

(b)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with [Section 13323](#)) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with [Section 13350](#)) and Article 6 (commencing with [Section 13360](#)) of Chapter 5 for a violation of subdivision (a) in an amount which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(c) Any person discharging hazardous waste, as defined in [Section 25117 of the Health and Safety Code](#), who knowingly fails or refuses to furnish technical or monitoring program reports as required by [subdivision \(b\) of Section 13267](#), or who knowingly falsifies any information provided in those technical or monitoring program reports, is guilty of a misdemeanor, may be civilly liable in accordance with subdivision (d), and is subject to criminal penalties pursuant to subdivision (e).

(d)(1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with [Section 13323](#)) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with [Section 13350](#)) and Article 6 (commencing with [Section 13360](#)) of Chapter 5 for a violation of subdivision (c) in an amount which shall not exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs.

(e)(1) Subject to paragraph (2), any person who knowingly commits any of the violations set forth in subdivision (a) or (c) shall be punished by a fine that does not exceed twenty-five thousand dollars (\$25,000).

(2) Any person who knowingly commits any of the violations set forth in subdivision (a) or (c) after a prior conviction for a violation set forth in subdivision (a) or (c) shall be punished by a fine that does not exceed twenty-five thousand dollars (\$25,000) for each day of the violation.

(f)(1) Notwithstanding any other provision of law, fines collected pursuant to subdivision (e) shall be deposited in the Waste Discharge Permit Fund and separately accounted for in that fund.

(2) The funds described in paragraph (1) shall be expended by the state board, upon appropriation by the Legislature, to assist regional boards, and other public agencies with authority to clean up waste, or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state or for the purposes authorized in [Section 13443](#).

(g) The state board may carry out the authority granted to a regional board pursuant to this section if, after consulting with the regional board, the state board determines that it will not duplicate the efforts of the regional board.

§ 13269. Waiver of discharge requirements; monitoring; fees; emergency activities

(a)(1) On and after January 1, 2000, the provisions of [subdivisions \(a\) and \(c\) of Section 13260](#), [subdivision \(a\) of Section 13263](#), or [subdivision \(a\) of Section 13264](#) may be waived by the state board or a regional board as to a specific discharge or type of discharge if the state board or a regional board determines, after any necessary state board or regional board meeting, that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The state board or a regional board shall give notice of any necessary meeting by publication pursuant to [Section 11125 of the Government Code](#).

(2) A waiver may not exceed five years in duration, but may be renewed by the state board or a regional board. The waiver shall be conditional and may be terminated at any time by the state board or a regional board. The conditions of the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based monitoring, except as provided in paragraph (3). Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results shall be made available to the public.

(3) The state board or a regional board may waive the monitoring requirements described in this subdivision for discharges that it determines do not pose a significant threat to water quality.

(4)(A) The state board or a regional board may include as a condition of a waiver the payment of an annual fee established by the state board in accordance with [subdivision \(f\) of Section 13260](#).

(B) Funds generated by the payment of the fee shall be deposited in the Waste Discharge Permit Fund for expenditure, upon appropriation by the Legislature, by the state board or appropriate regional board for the purpose of carrying out activities limited to those necessary to establish and implement the waiver program pursuant to this section. The total amount of annual fees collected pursuant to this section shall not exceed the costs of those activities necessary to establish and implement waivers of waste discharge requirements pursuant to this section.

(C) In establishing the amount of a fee that may be imposed on irrigated agriculture operations pursuant to this section, the state board shall consider relevant factors, including, but not limited to, all of the following:

(i) The size of the operations.

(ii) Any compliance costs borne by the operations pursuant to state and federal water quality regulations.

(iii) Any costs associated with water quality monitoring performed or funded by the operations.

(iv) Participation in a watershed management program approved by the applicable regional board.

(D) In establishing the amount of a fee that may be imposed on silviculture operations pursuant to this section, the state board shall consider relevant factors, including, but not limited to, all of the following:

(i) The size of the operations.

(ii) Any compliance costs borne by the operations pursuant to state and federal water quality regulations.

(iii) Any costs associated with water quality monitoring performed or funded by the operations.

(iv) The average annual number of timber harvest plans proposed by the operations.

(5) The state board or a regional board shall give notice of the adoption of a waiver by publication within the affected county or counties as set forth in [Section 6061 of the Government Code](#).

(b)(1) A waiver in effect on January 1, 2000, shall remain valid until January 1, 2003, unless the regional board terminates that waiver prior to that date. All waivers that were valid on January 1, 2000, and granted an extension until January 1, 2003, and not otherwise terminated, may be renewed by a regional board in five-year increments.

(2) Notwithstanding paragraph (1), a waiver for an onsite sewage treatment system that is in effect on January 1, 2002, shall remain valid until June 30, 2004, unless the regional board terminates the waiver prior to that date. Any waiver for onsite sewage treatment systems adopted or renewed after June 30, 2004, shall be consistent with the applicable regulations or standards for onsite sewage treatment systems adopted or retained in accordance with [Section 13291](#).

(c) Upon notification of the appropriate regional board of the discharge or proposed discharge, except as provided in subdivision (d), the provisions of [subdivisions \(a\) and \(c\) of Section 13260](#), [subdivision \(a\) of Section 13263](#), and [subdivision \(a\) of Section 13264](#) do not apply to a discharge resulting from any of the following emergency activities:

(1) Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with [Section 8550](#)) of Division 1 of Title 2 of the Government Code.

(2) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in [Section 360 of the Vehicle Code](#), except for a highway designated as an of-

official state scenic highway pursuant to [Section 262 of the Streets and Highways Code](#), within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide within one year of the damage. This paragraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(d) Subdivision (c) is not a limitation of the authority of a regional board under subdivision (a) to determine that any provision of this division shall not be waived or to establish conditions of a waiver. Subdivision (c) shall not apply to the extent that it is inconsistent with any waiver or other order or prohibition issued under this division.

(e) The regional boards and the state board shall require compliance with the conditions pursuant to which waivers are granted under this section.

(f) Prior to renewing any waiver for a specific type of discharge established under this section, the state board or a regional board shall review the terms of the waiver policy at a public hearing. At the hearing, the state board or a regional board shall determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements.

§ 13270. Lease by public agency to public agency; exemption from filing waste discharge report; requirements

Where a public agency as defined in [subdivision \(b\) of Section 13400](#) leases land for waste disposal purposes to any other public agency, including the State of California, or to any public utility regulated by the Public Utilities Commission, the provisions of [Sections 13260](#), [13263](#), and [13264](#) shall not require the lessor public agency to file any waste discharge report for the subject waste disposal, and the regional board and the state board shall not prescribe waste discharge requirements for the lessor public agency as to such land provided that the lease from the lessor public agency shall not contain restrictions which would unreasonably limit the ability of the lessee to comply with waste discharge requirements appurtenant to the leased property.

§ 13271. Discharge of hazardous substance or sewage; notice requirement; violation; regulations establishing reportable quantities

(a)(1) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (A) that person has knowledge of the discharge, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the California Emergency Management Agency of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with [Section 8574.16](#)) of [Chapter 7 of Division 1 of Title 2 of the Government Code](#).

(2) The California Emergency Management Agency shall immediately notify the appropriate regional board, the local health officer, and the director of environmental health of the discharge. The regional board shall notify the state board as appropriate.

(3) Upon receiving notification of a discharge pursuant to this section, the local health officer and the director of environmental health shall immediately determine whether notification of the public is required to safeguard public health and safety. If so, the local health officer and the director of environmental health shall immediately notify the public of the discharge by posting notices or other appropriate means. The notification shall describe measures to be taken by the public to protect the public health.

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not more than twenty thousand dollars (\$20,000) or imprisonment in a county jail for not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state.

(d) Notification received pursuant to this section or information obtained by use of that notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) For substances listed as hazardous wastes or hazardous material pursuant to [Section 25140 of the Health and Safety Code](#), the state board, in consultation with the Department of Toxic Substances Control, shall by regulation establish reportable quantities for purposes of this section. The regulations shall be based on what quantities should be reported because they may pose a risk to public health or the environment if discharged to groundwater or surface water. Regulations need not set reportable quantities on all listed substances at the same time. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division, and shall not supersede or affect in any way the list, criteria, and guidelines for the identification of hazardous wastes and extremely hazardous wastes adopted by the Department of Toxic Substances Control pursuant to Chapter 6.5 (commencing with [Section 25100](#)) of Division 20 of the Health and Safety Code. The regulations of the Environmental Protection Agency for reportable quantities of hazardous substances for purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ([42 U.S.C. Sec. 9601 et seq.](#)) shall be in effect for purposes of the enforcement of this section until the time that the regulations required by this subdivision are adopted.

(f)(1) The state board shall adopt regulations establishing reportable quantities of sewage for purposes of this section. The regulations shall be based on the quantities that should be reported because they may pose a risk to public health or the environment if discharged to groundwater or surface water. Regulations establishing reportable quantities shall not supersede waste discharge requirements or water quality objectives adopted pursuant to this division. For purposes of this section, "sewage" means the effluent of a municipal wastewater

treatment plant or a private utility wastewater treatment plant, as those terms are defined in [Section 13625](#), except that sewage does not include recycled water, as defined in [subdivisions \(c\) and \(d\) of Section 13529.2](#).

(2) A collection system owner or operator, as defined in [paragraph \(1\) of subdivision \(a\) of Section 13193](#), in addition to the reporting requirements set forth in this section, shall submit a report pursuant to [subdivision \(c\) of Section 13193](#).

(g) Except as otherwise provided in this section and [Section 8589.7 of the Government Code](#), a notification made pursuant to this section shall satisfy any immediate notification requirement contained in any permit issued by a permitting agency. When notifying the California Emergency Management Agency, the person shall include all of the notification information required in the permit.

(h) For the purposes of this section, the reportable quantity for perchlorate shall be 10 pounds or more by discharge to the receiving waters, unless a more restrictive reporting standard for a particular body of water is adopted pursuant to subdivision (e).

(i) Notification under this section does not nullify a person's responsibility to notify the local health officer or the director of environmental health pursuant to [Section 5411.5 of the Health and Safety Code](#).

§ 13272. Discharge of oil or petroleum product; notice requirement; violation; reportable quantity

(a) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the California Emergency Management Agency of the discharge in accordance with the spill reporting provision of the California oil spill contingency plan adopted pursuant to Article 3.5 (commencing with [Section 8574.1\) of Chapter 7 of Division 1 of Title 2 of the Government Code](#). This section shall not apply to spills of oil into marine waters as defined in [subdivision \(f\) of Section 8670.3 of the Government Code](#).

(b) The notification required by this section shall not apply to a discharge in compliance with waste discharge requirements or other provisions of this division.

(c) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000) per day for each day of failure to notify, or imprisonment of not more than one year, or both. Except where a discharge to the waters of this state would have occurred but for cleanup or emergency response by a public agency, this subdivision shall not apply to any discharge to land which does not result in a discharge to the waters of this state. This subdivision shall not apply to any person who is fined by the federal government for a failure to report a discharge of oil.

(d) Notification received pursuant to this section or information obtained by use of that notification shall not be used against any person providing the notification in any criminal case, except in a prosecution for perjury or giving a false statement.

(e) Immediate notification to the appropriate regional board of the discharge, in accordance with reporting requirements set under [Section 13267](#) or [13383](#), shall constitute compliance with the requirements of subdivision (a).

(f) The reportable quantity for oil or petroleum products shall be one barrel (42 gallons) or more, by direct discharge to the receiving waters, unless a more restrictive reporting standard for a particular body of water is adopted.

§ 13272.1. List of MTBE discharges; publication and distribution

<Section added by [Stats.1997, c. 814 \(A.B.592\), § 12](#). See, also, another section of the same number added by [Stats.1997, c. 815 \(S.B.1189\), § 4](#).>

Each regional board shall publish and distribute on a quarterly basis to all public water system operators within the region of the regional board, a list of discharges of MTBE that occurred during the quarter and a list of locations where MTBE was detected in the groundwater within the region of the regional board.

§ 13272.1. List of MTBE discharges; publication and distribution

<Section added by [Stats.1997, c. 815 \(S.B.1189\), § 4](#). See, also, another section of the same number added by [Stats.1997, c. 814 \(A.B.592\), § 12](#).>

Each regional board shall publish and distribute on a quarterly basis to all public water system operators within the region of the regional board, a list of discharges of MTBE that occurred during the quarter and a list of locations where MTBE was detected in the groundwater within the region of the regional board.

§ 13273. Solid waste disposal sites; ranking; water quality assessment tests; inadequate monitoring or contamination of water; revision of discharge requirements

(a) The state board shall, on or before January 1, 1986, rank all solid waste disposal sites, as defined in [paragraph \(5\) of subdivision \(i\) of Section 41805.5 of the Health and Safety Code](#), based upon the threat they may pose to water quality. On or before July 1, 1987, the operators of the first 150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d). On or before July 1 of each succeeding year, the operators of the next

150 solid waste disposal sites ranked on the list shall submit a solid waste water quality assessment test to the appropriate regional board for its examination pursuant to subdivision (d).

(b) Before a solid waste water quality assessment test report may be submitted to the regional board, a professional geologist, registered pursuant to [Section 7850 of the Business and Professions Code](#), a certified engineering geologist, certified pursuant to [Section 7842 of the Business and Professions Code](#), or a civil engineer registered pursuant to [Section 6762 of the Business and Professions Code](#), who has at least five years' experience in groundwater hydrology, shall certify that the report contains all of the following information and any other information which the state board may, by regulation, require:

(1) An analysis of the surface and groundwater on, under, and within one mile of the solid waste disposal site to provide a reliable indication whether there is any leakage of hazardous waste.

(2) A chemical characterization of the soil-pore liquid in those areas which are likely to be affected if the solid waste disposal site is leaking, as compared to geologically similar areas near the solid waste disposal site which have not been affected by leakage or waste discharge.

(c) If the regional board determines that the information specified in paragraph (1) or (2) is not needed because other information demonstrates that hazardous wastes are migrating into the water, the regional board may waive the requirement to submit this information specified in paragraphs (1) and (2) of subdivision (b). The regional board shall also notify the Department of Toxic Substances Control, and shall take appropriate remedial action pursuant to Chapter 5 (commencing with [Section 13300](#)).

(d) The regional board shall examine the report submitted pursuant to subdivision (b) and determine whether the number, location, and design of the wells and the soil testing could detect any leachate buildup, leachate migration, or hazardous waste migration. If the regional board determines that the monitoring program could detect the leachate and hazardous waste, the regional board shall take the action specified in subdivision (e). If the regional board determines that the monitoring program was inadequate, the regional board shall require the solid waste disposal site to correct the monitoring program and resubmit the solid waste assessment test based upon the results from the corrected monitoring program.

(e) The regional board shall examine the approved solid waste assessment test report and determine whether any hazardous waste migrated into the water. If the regional board determines that hazardous waste has migrated into the water, it shall notify the Department of Toxic Substances Control and the California Integrated Waste Management Board and shall take appropriate remedial action pursuant to Chapter 5 (commencing with [Section 13300](#)).

(f) When a regional board revises the waste discharge requirements for a solid waste disposal site, the regional board shall consider the information provided in the solid waste assessment test report and any other relevant site-specific engineering data provided by the site operator for that solid waste disposal site as part of a report of waste discharge.

§ 13273.1. Solid waste assessment questionnaires

(a) Except as provided in subdivision (b), an operator of a solid waste disposal site may submit a solid waste assessment questionnaire to the appropriate regional board at least 24 months prior to the site's solid waste water quality assessment test due date as established pursuant to [Section 13273](#). The regional board shall require the operator to submit any additional information, as needed, or require onsite verification of the solid waste assessment questionnaire data in order to render a decision pursuant to subdivision (c).

(b) Any solid waste disposal site which is larger than 50,000 cubic yards or is known or suspected to contain hazardous substances, other than household hazardous wastes, shall be prohibited from submitting a solid waste assessment questionnaire under this section.

(c) The regional board shall complete a thorough analysis of each solid waste assessment questionnaire submitted pursuant to this section by a date 18 months prior to the solid waste assessment test due date. Based upon this analysis, the regional board shall determine whether or not the site has discharged hazardous substances which will impact the beneficial uses of water. If the regional board determines that the site has not so discharged hazardous substances, the regional board shall notify the operator that the operator is not required to prepare a solid waste water quality assessment test pursuant to [Section 13273](#).

(d) If the regional board does not make the determination specified in subdivision (c), the operator shall submit all, or a portion of, a solid waste water quality assessment test. The regional board shall notify the operator of this determination and indicate if all, or what portion of, a solid waste water quality assessment test shall be required. The operator shall submit the solid waste water quality assessment test, or a portion thereof, by the date established pursuant to [Section 13273](#).

(e) The state board shall develop a solid waste assessment questionnaire and guidelines for submittal no later than three months after the effective date of this statute adding this section. The questionnaire shall contain, but not be limited to, a characterization of the wastes, size of the site, age of the site, and other appropriate factors.

(f) Those operators of solid waste disposal sites listed by the state board pursuant to [Section 13273](#) in Rank 3 and seeking an exemption under this section shall submit their solid waste assessment questionnaire no later than July 1, 1988. If the regional board does not make the determination specified in subdivision (c), the regional board shall require the operator to submit all, or a portion of, a solid waste water quality assessment test by July 1, 1990.

§ 13273.2. Reevaluation of solid waste disposal site status; requirement to submit or revise solid waste water quality assessment test

Notwithstanding [subdivision \(b\) of Section 13273.1](#), a regional board may reevaluate the status of any solid waste disposal site ranked pursuant to [Section 13273](#), including those sites exempted pursuant to [Section 13273.1](#), and may require the operator to submit or revise a solid waste water quality assessment test after July

1, 1989. The regional board shall give written notification to the operator that a solid waste assessment test is required and the due date. This section shall not require submittal of a solid waste water quality assessment test by a date earlier than established in accordance with [Section 13273](#).

§ 13273.3. Operator defined

As used in [Sections 13273](#), [13273.1](#), and [13273.2](#), “operator” means a person who operates or manages, or who has operated or managed, the solid waste disposal site. If the operator of the solid waste disposal site no longer exists, or is unable, as determined by the regional board, to comply with the requirements of [Section 13273](#), [13273.1](#), or [13273.2](#), “operator” means any person who owns or who has owned the solid waste disposal site.

§ 13273.5. Small cities in Kings County; exemption from requirement to submit solid waste water quality assessment test report

Notwithstanding [Section 13273](#), a small city which operates a Class III solid waste disposal site is not required to submit a solid waste water quality assessment test report pursuant to [Section 13273](#) if the city has a population of less than 20,000 persons, the solid waste disposal site receives less than 20,000 tons of waste per year, the water table of the highest aquifer under the disposal site is 250 or more feet below the base of the disposal site and the water in the highest aquifer is not potable, and the site receives less than an average of 12 inches of rainfall per year.

This section applies only if the disposal site is operational and has been granted all required permits as of January 1, 1991, if the site is located in Kings County, and if the city has completed an initial solid waste water quality assessment test and a solid waste air quality assessment test which establish that no significant air or water contamination has occurred, and, in that event, the city shall be exempted from conducting further assessment tests for seven years, or any longer time specified by the regional board, after the date of the initial assessment tests.

§ 13274. Dewatered, treated, or chemically fixed sewage sludge or other biological solids; general waste discharge requirements; fee; jurisdiction

(a)(1) The state board or a regional board, upon receipt of applications for waste discharge requirements for discharges of dewatered, treated, or chemically fixed sewage sludge and other biological solids, shall prescribe general waste discharge requirements for that sludge and those other solids. General waste discharge requirements shall replace individual waste discharge requirements for sewage sludge and other biological solids, and their prescription shall be considered to be a ministerial action.

(2) The general waste discharge requirements shall set minimum standards for agronomic applications of sewage sludge and other biological solids and the use of that sludge and those other solids as a soil amendment or fertilizer in agriculture, forestry, and surface mining reclamation, and may permit the transportation of

that sludge and those other solids and the use of that sludge and those other solids at more than one site. The requirements shall include provisions to mitigate significant environmental impacts, potential soil erosion, odors, the degradation of surface water quality or fish or wildlife habitat, the accidental release of hazardous substances, and any potential hazard to the public health or safety.

(b) The state board or a regional board, in prescribing general waste discharge requirements pursuant to this section, shall comply with Division 13 (commencing with [Section 21000](#)) of the [Public Resources Code](#) and guidelines adopted pursuant to that division, and shall consult with the State Air Resources Board, the Department of Food and Agriculture, and the Department of Resources Recycling and Recovery.

(c) The state board or a regional board may charge a reasonable fee to cover the costs incurred by the board in the administration of the application process relating to the general waste discharge requirements prescribed pursuant to this section.

(d) Notwithstanding any other law, except as specified in subdivisions (f) to (i), inclusive, general waste discharge requirements prescribed by a regional board pursuant to this section supersede regulations adopted by any other state agency to regulate sewage sludge and other biological solids applied directly to agricultural lands at agronomic rates.

(e) The state board or a regional board shall review general waste discharge requirements for possible amendment upon the request of any state agency, including, but not limited to, the Department of Food and Agriculture and the State Department of Public Health, if the board determines that the request is based on new information.

(f) This section is not intended to affect the jurisdiction of the Department of Resources Recycling and Recovery to regulate the handling of sewage sludge or other biological solids for composting, deposit in a landfill, or other use.

(g) This section is not intended to affect the jurisdiction of the State Air Resources Board or an air pollution control district or air quality management district to regulate the handling of sewage sludge or other biological solids for incineration.

(h) This section is not intended to affect the jurisdiction of the Department of Food and Agriculture in enforcing [Sections 14591](#) and [14631](#) of the [Food and Agricultural Code](#) and any regulations adopted pursuant to those sections, regarding the handling of sewage sludge and other biological solids sold or used as fertilizer or as a soil amendment.

(i) This section does not restrict the authority of a local government agency to regulate the application of sewage sludge and other biological solids to land within the jurisdiction of that agency, including, but not limited to, the planning authority of the Delta Protection Commission, the resource management plan of which is required to be implemented by local government general plans.

§ 13275. Contaminated water supplies; legal rights and remedies of public water systems

(a) Notwithstanding any other law, a public water system regulated by the State Department of Public Health shall have the same legal rights and remedies against a responsible party, when the water supply used by that public water system is contaminated, as those of a private land owner whose groundwater has been contaminated.

(b) For purposes of this section, “responsible party” has the same meaning as defined in [Section 25323.5 of the Health and Safety Code](#).

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