

AMENDED IN ASSEMBLY MAY 1, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2683

Introduced by Assembly Member Pavley

February 22, 2002

An act to add Section 12812 to, and to repeal Sections 12805.5, 12812.2, 12812.3, and 12812.5 of, and to repeal Article 5.6 (commencing with Section 65959) of Chapter 4.5 of Division 1 of Title 7 of, the Government Code, to amend ~~Section 425~~ Sections 425, 901, 25244.11, 25295, 43101, 43101.5, 44100, and 44104.5 of, and to repeal Division 37 (commencing with Section 57000) of, the Health and Safety Code, to amend Section 40507 and 71040 of, to amend and renumber the heading of Part 1 (commencing with Section 71000) and the heading of Part 2 (commencing with Section 71050) of Division 34 of, and to add Part 1 (commencing with Section 70500) to Division 34 of, the Public Resources Code, and to amend Sections 13350, 13369, and 13385 of the Water Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 2683, as amended, Pavley. California Environmental Protection Agency: reorganization.

Existing law establishes the California Environmental Protection Agency in state government.

This bill would revise and reorganize provisions governing the powers and duties of the agency.

Existing law required that, on or before March 1, 1994, the California Environmental Protection Agency take specified actions to establish an environmental technologies clearinghouse.

This bill would delete that provision.

Existing law imposes certain reporting requirements on specified state agencies, relating to environmental protection.

This bill revise or delete those reporting requirements.

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

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

- 1 SECTION 1. Section 12805.5 of the Government Code is
- 2 repealed.
- 3 SEC. 2. Section 12812 is added to the Government Code, to
- 4 read:
- 5 12812. The California Environmental Protection Agency
- 6 consists of the State Air Resources Board, the Office of
- 7 Environmental Health Hazard Assessment, the California
- 8 Integrated Waste Management Board, the State Water Resources
- 9 Control Board, each California regional water quality control
- 10 board, the Department of Pesticide Regulation, and the
- 11 Department of Toxic Substances Control. In addition to the
- 12 general powers set forth in Chapter 2 (commencing with Section
- 13 12850), the specific powers of the California Environmental
- 14 Protection Agency are set forth in Part 1 (commencing with
- 15 Section 70500) of Division 34 of the Public Resources Code.
- 16 SEC. 3. Section 12812.2 of the Government Code is repealed.
- 17 SEC. 4. Section 12812.3 of the Government Code is repealed.
- 18 SEC. 5. Section 12812.5 of the Government Code is repealed.
- 19 SEC. 6. Article 5.6 (commencing with Section 65959) of
- 20 Chapter 4.5 of Division 1 of Title 7 of the Government Code is
- 21 repealed.
- 22 SEC. 7. Section 425 of the Health and Safety Code is amended
- 23 to read:
- 24 425. The Office of Environmental Health Hazard Assessment
- 25 shall submit to the State Air Resources Board recommendations
- 26 for ambient air quality standards reflecting the relationship
- 27 between the intensity and composition of air pollution and the
- 28 health, illness, irritation to the senses, and the death of human
- 29 beings.
- 30 SEC. 8. *Section 901 of the Health and Safety Code is amended*
- 31 *to read:*



1 901. (a) As used in this section:

2 (1) “Center” means the Children’s Environmental Health
3 Center established pursuant to Section 900.

4 (2) “Office” means the Office of Environmental Health
5 Hazard Assessment.

6 (b) On or before June 30, 2001, the office shall review cancer
7 risk assessment guidelines for use by the office and the other
8 entities within the California Environmental Protection Agency to
9 establish cancer potency values or numerical health guidance
10 values that adequately address carcinogenic exposures to the fetus,
11 infants, and children.

12 (c) The review required by subdivision (b) shall include a
13 review of existing state and federal cancer risk guidelines, as well
14 as new information on carcinogenesis, and shall consider the
15 extent to which those guidelines address risks from exposures
16 occurring early in life.

17 (d) The review required by subdivision (b) shall also include,
18 but not be limited to, all of the following:

19 (1) The development of criteria for identifying carcinogens
20 likely to have a greater impact if exposures occur early in life.

21 (2) The assessment of methodologies used in existing
22 guidelines to address early-in-life exposures.

23 (3) The construction of a data base of animal studies to evaluate
24 increases in risks from short-term early-in-life exposures.

25 (e) On or before June 30, 2004, the office shall finalize and
26 publish children’s cancer guidelines that shall be protective of
27 children’s health. These guidelines shall be revised and updated as
28 needed by the office.

29 (f) (1) On or before December 31, 2002, the office shall
30 publish a guidance document, for use by the Department of Toxic
31 Substances Control and other state and local environmental and
32 public health agencies, to assess exposures and health risks at
33 existing and proposed schoolsites. The guidance document shall
34 include, but not be limited to, all of the following:

35 (A) Appropriate child-specific routes of exposure unique to the
36 school environment, in addition to those in existing exposure
37 assessment models.

38 (B) Appropriate available child-specific numerical health
39 effects guidance values, and plans for the development of
40 additional child-specific numerical health effects guidance values.



1 (C) The identification of uncertainties in the risk assessment
2 guidance, and those actions that should be taken to address those
3 uncertainties.

4 (2) The office shall consult with the Department of Toxic
5 Substances Control and the State Department of Education in the
6 preparation of the guidance document required by paragraph (1)
7 in order to ensure that it provides the information necessary for
8 these two agencies to meet the requirements of Sections 17210.1
9 and 17213.1 of the Education Code.

10 (g) On or before January 1, 2002, the office, in consultation
11 with the appropriate entities within the California Environmental
12 Protection Agency, shall identify those chemical contaminants
13 commonly found at schoolsites and determined by the office to be
14 of greatest concern based on criteria that identify child-specific
15 exposures and child-specific physiological sensitivities. On or
16 before December 31, 2002, and annually thereafter, the office shall
17 publish and make available to the public and to other state and local
18 environmental and public health agencies and school districts,
19 numerical health guidance values for five of those chemical
20 contaminants identified pursuant to this subdivision until the
21 contaminants identified have been exhausted.

22 (h) On and after January 1, 2002, and ~~biannually~~ *biennially*
23 thereafter, the center shall report to the Legislature and the
24 Governor on the implementation of this section ~~as part of the report~~
25 ~~required by subdivision (d) of Section 900.~~ The report shall
26 include, but not be limited to, information on revisions or
27 modifications made by the office and other entities within the
28 California Environmental Protection Agency to cancer potency
29 values and other numerical health guidance values in order to be
30 protective of children's health. The report shall also describe the
31 use of the revised health guidance values in the programs and
32 activities of the office and the other boards and departments within
33 the California Environmental Protection Agency.

34 (i) Nothing in this section relieves any entity within the
35 California Environmental Protection Agency of complying with
36 Chapter 3.5 (commencing with Section 11340) of Part 2 of
37 Division 3 Title 2 of the Government Code, to the extent that
38 chapter is applicable to the entity on or before July 19, 2000, or the
39 effective date of Section ~~57004~~ *70638 of the Public Resources*
40 *Code.*



1 SEC. 9. Section 25244.11 of the Health and Safety Code is
2 amended to read:

3 25244.11. (a) The department shall, by January 1, 1988, and
4 each year thereafter, *in which funds are appropriated in the*
5 *department's budget for the grants authorized under Section*
6 *25244.10, shall* report to the Governor and the Legislature,
7 including the Chairpersons of the Senate Committee on
8 Appropriations, Assembly Committee on Ways and Means, Joint
9 Legislative Budget Committee, and Assembly Committee on
10 Economic Development and New Technologies, on the status,
11 funding, and results of all demonstration and research projects
12 awarded grants.

13 ~~This~~

14 (b) The report shall include recommendations for legislation
15 and shall identify those state and federal economic and financial
16 incentives which can best accelerate and maximize the research,
17 development, and demonstration of hazardous waste reduction,
18 recycling, and treatment technologies.

19 SEC. 10. Section 25295 of the Health and Safety Code is
20 amended to read:

21 25295. (a) (1) Any unauthorized release which escapes
22 from the secondary containment, or from the primary
23 containment, if no secondary containment exists, increases the
24 hazard of fire or explosion, or causes any deterioration of the
25 secondary containment of the underground tank system shall be
26 reported by the operator to the local agency designated pursuant
27 to Section 25283 within 24 hours after the release has been
28 detected or should have been detected. A full written report shall
29 be transmitted by the owner or operator of the underground tank
30 system to the local agency within five working days of the
31 occurrence of the release. The report shall describe the nature and
32 volume of the unauthorized release, any corrective or remedial
33 actions undertaken, and any further corrective or remedial actions,
34 including investigative actions, which will be needed to clean up
35 the unauthorized release and abate the effects of the release and a
36 time schedule for implementing these actions.

37 (2) The local agency shall review the permit whenever there
38 has been an unauthorized release or when it determines that the
39 underground tank system is unsafe. In determining whether to
40 modify or terminate the permit, the local agency shall consider the



1 age of the tank, the methods of containment, the methods of
2 monitoring, the feasibility of any required repairs, the
3 concentration of the hazardous substances stored in the tank, the
4 severity of potential unauthorized releases, and the suitability of
5 any other long-term preventive measures which would meet the
6 requirements of this chapter.

7 (b) In cooperation with the Office of Emergency Services, the
8 board shall ~~submit~~ *make available on its public Internet Web site*
9 an annual statewide report, by county, ~~to the Legislature~~, of all
10 unauthorized releases, indicating for each unauthorized release the
11 operator, the hazardous substance, the quantity of the unauthorized
12 release, and the actions taken to abate the problem.

13 (c) The reporting requirements imposed by this section are in
14 addition to any requirements which may be imposed by Sections
15 13271 and 13272 of the Water Code.

16 *SEC. 11. Section 43101 of the Health and Safety Code is*
17 *amended to read:*

18 43101. The state board shall adopt and implement emission
19 standards for new motor vehicles for the control of emissions
20 therefrom, which standards the state board has found to be
21 necessary and technologically feasible to carry out the purposes of
22 this division. Prior to adopting ~~such these~~ standards, the state board
23 shall consider the impact of ~~such the~~ standards on the economy of
24 the state, including, but not limited to, their effect on motor vehicle
25 fuel efficiency. ~~The state board shall submit a report of its findings~~
26 ~~on which the standards are based to the Legislature within 30 days~~
27 ~~of adoption of the standards.~~

28 ~~Such~~ standards may be applicable to motor vehicle engines,
29 rather than to motor vehicles.

30 *SEC. 12. Section 43101.5 of the Health and Safety Code is*
31 *amended to read:*

32 43101.5. The emission standards adopted by the state board
33 pursuant to Section 43101 for the 1983 and later model-year motor
34 vehicles shall be limited by the following:

35 (a) For all gasoline-powered passenger vehicles prior to the
36 1986 model year, the state board ~~shall~~ *may* not adopt primary
37 standards for the emission of oxides of nitrogen ~~which that~~ are
38 more stringent than 0.7 grams per vehicle mile, unless the state
39 board by regulation also provides for optional standards ~~which~~
40 *that* are not more stringent, with respect to each constituent, than



1 0.39 grams per vehicle mile for nonmethane hydrocarbon, 7.0
2 grams per vehicle mile for carbon monoxide, and 0.7 grams per
3 vehicle mile for oxides of nitrogen. ~~For~~

4 (b) *For* gasoline-powered light-duty vehicles and
5 medium-duty vehicles prior to the 1986 model year of less than
6 4,000 pounds unladen weight, the state board ~~shall~~ *may* not adopt
7 primary standards for the emission of oxides of nitrogen ~~which~~
8 *that* are more stringent than 1.0 gram per vehicle mile, unless the
9 state board by regulation also provides for optional standards
10 ~~which~~ *that* are not more stringent, with respect to each constituent,
11 than 0.39 grams per vehicle mile for nonmethane hydrocarbon, 9.0
12 grams per vehicle mile for carbon monoxide, and 1.0 gram per
13 vehicle mile for oxides of nitrogen. ~~Any~~

14 (c) *Any* option may not impose certification, warranty, or
15 enforcement requirements of greater duration or stringency than
16 those set forth in the regulations applicable to 1983 and later model
17 years, as adopted or amended by the state board on May 20, 1981.

18 ~~(b) If the state board intends by regulation to eliminate for 1986~~
19 ~~and later model year vehicles the optional standards specified in~~
20 ~~subdivision (a), the state board shall submit to the Legislature, not~~
21 ~~later than January 15th of the year which is at least two calendar~~
22 ~~years prior to the year in which production would commence of~~
23 ~~vehicles subject to the new standard, a report with an estimate of~~
24 ~~the air quality benefits of the more stringent standard, the~~
25 ~~technological and economic feasibility of requiring the standard,~~
26 ~~and the potential effects on fuel economy associated with the~~
27 ~~standard. The state board shall consult with the Environmental~~
28 ~~Protection Agency and motor vehicle and engine manufacturers~~
29 ~~prior to submitting the air quality and fuel economy estimates.~~

30 *SEC. 13. Section 44100 of the Health and Safety Code is*
31 *amended to read:*

32 44100. The Legislature hereby finds and declares as follows:

33 (a) Emission reduction programs based on market principles
34 have the potential to provide equivalent or superior environmental
35 benefits when compared to existing controls at a lower cost to the
36 citizens of California than traditional emission control
37 requirements.

38 (b) Several studies have demonstrated that a small percentage
39 of light-duty vehicles contribute disproportionately to the on-road
40 emissions inventory. Programs to reduce or eliminate these excess



1 emissions can significantly contribute to the attainment of the
2 state’s air quality goals.

3 (c) Programs to accelerate fleet turnover can enhance the
4 effectiveness of the state’s new motor vehicle standards by
5 bringing more low-emission vehicles into the on-road fleet earlier.

6 (d) The California State Implementation Plan for Ozone (SIP),
7 adopted November 15, 1994, and submitted to the Environmental
8 Protection Agency, calls for added reductions in reactive organic
9 gases (ROG) and oxides of nitrogen (NO_x) from light-duty
10 vehicles by the year 2010. One of the more market-oriented
11 approaches reflected in the SIP, known as the M-1 strategy, calls
12 for accelerating the retirement of older light-duty vehicles in the
13 South Coast Air Quality Management District to achieve the
14 following emission reductions:

15	Emissions, TPD (tons per day)	
16	Year	(ROG + NO _x)
17	1999	9
18	2002	14
19	2005	20
20	2007	22
21	2010	25

22
23
24 (e) A program for achieving those and more emission
25 reductions should be based on the following principles:

26 (1) The first two years should include a thorough assessment of
27 the costs and short-term and long-term emission reduction benefits
28 of the program, compared with other emission reduction programs
29 for light-duty vehicles, ~~which shall be reflected in a report and~~
30 ~~recommendations by the state board to the Governor and the~~
31 ~~Legislature on strategies and funding needs for meeting the~~
32 ~~emission reduction requirements of the M-1 strategy of the 1994~~
33 ~~SIP for the years 1999 to 2010, inclusive.~~

34 (2) The program should first contribute to the achievement of
35 the emission reductions required by the inspection and
36 maintenance program and the M-1 strategy of the 1994 SIP, and
37 should permit the use of mobile source emission reduction credits
38 for other purposes currently authorized by the state board or a
39 district. Remaining credits may be used to achieve other emission
40 reductions, including those required by the 1994 SIP, in a manner



1 consistent with market-based strategies. Emission credits shall not
2 be used to offset emission standards or other requirements for new
3 vehicles, except as authorized by the state board.

4 (3) Participation by the vehicle owner shall be entirely
5 voluntary and the program design should be sensitive to the
6 concerns of car collectors and to consumers for whom older
7 vehicles provide affordable transportation.

8 (4) The program design shall provide for real, surplus, and
9 quantifiable emission reductions, based on an evaluation of the
10 purchased vehicles, taking into account factors that include
11 per-mile emissions, annual miles driven, remaining useful life of
12 retired vehicles, and emissions of the typical or average
13 replacement vehicle, as determined by the state board. The
14 program shall ensure that there is no double counting of emission
15 credits among the various vehicle removal programs.

16 (5) The program should specify the emission reductions
17 required and then utilize the market to ensure that these reductions
18 are obtained at the lowest cost.

19 (6) The program should be privately operated. It should utilize
20 the experience and expertise gained from past successful
21 programs. Existing entities that are authorized by, contracted with,
22 or otherwise sanctioned by a district and approved by the state
23 board and the United States Environmental Protection Agency
24 shall be fully utilized for purposes of implementing this article.
25 Nothing in this paragraph restricts the Department of Consumer
26 Affairs from selecting qualified contractors to operate or
27 administer any program specified pursuant to this chapter.

28 (7) The program should be designed insofar as possible to
29 eliminate any benefit to any participants from vehicle tampering
30 and other forms of cheating. To the extent that tampering and other
31 forms of cheating might be advantageous, the program design
32 shall include provisions for monitoring the occurrence of
33 tampering and other forms of cheating.

34 (8) Emission credits should be expressed in pounds or other
35 units, and their value should be set by the marketplace. Any
36 contract between a public entity and a private party for the
37 purchase of emission credits should be based on a price per pound
38 which reflects the market value of the credit at its time of purchase.
39 Emission reductions required by the M-1 and other strategies of
40 the 1994 SIP shall be accomplished by competitive bid among



1 private businesses solicited by the oversight agency designated
2 pursuant to Section 44105.

3 *SEC. 14. Section 44104.5 of the Health and Safety Code is*
4 *amended to read:*

5 44104.5. (a) The regulations adopted pursuant to subdivision
6 (a) of Section 44101 shall include a plan to guide the execution of
7 the first two years of the program, to assess the results, and to
8 formulate recommendations. The plan shall also verify whether
9 the light-duty vehicle scrapping program included in the state
10 implementation plan adopted on November 15, 1994, can
11 reasonably be expected to yield the required emissions reductions
12 at reasonable cost-effectiveness. Scrapping of any vehicles under
13 this program for program development or testing or for generating
14 emission reductions to be credited against the M-1 strategy of the
15 1994 SIP may proceed before the state board adopts the
16 regulations pursuant to subdivision (a) of Section 44101 or the
17 plan required by this subdivision. The emission credits assigned to
18 these vehicles shall be adjusted as necessary to ensure that those
19 credits are consistent with the credits allowed under the
20 regulations adopted pursuant to Section 44101. The plan shall
21 include a baseline study, for the geographical area or areas
22 representative of those to be targeted by this program and by
23 measure M-1 in the SIP, of the current population of vehicles by
24 model year and market value and the current turnover rate of
25 vehicles, and other factors that may be essential to assessing
26 program effectiveness, cost-effectiveness, and market impacts of
27 the program.

28 ~~(b) At the end of each of the two calendar years after the~~
29 ~~adoption of the program plan, the state board, in consultation with~~
30 ~~the department, shall adopt and publish a progress report~~
31 ~~evaluating each year of the program. These reports shall address~~
32 ~~the following topics for those vehicles scrapped to achieve both the~~
33 ~~M-1 SIP objectives and those vehicles scrapped or repaired to~~
34 ~~generate mobile-source emission reduction credits used for other~~
35 ~~purposes:~~

36 ~~(1) The number of vehicles scrapped or repaired by model year.~~

37 ~~(2) The measured emissions of the scrapped or repaired~~
38 ~~vehicles tested during the report period, using suitable inspection~~
39 ~~and maintenance test procedures.~~



1 ~~(3) Costs of the vehicles in terms of amounts paid to sellers, the~~
2 ~~costs of repair, and the cost effectiveness of scrapping and repair~~
3 ~~expressed in dollars per ton of emissions reduced.~~

4 ~~(4) Administrative and testing costs for the program.~~

5 ~~(5) Assessments of the replacement vehicles or replacement~~
6 ~~travel by model year or emission levels, as determined from~~
7 ~~interviews, questionnaires, diaries, analyses of vehicle~~
8 ~~registrations in the study region, or other methods as appropriate.~~

9 ~~(6) Assessments of the net emission benefits of scrapping in the~~
10 ~~year reported, considering the scrapped vehicles, the replacement~~
11 ~~vehicles, the effectiveness of repair, and other effects of the~~
12 ~~program on the mix of vehicles and use of vehicles in the~~
13 ~~geographical area of the program, including in-migration of other~~
14 ~~vehicles into the area and any tendencies to increased market value~~
15 ~~of used vehicles and prolonged useful life of existing vehicles, if~~
16 ~~any.~~

17 ~~(7) Assessments of whether the M-1 strategy of the 1994 SIP~~
18 ~~can reasonably be expected to yield the required emission~~
19 ~~reductions.~~

20 ~~(e) Not later than June 30, 1999, and every three years~~
21 ~~thereafter, the state board, in consultation with the department,~~
22 ~~shall evaluate the performance of the programs specified in Article~~
23 ~~9 (commencing with Section 44090) and this article and, based on~~
24 ~~that evaluation, report to the Governor and Legislature. The report~~
25 ~~shall evaluate the overall performance of the program, including~~
26 ~~its cost-effectiveness in terms of dollars per ton of credited or~~
27 ~~reduced emissions, description of the methods and procedures to~~
28 ~~assure that the emission reductions are real, surplus, and~~
29 ~~quantifiable, the extent of the market for eligible vehicles, a~~
30 ~~recommendation for an appropriate allocation of expenditures~~
31 ~~between removal or repair of vehicles that reflects the relative~~
32 ~~cost-effectiveness of the options, and any other recommendation~~
33 ~~for improving the effectiveness of these programs. This report~~
34 ~~shall also contain all of the following:~~

35 (1) Identification of procedures for distinguishing the emission
36 reductions attributed to scrapping for the purpose of generating
37 emission reductions credits and scrapping that occurs or would
38 have occurred as a result of the inspection and maintenance
39 program managed by the Department of Consumer Affairs and
40 other programs.



1 (2) A projection of the emissions reductions and
2 cost-effectiveness that might be realized by scrapping or repairing
3 light-duty vehicles through the year 2010, considering changes
4 expected in the vehicle fleet and likely impacts of scrapping or
5 repair on the mix and emissions of vehicles.

6 (3) A comparison of the effectiveness of scrappage, repair, or
7 upgrade to other programs for light-duty vehicles.

8 (4) A recommended scrapping program, or other more
9 cost-effective means, for continuing to achieve the emissions
10 reductions required by the M-1 strategy of the 1994 State
11 Implementation Plan, considering likely emission reductions in
12 the attainment year costs, cost-effectiveness,, issues of monitoring
13 and verification, and status of the Environmental Protection
14 Agency's approval of the state's 1994 SIP.

15 *SEC. 15.* Division 37 (commencing with Section 57000) of
16 the Health and Safety Code is repealed.

17 ~~*SEC. 9.*~~

18 *SEC. 16.* Section 40507 of the Public Resources Code is
19 amended to read:

20 40507. (a) On or before March 1 of each year, the board shall
21 file an annual report with the Legislature highlighting significant
22 programs or actions undertaken by the board to implement
23 programs pursuant to this division during the prior calendar year.
24 The report shall include, but is not limited to, the information
25 described in subdivision (b).

26 ~~(b) Commencing January 1, 1997, the board shall file annual~~
27 ~~progress reports with the Legislature covering the activities and~~
28 ~~actions undertaken by the board in the prior fiscal year. The board~~
29 ~~shall prepare the progress reports throughout the calendar year, as~~
30 ~~determined by the board, on the following programs:~~

31 ~~(1) The local enforcement agency program.~~

32 ~~(2) The research and development program.~~

33 ~~(3) The public education program.~~

34 ~~(4) The market development program.~~

35 ~~(5) The used oil program.~~

36 ~~(6) The planning and local assistance program.~~

37 ~~(7) The site cleanup program~~ *The following program areas*
38 *shall be discussed in the annual report:*

39 (1) *Solid waste facility monitoring and oversight.*

40 (2) *Diversion and planning.*



- 1 (3) *Market development.*
- 2 (4) *Organics management.*
- 3 (5) *Schools, including, but not limited to, education and*
- 4 *recycling.*
- 5 (6) *State agency recycling and procurement.*
- 6 (7) *Used oil, household hazardous waste, and other special*
- 7 *wastes.*
- 8 (8) *Used tire and waste tire management.*
- 9 (c) *Within each of the program areas listed in subdivision (b),*
- 10 *the board shall report on each of the following when appropriate:*
- 11 (1) *Program participant support efforts.*
- 12 (2) *Interagency and public/private partnerships, and other*
- 13 *cooperative efforts.*
- 14 (3) *Education and outreach efforts.*
- 15 (4) *Grants and loans.*
- 16 (5) *Research and development efforts.*
- 17 (6) *Quantities of materials managed through the program.*
- 18 (7) *Significant accomplishments or obstacle, or both.*
- 19 (8) *Recommendations for program improvement.*
- 20 (d) *The board may also report on other program areas and*
- 21 *activities not listed in subdivisions (b) and (c), including, but not*
- 22 *limited to, efforts undertaken to achieve goals identified in the*
- 23 *board's strategic plan.*
- 24 (e) *The progress report shall specifically include, but is not*
- 25 *limited to, all of the following information:*
- 26 (1) *Pursuant to paragraph (1) of subdivision (b), the status of*
- 27 *the certification and evaluation of local enforcement agencies*
- 28 *pursuant to Chapter 2 (commencing with Section 43200) of Part*
- 29 *4.*
- 30 (2) *Pursuant to paragraph (2) of subdivision (b), all of the*
- 31 *following information:*
- 32 ~~(A) The results of the research and development programs~~
- 33 ~~established pursuant to Chapter 13 (commencing with Section~~
- 34 ~~42650) of Part 3.~~
- 35 ~~(B)~~ *A report on information and activities associated with the*
- 36 *establishment of the Plastics Recycling Information*
- 37 *Clearinghouse, pursuant to Section 42520.*
- 38 ~~(C)~~
- 39 (B) *A report on the progress in implementing the monitoring*
- 40 *and control program for the subsurface migration of landfill gas*



1 established pursuant to Section 43030, including
2 recommendations, as needed, to improve the program.

3 ~~(D) A report on the comparative costs and benefits of the~~
4 ~~recycling or conversion processes for waste tires funded pursuant~~
5 ~~to Chapter 17 (commencing with Section 42860) of Part 3.~~

6 (3) Pursuant to paragraph ~~(3)~~ (2) of subdivision (b), all of the
7 following information:

8 ~~(A) A review of actions taken by the board to educate and~~
9 ~~inform individuals and public and private sector entities who~~
10 ~~generate solid waste on the importance of source reduction,~~
11 ~~recycling, and composting of solid waste, and recommendations~~
12 ~~for administrative or legislative actions which will inform and~~
13 ~~educate these parties.~~

14 ~~(B) A report on the effectiveness of the public information~~
15 ~~program required to be implemented pursuant to Chapter 12~~
16 ~~(commencing with Section 42600) of Part 3, including~~
17 ~~recommendations on administrative and legislative changes to~~
18 ~~improve the program.~~

19 ~~(C) A report on the status and effectiveness of school district~~
20 ~~source reduction and recycling programs implemented pursuant to~~
21 ~~Chapter 12.5 (commencing with Section 42620) of Part 3,~~
22 ~~including recommendations on administrative and legislative~~
23 ~~changes to improve the program's effectiveness.~~

24 ~~(D) A report on the effectiveness of the integrated waste~~
25 ~~management educational program and teacher training plan~~
26 ~~implemented pursuant to Section 42603, including~~
27 ~~recommendations on administrative and legislative changes which~~
28 ~~will improve the program.~~

29 ~~(E) A~~ a summary of available and wanted materials, a profile
30 of the participants, and the amount of waste diverted from disposal
31 sites as a result of the California Materials Exchange Program
32 established pursuant to subdivision (a) of Section 42600.

33 (4) Pursuant to paragraph ~~(4)~~ (3) of subdivision (b), all of the
34 following information:

35 (A) A review of market development strategies undertaken by
36 the board pursuant to this division to ensure that markets exist for
37 materials diverted from solid waste facilities, including
38 recommendations for administrative and legislative actions which
39 will promote expansion of those markets. The recommendations
40 shall include, but not be limited to, all of the following:



- 1 ~~(i) Recommendations~~ *recommendations* for actions to develop
2 more direct liaisons with private manufacturing industries in the
3 state to promote increased utilization of recycled feedstock in
4 manufacturing processes.
- 5 ~~(ii) Recommendations for actions which can be taken to assist~~
6 ~~local governments in the inclusion of recycling activities in county~~
7 ~~overall economic development plans.~~
- 8 ~~(iii) Recommendations for actions to utilize available financial~~
9 ~~resources for expansion of recycling industry capacity.~~
- 10 ~~(iv) Recommendations to improve state, local, and private~~
11 ~~industry product and material procurement practices.~~
- 12 ~~(B) Development and implementation of a program to assist~~
13 ~~local agencies in the identification of markets for materials that are~~
14 ~~diverted from disposal facilities through source reduction,~~
15 ~~recycling, and composting pursuant to Section 40913.~~
- 16 ~~(C) A report on the Recycling Market Development Zone Loan~~
17 ~~Program provided for in subdivision (c) of Section 42010),~~
18 ~~pursuant to subdivision (f) of Section 42010.~~
- 19 ~~(D) A report on implementation of the Compost Market~~
20 ~~Program pursuant to Chapter 5 (commencing with Section 42230)~~
21 ~~of Part 3.~~
- 22 ~~(E) A report on the progress in developing and implementing~~
23 ~~the comprehensive Market Development Plan, pursuant to Article~~
24 ~~2 of Chapter 1 (commencing with Section 42005) of Part 3.~~
- 25 ~~(F) The number of retreaded tires purchased by the Department~~
26 ~~of General Services during the prior fiscal year pursuant to Section~~
27 ~~42414.~~
- 28 ~~(G) The results of the study performed in consultation with the~~
29 ~~Department of General Services pursuant to Section 42416 to~~
30 ~~determine if tire retreads, procured by the department, have met all~~
31 ~~quality and performance criteria of a new tire, including any~~
32 ~~recommendations to expand, revise, or curtail the program.~~
- 33 ~~(H) The number of recycled lead-acid batteries purchased~~
34 ~~during the prior fiscal year by the Department of General Services~~
35 ~~pursuant to Section 42443.~~
- 36 ~~(I) A list of established price preferences for recycled paper~~
37 ~~products for the prior fiscal year pursuant to paragraph (1) of~~
38 ~~subdivision (c) of the Public Contract Code.~~



- 1 ~~(J) A report on the implementation of the white office paper~~
 2 ~~recovery program pursuant to Chapter 10 (commencing with~~
 3 ~~Section 42560) of Part 3.~~
 4 (5) Pursuant to paragraph ~~(5)~~ (7) of subdivision (b), both of the
 5 following information:
 6 (A) A report on the annual audit of the used oil recycling
 7 program established pursuant to Chapter 4 (commencing with
 8 Section 48600) of Part 7.
 9 (B) A summary of industrial and lubricating oil sales and
 10 recycling rates, the results of programs funded pursuant to Chapter
 11 4 (commencing with Section 48600) of Part 7, recommendations,
 12 if any, for statutory changes to the program, including changes in
 13 the amounts of the payment required by Section 48650 and the
 14 recycling incentive, and plans for present and future programs to
 15 be conducted over the next two years.
 16 (6) Pursuant to paragraph (6) of subdivision (b), ~~all of the~~
 17 ~~following information:~~
 18 ~~(A) The development by the board of the model countywide or~~
 19 ~~regional siting element and model countywide or regional agency~~
 20 ~~integrated waste management plan pursuant to Section 40912,~~
 21 ~~including its effectiveness in assisting local agencies.~~
 22 ~~(B) The adoption by the board of a program to provide~~
 23 ~~assistance to cities, counties, or regional agencies in the~~
 24 ~~development and implementation of source reduction programs~~
 25 ~~pursuant to subdivision (b) of Section 40912.~~
 26 ~~(C) The development by the board of model programs and~~
 27 ~~materials to assist rural counties and cities in preparing city and~~
 28 ~~county source reduction and recycling elements pursuant to~~
 29 ~~Section 40914.~~
 30 ~~(D) A report on the number of tires that are recycled or~~
 31 ~~otherwise diverted from disposal in landfills or stockpiles.~~
 32 ~~(E) A report on the development and implementation of~~
 33 ~~recommendations, with proposed implementing regulations, for~~
 34 ~~providing technical assistance to counties and cities that meet~~
 35 ~~criteria specified in Section 41782, so that those counties and cities~~
 36 ~~will be able to meet the objectives of this division. The~~
 37 ~~recommendations shall, among other things, address both of the~~
 38 ~~following matters:~~
 39 ~~(i) Assistance in developing methods of raising revenue at the~~
 40 ~~local level to fund rural integrated waste management programs.~~



1 ~~(ii) Assistance in developing alternative methods of source~~
2 ~~reduction, recycling, and composting of solid waste suitable for~~
3 ~~rural local governments.~~

4 ~~(F) A~~ report on the status and implementation of the “Buy
5 Recycled” program established pursuant to subdivision (d) of
6 Section 42600, including the waste collection and recycling
7 programs established pursuant to Sections 12164.5 and 12165 of
8 the Public Contract Code.

9 (7) Pursuant to paragraph (7) of subdivision (b), a description
10 of sites cleaned up under the Solid Waste Disposal and Codisposal
11 Site Cleanup Program established pursuant to Article 2.5
12 (commencing with Section 48020) of Chapter 2 of Part 7, a
13 description of remaining sites where there is no responsible party
14 or the responsible party is unable or unwilling to pay for cleanup,
15 and recommendations for any needed legislative changes.

16 *SEC. 17.* Part 1 (commencing with Section 70500) is added
17 to Division 34 of the Public Resources Code, to read:

18
19 PART 1. CALIFORNIA ENVIRONMENTAL PROTECTION
20 AGENCY

21
22 CHAPTER 1. ORGANIZATION

23
24 70500. For purposes of this part, the following terms have the
25 following meaning:

26 (a) “Agency” means the California Environmental Protection
27 Agency.

28 (b) “Council” means the California Environmental Policy
29 Council, established by Section 71017.

30 (c) “Secretary” means the Secretary for Environmental
31 Protection.

32 70501. The Governor may, with respect to the California
33 Environmental Protection Agency, appoint not more than three
34 deputies to the Secretary for Environmental Protection. Each
35 deputy secretary shall hold office at the pleasure of the secretary,
36 and shall receive a salary established by the secretary with the
37 approval of the Department of Personnel Administration.

38 70502. (a) One of the deputies to the secretary shall be a
39 deputy secretary for law enforcement and counsel, who, subject to



1 the direction and supervision of the secretary, shall have the
2 responsibility and authority to do all of the following:

3 (1) Develop a program to ensure that the board, departments,
4 offices, and other agencies that implement laws or regulations
5 within the jurisdiction of the agency take consistent, effective, and
6 coordinated compliance and enforcement actions to protect public
7 health and the environment. The program shall include training
8 and cross-training of inspection and enforcement personnel of
9 those boards, departments, offices, or other agencies to ensure
10 consistent, effective, and coordinated enforcement.

11 (2) In consultation with the Attorney General, establish a
12 cross-media enforcement unit to assist a board, department, office,
13 or other agency that implements a law or regulation within the
14 jurisdiction of the agency, to investigate and prepare matters for
15 enforcement action in order to protect public health and the
16 environment. The unit may inspect and investigate a violation of
17 a law or regulation within the jurisdiction of such board,
18 department, office, or other agency, including a violation
19 involving more than one environmental medium and a violation
20 involving the jurisdiction of more than one such board,
21 department, office, or agency. The unit shall exercise its authority
22 consistent with the authority granted to the head of a department
23 pursuant to Article 2 (commencing with Section 11180) of Chapter
24 2 of Part 1 of Division 3 of Title 2 of the Government Code.

25 (3) Refer a violation of a law or regulation within the
26 jurisdiction of a board, department, office, or other agency that
27 implements a law or regulation within the jurisdiction of the
28 agency to the Attorney General, a district attorney, or city attorney
29 for the filing of a civil or criminal action.

30 (4) Exercise the authority granted pursuant to paragraph (3)
31 only after providing notice to the board, department, office, or
32 other agency unless the secretary determines that notice would
33 compromise an investigation or enforcement action.

34 (b) Nothing in this section shall authorize the deputy secretary
35 for law enforcement and counsel to duplicate, overlap,
36 compromise, or otherwise interfere with an investigation or
37 enforcement action undertaken by a board, department, office, or
38 other agency that implements a law or regulation subject to the
39 jurisdiction of the agency.



1 (c) The secretary shall report annually to the Governor and the
2 Legislature on the implementation of this section.

3 70503. One of the deputies to the secretary shall be a deputy
4 secretary for external affairs who shall provide public outreach,
5 communication to individuals and communities impacted by
6 permitted activities, and technical support to businesses subject to
7 regulation by one or more boards, departments, or offices within
8 the agency.

9

10 CHAPTER 2. SPECIFIC POWERS

11

12 70600. The secretary shall develop and implement a policy to
13 ensure that the budget of the agency and each of its boards,
14 departments, and offices considers and addresses cross-media
15 environmental issues.

16 70605. On or before January 1, 2004, the secretary shall
17 develop and adopt an agency information technology and
18 information management policy that is consistent with the policies
19 and requirements of Chapter 7 (commencing with Section 11700)
20 of Division 3 of Title 2 of the Government Code and with Part 1.3
21 (commencing with Section 71050) of that code. The policy shall
22 address the feasibility of using standardized data and electronic
23 reporting by all boards, departments, and offices within the
24 agency.

25 70615. (a) The Governor, utilizing the staff and resources of
26 state agencies, shall transmit to the Legislature, not later than
27 March 15 of each year, an environmental report designated as the
28 “Environmental Report of the Governor” setting forth all of the
29 following:

30 (1) A review of environmental developments during the
31 preceding calendar year, including trends in air quality, water
32 quality, solid waste, the generation and disposal of hazardous
33 waste, population growth, the growth in number of vehicles,
34 depletion of natural resources, and other indicators of
35 environmental quality and pollution.

36 (2) Forecasts of trends in major indicators of environmental
37 quality, resource depletion, and pollution.

38 (3) Insofar as possible within existing resources, an evaluation
39 of the economic and human health costs of resource depletion,
40 pollution, and changes in environmental quality.



1 (4) Additional material on the California environment that is
2 pertinent and of interest, with historical analysis and future
3 projections whenever possible.

4 (5) Summaries of state policies and actions that relate to
5 environmental developments and trends.

6 (6) A status update on the California Environmental
7 Technology Program established pursuant to Section 70616.

8 (b) In conjunction with the environmental report, the Governor
9 shall present an environmental message reviewing significant
10 environmental achievements of the past year, outlining problem
11 areas, and defining environmental policy, and shall make
12 recommendations as may be appropriate for programs to decrease
13 pollution, improve environmental quality, and protect natural
14 resources.

15 70616. (a) The agency, using existing resources, and in
16 consultation with other relevant agencies in state and local
17 government, shall do all of the following:

18 (1) Establish an environmental technologies clearinghouse,
19 which shall include, but not be limited to, maintaining information
20 on California-based environmental technology companies and
21 information on funding sources for environmental technology
22 endeavors and making this information available to interested
23 parties.

24 (2) Make available technical assistance within the agency to
25 assist California-based environmental technology companies to
26 improve export opportunities, and to enhance foreign buyers'
27 awareness of, and access to, environmental technologies and
28 services offered by California-based companies. The technical
29 assistance may include, but is not limited to, organizing and
30 leading trade missions, receiving reverse trade missions, referral
31 services, reviewing project opportunities, and notifying
32 California-based companies of export opportunities and trade
33 shows.

34 (3) Perform research studies and solicit technical advice to
35 identify international market opportunities for California-based
36 environmental technology companies.

37 (4) Participate in federally and other nonstate funded technical
38 exchange programs, when appropriate, to increase foreign buyers'
39 interest in California's environmental technologies.



1 (5) Coordinate activities in state government, and with the
2 federal government and other countries' governments, to take
3 advantage of trade promotion and financial assistance
4 opportunities available to California-based environmental
5 technology companies.

6 (b) The agency shall report annually to the Legislature the
7 status of the California Environmental Technology Program
8 established pursuant to this section through the Environmental
9 Report of the Governor as provided in Section 70615.

10

11 CHAPTER 3. REGULATION OF ENVIRONMENTAL PROTECTION

12

13 70635. (a) Each office, board, and department within the
14 agency shall implement a fee accountability program for the fees
15 specified in subdivision (d). That fee accountability program shall
16 be designed to encourage more efficient and cost-effective
17 operation of the programs for which the fees are assessed, and shall
18 be designed to ensure that the amount of each fee is not more than
19 is reasonably necessary to fund the efficient operation of the
20 activities or programs for which the fee is assessed.

21 (b) Before implementing the fee accountability program
22 required by this section, each board, department, and office within
23 the agency shall conduct a review of the fees that it assesses, as
24 identified in subdivision (d). The purpose of this review shall be
25 to determine what changes, if any, should be made to all of the
26 following, in order to implement a fee system that accomplishes
27 the purposes set forth in subdivision (a):

28 (1) The amount of the fee.

29 (2) The manner in which the fee is assessed.

30 (3) The management and workload standards of the program or
31 activity for which the fee is assessed.

32 (c) The fee accountability program of each board, department,
33 or office within the agency shall include those elements of the
34 requirements of Section that the secretary determines are
35 appropriate in order to accomplish the purposes set forth in
36 subdivision (a).

37 (d) This section applies to the following fees:

38 (1) The fee assessed pursuant to subdivision (d) of Section
39 13146 of the Food and Agricultural Code to develop data



1 concerning the environmental fate of a pesticide when the
2 registrant fails to provide the required information.

3 (2) The surface impoundment fees assessed pursuant to Section
4 25208.3 of the Health and Safety Code.

5 (3) The fee assessed pursuant to Section 43203 of the Health
6 and Safety Code to recover the costs of the State Air Resources
7 Board in verifying manufacturer compliance on emissions from
8 new vehicles prior to retail sale.

9 (4) The fee assessed pursuant to Section 44380 of the Health
10 and Safety Code to recover the costs of the State Air Resources
11 Board and the Office of Environmental Health Hazard Assessment
12 in implementing and administering the Air Toxics “Hot Spots”
13 Information and Assessment Act of 1987 (Part 6 (commencing
14 with Section 44300) of Division 26 of the Health and Safety Code.

15 (5) The fee assessed pursuant to Section 43212 to recover the
16 costs of the California Integrated Waste Management Board when
17 it assumes the responsibilities of the local enforcement agency.

18 (6) The fee assessed pursuant to Section 43508 to recover the
19 costs of the California Integrated Waste Management Board in
20 reviewing closure plans.

21 (7) The water rights permit fees assessed pursuant to Chapter
22 8 (commencing with Section 1525 of Part 2 of Division 2 of the
23 Water Code.

24 (8) The fee assessed pursuant to subdivision (d) of Section
25 13260 of the Water Code for waste discharge requirements,
26 including, but not limited to, requirements for storm water
27 discharges, and the fee assessed pursuant to subdivision (i) of
28 Section 13260 of the Water Code for National Pollutant Discharge
29 Elimination System permits.

30 (9) The costs assessed pursuant to Section 13304 of the Water
31 Code to recover the costs of the State Water Resources Control
32 Board or the California regional water quality control boards in
33 implementing and enforcing cleanup and abatement orders.

34 (e) If a board, department, or office within the agency
35 determines that the amount of a fee that is fixed in statute should
36 be increased in order to implement a fee accountability system that
37 accomplishes the purposes of subdivision (a), it shall notify the
38 Legislature, and make recommendations concerning appropriate
39 increases in the statutorily fixed fee amount. For fees whose
40 amount is not fixed in statute, the board, department, or office may



1 increase the fee only if it makes written findings in the record that
2 it has implemented a fee accountability program that complies
3 with this section.

4 70636. The agency shall conduct a study by surveying state,
5 regional, and local agencies charged with implementing air
6 quality, water quality, toxics, solid waste, and hazardous waste
7 laws and regulations to determine how much revenue is derived
8 from fines and penalties and to what purposes that revenue is
9 directed. The study should include a review of the extent to which
10 those funds are used to support state, regional, and local agency
11 operations.

12 70637. (a) Before a board, department, or office within the
13 agency adopts chemical risk assessment guidelines or policies for
14 evaluating the toxicity of chemicals or prepares a health evaluation
15 of a chemical that will be used in the regulatory process of another
16 board, department, or office, the board, department, or office shall
17 first convene a public workshop at which the guidelines, policies,
18 or health evaluation may be discussed. The public workshop shall
19 be designed to encourage a constructive dialogue between the
20 scientists employed by the board, department, or office that
21 prepared the proposed guidelines or policies or health evaluation
22 and scientists not employed by that board, department, or office
23 and to evaluate the degree to which the proposed guidelines or
24 policies or health evaluations are based on sound scientific
25 methods, knowledge, and practice. Following the workshop, the
26 agency shall revise the guidelines, policies, or health evaluation,
27 as appropriate, and circulate it for public comment for a period of
28 at least 30 days.

29 (b) In any case in which the guidelines, policies, or health
30 evaluations described in subdivision (a) are proposed, or are being
31 prepared, pursuant to a statutory requirement that specifies a
32 procedure or a time period for carrying out the requirement, the
33 requirements of subdivision (a) do not authorize a delay or a
34 postponement in carrying out the statutory requirement.

35 70638. (a) For purposes of this section, the following terms
36 have the following meaning:

37 (1) "Rule" means either of the following:

38 (A) A regulation, as defined in Section 11342.600 of the
39 Government Code.



1 (B) A policy adopted by the State Water Resources Control
2 Board pursuant to the Porter-Cologne Water Quality Control Act
3 (Division 7 (commencing with Section 13000) of the Water Code)
4 that has the effect of a regulation and that is adopted in order to
5 implement or make effective a statute.

6 (2) “Scientific basis” and “scientific portions” means those
7 foundations of a rule that are premised upon, or derived from
8 empirical data or other scientific findings, conclusions, or
9 assumptions establishing a regulatory level, standard, or other
10 requirement for the protection of public health or the environment.

11 (b) The agency, or a board, department, or office within the
12 agency, shall enter into an agreement with the National Academy
13 of Sciences, the University of California, the California State
14 University, or any similar scientific institution of higher learning,
15 any combination of those entities, or with a scientist or group of
16 scientists of comparable stature and qualifications that is
17 recommended by the President of the University of California, to
18 conduct an external scientific peer review of the scientific basis for
19 any rule proposed for adoption by any board, department, or office
20 within the agency. The scientific basis or scientific portion of a rule
21 adopted pursuant to Chapter 6.6 (commencing with Section
22 25249.5) of Division 20 of the Health and Safety Code or Chapter
23 3.5 (commencing with Section 39650) of Part 2 of Division 26 of
24 the Health and Safety Code shall be deemed to have complied with
25 this section if it complies with the peer review processes
26 established pursuant to these statutes.

27 (c) No person may serve as an external scientific peer reviewer
28 for the scientific portion of a rule if that person participated in the
29 development of the scientific basis or scientific portion of the rule.

30 (d) No board, department, or office within the agency shall take
31 any action to adopt the final version of a rule unless all of the
32 following conditions are met:

33 (1) The board, department, or office submits the scientific
34 portions of the proposed rule, along with a statement of the
35 scientific findings, conclusions, and assumptions on which the
36 scientific portions of the proposed rule are based and the
37 supporting scientific data, studies, and other appropriate materials,
38 to the external scientific peer review entity for its evaluation.

39 (2) The external scientific peer review entity, within the
40 timeframe agreed upon by the board, department, or office and the



1 external scientific peer review entity, prepares a written report that
2 contains an evaluation of the scientific basis of the proposed rule.
3 If the external scientific peer review entity finds that the board,
4 department, or office has failed to demonstrate that the scientific
5 portion of the proposed rule is based upon sound scientific
6 knowledge, methods, and practices, the report shall state that
7 finding, and the reasons explaining the finding, within the
8 agreed-upon timeframe. The board, department, or office may
9 accept the finding of the external scientific peer review entity, in
10 whole, or in part, and may revise the scientific portions of the
11 proposed rule accordingly. If the board, department, or office
12 disagrees with any aspect of the finding of the external scientific
13 peer review entity, it shall explain, and include as part of the
14 rulemaking record, its basis for arriving at such a determination in
15 the adoption of the final rule, including the reasons why it has
16 determined that the scientific portions of the proposed rule are
17 based on sound scientific knowledge, methods, and practices.

18 (e) The requirements of this section do not apply to any
19 emergency regulation adopted pursuant to subdivision (b) of
20 Section 11346.1 of the Government Code.

21 (f) Nothing in this section shall be interpreted to, in any way,
22 limit the authority of a board, department, or office within the
23 agency to adopt a rule pursuant to the requirements of the statute
24 that authorizes or requires the adoption of the rule.

25 70639. (a) (1) Each board, department, and office within the
26 agency, before adopting any major regulation, shall evaluate the
27 alternatives to the requirements of the proposed regulation that are
28 submitted to the board, department, or office pursuant to
29 paragraph (7) of subdivision (a) of Section 11346.5 of the
30 Government Code and consider whether there is a less costly
31 alternative or combination of alternatives that would be equally as
32 effective in achieving increments of environmental protection in
33 a manner that ensures full compliance with statutory mandates
34 within the same amount of time as the proposed regulatory
35 requirements.

36 (2) For purposes of this subdivision, “major regulation”
37 means any regulation that will have an economic impact on the
38 state’s business enterprises in an amount exceeding ten million
39 dollars (\$10,000,000), as estimated by the board, department, or
40 office within the agency proposing to adopt the regulation in the



1 assessment required by subdivision (a) of Section 11346.3 of the
2 Government Code.

3 (b) After consulting with the Secretary of Trade and
4 Commerce, the director or executive officer of each board,
5 department, and office within the agency, and after receiving
6 public comment, the secretary shall adopt guidelines to be
7 followed by each board, department, and office within the agency
8 concerning the methods and procedures to be used in conducting
9 the evaluation required by this section.

10 70640. (a) The agency, and each office, board, and
11 department within the agency, shall institute quality government
12 programs to achieve increased levels of environmental protection
13 and the public's satisfaction through improving the quality,
14 efficiency, and cost-effectiveness of the state programs that
15 implement and enforce state and federal environmental protection
16 statutes. These programs shall be designed to increase the level of
17 environmental protection while expediting decisionmaking and
18 producing cost savings. The secretary shall create an advisory
19 group comprised of state and local government, business,
20 environmental, and consumer representatives experienced in
21 quality management to provide guidance in that effort. The
22 secretary shall develop a model quality management program that
23 local agencies charged with implementing air quality, water
24 quality, toxics, solid waste, and hazardous waste laws and
25 regulations may use at their discretion.

26 (b) The agency, and each board, department, and office within
27 the agency, shall submit a ~~yearly~~ *biennial* report to the Governor
28 and Legislature, as part of the ~~annual~~ budget process, reporting on
29 the extent to which these state agencies have attained their
30 performance objectives, and on their continuous quality
31 improvement efforts.

32 (c) Nothing in this section abrogates any collective bargaining
33 agreement or interferes with any established employee rights.

34 (d) For purposes of this section, "quality government
35 program" means all of the following:

36 (1) A process for obtaining the views of employees, the
37 regulated community, the public, environmental organizations,
38 and governmental officials with regard to the performance, vision,
39 and needs of the agency implementing the quality government
40 program.



1 (2) A process for developing measurable performance
2 objectiveness using the views of the persons and organizations
3 specified in paragraph (1).

4 (3) Processes for continually improving quality and for
5 training agency personnel, using the information obtained from
6 implementing paragraphs (1) and (2).

7
8 CHAPTER 4. ENVIRONMENTAL PERMITS
9

10 70644. The Legislature hereby finds and declares that the
11 agency was established to enhance the state's protection of the
12 environment by, among other things, more effectively
13 coordinating the permit actions of each office department and
14 board, within the agency that issue environmental permits and by
15 ensuring timely responses to applicants for permits in order to
16 reduce costs associated with compliance with the state's
17 environmental protection statutes and programs. It is the intent of
18 this chapter to provide a mechanism by which the agency may
19 further this objective of environmental protection by bringing
20 relevant agencies together to foster the integration of requests for
21 information, promote speedy and cost-effective compliance, and
22 synchronize, to the maximum extent feasible, the environmental
23 permit requirements imposed on applicants by the departments or
24 boards within the agency.

25 70645. For purposes of this chapter, "environmental permit"
26 means any permit issued by the Department of Toxic Substances
27 Control for the storage, treatment, handling, or disposal of
28 hazardous waste, as defined in Section 25117 of the Health and
29 Safety Code, or any waste discharge requirements issued by the
30 State Water Resources Control Board or a California regional
31 water quality control board.

32 70646. (a) At the request of an applicant for more than one
33 environmental permit, the secretary may, using existing staff and
34 budgetary resources, convene a permitting team for the project
35 composed of permit writers and other appropriate personnel from
36 the office, board, or department responsible for review of the
37 project and the issuance of an environmental permit. The
38 permitting team shall identify all statutory and regulatory
39 requirements for the issuance of the environmental permits and
40 provide that information to the applicant in order to facilitate, to

1 the maximum extent feasible, the uniform, consistent, and
2 expeditious processing of environmental permit applications.

3 (b) At the request of the applicant, the secretary may solicit the
4 participation of relevant federal, state, and local agencies on the
5 permitting team to facilitate cooperation, reduce duplication, and
6 assist in conflict resolution.

7 70647. This chapter does not confer any new or additional
8 authority over the issuance of environmental permits on the
9 agency or diminish in any way the existing authority of any other
10 state or local agency.

11 ~~SEC. 10.~~

12 *SEC. 18.* The heading of Part 1 (commencing with Section
13 71000) of Division 34 of the Public Resources Code is amended
14 and renumbered to read:

15
16 PART 1.2. PERMITS

17
18 ~~SEC. 11.~~

19 *SEC. 19.* Section 71040 of the Public Resources Code is
20 amended to read:

21 71040. (a) The Secretary for Environmental Protection shall
22 establish permit assistance centers throughout the state to provide
23 businesses and other entities with assistance in complying with
24 laws and regulations implemented by every board, department,
25 and office within the California Environmental Protection
26 Agency. Each permit assistance center shall, to the extent feasible,
27 incorporate permit assistance activities of local and federal entities
28 and of other entities of the state into its operations.

29 (b) In addition to the centers authorized pursuant to subdivision
30 (a), the secretary shall establish an electronic online permit
31 assistance center through the Internet. The electronic online
32 permit assistance center shall be available for use by any business
33 or other entity subject to a law or regulation implemented by a
34 board, department, or office within the California Environmental
35 Protection Agency, and shall provide a business or other entity
36 with assistance in complying with those laws and regulations. The
37 center, which shall be called the “California Government-On Line
38 to Desktops” or “CALGOLD” program, shall provide special
39 software, “hotlinks” and other online resources and tools that may
40 be used by a business or other entity to streamline and expedite



1 compliance with laws and regulations implemented by a board,
2 department, or office within the California Environmental
3 Protection Agency. The CALGOLD program shall, to the extent
4 feasible, incorporate permit assistance activities of local and
5 federal entities and of other entities of the state into its operations.

6 (c) The Secretary for Environmental Protection shall report
7 ~~annually~~ *biennially*, no later than December 1 with respect to the
8 previous *two* fiscal ~~year~~ *years*, to the Governor and the Legislature
9 on the number of permits issued, expedited, or otherwise
10 streamlined by each center; the number and types of businesses
11 assisted by each center; and how the assistance provided to
12 businesses has improved environmental protection. The secretary,
13 in consultation with the Secretary of the *Technology*, Trade and
14 Commerce Agency, shall report on the permit assistance activities
15 of both agencies and shall make recommendations to ensure that
16 these activities are coordinated and nonduplicative.

17 *SEC. 20.* The heading of Part 2 (commencing with Section
18 71050) of Division 34 of the Public Resources Code is amended
19 and renumbered to read:

20

21 PART 1.3. ENVIRONMENTAL DATA REPORTING

22

23 *SEC. 21.* *Section 13350 of the Water Code is amended to read:*

24 13350. (a) Any person who (1) intentionally or negligently
25 violates any cease and desist order or cleanup and abatement order
26 hereafter issued, reissued, or amended by a regional board or the
27 state board, or (2) in violation of any waste discharge requirement,
28 waiver condition, certification, or other order or prohibition
29 issued, reissued, or amended by a regional board or the state board,
30 intentionally or negligently discharges waste, or causes or permits
31 waste to be deposited where it is discharged, into the waters of the
32 state, and creates a condition of pollution or nuisance, or (3) causes
33 or permits any oil or any residuary product of petroleum to be
34 deposited in or on any of the waters of the state, except in
35 accordance with waste discharge requirements or other provisions
36 of this division, shall be liable civilly in accordance with
37 subdivision (d) or (e).

38 (b) (1) Any person who, without regard to intent or
39 negligence, causes or permits any hazardous substance to be
40 discharged in or on any of the waters of the state where it creates



1 a condition of pollution or nuisance, except in accordance with
2 waste discharge requirements or other provisions of this division,
3 shall be strictly liable civilly in accordance with subdivision (d) or
4 (e).

5 (2) For purposes of this subdivision, the term “discharge”
6 includes only those discharges for which Section 13260 directs
7 that a report of waste discharge shall be filed with the regional
8 board.

9 (3) For purposes of this subdivision, the term “discharge” does
10 not include any emission excluded from the applicability of
11 Section 311 of the Clean Water Act (33 U.S.C. Sec. 1321) pursuant
12 to Environmental Protection Agency regulations interpreting
13 Section 311(a)(2) of the Clean Water Act (33 U.S.C. Sec.
14 1321(a)(2)).

15 (c) There shall be no liability under subdivision (b) if the
16 discharge is caused solely by any one or combination of the
17 following:

18 (1) An act of war.

19 (2) An unanticipated grave natural disaster or other natural
20 phenomenon of an exceptional, inevitable, and irresistible
21 character, the effects of which could not have been prevented or
22 avoided by the exercise of due care or foresight.

23 (3) Negligence on the part of the state, the United States, or any
24 department or agency thereof; provided, that this paragraph shall
25 not be interpreted to provide the state, the United States, or any
26 department or agency thereof a defense to liability for any
27 discharge caused by its own negligence.

28 (4) An intentional act of a third party, the effects of which could
29 not have been prevented or avoided by the exercise of due care or
30 foresight.

31 (5) Any other circumstance or event which causes the
32 discharge despite the exercise of every reasonable precaution to
33 prevent or mitigate the discharge.

34 (d) The court may impose civil liability either on a daily basis
35 or on a per gallon basis, but not both.

36 (1) The civil liability on a daily basis may not exceed fifteen
37 thousand dollars (\$15,000) for each day the violation occurs.

38 (2) The civil liability on a per gallon basis may not exceed
39 twenty dollars (\$20) for each gallon of waste discharged.



1 (e) The state board or a regional board may impose civil
2 liability administratively pursuant to Article 2.5 (commencing
3 with Section 13323) of Chapter 5 either on a daily basis or on a per
4 gallon basis, but not both.

5 (1) The civil liability on a daily basis may not exceed five
6 thousand dollars (\$5,000) for each day the violation occurs.

7 (A) When there is a discharge, and a cleanup and abatement
8 order is issued, except as provided in subdivision (f), the civil
9 liability shall not be less than five hundred dollars (\$500) for each
10 day in which the discharge occurs and for each day the cleanup and
11 abatement order is violated.

12 (B) When there is no discharge, but an order issued by the
13 regional board is violated, except as provided in subdivision (f),
14 the civil liability shall not be less than one hundred dollars (\$100)
15 for each day in which the violation occurs.

16 (2) The civil liability on a per gallon basis may not exceed ten
17 dollars (\$10) for each gallon of waste discharged.

18 (f) A regional board may not administratively impose civil
19 liability in accordance with paragraph (1) of subdivision (e) in an
20 amount less than the minimum amount specified, unless the
21 regional board makes express findings setting forth the reasons for
22 its action based upon the specific factors required to be considered
23 pursuant to Section 13327.

24 (g) The Attorney General, upon request of a regional board or
25 the state board, shall petition the superior court to impose, assess,
26 and recover such sums. Except in the case of a violation of a cease
27 and desist order, a regional board or the state board shall make such
28 request only after a hearing, with due notice of the hearing given
29 to all affected persons. In determining such amount, the court shall
30 be subject to Section 13351.

31 (h) The provisions of Article 3 (commencing with Section
32 13330) and Article 6 (commencing with Section 13360) of this
33 chapter shall apply to proceedings to impose, assess, and recover
34 an amount pursuant to this article.

35 (i) Any person who incurs any liability established under this
36 section shall be entitled to contribution for such liability from any
37 third party, in an action in the superior court and upon proof that
38 the discharge was caused in whole or in part by an act or omission
39 of the third party, to the extent that the discharge is caused by the



1 act or omission of the third party, in accordance with the principles
2 of comparative fault.

3 (j) Remedies under this section are in addition to, and do not
4 supersede or limit, any and all other remedies, civil or criminal,
5 except that no liability shall be recoverable under subdivision (b)
6 for any discharge for which liability is recovered under Section
7 13385.

8 (k) The state board shall ~~submit an annual report to the~~
9 ~~Legislature which shall be available to the public, list~~ *make*
10 *available on its public Internet Web site information that lists* all
11 instances in which civil liability has been administratively
12 imposed by a regional board in accordance with subdivision (e)
13 during the preceding year, and indicate the maximum amount of
14 liability which could have been imposed and the amount actually
15 imposed in each instance.

16 *SEC. 22. Section 13369 of the Water Code is amended to read:*

17 13369. (a) (1) On or before February 1, 2001, the state
18 board, in consultation with the regional boards, the California
19 Coastal Commission, and other appropriate state agencies and
20 advisory groups, as necessary, shall prepare a detailed program for
21 the purpose of implementing the state's nonpoint source
22 management plan. The board shall address all applicable
23 provisions of the Clean Water Act, including Section 319 (33
24 U.S.C. Sec. 1329), as well as Section 6217 of the federal Coastal
25 Zone Act Reauthorization Amendments of 1990 (16 U.S.C. Sec.
26 1455b), and this division in the preparation of this detailed
27 implementation program.

28 (2) (A) The program shall include all of the following
29 components:

30 (i) Nonregulatory implementation of best management
31 practices.

32 (ii) Regulatory-based incentives for best management
33 practices.

34 (iii) The adoption and enforcement of waste discharge
35 requirements that will require the implementation of best
36 management practices.

37 (B) In connection with its duties under this subdivision to
38 prepare and implement the state's nonpoint source management
39 plan, the state board shall develop, on or before February 1, 2001,
40 guidance to be used by the state board and the regional boards for



1 the purpose of describing the process by which the state board and
2 the regional boards will enforce the state’s nonpoint source
3 management plan, pursuant to this division.

4 (C) The adoption of the guidance developed pursuant to this
5 section is not subject to Chapter 3.5 (commencing with Section
6 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

7 (b) Notwithstanding Section 7550.5 of the Government Code,
8 and in consultation with the California Coastal Commission and
9 other appropriate agencies, as necessary, the state board, on or
10 before ~~August 1~~ *December 31* of each year, shall ~~submit to the~~
11 ~~Legislature, and make available to the public,~~ *make available on*
12 *its public Internet Web site* both of the following:

13 (1) Copies of all state and regional board reports that contain
14 information related to nonpoint source pollution and that the state
15 or regional boards were required to prepare in the previous fiscal
16 year pursuant to Sections 303, 305(b), and 319 of the Clean Water
17 Act (33 U.S.C. Secs. 1313, 1315(b), and 1329), Section 6217 of
18 the federal Coastal Zone Act Reauthorization Amendments of
19 1990 (16 U.S.C. Sec. 1455b), related regulations, and this
20 division.

21 (2) A summary of information related to nonpoint source
22 pollution that is set forth in the reports described pursuant to
23 paragraph (1) including, but not limited to, summaries of both of
24 the following:

25 (A) Information that is related to nonpoint source pollution and
26 that is required to be included in reports prepared pursuant to
27 Section 305(b) of the Clean Water Act (33 U.S.C. 1315(b)).

28 (B) Information that is required to be in reports prepared
29 pursuant to Section 319(h)(11) of the Clean Water Act (33 U.S.C.
30 Sec. 1329(h)(11)).

31 *SEC. 23. Section 13385 of the Water Code is amended to read:*

32 13385. (a) Any person who violates any of the following
33 shall be liable civilly in accordance with this section:

34 (1) Section 13375 or 13376.

35 (2) Any waste discharge requirements or dredged and fill
36 material permit.

37 (3) Any requirements established pursuant to Section 13383.

38 (4) Any order or prohibition issued pursuant to Section 13243
39 or Article 1 (commencing with Section 13300) of Chapter 5, if the



1 activity subject to the order or prohibition is subject to regulation
2 under this chapter.

3 (5) Any requirements of Section 301, 302, 306, 307, 308, 318,
4 or 405 of the Clean Water Act, as amended.

5 (6) Any requirement imposed in a pretreatment program
6 approved pursuant to waste discharge requirements issued under
7 Section 13377 or approved pursuant to a permit issued by the
8 administrator.

9 (b) Civil liability may be imposed by the superior court in an
10 amount not to exceed the sum of both of the following:

11 (1) Twenty-five thousand dollars (\$25,000) for each day in
12 which the violation occurs.

13 (2) Where there is a discharge, any portion of which is not
14 susceptible to cleanup or is not cleaned up, and the volume
15 discharged but not cleaned up exceeds 1,000 gallons, an additional
16 liability not to exceed twenty-five dollars (\$25) multiplied by the
17 number of gallons by which the volume discharged but not cleaned
18 up exceeds 1,000 gallons.

19 The Attorney General, upon request of a regional board or the
20 state board, shall petition the superior court to impose the liability.

21 (c) Civil liability may be imposed administratively by the state
22 board or a regional board pursuant to Article 2.5 (commencing
23 with Section 13323) of Chapter 5 in an amount not to exceed the
24 sum of both of the following:

25 (1) Ten thousand dollars (\$10,000) for each day in which the
26 violation occurs.

27 (2) Where there is a discharge, any portion of which is not
28 susceptible to cleanup or is not cleaned up, and the volume
29 discharged but not cleaned up exceeds 1,000 gallons, an additional
30 liability not to exceed ten dollars (\$10) multiplied by the number
31 of gallons by which the volume discharged but not cleaned up
32 exceeds 1,000 gallons.

33 (d) For purposes of subdivisions (b) and (c), the term
34 “discharge” includes any discharge to navigable waters of the
35 United States, any introduction of pollutants into a publicly owned
36 treatment works, or any use or disposal of sewage sludge.

37 (e) In determining the amount of any liability imposed under
38 this section, the regional board, the state board, or the superior
39 court, as the case may be, shall take into account the nature,
40 circumstances, extent, and gravity of the violation or violations,



1 whether the discharge is susceptible to cleanup or abatement, the
2 degree of toxicity of the discharge, and, with respect to the
3 violator, the ability to pay, the effect on its ability to continue its
4 business, any voluntary cleanup efforts undertaken, any prior
5 history of violations, the degree of culpability, economic benefit
6 or savings, if any, resulting from the violation, and other matters
7 that justice may require. At a minimum, liability shall be assessed
8 at a level that recovers the economic benefits, if any, derived from
9 the acts that constitute the violation.

10 (f) For purposes of this section, a single operational upset that
11 leads to simultaneous violations of more than one pollutant
12 parameter shall be treated as a single violation.

13 (g) Remedies under this section are in addition to, and do not
14 supersede or limit, any other remedies, civil or criminal, except
15 that no liability shall be recoverable under Section 13261, 13265,
16 13268, or 13350 for violations for which liability is recovered
17 under this section.

18 (h) (1) Notwithstanding any other provision of this division,
19 and except as provided in subdivisions (j) and (k), a mandatory
20 minimum penalty of three thousand dollars (\$3,000) shall be
21 assessed for the first serious violation and each additional serious
22 violation in any period of six consecutive months, except that if no
23 serious violation has occurred in the prior six months, the state
24 board or regional board, in lieu of assessing the penalty applicable
25 to the first serious violation, may elect to require the discharger to
26 spend an amount equal to the penalty for a supplemental
27 environmental project in accordance with the enforcement policy
28 of the state board and any applicable guidance document, or to
29 develop a pollution prevention plan. If the state board or regional
30 board elects to require the discharger to carry out a supplemental
31 environmental project or develop a pollution prevention plan
32 pursuant to this subdivision, a mandatory minimum penalty of
33 three thousand dollars (\$3,000) shall be assessed for each
34 additional serious violation in the six-month period that began
35 with the violation that was waived in lieu of the supplemental
36 environmental project or pollution prevention plan.

37 (2) For the purposes of this section, the following terms have
38 the following meanings:

39 (A) A “serious violation” means any waste discharge that
40 exceeds the effluent limitations contained in the applicable waste



1 discharge requirements for a Group II pollutant, as specified in
2 Appendix A to Section 123.45 of Title 40 of the Code of Federal
3 Regulations, by 20 percent or more or for a Group I pollutant, as
4 specified in Appendix A to Section 123.45 of Title 40 of the Code
5 of Federal Regulations, by 40 percent or more.

6 (B) A “supplemental environmental project” means an
7 environmentally beneficial project that a person agrees to
8 undertake, with the approval of the regional board, that would not
9 be undertaken in the absence of an enforcement action under
10 Section 13385.

11 (C) A “period of six consecutive months” means the period
12 beginning on the day following the date on which a serious
13 violation or one of the violations described in subdivision (i)
14 occurs and ending 180 days after that date.

15 (i) Notwithstanding any other provision of this division, and
16 except as provided in subdivisions (j) and (k), a mandatory
17 minimum penalty of three thousand dollars (\$3,000) shall be
18 assessed for each violation whenever the person does any of the
19 following four or more times in any period of six consecutive
20 months, except that the requirement to assess the mandatory
21 minimum penalty shall not be applicable to the first three
22 violations:

23 (1) Exceeds a waste discharge requirement effluent limitation.

24 (2) Fails to file a report pursuant to Section 13260.

25 (3) Files an incomplete report pursuant to Section 13260.

26 (4) Exceeds a toxicity discharge limitation contained in the
27 applicable waste discharge requirements where the waste
28 discharge requirements do not contain pollutant-specific effluent
29 limitations for toxic pollutants.

30 (j) Subdivisions (h) and (i) do not apply to any of the following:

31 (1) A violation caused by one or any combination of the
32 following:

33 (A) An act of war.

34 (B) An unanticipated, grave natural disaster or other natural
35 phenomenon of an exceptional, inevitable, and irresistible
36 character, the effects of which could not have been prevented or
37 avoided by the exercise of due care or foresight.

38 (C) An intentional act of a third party, the effects of which
39 could not have been prevented or avoided by the exercise of due
40 care or foresight.



1 (D) A bypass of a treatment facility located in the County of
2 Los Angeles during the 2001 calendar year if the applicable waste
3 discharge requirements incorporate a provision for the bypass, and
4 that bypass meets the conditions set forth in Section 122.41 (m)(4)
5 of Title 40 of the Code of Federal Regulations and any more
6 stringent conditions incorporated into the waste discharge
7 requirements and the bypass has been approved by the regional
8 board as meeting those conditions.

9 (2) (A) Except as provided in subparagraph (B), a violation of
10 an effluent limitation where the waste discharge is in compliance
11 with either a cease and desist order issued pursuant to Section
12 13301 or a time schedule order issued pursuant to Section 13300,
13 if all of the following requirements are met:

14 (i) The cease and desist order or time schedule order is issued
15 after January 1, 1995, but not later than July 1, 2000, specifies the
16 actions that the discharger is required to take in order to correct the
17 violations that would otherwise be subject to subdivisions (h) and
18 (i), and the date by which compliance is required to be achieved
19 and, if the final date by which compliance is required to be
20 achieved is later than one year from the effective date of the cease
21 and desist order or time schedule order, specifies the interim
22 requirements by which progress toward compliance will be
23 measured and the date by which the discharger will be in
24 compliance with each interim requirement.

25 (ii) The discharger has prepared and is implementing in a
26 timely and proper manner, or is required by the regional board to
27 prepare and implement, a pollution prevention plan that meets the
28 requirements of Section 13263.3.

29 (iii) The discharger demonstrates that it has carried out all
30 reasonable and immediately feasible actions to reduce
31 noncompliance with the waste discharge requirements applicable
32 to the waste discharge and the executive officer of the regional
33 board concurs with the demonstration.

34 (B) Subdivisions (h) and (i) shall become applicable to a waste
35 discharge on the date the waste discharge requirements applicable
36 to the waste discharge are revised and reissued pursuant to Section
37 13380, unless the regional board does all of the following on or
38 before that date:



1 (i) Modifies the requirements of the cease and desist order or
2 time schedule order as may be necessary to make it fully consistent
3 with the reissued waste discharge requirements.

4 (ii) Establishes in the modified cease and desist order or time
5 schedule order a date by which full compliance with the reissued
6 waste discharge requirements shall be achieved. For the purposes
7 of this subdivision, the regional board may not establish this date
8 later than five years from the date the waste discharge
9 requirements were required to be reviewed pursuant to Section
10 13380. If the reissued waste discharge requirements do not add
11 new effluent limitations or do not include effluent limitations that
12 are more stringent than those in the original waste discharge
13 requirements, the date shall be the same as the final date for
14 compliance in the original cease and desist order or time schedule
15 order or five years from the date that the waste discharge
16 requirements were required to be reviewed pursuant to Section
17 13380, whichever is earlier.

18 (iii) Determines that the pollution prevention plan required by
19 clause (ii) of subparagraph (A) is in compliance with the
20 requirements of Section 13263.3 and that the discharger is
21 implementing the pollution prevention plan in a timely and proper
22 manner.

23 (3) A violation of an effluent limitation where the waste
24 discharge is in compliance with either a cease and desist order
25 issued pursuant to Section 13301 or a time schedule order issued
26 pursuant to Section 13300, if all of the following requirements are
27 met:

28 (A) The cease and desist order or time schedule order is issued
29 on or after July 1, 2000, and specifies the actions that the
30 discharger is required to take in order to correct the violations that
31 would otherwise be subject to subdivisions (h) and (i).

32 (B) The regional board finds that, for one of the following
33 reasons, the discharger is not able to consistently comply with one
34 or more of the effluent limitations established in the waste
35 discharge requirements applicable to the waste discharge:

36 (i) The effluent limitation is a new, more stringent, or modified
37 regulatory requirement that has become applicable to the waste
38 discharge after the effective date of the waste discharge
39 requirements and after July 1, 2000, new or modified control
40 measures are necessary in order to comply with the effluent



1 limitation, and the new or modified control measures cannot be
2 designed, installed, and put into operation within 30 calendar days.

3 (ii) New methods for detecting or measuring a pollutant in the
4 waste discharge demonstrate that new or modified control
5 measures are necessary in order to comply with the effluent
6 limitation and the new or modified control measures cannot be
7 designed, installed, and put into operation within 30 calendar days.

8 (iii) Unanticipated changes in the quality of the municipal or
9 industrial water supply available to the discharger are the cause of
10 unavoidable changes in the composition of the waste discharge,
11 the changes in the composition of the waste discharge are the cause
12 of the inability to comply with the effluent limitation, no
13 alternative water supply is reasonably available to the discharger,
14 and new or modified measures to control the composition of the
15 waste discharge cannot be designed, installed, and put into
16 operation within 30 calendar days.

17 (C) The regional board establishes a time schedule for bringing
18 the waste discharge into compliance with the effluent limitation
19 that is as short as possible, taking into account the technological,
20 operational, and economic factors that affect the design,
21 development, and implementation of the control measures that are
22 necessary to comply with the effluent limitation. For the purposes
23 of this subdivision, the time schedule may not exceed five years in
24 length. If the time schedule exceeds one year from the effective
25 date of the order, the schedule shall include interim requirements
26 and the dates for their achievement. The interim requirements shall
27 include both of the following:

28 (i) Effluent limitations for the pollutant or pollutants of
29 concern.

30 (ii) Actions and milestones leading to compliance with the
31 effluent limitation.

32 (D) The discharger has prepared and is implementing in a
33 timely and proper manner, or is required by the regional board to
34 prepare and implement, a pollution prevention plan pursuant to
35 Section 13263.3.

36 (k) In lieu of assessing all or a portion of the mandatory
37 minimum penalties pursuant to subdivisions (h) and (i) against a
38 POTW serving a small community, as defined by subdivision (b)
39 of Section 79084, the state board or the regional board may elect
40 to require the POTW to spend an equivalent amount toward the



1 completion of a compliance project proposed by the POTW, if the
2 state or regional board finds all of the following:

3 (1) The compliance project is designed to correct the violations
4 within five years.

5 (2) The compliance project is in accordance with the
6 enforcement policy of the state board.

7 (3) The POTW has demonstrated that it has sufficient funding
8 to complete the compliance project.

9 (l) The Attorney General, upon request of a regional board or
10 the state board, shall petition the appropriate court to collect any
11 liability or penalty imposed pursuant to this section. Any person
12 who fails to pay on a timely basis any liability or penalty imposed
13 under this section shall be required to pay, in addition to that
14 liability or penalty, interest, attorneys' fees, costs for collection
15 proceedings, and a quarterly nonpayment penalty for each quarter
16 during which the failure to pay persists. The nonpayment penalty
17 shall be in an amount equal to 20 percent of the aggregate amount
18 of the person's penalty and nonpayment penalties that are unpaid
19 as of the beginning of the quarter.

20 (m) Funds collected pursuant to this section shall be deposited
21 in the State Water Pollution Cleanup and Abatement Account.

22 (n) (1) The state board shall report annually to the Legislature
23 regarding its enforcement activities. The reports shall include all
24 of the following:

25 (A) A compilation of the number of violations of waste
26 discharge requirements in the previous year.

27 (B) A record of the formal and informal compliance and
28 enforcement actions taken for each violation.

29 (C) An analysis of the effectiveness of current enforcement
30 policies, including mandatory minimum penalties.

31 (D) Recommendations, if any, necessary for improvements to
32 the enforcement program in the following year.

33 (2) The report shall be submitted to the Chairperson of the
34 Assembly Committee on Environmental Safety and Toxic
35 Materials and the Chairperson of the Senate Committee on
36 Environmental Quality on or before March 1, 2001, and annually
37 thereafter *on or before May 1*.

