

Senate Bill No. 1049

CHAPTER 741

An act to amend Sections 1103 and 1103.2 of the Civil Code, to amend Sections 714, 2536, 2540, 3031, 3031.2, 4654, 6596, 6596.1, 7145, 7147, 7149, 7149.05, 7149.2, 7149.8, 7360, 7360.1, 7361, 7363, 7380, 7852, 7881, 7921, 8032, 8033, 8033.2, 8033.5, 8034, 8035, 8036, 13005, 15101, and 15103 of, to amend the heading of Article 4 (commencing with Section 7360) of Chapter 2 of Part 2 of Division 6 of, to add Section 8039 to, and to repeal Sections 7149.1, 7149.15, 7362, 7852.21, 7852.3, and 7921.5 of, the Fish and Game Code, and to amend Sections 11502.5, 11703, 11704, 11707, 11903, 11904, 12021, 12103, 12104, 12105, 12201, 12202, 12252, 12401, 12404, 12818, 12841, 12841.1, and 14152 of, to add Section 12841.2 to, to repeal Sections 11515 and 11516 of, and to repeal and add Section 12812 of, the Food and Agricultural Code, to amend Section 8589.4 of, and to add Section 8589.5 to, the Government Code, to amend Sections 12975.7 and 12975.8 of, and to add and repeal Section 10089.45 of, the Insurance Code, to amend Section 25534 of, to add Section 25806 to, and to add Article 3.5 (commencing with Section 4138) to Chapter 1 of Part 2 of Division 4 of, the Public Resources Code, to amend Sections 1025.5, 1052, 1228.3, 1845, 2850, 5006, 5107, 6307, 6308, 6309, 13160.1, and 79505.5 of, to add Sections 1031, 2865, and 2868 to, to repeal Sections 1228.8 and 6308.5 of, and to repeal and add Chapter 8 (commencing with Section 1525) of Part 2 of Division 2 of, the Water Code, and to amend Section 1 of Chapter 240 of the Statutes of 2003 relating to resources, and making an appropriation therefor.

[Approved by Governor October 8, 2003. Filed with
Secretary of State October 9, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1049, Committee on Budget and Fiscal Review. Resources.

(1) The California Emergency Services Act requires the Director of the Office of Emergency Services to coordinate the emergency services of all state agencies in connection with a state or local emergency and requires the transferor or a person who is acting as an agent for a transferor of real property that is located within an area of potential flooding shown on an inundation map to disclose that fact to any prospective transferor of the property.

This bill would require local governmental organizations, utilities, or other public or private owner of a dam to submit an inundation map that



delineates potential flood zones that could result in the event of dam failure when the reservoir is at specified capacities and would require the Office of Emergency Services to review the maps to determine whether the maps meet the requirements of these provisions, as specified. The bill would also authorize counties to post a notice identifying the locations of inundation maps.

This bill would also require the office to designate areas within which death or personal injury would, in its determination, result from the partial or total failure of a dam. The bill would authorize the appropriate public safety agencies to adopt emergency procedures, as specified, for the evacuation and control of these areas and would require the office to review and make recommendations concerning the procedures.

(2) Under existing law, the changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services is used as the index to determine an annual rate of increase or decrease in the fees for hunting and fishing licenses, stamps, permits, and tags.

Existing law establishes fees for lifetime sportsman's licenses, guide registration and licenses, hunting licenses, lifetime hunting or sport fishing licenses, wild pig tags, sport fishing ocean enhancement stamps, commercial fishing ocean enhancement validations, sport fishing licenses, abalone report cards, steelhead trout catch report-restoration cards, commercial fishing licenses, commercial boat registrations, and commercial passenger fishing boat licenses.

This bill would establish a new base fee for all of those activities for 2004, and would require those fees to be adjusted annually thereafter according to the index described above.

Existing law establishes a resident sport ocean fishing license upgrade stamp and validation. Existing law establishes a fee for an owner or operator of a vessel with a commercial fishing salmon stamp.

This bill would repeal those provisions.

(3) Existing law sets forth provisions relating to the taking of striped bass in a sport fishery. Those provisions are repealed as of January 1, 2004.

This bill would instead establish provisions relating to sport fishing in the San Francisco bay-delta, including prohibiting a person from sport fishing in the San Francisco bay-delta unless he or she first obtains a bay-delta sport fishing enhancement stamp and affixes that stamp to a valid sport fishing license, except as specified. The bill would set a base fee for that stamp, which fee would be adjusted annually. The bill would provide that fees received for that stamp are to be deposited in a separate account in the Fish and Game Preservation Fund, and would require the Department of Fish and Game to use the funds in that account only for the purposes of the Bay-Delta Sport Fishing Enhancement Program, if



that program is established by the Legislature. Those provisions would be repealed as of January 1, 2009.

Under existing law, violation of the Fish and Game Code is a misdemeanor. By changing the scope of a crime, the bill would impose a state-mandated local program.

(4) Existing law establishes fees for commercial fish business licenses, fish receiver's licenses, marine aquaria receiver's licenses, fisherman's retail licenses, fish processor's licenses, fish wholesaler's licenses, and fish importer's licenses.

This bill would increase the fees for those licenses.

(5) Under existing law, of the money collected from fees for lifetime sportsman's licenses, lifetime hunting licenses, and lifetime sport fishing licenses, \$20 is required to be deposited in the Fish and Game Preservation Fund, and the remaining money into the Lifetime License Trust Account in that fund.

This bill would instead require that \$20 from the initial issuance of those licenses be deposited into the fund, and the remaining money into that account.

Under existing law, the department is required annually to transfer from that account to the fund a certain amount.

This bill would change the amount transferred from the account into the fund.

(6) Existing law imposes a registration and renewal fee on the owner of each aquaculture facility. Existing law imposes a surcharge on that fee if the gross annual sales of aquaculture products exceed a certain amount.

This bill would increase those fees and that surcharge.

(7) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the Department of Fish and Game and the Fish and Game Commission to pay all necessary expenses incurred in carrying out the Fish and Game Code, and to pay the compensation and expenses of the commissioners and employees of the commission. Unless otherwise provided, all money collected under the code is deposited in the fund.

By imposing new duties on the department, and increasing revenues deposited in the fund, the bill would make an appropriation.

(8) Existing law authorizes the Director of Pesticide Regulation to adopt regulations and establish minimum requirements in connection with licenses and certificates pertaining to pesticides. Existing law also specifies various fees for and in connection with various licenses, and certificates, including examinations for the same, renewals, late fees, and other charges in connection thereto.



This bill would instead provide the director with authority to set these fees by regulation, as prescribed. The bill would provide that the fees collected would be deposited in the Department of Pesticide Regulation Fund, and would be available for expenditure by the department, upon appropriation, for the purposes of carrying out various specified pesticide licensing and certification programs. This bill would also make conforming changes to provisions of law in connection with the fees and charges to be set by regulation.

Until July 1, 2004, existing law requires every registrant of a pesticide product to pay the Director of Pesticide Regulation an assessment of 17.5 mills per dollar of sales for all sales by that person of registered pesticides for use in this state. Existing law provides that effective July 1, 2004, and thereafter, the mill assessment rate would be reduced to 9 mills per dollar of sales, for all sales of pesticide for use in this state. Existing law also provides that the director may lower the mill assessment rate, when in addition to other criteria, the director determines that revenues collected would result in a reserve amount greater than \$2.5 million.

This bill would instead provide that from January 1, 2003, through December 31, 2003, the rate would be 17.5 mills. The bill would further provide that for all transactions on or after January 1, 2004, the rate would be set by regulations adopted by the director, but not to exceed 21 mills per dollar of sales. The bill would further provide that if the regulations are not adopted before a payment of the assessment is due, payment would be made at the rate of 17.5 mills and, upon adoption of the regulations, payment of any additional amount would be due and payable. This bill would delete the authority of the director to lower the mill assessment rate, when in addition to other criteria, the director determines that revenues collected would result in a reserve amount greater than \$2.5 million. This bill would provide that the regulations pertaining to the mill assessment rate are deemed emergency regulations, as specified.

Existing law also provides that until July 1, 2004, an additional 3/4 mill assessment may be collected, if necessary, to fund certain duties of the Department of Food and Agriculture, as specified. Existing law also provides for the deposit of these funds and their use, upon appropriation by the Legislature for specified purposes. Existing law provides for the repeal of these provisions on July 1, 2004.

This bill would extend the operation of these provisions indefinitely, by deleting the repeal provisions.

Existing law establishes the Department of Pesticide Regulation and charges it with various duties.



This bill would require the department to create a program to conduct outreach and education for worker safety, environment safety, school safety, and proper pesticide handling and use. The bill would state the intent of the Legislature as to funding from the General Fund in the annual Budget Act or from the Department of Pesticide Regulation for that program.

(9) Under existing law, the Seismic Safety Commission is charged with reporting annually to the Governor and to the Legislature on its findings, progress, and recommendations relating to earthquake hazard reduction.

This bill would create the Seismic Safety Account and would, until July 1, 2007, allow the Legislature to appropriate money in this account for specified purposes. It would, with specified exceptions, require the department to impose an annual assessment on insurers for these purposes, and would allow insurers to recover the amount of this assessment in an equitable fashion from insureds. The bill would require the department to report annually to the Legislature, the commission, and the Department of Finance on the assessment calculation methodology employed.

The bill would provide that, under certain circumstances, the Insurance Fund may loan funds to the Seismic Safety Account, as specified, and would require that any loan be repaid from the assessment described above.

(10) Under existing law, the State Board of Forestry and Fire Protection is required to classify all lands within the state for the purpose of determining areas in which the financial responsibility of preventing and suppressing fires is primarily the responsibility of the state. The prevention and suppression of fires in areas that are not so classified is primarily the responsibility of local or federal agencies.

This bill would impose an annual state responsibility area fire protection benefit fee on each parcel of land located, in whole or in part, within state responsibility areas, except on specified parcels. The bill would provide a fee amount for each parcel. The bill would specify the fees to be imposed for the 2003–04 and 2004–05 fiscal years.

The bill would require counties to collect the fees, as prescribed, thereby imposing a state-mandated local program, and would authorize the counties to increase the benefit fees collected, in an amount to cover their reasonable costs in collecting the fees.

The bill would create the State Responsibility Area Fire Protection Fund and would require the benefit fees collected to be deposited in the fund, to be available, upon appropriation by the Legislature, for fire prevention and suppression services by the Department of Forestry and Fire Protection.



The bill would require the Director of Forestry and Fire Protection, in consultation with specified entities, to convene a stakeholder group to evaluate the method by which fire protection and suppression services in state responsibility areas are provided, and to make a specified report to the Legislature on or before January 1, 2006.

(11) Existing law requires an electric utility to obtain certification from the State Energy Resources Conservation and Development Commission before commencing construction of a thermal powerplant or electric transmission line, with specified exceptions. In order to obtain certification, existing law requires an application for certification of the site and related facility to be filed with the commission, to be in a form and contain information prescribed by the commission, and to be for a site and related facility that has been found to be acceptable by the commission, as specified. Existing law requires that the commission prepare a written decision after a public hearing on an application for certification, which contains specified information.

This bill would require a person who submits to the commission an application for certification for a proposed generating facility to accompany the application with a fee of \$100,000 plus \$250 per megawatt of gross generating capacity of the proposed facility, the total fee not to exceed \$350,000. The bill would require each person who receives certification of a proposed generating facility to pay an annual fee of \$15,000, the first annual payment to be due on the date the bill takes effect, or, for a facility certified on or after the date the bill takes effect, on the date the commission adopts the final decision. The bill would specify that all subsequent payments are due by July 1 of each subsequent year in which the facility retains its certification. The bill would require both fees to be adjusted annually as specified. The bill would not require a fee to accompany an application for certification or an annual fee thereafter for a generating facility that uses a renewable resource, as defined, as its primary fuel or power source. The bill would create the Energy Facility License and Compliance Fund in the State Treasury and would require the above fees received by the commission to be remitted to the Treasurer for deposit in the fund. The bill would require the money in the fund to be expended, upon appropriation by the Legislature, for processing applications for certification and for compliance monitoring.

Existing law authorizes the commission, after one or more hearings, to amend the conditions of, or revoke the certification for, a facility for specified reasons, including that the owner of a project does not start construction of the project within 12 months after the date all permits necessary for the project become final and all administrative and judicial appeals have been resolved. Existing law requires the commission to



extend the start of the construction deadline by an additional 24 months if the owner reimburses the commission's actual cost of licensing the project.

This bill would require the commission to extend the start of the construction deadline for a facility by an additional 24 months if the owner reimburses the commission's actual cost of licensing the project, less the amount paid to the commission with the application for facility certification.

(12) Existing law requires a person applying for a permit to appropriate water to pay a filing fee of \$100 to the State Water Resources Control Board and requires a person applying for a permit to appropriate water for purposes related to the development of certain hydroelectric energy facilities to pay an application fee, in an amount determined by the board, to cover the reasonable costs of the board and the Department of Fish and Game in evaluating and processing the application. Existing law also imposes fees upon a person registering or renewing registration of a small domestic or livestock stockpond use of water.

This bill would repeal those fees and would instead require a person or entity who holds a permit or license to appropriate water and a lessor of leased water to pay an annual fee according to a fee schedule established by the board. The bill would require each person or entity who files specified applications, registrations, petitions, or requests to pay a fee pursuant to a fee schedule established by the board. The bill also would require a person who files a proof of claim who files a notice to extract specified amounts of groundwater to pay a fee. The bill would require the board to establish a fee schedule setting those fees so that the total amount of fees equals that amount necessary to recover costs incurred in connection with those activities, including certain recoverable costs.

The bill would require the board to adopt the fee schedule as an emergency regulation and would provide for the collection and enforcement of those fees, with certain exceptions, in accordance with the Fee Collection Procedures Law. The bill would impose a state-mandated local program by requiring a sheriff or marshal to provide services in performing writs of execution pursuant to the Fee Collection Procedures Law in connection with the collection of certain fees imposed pursuant to the bill's provisions. Because a person who fails to comply with certain provisions of the Fee Collection Procedures Law is subject to a misdemeanor or felony, as applicable, the bill would impose a state-mandated local program by creating a new crime.

The bill would require the fees, expenses, and penalties collected under these fee provisions and other provisions regarding the determination of water rights to be deposited in the Water Rights Fund,



which this bill would establish in the State Treasury. The bill would authorize the board to expend the money in the Water Rights Fund, upon appropriation by the Legislature, for the purposes of administration of the provisions of the bill, payment of certain refunds, and to carry out various provisions of the Water Code.

The bill would provide that these fees and expenses apply to the United States and to Indian tribes, to the extent authorized under federal or tribal law.

The bill would provide that a water lease does not take effect until the first annual fee is paid, and would prohibit the lease from continuing in effect in any subsequent year unless the annual fee for that year is paid.

The bill would provide for the deposit of specified civil and criminal penalties into the Water Rights Fund and would make conforming changes with regard to existing fees.

(13) Existing law establishes fees for dam ownership and operation based on the height of the dam.

This bill would establish those fees based on a fixed rate and height, and would increase those fees. The bill would require the Department of Water Resources to adopt regulations that establish a schedule of fees to cover the department's costs in administering dam safety programs. The bill would impose a penalty on fees received late. The bill would establish the Dam Safety Fund, into which all fees and other specified revenues would be deposited, to be expended, upon appropriation by the Legislature, for the administration of the dam safety program.

(14) Existing law, the Porter-Cologne Water Quality Control Act, authorizes the board to establish a reasonable fee schedule to cover the cost of giving a certificate that is required or authorized by any federal law with respect to the effect of any existing or proposed facility, project, or construction work upon the quality of waters of the state.

This bill would authorize the board to establish a reasonable fee schedule to cover the state board's and the California regional water quality control board's costs incurred in connection with the certificate. The bill would authorize the board to provide for the recovery of specified costs in the fee schedule. The bill would authorize the fee schedule to impose a fee upon a person filing an application for a certificate, or a notice of intent to file an application for a certificate, a person holding a federal permit or license for which a certificate has been issued, and a person required to send a notice of intent to the state board or a regional board to proceed with activity permitted by a general permit.

The bill would require the board, if it adopts a fee schedule, to adopt the fee schedule as emergency regulations. The bill would require any fees collected in connection with certificates for activities involving



hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission to be deposited in the Water Rights Fund.

(15) Under existing law, the term “matching funds” is defined, for purposes of the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, as funds made available by nonstate sources.

This bill would state that, notwithstanding that definition, matching funds for a state agency may include state funds and services.

(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Appropriation: yes.

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

SECTION 1. It is the intent of the Legislature in enacting this act to continue in existence the Dam Inundation Mapping Program in the Office of Emergency Services in order to ensure that the citizens of the state are informed how to best prepare for and respond to natural disasters and other catastrophic events.

SEC. 2. Section 1103 of the Civil Code is amended to read:

1103. (a) Except as provided in Section 1103.1, this article applies to the transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of any real property described in subdivision (c), or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1103.1, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, that is classified as personal property intended for use as a residence, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, that is classified as personal property intended for use



as a residence, if the real property on which the manufactured home or mobilehome is located is real property described in subdivision (c).

(c) This article shall apply to the transactions described in subdivisions (a) and (b) only if the transferor or his or her agent are required by one or more of the following to disclose the property's location within a hazard zone:

(1) A person who is acting as an agent for a transferor of real property that is located within a special flood hazard area (any type Zone "A" or "V") designated by the Federal Emergency Management Agency, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a special flood hazard area if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a special flood hazard area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the special flood hazard area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(2) A person who is acting as an agent for a transferor of real property that is located within an area of potential flooding designated pursuant to Section 8589.5 of the Government Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within an area of potential flooding if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within an inundation area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(3) A transferor of real property that is located within a very high fire hazard severity zone, designated pursuant to Section 51178 of the Public Resources Code, shall disclose to any prospective transferee the fact that the property is located within a very high fire hazard severity zone and is subject to the requirements of Section 51182 if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a very high fire hazard severity zone.

(B) A map that includes the property has been provided to the local agency pursuant to Section 51178 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the local agency.



(4) A person who is acting as an agent for a transferor of real property that is located within an earthquake fault zone, designated pursuant to Section 2622 of the Public Resources Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a delineated earthquake fault zone if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a delineated earthquake fault zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2622 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(5) A person who is acting as an agent for a transferor of real property that is located within a seismic hazard zone, designated pursuant to Section 2696 of the Public Resources Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a seismic hazard zone if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a seismic hazard zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2696 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(6) A transferor of real property that is located within a state responsibility area determined by the board, pursuant to Section 4125 of the Public Resources Code, shall disclose to any prospective transferee the fact that the property is located within a wildland area that may contain substantial forest fire risks and hazards and is subject to the requirements of Section 4291 if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a wildland fire zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 4125 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(d) Any waiver of the requirements of this article is void as against public policy.



SEC. 3. Section 1103.2 of the Civil Code is amended to read:

1103.2. (a) The disclosures required by this article are set forth in, and shall be made on a copy of, the following Natural Hazard Disclosure Statement:

NATURAL HAZARD DISCLOSURE STATEMENT

This statement applies to the following property: _____

The transferor and his or her agent(s) disclose the following information with the knowledge that even though this is not a warranty, prospective transferees may rely on this information in deciding whether and on what terms to purchase the subject property. Transferor hereby authorizes any agent(s) representing any principal(s) in this action to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

The following are representations made by the transferor and his or her agent(s) based on their knowledge and maps drawn by the state and federal governments. This information is a disclosure and is not intended to be part of any contract between the transferee and transferor.

THIS REAL PROPERTY LIES WITHIN THE FOLLOWING HAZARDOUS AREA(S):

A SPECIAL FLOOD HAZARD AREA (Any type Zone "A" or "V") designated by the Federal Emergency Management Agency.

Yes ____ No ____ Do not know and information not available from local jurisdiction ____

AN AREA OF POTENTIAL FLOODING shown on a dam failure inundation map pursuant to Section 8589.5 of the Government Code.

Yes ____ No ____ Do not know and information not available from local jurisdiction ____



A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to Section 51178 or 51179 of the Government Code. The owner of this property is subject to the maintenance requirements of Section 51182 of the Government Code.

Yes ____ No ____

A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125 of the Public Resources Code. The owner of this property is subject to the maintenance requirements of Section 4291 of the Public Resources Code. Additionally, it is not the state’s responsibility to provide fire protection services to any building or structure located within the wildlands unless the Department of Forestry and Fire Protection has entered into a cooperative agreement with a local agency for those purposes pursuant to Section 4142 of the Public Resources Code.

Yes ____ No ____

AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the Public Resources Code.

Yes ____ No ____

A SEISMIC HAZARD ZONE pursuant to Section 2696 of the Public Resources Code.

Yes (Landslide Zone) _____ Yes (Liquefaction Zone) _____
No ____ Map not yet released by
state ____

THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE ASSISTANCE AFTER A DISASTER.

THE MAPS ON WHICH THESE DISCLOSURES ARE BASED ESTIMATE WHERE NATURAL HAZARDS EXIST. THEY ARE NOT DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY WILL BE AFFECTED BY A NATURAL DISASTER. TRANSFEREE(S) AND TRANSFEROR(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS THAT MAY AFFECT THE PROPERTY.



Transferor represents that the information herein is true and correct to the best of the transferor’s knowledge as of the date signed by the transferor.

Signature of Transferor _____ Date _____

Agent represents that the information herein is true and correct to the best of the agent’s knowledge as of the date signed by the agent.

Signature of Agent _____ Date _____

Signature of Agent _____ Date _____

Transferee represents that he or she has read and understands this document.

Signature of Transferee _____ Date _____

(b) If an earthquake fault zone, seismic hazard zone, very high fire hazard severity zone, or wildland fire area map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a natural hazard area, the transferor or transferor’s agent shall mark “Yes” on the Natural Hazard Disclosure Statement. The transferor or transferor’s agent may mark “No” on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1103.4 that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the transferor or the transferor’s agents to exercise reasonable care in making a determination under this subdivision.

(c) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is no longer within a special flood hazard area, then the transferor or transferor’s agent may mark “No” on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. The transferor or transferor’s agent shall attach a copy of the Letter of Map Revision to the disclosure statement.

(d) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is within a special flood hazard area and the location of the letter has been posted pursuant to subdivision (g) of Section 8589.3 of the Government Code, then the transferor or transferor’s agent shall mark “Yes” on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. The transferor or transferor’s agent shall attach a copy of the Letter of Map Revision to the disclosure statement.

(e) The disclosure required pursuant to this article may be provided by the transferor and the transferor’s agent in the Local Option Real



Estate Disclosure Statement described in Section 1102.6a, provided that the Local Option Real Estate Disclosure Statement includes substantially the same information and substantially the same warnings that are required by this section.

(f) The disclosure required by this article is only a disclosure between the transferor, the transferor's agents, and the transferee, and shall not be used by any other party, including, but not limited to, insurance companies, lenders, or governmental agencies, for any purpose.

(g) In any transaction in which a transferor has accepted, prior to June 1, 1998, an offer to purchase, the transferor, or his or her agent, shall be deemed to have complied with the requirement of subdivision (a) if the transferor or agent delivers to the prospective transferee a statement that includes substantially the same information and warning as the Natural Hazard Disclosure Statement.

SEC. 4. Section 714 of the Fish and Game Code is amended to read:

714. (a) In addition to Section 3031, 3031.2, 7149, 7149.05, or 7149.2 and notwithstanding Section 3037, the department shall issue lifetime sportsman's licenses pursuant to this section. A lifetime sportsman's license authorizes the taking of birds, mammals, fish, reptiles, or amphibia anywhere in this state in accordance with law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted pursuant to this code. A lifetime sportsman's license is not transferable. A lifetime sportsman's license does not include any special tags, stamps, or other entitlements.

(b) A lifetime sportsman's license may be issued to residents, as follows:

(1) To a person 62 years of age or over upon payment of a base fee of seven hundred thirty dollars (\$730).

(2) To a person 40 years of age or over and less than 62 years of age upon payment of a base fee of one thousand eighty dollars (\$1,080).

(3) To a person 10 years of age or over and less than 40 years of age upon payment of a base fee of one thousand two hundred dollars (\$1,200).

(4) To a person less than 10 years of age upon payment of a base fee of seven hundred thirty dollars (\$730).

(c) This section does not require a person less than 16 years of age to obtain a license to take fish, reptiles, or amphibia for purposes other than profit or to obtain a license to take birds or mammals, except as required by law.

(d) This section does not exempt an applicant for a license from meeting other qualifications or requirements otherwise established by law for the privilege of sport hunting or sport fishing.



(e) Upon payment of a base fee of four hundred forty-five dollars (\$445), a person holding a lifetime hunting license or lifetime sportsman's license shall be issued annually one deer tag application pursuant to subdivision (a) of Section 4332 and five wild pig tags issued pursuant to Section 4654. Lifetime privileges issued pursuant to this subdivision are not transferable.

(f) Upon payment of a base fee of two hundred ten dollars (\$210), a person holding a lifetime hunting license or lifetime sportsman's license shall be entitled annually to the privileges afforded to a person holding a state duck stamp or validation issued pursuant to Section 3700 or 3700.1 and an upland game bird stamp or validation issued pursuant to Section 3682 or 3682.1. Lifetime privileges issued pursuant to this subdivision are not transferable.

(g) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 5. Section 2536 of the Fish and Game Code is amended to read:

2536. (a) It is unlawful for any person to engage in the business of guiding or packing, or to act as a guide for any consideration or compensation whatever, without first having secured a guide license from the department.

(b) An employee of a licensee who acts as a guide only in connection with, and within the scope of, his or her employment is exempt from the requirement of subdivision (a) if all of the following conditions are met:

(1) If the employment is subject to and the person is reported to the carrier of the employer's workers' compensation insurance.

(2) If the person is subject and reported to the state and federal taxing authorities for withholding of income tax.

(3) If the person is reported to the department, on forms provided by the department, as an employee of the guide prior to any contact with any person being guided, and a registration fee has been paid. The base fee for an employee guide registration for the 2004 license year shall be thirty-three dollars (\$33), which shall be adjusted annually thereafter pursuant to Section 713.

(c) A person who is licensed in another state to provide guide services for the purposes of fishing is exempt from the requirements of subdivision (a) if all of the following conditions are met:

(1) The state in which the person is licensed grants a similar exemption to licensed guides who are residents of this state.

(2) Evidence of a valid guide license is provided to the department upon request.



(3) The person is engaged in the business of guiding only in conjunction with and during the term of a multistate fishing tournament approved by the appropriate agency in each of the affected states.

(4) The tournament sponsor provides to the department any information or documents necessary to administer and enforce this paragraph, as determined by the department, including, but not limited to, the identities of all guides participating in the tournament, verification of another state's license exemption, and information sufficient to determine the validity of another state's guide licenses.

(5) The tournament sponsor pays the department an amount, determined by the department, to be sufficient to cover the department's cost to administer and enforce this subdivision.

(6) The net proceeds of the tournament are used for resource management projects or habitat improvement projects, or both.

SEC. 6. Section 2540 of the Fish and Game Code is amended to read:

2540. (a) The base fee for a guide license issued to a resident is one hundred fifty dollars (\$150).

(b) The base fee for a guide license issued to a nonresident is three hundred fifty dollars (\$350).

(c) A guide license is valid for the license year beginning on February 1 and ending on January 31 of the succeeding year or, if issued after the beginning of the license year, for the remainder of that license year.

(d) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 7. Section 3031 of the Fish and Game Code is amended to read:

3031. (a) A hunting license, granting the privilege to take birds and mammals, shall be issued to any of the following:

(1) A resident of this state, 16 years of age or older, upon the payment of a base fee of thirty-one dollars and twenty-five cents (\$31.25).

(2) A resident or nonresident less than 16 years of age, upon the payment of a base fee of eight dollars and twenty-five cents (\$8.25).

(3) A nonresident, 16 years of age or older, upon the payment of a base fee of one hundred eight dollars and fifty cents (\$108.50).

(4) A nonresident, 16 years of age or older, valid only for two consecutive days upon payment of the fee set forth in paragraph (1). A license issued pursuant to this paragraph is valid only for taking resident and migratory game birds, resident small game mammals, fur-bearing mammals, and nongame mammals, as defined in this code or in regulations adopted by the commission.



(5) A nonresident, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed game bird club, or for the taking of domesticated migratory game birds in areas licensed for shooting those birds, upon the payment of a base fee of fifteen dollars (\$15).

(b) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 8. Section 3031.2 of the Fish and Game Code is amended to read:

3031.2. (a) In addition to Sections 714 and 3031 and notwithstanding Section 3037, the department shall issue lifetime hunting licenses under this section. A lifetime hunting license authorizes the taking of birds and mammals anywhere in this state in accordance with the law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime hunting license is not transferable. A lifetime hunting license does not include any special license tags, license stamps, or fees.

(b) A lifetime hunting license may be issued to residents of this state, as follows:

(1) To a person 62 years of age or over, upon payment of a base fee of three hundred sixty-five dollars (\$365).

(2) To a person 40 years of age or over, and less than 62 years of age, upon payment of a base fee of five hundred forty dollars (\$540).

(3) To a person 10 years of age or over, and less than 40 years of age, upon payment of a base fee of six hundred dollars (\$600).

(4) To a person less than 10 years of age, upon payment of a base fee of three hundred sixty-five dollars (\$365).

(c) Nothing in this section requires a person less than 16 years of age to obtain a license to take birds or mammals except as required by law.

(d) Nothing in this section exempts an applicant for a license from meeting other qualifications or requirements otherwise established by law for the privilege of sport hunting.

(e) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 9. Section 4654 of the Fish and Game Code is amended to read:

4654. (a) Any resident of this state, 12 years of age or older, who possesses a valid hunting license, may procure the number of wild pig tags corresponding to the number of wild pigs that may legally be taken



by one person during the license year upon payment of a base fee of fifteen dollars (\$15), for each wild pig tag.

(b) Any nonresident, 12 years of age or older, who possesses a valid California nonresident hunting license, may procure the number of wild pig tags corresponding to the number of wild pigs that may legally be taken by one person during the license year upon payment of a base fee of fifty dollars (\$50), for each wild pig tag.

(c) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 10. Section 6596 of the Fish and Game Code is amended to read:

6596. (a) In addition to a valid California sport fishing license and any other applicable license stamp issued pursuant to this code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for purposes other than for profit shall have a valid sport fishing ocean enhancement stamp permanently affixed to his or her fishing license. A sport fishing ocean enhancement stamp shall be issued upon payment of a base fee of three dollars and fifty cents (\$3.50). A sport fishing license issued pursuant to paragraph (4) or (5) of subdivision (a) of Section 7149 is not subject to this subdivision.

(b) In addition to a valid California commercial passenger fishing boat license issued pursuant to Section 7920, the owner of any boat or vessel who, for profit, permits any person to fish therefrom, south of a line extending due west from Point Arguello, shall have a valid commercial fishing ocean enhancement stamp issued for that vessel that has not been suspended or revoked.

(c) Any person who takes, possesses aboard a boat, or lands any white sea bass for commercial purposes, south of a line extending due west from Point Arguello, shall have a valid commercial fishing ocean enhancement stamp issued to that person that has not been suspended or revoked.

(d) The base fee for a commercial fishing ocean enhancement stamp is thirty-five dollars (\$35).

(e) This section does not apply to licenses, permits, reservations, tags, or other entitlements issued through the Automated License Data System.

(f) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 11. Section 6596.1 of the Fish and Game Code is amended to read:



6596.1. (a) In addition to a valid California sport fishing license and any other applicable license validation issued pursuant to this code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for purposes other than for profit shall have a valid sport fishing ocean enhancement validation permanently affixed to his or her fishing license. A sport fishing ocean enhancement validation shall be issued upon payment of a base fee of three dollars and fifty cents (\$3.50). A sport fishing license issued pursuant to paragraph (4) or (5) of subdivision (a) of Section 7149.05 is not subject to this subdivision.

(b) In addition to a valid California commercial passenger fishing boat license issued pursuant to Section 7920, the owner of any boat or vessel who, for profit, permits any person to fish therefrom, south of a line extending due west from Point Arguello, shall have a valid commercial fishing ocean enhancement validation issued for that vessel that has not been suspended or revoked.

(c) Any person who takes, possesses aboard a boat, or lands any white sea bass for commercial purposes south of a line extending due west from Point Arguello, shall have a valid commercial fishing ocean enhancement validation issued to that person that has not been suspended or revoked.

(d) The base fee for a commercial ocean fishing enhancement validation is thirty-five dollars (\$35).

(e) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

(f) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 12. Section 7145 of the Fish and Game Code is amended to read:

7145. (a) Except as otherwise provided in this article, every person 16 years of age or older who takes any fish, reptile, or amphibia for any purpose other than profit shall first obtain a license for that purpose and shall have that license on his or her person or in his or her immediate possession or where otherwise specifically required by law or regulation to be kept when engaged in carrying out any activity authorized by the license. In the case of a person diving from a boat, the license may be kept in the boat, or in the case of a person diving from the shore, the license may be kept within 500 yards on the shore.

(b) This section does not apply to an owner of real property, or the owner's invitee, who takes fish for purposes other than profit from a lake or pond that is wholly enclosed by that owner's real property and that is



located offshore and not hydrologically connected to any permanent or intermittent waterway of the state.

This subdivision does not, and shall not be construed to, authorize the introduction, migration, stocking, or transfer of aquatic species, prohibited species, or any other nonnative or exotic species into state waters or waterways. This subdivision does not supersede or otherwise affect any provision of law that governs aquaculture, including, but not limited to, the operation of trout farms, the operation of other enterprises for profit, or any activity that is an adjunct to or a feature of, or that is operated in conjunction with, any other enterprise operated for profit, including private parks or recreation areas.

SEC. 13. Section 7147 of the Fish and Game Code is amended to read:

7147. The owner or operator of a boat or vessel licensed pursuant to Section 7920 shall not permit any person to fish from that boat or vessel unless that person has, in his or her possession, a valid California sport fishing license and any required license stamp or validation issued pursuant to this code.

SEC. 14. Section 7149 of the Fish and Game Code is amended to read:

7149. (a) A sport fishing license granting the privilege to take any fish, reptile, or amphibia anywhere in this state for purposes other than profit shall be issued to any of the following:

(1) A resident 16 years of age or older, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of thirty-one dollars and twenty-five cents (\$31.25).

(2) A nonresident, 16 years of age or older, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of eighty-four dollars (\$84).

(3) A nonresident, 16 years of age or older, for the period of 10 consecutive days beginning on the date specified on the license upon payment of the fee set forth in paragraph (1).

(4) A resident or nonresident, 16 years of age or older, for two consecutive designated calendar days, upon payment of half of the fee set forth in paragraph (1). Notwithstanding Section 1053, more than one two-day license issued for different two-day periods may be issued to, or possessed by, a person at one time.

(5) A resident or nonresident, 16 years of age or older, for one designated day, upon payment of a base fee of ten dollars (\$10).

(b) California sport fishing license stamps shall be issued by authorized license agents in the same manner as sport fishing licenses,



and no compensation may be paid to the authorized license agent for issuing the stamps except as provided in Section 1055.

(c) This section does not apply to licenses, permits, reservations, tags, or other entitlements issued through the Automated License Data System.

(d) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 15. Section 7149.05 of the Fish and Game Code is amended to read:

7149.05. (a) A sport fishing license granting the privilege to take any fish, reptile, or amphibia anywhere in this state for purposes other than profit shall be issued to any of the following:

(1) A resident, 16 years of age or older, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of thirty-one dollars and twenty-five cents (\$31.25).

(2) A nonresident, 16 years of age or older, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of eighty-four dollars (\$84).

(3) A nonresident, 16 years of age or older for the period of 10 consecutive days beginning on the date specified on the license upon payment of the fee set forth in paragraph (1).

(4) A resident or nonresident, 16 years of age or older, for two designated days, upon payment of half the fee set forth in paragraph (1). Notwithstanding Section 1053, more than one single day license issued for different days may be issued to, or possessed by, a person at one time.

(5) A resident or nonresident, 16 years of age or older, for one designated day upon payment of a base fee of ten dollars (\$10).

(b) California sport fishing license validations shall be issued by authorized license agents in the same manner as sport fishing licenses, and no compensation shall be paid to the authorized license agent for issuing the validations except as provided in Section 1055.1.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

(d) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 16. Section 7149.1 of the Fish and Game Code is repealed.

SEC. 17. Section 7149.15 of the Fish and Game Code is repealed.

SEC. 18. Section 7149.2 of the Fish and Game Code is amended to read:



7149.2. (a) In addition to Sections 714, 7149, and 7149.05, the department shall issue a lifetime sport fishing license under this section. A lifetime sport fishing license authorizes the taking of fish, amphibia, or reptiles anywhere in this state in accordance with the law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime sport fishing license is not transferable. A lifetime sport fishing license does not include any special license tags, license stamps, or fees.

(b) A lifetime sport fishing license may be issued to residents of this state, as follows:

(1) To a person 62 years of age or over, upon payment of a base fee of three hundred sixty-five dollars (\$365).

(2) To a person 40 years of age or over and less than 62 years of age, upon payment of a base fee of five hundred forty dollars (\$540) in 1998.

(3) To a person 10 years of age or over and less than 40 years of age upon payment of a base fee of six hundred dollars (\$600).

(4) To a person less than 10 years of age upon payment of a base fee of three hundred sixty-five dollars (\$365).

(c) Nothing in this section requires a person less than 16 years of age to obtain a license to take fish, amphibia, or reptiles for purposes other than profit.

(d) Nothing in this section exempts a license applicant from meeting other qualifications or requirements otherwise established by law for the privilege of sport fishing.

(e) Upon payment of a base fee of two hundred forty-five dollars (\$245), a person holding a lifetime sport fishing license or lifetime sportsman's license shall be entitled annually to the privileges afforded to a person holding a second-rod stamp or validation issued pursuant to Section 7149.4, or 7149.45, a sport fishing ocean enhancement stamp or validation issued pursuant to paragraph (1) of subdivision (a) of Section 6596 or 6596.1, one steelhead trout report restoration card issued pursuant to Section 7380, a Bay-Delta sport fishing enhancement stamp or validation issued pursuant to Section 7360 or 7360.1, and one salmon punch card issued pursuant to regulations adopted by the commission. Lifetime privileges issued pursuant to this subdivision are not transferable.

(f) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 19. Section 7149.8 of the Fish and Game Code is amended to read:

7149.8. (a) A person shall not take abalone from ocean waters unless he or she first obtains, in addition to a valid California sport



fishing license and any applicable license validation or stamp issued pursuant to this code, an abalone report card, and maintains that report card in his or her possession while taking abalone.

(b) The department or an authorized license agent shall issue an abalone report card upon payment of a fee of fifteen dollars (\$15) in the 2004 license year, which shall be adjusted annually thereafter pursuant to Section 713.

SEC. 20. The heading of Article 4 (commencing with Section 7360) of Chapter 2 of Part 2 of Division 6 of the Fish and Game Code is amended to read:

Article 4. Bay-Delta Sport Fishing

SEC. 21. Section 7360 of the Fish and Game Code is amended to read:

7360. (a) A person shall not sport fish in the San Francisco Bay-Delta, unless he or she first obtains, in addition to a valid California sport fishing license and any applicable stamp issued pursuant to this code, a Bay-Delta sport fishing enhancement stamp, and affixes that stamp to his or her valid sport fishing license.

(b) The department or an authorized license agent shall issue a Bay-Delta sport fishing enhancement stamp upon payment of a base fee of five dollars (\$5) in the 2004 license year, which shall be adjusted annually thereafter pursuant to Section 713.

(c) A sport fishing license issued pursuant to paragraph (4) or paragraph (5) of subdivision (a) of Section 7149 is not subject to this section.

(d) This section does not apply to licenses, permits, reservations, tags, or other entitlements issued through the Automated License Data System.

SEC. 22. Section 7360.1 of the Fish and Game Code is amended to read:

7360.1. (a) A person shall not sport fish in the San Francisco Bay-Delta unless he or she first obtains, in addition to a valid California sport fishing license and any applicable validation issued pursuant to this code, a Bay-Delta sport fishing enhancement validation, and affixes that validation to his or her valid sport fishing license.

(b) The department or an authorized license agent shall issue a Bay-Delta sport fishing enhancement validation upon payment of a base fee of five dollars (\$5), in the 2004 license year, which shall be adjusted annually thereafter pursuant to Section 713.



(c) A sport fishing license issued pursuant to paragraph (4) of paragraph (5) of subdivision (a) of Section 7149 is not subject to this section.

(d) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

SEC. 23. Section 7361 of the Fish and Game Code is amended to read:

7361. Fees received by the department pursuant to Sections 7360 and 7360.1 shall be deposited in a separate account in the Fish and Game Preservation Fund. The department shall expend the funds in that account only for the purpose of the Bay-Delta Sport Fishing Enhancement Program, to be enacted by the Legislature during the 2003–04 Regular Session. The funds may not be expended until that program is enacted.

SEC. 24. Section 7362 of the Fish and Game Code is repealed.

SEC. 25. Section 7363 of the Fish and Game Code is amended to read:

7363. This article shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2009, deletes or extends that date.

SEC. 26. Section 7380 of the Fish and Game Code is amended to read:

7380. (a) In addition to a valid California sport fishing license and any applicable sport license stamp issued pursuant to this code, after January 1, 1993, a person taking steelhead trout in inland waters shall have in his or her possession a valid nontransferable steelhead trout catch report-restoration card issued by the department. The cardholder shall record certain fishing information on the card as designated by the department. The information shall immediately be recorded whenever the cardholder finishes fishing for the day, moves to another river or stream, or retains steelhead trout. The cardholder shall return the card to the department on a schedule or date established by the department.

(b) The base fee for the card shall be five dollars (\$5) for the 2004 license year, which shall be adjusted annually thereafter pursuant to Section 713. The funds received by the department from the sale of the card shall be deposited in the Fish and Game Preservation Fund and shall be available for expenditure upon appropriation by the Legislature. The department shall maintain the internal accountability necessary to ensure that all restrictions and requirements pertaining to the expenditure of these funds are met.

(c) The commission shall adopt regulations necessary to implement this section. These regulations shall include, but not be limited to,



procedures necessary to obtain appropriate steelhead trout resources management information, a requirement that the card contain a statement explaining potential uses of the funds received as authorized by Section 7381, and a requirement that the cards be returned to the department.

SEC. 27. Section 7852 of the Fish and Game Code is amended to read:

7852. (a) The department shall issue a commercial fishing license to any resident who is 16 years of age or older, upon payment of a base fee of ninety-five dollars (\$95) for each resident vessel crewmember or resident vessel operator.

(b) The department shall issue a commercial fishing license to any nonresident who is 16 years of age or older, upon payment of a base fee of two hundred eighty-five dollars (\$285) for a nonresident vessel crewmember or nonresident vessel operator.

(c) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(d) Nothing in this section affects any other provision of law relating to the employment of minors.

SEC. 28. Section 7852.21 of the Fish and Game Code is repealed.

SEC. 29. Section 7852.3 of the Fish and Game Code is repealed.

SEC. 30. Section 7881 of the Fish and Game Code is amended to read:

7881. (a) Every person who owns or operates a vessel in public waters in connection with fishing operations for profit in this state, or who brings fish into this state, or who, for profit, permits persons to fish therefrom, shall submit an application for commercial boat registration on forms provided by the department and shall be issued a registration number.

(b) A commercial boat registration may be issued to any resident owner or operator of a vessel upon payment of a base fee of two hundred fifty dollars (\$250). The commercial boat registration shall be carried aboard the vessel at all times, and shall be posted in a conspicuous place.

(c) A commercial boat registration may be issued to any nonresident owner or operator of a vessel upon payment of a base fee of seven hundred fifty dollars (\$750). The commercial boat registration shall be carried aboard the vessel at all times and shall be posted in a conspicuous place.

(d) If a registered vessel is lost, destroyed, or sold, the owner of the vessel shall immediately report the loss, destruction, or sale to the department.



(e) This section does not apply to any person required to be licensed as a guide pursuant to Section 2536.

(f) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 31. Section 7921 of the Fish and Game Code is amended to read:

7921. The base fee for a commercial passenger fishing boat license is two hundred fifty dollars (\$250) in the 2004 license year, which shall be adjusted annually thereafter pursuant to Section 713. The commercial passenger fishing vessel license shall be issued to the holder of a commercial boat registration issued pursuant to Section 7881.

SEC. 32. Section 7921.5 of the Fish and Game Code is repealed.

SEC. 33. Section 8032 of the Fish and Game Code is amended to read:

8032. (a) A commercial fish business license shall be issued which authorizes any or all activities described in Section 8033, 8034, 8035, or 8036. The annual fee for this license is one thousand three hundred seventy-three dollars (\$1,373).

(b) Specialty licenses for part of, but not all, activities described in subdivision (a) shall be issued in five classes, as follows:

(1) Fish receiver's license, issued to any person engaged in the business of receiving fish as provided in Section 8033.

(2) Marine aquaria receiver's license, issued to any person engaged in the business of receiving live marine species indigenous to California waters from a person required to be a licensed commercial fisherman for the purpose of wholesaling or retailing those species for pet industry or hobby purposes as provided in Section 8033.1.

(3) Fish processor's license, issued to any person engaged in the business of processing fish as provided in Section 8034.

(4) Fish wholesaler's license, issued to any person who is engaged in the business of wholesaling fish as provided in Section 8035.

(5) Fish importer's license, issued to any person who is engaged in the business of importing fish as provided in Section 8036.

SEC. 34. Section 8033 of the Fish and Game Code is amended to read:

8033. (a) Except as provided in Section 8033.1 or 8033.5, or subdivision (c) of Section 8047, any person who purchases or receives fish for commercial purposes from a fisherman who is required to be licensed under Section 7850, or any person who removes fish from the point of the first landing that the person has caught for his or her own processing or sale, shall obtain a fish receiver's license.



(b) The annual fee for a fish receiver's license is five hundred forty-nine dollars (\$549).

(c) A cooperative association of fishermen may be licensed as fish receivers.

SEC. 35. Section 8033.2 of the Fish and Game Code is amended to read:

8033.2. The annual fee for the marine aquaria receiver's license is one thousand three hundred seventy-three dollars (\$1,373).

SEC. 36. Section 8033.5 of the Fish and Game Code is amended to read:

8033.5. (a) Any commercial fisherman who sells fish for other than marine aquaria pet trade or research purposes that he or she has taken to the ultimate consumer of that fish shall obtain a fisherman's retail license. The annual fee for a fisherman's retail license is sixty-nine dollars (\$69).

(b) Any person required to obtain a license under this section who engages in any activity described in Section 8033, 8034, 8035, or 8036 shall also obtain an appropriate license to engage in those activities.

SEC. 37. Section 8034 of the Fish and Game Code is amended to read:

8034. (a) Any person who processes fish for profit shall obtain a fish processor's license. The annual fee for a fish processor's license is five hundred forty-nine dollars (\$549).

(b) Any person required to obtain a license under this section who takes his or her own fish shall also obtain a fish receiver's license or a commercial fish business license.

SEC. 38. Section 8035 of the Fish and Game Code is amended to read:

8035. (a) Except for a person exempt under Section 8030 or an importer licensed under Section 8036, any person who, for the purpose of resale to other than the ultimate consumer, purchases or obtains fish from another person, who is required to be licensed as a fish receiver, fish processor, fish importer, or fish wholesaler under this article, shall obtain a fish wholesaler's license.

(b) The annual fee for a fish wholesaler's license is three hundred seventy-one dollars (\$371).

(c) This section does not apply to persons required to have a marine aquaria receiver's license pursuant to Section 8033.1.

SEC. 39. Section 8036 of the Fish and Game Code is amended to read:

8036. Any person who purchases or receives fish, which are taken outside of this state and brought into this state by a person who is not a licensed commercial fisherman, for the purpose of resale to other than



the ultimate consumer shall obtain a fish importer's license. The annual fee for a fish importer's license is five hundred forty-nine dollars (\$549).

SEC. 40. Section 8039 is added to Fish and Game Code, to read:

8039. The fees specified in this article are applicable to the 2004 license year and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 41. Section 13005 of the Fish and Game Code is amended to read:

13005. (a) Notwithstanding Section 13001, the fees collected from lifetime sportsman's licenses and privileges issued pursuant to Section 714, lifetime hunting licenses and privileges issued pursuant to Section 3031.2, and lifetime sport fishing licenses and privileges issued pursuant to Section 7149.2 shall be deposited as follows:

(1) Twenty dollars (\$20) from the initial issuance of each lifetime license shall be deposited in the Fish and Game Preservation Fund for use in accordance with Section 711.

(2) The balance of the fees collected shall be deposited in the Lifetime License Trust Account which is hereby created in the Fish and Game Preservation Fund. Except as provided in this section, that principal amount of the money in the account from the fee for a lifetime license shall not be used, except for investment.

(b) The money in the Lifetime License Trust Account may be transferred and invested through the Surplus Money Investment Fund and all interest shall accrue to the account pursuant to subdivision (g) of Section 16475 of the Government Code.

(c) Upon issuance of a lifetime license or lifetime privilege issued pursuant to Section 714, 3031.2, or 7149.2, the department shall transfer the following amounts from the Lifetime License Trust Account to the Fish and Game Preservation Fund:

(1) Twenty-nine dollars and twenty-five cents (\$29.25) for an annual resident hunting license or an annual resident sport fishing license.

(2) Seven dollars and twenty-five cents (\$7.25) for a junior hunting license.

(3) Nine dollars and twenty-five cents (\$9.25) for one second-rod stamp or validation issued pursuant to Section 7149.4 or Section 7149.45.

(4) Two dollars and fifty cents (\$2.50) for one Bay-delta sport fishing ocean enhancement stamp or validation issued pursuant to paragraph (1) of subdivision (a) of Section 6596 or paragraph (1) of subdivision (a) of Section 6596.1.

(5) Three dollars and fifty cents (\$3.50) for one Bay-Delta sport fishing enhancement stamp or validation issued pursuant to Section 7360 or Section 7360.1.



(6) Three dollars and seventy-five cents (\$3.75) for one steelhead trout catch report-restoration card issued pursuant to Section 7380.

(7) One dollar (\$1) for one salmon punch card issued pursuant to regulations adopted by the commission.

(8) Nineteen dollars and twenty-five cents (\$19.25) for a deer tag application issued pursuant to subdivision (a) of Section 4332.

(9) Eight dollars and seventy-five cents (\$8.75) for five wild pig tags issued pursuant to Section 4654.

(10) Ten dollars (\$10) for one state duck stamp or validation issued pursuant to Section 3700 or 3700.1.

(11) Six dollars and twenty-five cents (\$6.25) for one upland game bird stamp or validation issued pursuant to Section 3682 or 3682.1.

SEC. 42. Section 15101 of the Fish and Game Code is amended to read:

15101. (a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

(1) The owner's name.

(2) The species grown.

(3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of five hundred forty-nine dollars (\$549) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of two hundred seventy-five dollars (\$275). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (b) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

SEC. 43. Section 15103 of the Fish and Game Code is amended to read:

15103. (a) In addition to the fees specified in Section 15101, a surcharge fee of four hundred twelve dollars (\$412) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars (\$25,000).



(b) Each registered aquaculturist shall maintain sales and production records which shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty in an amount equal to the fees prescribed in subdivision (a).

(d) The surcharge imposed pursuant to this section shall be adjusted annually pursuant to Section 713.

SEC. 44. (a) It is the intent of the Legislature that the annual Budget Act provide a General Fund amount equal to three million six hundred thousand dollars (\$3,600,000) to be available for expenditure for agricultural worker outreach and education activities established in accordance with Section 12841.2 of the Food and Agricultural Code.

(b) It is the intent of the Legislature that the amount of funding provided to county agricultural commissioners each fiscal year by the Department of Pesticide Regulation from all sources shall equal twenty-two million dollars (\$22,000,000), except for the 2003–04 fiscal year when it shall equal eighteen million dollars (\$18,000,000).

SEC. 45. Section 11502.5 of the Food and Agricultural Code is amended to read:

11502.5. (a) The director may adopt regulations to establish the minimum requirements of education, continuing education, training, experience, and examination for applicants for any license or certificate, or renewal of any license or certificate, issued by the director pursuant to this division or Division 7 (commencing with Section 12500). The director shall not renew a license or certificate if the person who was issued the license or certificate did not complete the required continuing education during the period of validity of the license or certificate, and the person must take and pass the examination to be again issued such a license or certificate.

(b) The director shall establish, by regulation, fees for the Department of Pesticide Regulation's licensing and certification programs as established pursuant to this division or Division 7 (commencing with Section 12500). These programs include, but are not limited to:

- (1) License and certificate examination, application, and renewal.
- (2) Approval of continuing education courses and continuing education course providers.
- (3) Changes related to any license or certificate, including, but not limited to, name or address changes, license or certificate replacement costs, duplicate copy of a license or certificate, and changes in qualified person, bond, insurance, or registered officers.
- (4) Penalties for late payment of licensing and certification fees.



(c) The fees established pursuant to this section may include administrative costs, including overhead costs.

(d) The regulations shall provide that the examination fee may be charged to applicants who request the director to reschedule an examination due to the applicant's failure to obtain a passing score or failure to appear for the scheduled examination, and for scheduling an examination to amend a license.

(e) The fees established pursuant to this section shall be set so that the total revenue collected each fiscal year is sufficient to support the expenditure levels for these programs contained in the annual Budget Act. If the director determines that the revenue collected during the preceding year was greater than, or less than, the expenditure levels for these programs set forth in the Budget Act, the director may further adjust the current fees to compensate for the overcollection or undercollection.

(f) Funds collected pursuant to this section shall be deposited in the Department of Pesticide Regulation Fund, and shall be available for expenditure by the department, upon appropriation, for the purposes of carrying out the programs established pursuant to this division or Division 7 (commencing with Section 12500).

(g) The regulations adopted pursuant to this section, or any amendment thereto, shall be adopted by the director in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted pursuant to this section shall remain in effect until amended by the director.

SEC. 46. Section 11515 of the Food and Agricultural Code is repealed.

SEC. 47. Section 11516 of the Food and Agricultural Code is repealed.

SEC. 48. Section 11703 of the Food and Agricultural Code is amended to read:

11703. (a) Except as otherwise provided in Sections 11704 and 11707, the application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

(b) If the applicant maintains any branch office in this state or outside this state and the applicant engages in the pest control business in this state from that branch office, the applicant shall pay an additional fee as prescribed by the director pursuant to Section 11502.5 for each of these branch offices.



SEC. 49. Section 11704 of the Food and Agricultural Code is amended to read:

11704. (a) A person who is regularly engaged in the business of maintenance gardening and who desires to engage in pest control for hire incidental to that business shall qualify for a pest control business license in the maintenance gardener category by passing the certified commercial applicators examination in both the laws and regulation and the landscape maintenance categories.

(b) The maintenance gardener category shall be limited to pest control in ornamental and turf plantings indoors, in commercial parks, or surrounding structures. A contract or verification that the pest control operation is incidental and that maintenance gardening is the primary purpose shall be immediately submitted to the commissioner or director upon request.

(c) An application for a license limited to the maintenance gardener category shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

SEC. 50. Section 11707 of the Food and Agricultural Code is amended to read:

11707. To any fee which is not paid by the date of expiration, there shall be added a penalty as prescribed by the director pursuant to Section 11502.5.

SEC. 51. Section 11903 of the Food and Agricultural Code is amended to read:

11903. A fee as prescribed by the director pursuant to Section 11502.5 shall accompany each application for an initial certificate.

SEC. 52. Section 11904 of the Food and Agricultural Code is amended to read:

11904. Every certificate shall expire on December 31 of the year for which it is issued. Certificates may be renewed before the expiration date by application to the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty fee as prescribed by the director pursuant to Section 11502.5 shall be paid by an applicant who applies for renewal after the expiration date.

SEC. 53. Section 12021 of the Food and Agricultural Code is amended to read:

12021. An application for an agricultural pest control adviser license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5 to be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund. All licenses



issued under this article shall expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration through application in the form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty as prescribed by the director pursuant to Section 11502.5 shall be assessed against any applicant who applies for a renewal of the license after the expiration date.

SEC. 54. Section 12103 of the Food and Agricultural Code is amended to read:

12103. An application for a license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5 to be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund. All licenses issued under this article shall expire on December 31 of the year for which they are issued.

To the amount of the license fee shall be added an additional fee, in an amount prescribed by the director pursuant to Section 11502.5, for each branch salesyard, store, or sales location that is owned and operated by the applicant in this state or in other states when doing business from that out-of-state location regarding pesticides to be sold or delivered into or within this state.

SEC. 55. Section 12104 of the Food and Agricultural Code is amended to read:

12104. The license for a pest control dealer may be renewed annually upon application in the form prescribed by the director, accompanied by a fee as prescribed by the director pursuant to Section 11502.5, for each license and for each branch salesyard, store, or sales location that does business in the state, or that does business in this state from an out-of-state location as specified in Section 12103, by the date of expiration. These fees shall be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund.

SEC. 56. Section 12105 of the Food and Agricultural Code is amended to read:

12105. A penalty as prescribed by the director pursuant to Section 11502.5 shall be added to any fee that is not paid by the date of expiration.

SEC. 57. Section 12201 of the Food and Agricultural Code is amended to read:

12201. An application for a qualified applicator license shall be in a form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other



information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

SEC. 58. Section 12202 of the Food and Agricultural Code is amended to read:

12202. (a) All licenses issued pursuant to this chapter expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration through application in a form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5.

(b) A penalty as prescribed by the director pursuant to Section 11502.5 shall be assessed against any applicant who applies for renewal after the expiration date.

SEC. 59. Section 12252 of the Food and Agricultural Code is amended to read:

12252. (a) An application for a pest control dealer designated agent license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

(b) All licenses issued pursuant to this article shall expire on December 31 of the year for which they are issued.

(c) Licenses may be renewed annually upon application in the form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty as prescribed by the director pursuant to Section 11502.5 shall be added to any license renewal fee that is not paid by the date of expiration of the previously issued license.

SEC. 60. Section 12401 of the Food and Agricultural Code is amended to read:

12401. (a) An application for a pesticide broker license, or renewal of a license, shall be in the form prescribed by the director. Each application for a license, or license renewal, shall state the name and address of the applicant, and any other information specified on the application or required by the director, and be accompanied by a fee as prescribed by the director pursuant to Section 11502.5.

(b) An additional license fee, or license renewal fee, as prescribed by the director pursuant to Section 11502.5, shall be paid for each branch location, whether within or outside of this state, of the applicant that sells or distributes into or within the state any pesticide products that are labeled for agricultural use.



SEC. 61. Section 12404 of the Food and Agricultural Code is amended to read:

12404. A penalty as prescribed by the director pursuant to Section 11502.5 shall be added to any license renewal fee that is not paid by the date of expiration of a previously issued license or license renewal.

SEC. 62. Section 12812 of the Food and Agricultural Code is repealed.

SEC. 63. Section 12812 is added to the Food and Agricultural Code, to read:

12812. (a) The director shall establish, by regulation, fees for the Department of Pesticide Regulation's registration program, as established pursuant to this division. The fees shall include, but are not limited to, the following:

- (1) Annual fees for each product submitted for registration.
- (2) Penalties for the late payment of registration fees.
- (3) Fees for amendments to registered products.

(b) The fees established pursuant to this section may include costs for administration and overhead in connection with administering the fees.

(c) The fees established pursuant to this section shall be set so that the total revenue collected each fiscal year is sufficient to support the expenditure levels for the registration program contained in the annual Budget Act.

(d) Funds collected pursuant to this section shall be deposited in the Department of Pesticide Regulation Fund, and shall be available for expenditure by the department, upon appropriation by the Legislature, for the purposes of carrying out the department's pesticide registration program, as established pursuant to this division.

(e) The regulations adopted pursuant to this section, or any amendment or readoption thereto, shall be adopted by the director in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. However, the adoption, amendment, readoption, or repeal of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other provision of law, the regulations shall remain in effect until amended by the director.

SEC. 64. Section 12818 of the Food and Agricultural Code is amended to read:

12818. If renewal is not applied for within one calendar month after the expiration of a registration, a penalty as prescribed by the director pursuant to Section 12812 shall be added to the registration fee.

SEC. 65. Section 12841 of the Food and Agricultural Code is amended to read:



12841. (a) It is unlawful for any person to sell for use in this state any pesticide products that have been registered by the director for which the mill assessment established by this article, and the regulations adopted pursuant to it, is not paid at the times specified in Section 12843.

(b) Except as provided in subdivision (d), every person who sells for use in this state a pesticide product that has been registered by the director shall pay to the director the applicable assessment. Those sales expressly include all sales made electronically, telephonically, or by any other means that result in a pesticide product being shipped to or used in this state. There is a rebuttable presumption that pesticide products that are sold or distributed into or within this state by any person are sold or distributed for use in this state.

(c) (1) Upon application of any registrant, the director shall determine whether a fertilizer or paper product is used as a carrier for a pesticide, and is sold in combination, and whether the mill assessment under this article shall be on the pesticide value only, when the product is designed, developed, and manufactured, and sold primarily for other than a pesticide use. If the director finds that the combination product has such a major component and is designed, developed, manufactured, and sold primarily for other than a pesticide use, the assessment provided by this article shall be paid on the equivalent percentage of the sales price of the active ingredients of the pesticide product. The director shall establish this percentage of the sales price. The percentage shall be the ratio of that portion of the sales price attributable to the pesticide portion to the total sales price of the combination product.

(2) For purposes of this section, “active ingredient” means any active ingredient that is required to be stated on the label on any registered pesticide under Section 12883.

(d) Assessments provided for in this article for sales of registered pesticides that are sold for use in this state shall be paid by the registrant except as follows:

(1) In those cases where the registrant did not first sell the pesticide into or within this state or have actual knowledge, at the time of its sale, that the pesticide would be sold for use in this state, the assessment shall be paid by the licensed pesticide broker, licensed pest control dealer, or other person who first sold the pesticide for use in this state.

(2) No person is required to pay an assessment on registered products that are labeled only for use in further manufacturing or formulating of pesticides.

(e) It has been and continues to be the intent of the Legislature that this division requires the department to register all pesticides prior to their sale for use in this state and, except as otherwise provided by law, requires the department to regulate and control the use of pesticides in



accordance with this division. Except as provided in Section 12841.1, the department shall continue to collect the assessment as provided in this article at the same rate on all registered agricultural and registered nonagricultural pesticides.

(f) (1) The mill assessment shall be paid at the following rates per dollar of sales for all sales of pesticides for use in this state:

(A) From January 1, 1998, to March 31, 1999, inclusive, the rate shall be 15.15 mills (\$0.01515) plus any additional assessment authorized by Section 12841.1.

(B) From April 1, 1999, to December 31, 2002, inclusive, the rate shall be 17.5 mills (\$0.0175) plus any additional assessment authorized by Section 12841.1.

(C) From January 1, 2003, to December 31, 2003, inclusive, the rate shall be 17.5 mills (\$0.0175).

(D) For all transactions on or after January 1, 2004, the actual rate shall be that set by regulations adopted by the director at a rate adequate to support the department's annual expenditures authorized in the annual Budget Act and provide a prudent reserve. The rate set by the director shall be no greater than 21 mills (\$0.021). However, if regulations are not adopted before a payment is due, payment shall be made at the rate of 17.5 mills (\$0.0175), and, upon adoption of regulations, payment of any additional amount due shall be made.

(2) The regulations adopted pursuant to this section, or any amendment thereto, shall be adopted by the director in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. However, the adoption, amendment, readoption, or repeal of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other provision of law, the regulations shall remain in effect until amended by the director. The director shall make available to the public, upon the adoption of an emergency regulation establishing a new rate, the information upon which the director has calculated, based, or determined the new rate.

(g) The revenue collected pursuant to this section shall be deposited in the Department of Pesticide Regulation Fund and distributed as follows:

(1) Notwithstanding Sections 2282 and 12784, the director shall pay, in accordance with the criteria set forth in Section 12844, the following amounts to the counties as reimbursement for costs incurred by the counties in the administration and enforcement of Division 6 (commencing with Section 11401), this chapter, Chapter 3



(commencing with Section 14001), Chapter 3.4 (commencing with Section 14090), and Chapter 3.5 (commencing with Section 14101):

(A) From January 1, 1998, to March 31, 1998, inclusive, five-eighths of the money received during that period pursuant to this section.

(B) Beginning April 1, 1998, an amount equal to the revenue derived from 6 mills (\$0.006) per dollar of sales for all pesticide sales for use in this state.

(2) All funds not otherwise distributed pursuant to this subdivision shall remain in the Department of Pesticide Regulation Fund and shall be available for expenditure, upon appropriation, to support the department's operations.

SEC. 66. Section 12841.1 of the Food and Agricultural Code is amended to read:

12841.1. (a) The director may collect an assessment, in addition to the mill assessment collected pursuant to Section 12841, for all pesticide sales for use in this state except for sales for use in this state of pesticides labeled solely for home, industrial, or institutional use. The director may only collect up to an additional three-fourths mill (\$0.00075) per dollar of sales, in addition to the rate established pursuant to Section 12841, if necessary to fund, or augment the funding for, an appropriation to the Department of Food and Agriculture to provide pesticide consultation to the department pursuant to Section 11454.2. The necessity of this additional assessment shall be determined by the Secretary of Food and Agriculture, in consultation with the director, on an annual basis after consideration of all other revenue sources, including any reserves, which may be appropriated for this purpose. The secretary's written determination, including a request for a specified additional assessment and the basis for that request, shall be provided to the director by a time and in a manner prescribed by the director.

(b) The revenue collected pursuant to this section shall be deposited monthly in a separate account in the Department of Food and Agriculture Fund. These revenues shall be expended only by the Department of Food and Agriculture, upon appropriation, to provide consultation to the department pursuant to Section 11454.2. No funds may be expended prior to the execution of a memorandum of understanding pursuant to subdivision (b) of Section 11454.2. The consultation activities to be undertaken by the Department of Food and Agriculture are limited solely to those specifically authorized in the memorandum of understanding executed pursuant to Section 11454.2. These funds may not be expended for scientific risk assessment activities. The department shall be reimbursed from the Department of Food and Agriculture Fund for the department's revenue collection activities. If the director determines that a person is entitled to a refund of mill assessment funds that were



collected pursuant to this section, the director shall inform the Secretary of Food and Agriculture of the amount of the refund due, which shall be reimbursed from the Department of Food and Agriculture Fund.

SEC. 67. Section 12841.2 is added to the Food and Agricultural Code, to read:

12841.2. (a) The Department of Pesticide Regulation shall create a program to conduct outreach and education activities for worker safety, environmental safety, school safety, and proper pesticide handling and use, to include, but not be limited to, the following issues and criteria:

(1) The program shall encompass all communities, including urban, rural, and suburban communities.

(2) All potential exposure opportunities, including household, industrial, and agricultural uses.

(3) Rights and procedures of workers and those potentially exposed to pesticides and how to file confidential complaints.

(b) The program shall be conducted in accordance with the department's environmental justice guidelines.

(c) The director shall appoint an advisory committee of interested stakeholders to provide input on the development and implementation of the program.

(d) This program shall compliment and not replace other outreach efforts currently in place not dealing with the issues addressed within this program.

SEC. 68. Section 14152 of the Food and Agricultural Code is amended to read:

14152. An application for a qualified applicator certificate shall be in a form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee as prescribed by the director pursuant to Section 11502.5. All certificates issued under this chapter shall expire on December 31 of the year for which they are issued. Certificates may be renewed annually by the date of expiration by application in the form prescribed by the director and upon payment of a fee as prescribed by the director pursuant to Section 11502.5. A penalty shall be assessed against any applicant who applies for renewal after the expiration date as prescribed by the director pursuant to Section 11502.5.

SEC. 69. Section 8589.4 of the Government Code is amended to read:

8589.4. (a) A person who is acting as an agent for a transferor of real property that is located within an area of potential flooding shown on an inundation map designated pursuant to Section 8589.5, or the transferor if he or she is acting without an agent, shall disclose to any prospective



transferee the fact that the property is located within an area of potential flooding.

(b) Disclosure is required pursuant to this section only when one of the following conditions is met:

(1) The transferor, or the transferor's agent, has actual knowledge that the property is within an inundation area.

(2) The local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(c) In all transactions that are subject to Section 1103 of the Civil Code, the disclosure required by subdivision (a) of this section shall be provided by either of the following means:

(1) The Local Option Real Estate Disclosure Statement as provided in Section 1102.6a of the Civil Code.

(2) The Natural Hazard Disclosure Statement as provided in Section 1103.2 of the Civil Code.

(d) For purposes of the disclosure required by this section, the following persons shall not be deemed agents of the transferor:

(1) Persons specified in Section 1103.11 of the Civil Code.

(2) Persons acting under a power of sale regulated by Section 2924 of the Civil Code.

(e) Section 1103.13 of the Civil Code shall apply to this section.

(f) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

SEC. 70. Section 8589.5 is added to the Government Code, to read:

8589.5. (a) Inundation maps showing the areas of potential flooding in the event of sudden or total failure of any dam, the partial or total failure of which the Office of Emergency Services determines, after consultation with the Department of Water Resources, would result in death or personal injury, shall be prepared and submitted as provided in this subdivision within six months after the effective date of this section, unless previously submitted or unless the time for submission of those maps is extended for reasonable cause by the Office of Emergency Services. The local governmental organization, utility, or other public or private owner of any dam so designated shall submit to the Office of Emergency Services one map that shall delineate potential flood zones that could result in the event of dam failure when the reservoir is at full capacity, or if the local governmental organization, utility, or other public or private owner of any dam shall determine it to be desirable, he or she shall submit three maps that shall delineate potential flood zones



that could result in the event of dam failure when the reservoir is at full capacity, at median-storage level, and at normally low-storage level. After submission of copies of the map or maps, the Office of Emergency Services shall review the map or maps, and shall return any map or maps that do not meet the requirements of this subdivision, together with recommendations relative to conforming to the requirements. Maps rejected by the Office of Emergency Services shall be revised to conform to those recommendations and resubmitted. The Office of Emergency Services shall keep on file those maps that conform to the provisions of this subdivision. Maps approved pursuant to this subdivision shall also be kept on file with the Department of Water Resources. The owner of a dam shall submit final copies of those maps to the Office of Emergency Services that shall immediately submit identical copies to the appropriate public safety agency of any city, county, or city and county likely to be affected.

(b) (1) Based upon a review of inundation maps submitted pursuant to subdivision (a) or based upon information gained by an onsite inspection and consultation with the affected local jurisdiction when the requirement for an inundation map is waived pursuant to subdivision (d), the Office of Emergency Services shall designate areas within which death or personal injury would, in its determination, result from the partial or total failure of a dam. The appropriate public safety agencies of any city, county, or city and county, the territory of which includes any of those areas, may adopt emergency procedures for the evacuation and control of populated areas below those dams. The Office of Emergency Services shall review the procedures to determine whether adequate public safety measures exist for the evacuation and control of populated areas below the dams, and shall make recommendations with regard to the adequacy of those procedures to the concerned public safety agency. In conducting the review, the Office of Emergency Services shall consult with appropriate state and local agencies.

(2) Emergency procedures specified in this subdivision shall conform to local needs, and may be required to include any of the following elements or any other appropriate element, in the discretion of the Office of Emergency Services:

- (A) Delineation of the area to be evacuated.
- (B) Routes to be used.
- (C) Traffic control measures.
- (D) Shelters to be activated for the care of the evacuees.
- (E) Methods for the movement of people without their own transportation.



(F) Identification of particular areas or facilities in the flood zones that will not require evacuation because of their location on high ground or similar circumstances.

(G) Identification and development of special procedures for the evacuation and care of people from unique institutions.

(H) Procedures for the perimeter and interior security of the area, including such things as passes, identification requirements, and anti looting patrols.

(I) Procedures for the lifting of the evacuation and reentry of the area.

(J) Details as to which organizations are responsible for the functions described in this paragraph and the material and personnel resources required.

(3) It is the intent of the Legislature to encourage each agency that prepares emergency procedures to establish a procedure for their review every two years.

(c) “Dam,” as used in this section, has the same meaning as specified in Sections 6002, 6003, and 6004 of the Water Code.

(d) Where both of the following conditions exist, the Office of Emergency Services may waive the requirement for an inundation map:

(1) Where the effects of potential inundation in terms of death or personal injury, as determined through onsite inspection by the Office of Emergency Services in consultation with the affected local jurisdictions, can be ascertained without an inundation map.

(2) Where adequate evacuation procedures can be developed without benefit of an inundation map.

(e) If development should occur in any exempted area after a waiver has been granted, the local jurisdiction shall notify the Office of Emergency Services of that development. All waivers shall be reevaluated every two years by the Office of Emergency Services.

(f) A notice may be posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map, and of any information received by the county subsequent to the receipt of the map regarding changes to inundation areas within the county.

SEC. 71. Section 10089.45 is added to the Insurance Code, to read:

10089.45. (a) The Seismic Safety Account is hereby created as a special account within the Insurance Fund. Money in the account may be appropriated by the Legislature for the purposes of this section to fund the department and the Seismic Safety Commission. Assessments imposed on insurers as a prorated percentage of premiums earned on property exposures for both commercial and residential insurance policies relative to the aggregate premiums earned on those exposures by all insurers shall be deposited in the account. The premiums earned



for property exposures shall be as stated on lines 4 and 5.1 of the annual statement filed by each insurer pursuant to Section 900. The assessments shall be set annually based on earned premiums reported for the next preceding year by the department and calculated so that the funds in the account shall be sufficient to fund appropriations for support of the Seismic Safety Commission, for the actual collection and administrative costs of the department, and for the maintenance of an adequate reserve. The department shall submit the proposed assessments to the Seismic Safety Commission for its review at a regularly scheduled meeting of the commission.

(b) No assessment shall be levied on insurers with less than one hundred thousand dollars (\$100,000) of annual direct premiums earned on property exposures for both commercial and residential insurance policies. The department may adjust this amount as necessary to minimize costs by excluding assessment amounts that are too small to justify the cost of assessment and collection or if assessment or collection is impractical.

(c) An insurer, in its discretion, may recover this assessment in an equitable fashion from the insured. The insurer, upon receipt of an invoice, shall transmit payment to the department for deposit in the Seismic Safety Account. Any deficiency or excess in the amount collected in relation to the appropriation authority for the commission and the department shall be accounted for in the subsequent annual fee calculation. Any balance remaining in the Seismic Safety Account at the end of the fiscal year shall be retained in the account and carried forward to the next fiscal year.

(d) Funds in the Seismic Safety Account shall be distributed, upon appropriation, to the Seismic Safety Commission for the support of the commission and to the department for the actual administrative costs incurred in collecting the assessments.

(e) The department shall report annually to the Legislature, the Seismic Safety Commission, and the Department of Finance on the assessment calculation methodology employed.

(f) This section shall remain in effect until July 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2007, deletes or extends that date.

SEC. 72. Section 12975.7 of the Insurance Code is amended to read:

12975.7. (a) All moneys received by the commissioner in payment of lawful fees or reimbursements pursuant to this code shall be transmitted to the State Treasurer to be deposited in the State Treasury to the credit of the Insurance Fund. Unless specified in this code to be deposited in a different fund, all moneys received by the commissioner



in fines, penalties, assessments, costs, or other sanctions shall be transmitted to the State Treasury for deposit in the General Fund.

(b) The money in the Insurance Fund received from the commissioner pursuant to this section is hereby appropriated to pay the refunds authorized by this code.

(c) The balance of the money in the Insurance Fund shall be used for the purposes specified in Section 10089.45, for the support of the Department of Insurance as authorized by the Budget Act, and for related cash flow needs.

SEC. 73. Section 12975.8 of the Insurance Code is amended to read:

12975.8. (a) The Insurance Fund shall, in addition to the funds specified in Section 12975.7, consist of all of the following:

(1) All moneys appropriated to the fund in accordance with law.

(2) All moneys deposited into the State Treasury from any source whatever in payment of lawful fees or reimbursements collected by the Department of Insurance.

(3) The balance remaining in the Insurance Fund at the end of the fiscal year, whether the moneys received are from an appropriation, fees, or from reimbursements for services rendered.

(b) (1) All moneys in the Insurance Fund credited to the Seismic Safety Account shall be subject to an annual appropriation each fiscal year for the purposes specified in Section 10089.45.

(2) All other moneys in the Insurance Fund shall be subject to an annual appropriation each fiscal year for the support of the Department of Insurance.

(3) If the current cash balance in the Seismic Safety Account is not adequate to fund the amount appropriated from it in the annual Budget Act, the Insurance Fund, upon enactment of the Budget Act, shall loan to the account the amount of the appropriation, and one half of this amount shall be transferred to the Seismic Safety Commission. The second half of the appropriated amount shall be transferred to the Seismic Safety Commission from the Seismic Safety Account on or before December 31 of each year. This loan shall be repaid by revenues collected pursuant to Section 10089.45.

(c) Any balance remaining in the Insurance Fund at the end of the fiscal year may be carried forward to the next succeeding fiscal year.

(d) Whenever the balance in the Insurance Fund is not sufficient to cover cash flow in the payment of authorized expenditures, the department may borrow such funds as may be necessary from whatever source and under terms and conditions as may be determined by the Director of Finance. Repayment shall be made from revenues received by the department for the same fiscal year for which the loan is made.



SEC. 74. Article 3.5 (commencing with Section 4138) is added to Chapter 1 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 3.5. State Responsibility Area Fire Protection Benefit Fees

4138. The Legislature finds and declares the following:

(a) The presence of homes and other structures within state responsibility areas poses an added burden to the state's wildland firefighting resources, the incremental cost of which should be borne by the owners of these homes and structures.

(b) Individual land owners within state responsibility areas receive a disproportionate benefit, which is greater than that realized by the state's citizens generally, from fire prevention and suppression services provided by the state.

(c) In most cases local firefighting entities are available to provide structural fire protection within state responsibility areas. It is not the intent of the Legislature to substitute the state's firefighting capability for these existing services or to supplant them. However, these entities often do not possess sufficient equipment, personnel, and other necessary resources to meet the demand placed upon them in the event of large wild fires, and the state must at times provide additional firefighting resources to protect structures.

(d) It is the intent of the Legislature to provide for equitable distribution of the economic burden of fire prevention and suppression in state responsibility areas between the citizens of the state who generally benefit from those activities and those landowners who receive a specific benefit other than that general benefit.

(e) It is necessary to impose a fee based upon the reasonable value of the specific benefit received by landowners within state responsibility areas. Furthermore, the presence of homes and other structures on a given parcel, and the size of the parcel, constitute a reasonable relationship to fire prevention and suppression benefits received.

(f) Imposition of these fees is necessary to sustain service levels associated with the department's recent protection levels, to maintain sufficient depth of forces, and to maintain the ability to provide state assistance under various mutual aid arrangements.

(g) All revenues generated by state responsibility area fire protection benefit fees imposed under this article and used for the purposes for which they are imposed, are not proceeds of taxes subject to Article XIII B of the California Constitution.

(h) Nothing in this article requires the state to provide fire prevention and suppression services beyond those set forth in this chapter, or that landowners actually use the services provided.



4139. (a) A state responsibility area fire protection benefit fee shall be imposed annually on each parcel of land located, in whole or in part, within state responsibility areas, as defined in Section 4102, except that the benefit fee may not be imposed on any of the following:

(1) Parcels exempt from property taxes.

(2) Parcels owned by a public agency and located within the boundaries of the public agency.

(b) For the 2003–04 fiscal year, the benefit fee for each parcel shall be seventy dollars (\$70) so that a total of thirty-five dollars (\$35) per parcel may be collected pursuant to subdivision (c) of Section 4139; for the 2004–05 fiscal year, the benefit fee for each parcel shall be thirty-five dollars (\$35).

(c) Benefit fees imposed for the 2003–04 fiscal year may be apportioned for that period of the fiscal year in which this section is in effect, but that apportionment may not be less than one half of a year. Benefit fees imposed for the 2003–04 fiscal year may be billed with the benefit fees imposed for the 2004–05 fiscal year and shall be payable by the owner of record on January 1 of the preceding fiscal year as shown on the county’s secured property tax rolls. The department shall notify each affected county treasurer by June 30, 2004, of the amount it anticipates owners to remit for the 2003–04 fiscal year.

(d) The department shall have access to all county assessment records for purposes of administering the benefit fees imposed pursuant to this article. The department may authorize individual counties to perform that work on its behalf.

(e) The benefit fees shall be collected by each county in the same manner and at the same time as secured property taxes. Notwithstanding any other provision of law, the county collecting the benefit fees may increase the benefit fees by an amount to cover its reasonable cost of levying, collection, and apportionment and may retain that increased amount.

(f) All laws relating to the levy, collection, and enforcement of county taxes apply to the benefit fees imposed pursuant to this article.

(g) It is essential that this article be implemented without delay. To permit timely implementation, the department may contract for services related to establishment of the fee collection process. For this purpose only, and for a period not to exceed 24 months, no provision of the Public Contract Code or any other provision of law related to public contracting applies.

4140. (a) Each county treasurer shall, not later than 30 days following the collection of state responsibility area fire protection benefit fees, remit all fees collected, except that portion retained pursuant to subdivision (e) of Section 4139, to the Treasurer for deposit



in the State Responsibility Area Fire Protection Fund, which is hereby created in the State Treasury.

(b) Money deposited in the State Responsibility Area Fire Protection Fund shall be available, upon appropriation by the Legislature, to the department for the purpose of providing fire prevention and suppression benefits to landowners in state responsibility areas.

(c) If the total amount deposited in the State Responsibility Area Fire Protection Fund in any fiscal year exceeds the amount encumbered for fire protection and suppression services in state responsibility areas attributable to benefits conferred on parcels subject to the fees, the fees for the following fiscal year shall be reduced accordingly.

(d) Notwithstanding any other provision of law, the fees imposed during any fiscal year may be accounted for on an accrued basis. The department may borrow against anticipated revenues to the State Responsibility Area Fire Protection Fund to meet cash flow needs.

(e) Notwithstanding any other provision of law, a loan obtained pursuant to subdivision (d) shall be interest free. The department shall repay the loan in a timely manner from revenues received into the State Responsibility Area Fire Protection Fund.

(f) Notwithstanding any other provision of law, the State Responsibility Area Fire Protection Fund is exempt from Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3 of Title 2 of the Government Code.

4140.5. This article does not prohibit a local district from contracting with the department for the provision of structural or wildland fire suppression.

4140.7. (a) The director, in consultation with the board, local governments, local fire districts, state and local firefighter employee organizations, and other interested parties, the combination of which shall represent a geographic balance within state responsibility areas, shall convene a stakeholder group to evaluate the method by which fire protection and suppression services in state responsibility areas are provided, and to make a report containing the information listed in subdivision (c) available to the Legislature on or before January 1, 2006.

(b) (1) The director shall post notice of all of the stakeholder group's meetings on the department's Web site at least two weeks before each meeting.

(2) The stakeholder group's meetings shall be held in various locations throughout the state.

(3) All meetings of the stakeholder group shall be open to the public.

(c) The report shall contain at least all of the following:



(1) A summary of the current legal and financial relationships between the state and local governments and local fire districts, with respect to fire protection in state responsibility areas.

(2) All relevant information and policy options pertaining to whether increased responsibility, funding, and training, with respect to state responsibility areas, should be given to local governments and local fire districts.

(3) All relevant arguments pertaining to whether the collection of state fees for fire protection and suppression services in state responsibility areas in all areas of the state should continue in order to ensure that the beneficiaries of fire protection and suppression services are paying for those services.

(4) Recommendations on the conditions and terms by which a fee for fire suppression and protection services should be continued and in what amount, taking into account local conditions and the various circumstances under which fire protection and suppression services are currently structured.

(5) A recommendation of whether the designation and delineation of state responsibility areas can be improved to ensure that local governments and residents are aware of the boundaries of state responsibility areas.

SEC. 75. Section 25534 of the Public Resources Code is amended to read:

25534. (a) The commission may, after one or more hearings, amend the conditions of, or revoke the certification for, any facility for any of the following reasons:

(1) Any material false statement set forth in the application, presented in proceedings of the commission, or included in supplemental documentation provided by the applicant.

(2) Any significant failure to comply with the terms or conditions of approval of the application, as specified by the commission in its written decision.

(3) A violation of this division or any regulation or order issued by the commission under this division.

(4) The owner of a project does not start construction of the project within 12 months after the date all permits necessary for the project become final and all administrative and judicial appeals have been resolved provided the California Consumer Power and Conservation Financing Authority notifies the commission that it is willing and able to construct the project pursuant to subdivision (g). The project owner may extend the 12-month period by 24 additional months pursuant to subdivision (f). This paragraph applies only to projects with a project



permit application deemed complete by the commission after January 1, 2003.

(b) The commission may also administratively impose a civil penalty for a violation of paragraph (1) or (2) of subdivision (a). Any civil penalty shall be imposed in accordance with Section 25534.1 and may not exceed seventy-five thousand dollars (\$75,000) per violation, except that the civil penalty may be increased by an amount not to exceed one thousand five hundred dollars (\$1,500) per day for each day in which the violation occurs or persists, but the total of the per day penalties may not exceed fifty thousand dollars (\$50,000).

(c) A project owner shall commence construction of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) within 12 months after the project has been certified by the commission and after all accompanying project permits are final and administrative and judicial appeals have been completed. The project owner shall submit construction and commercial operation milestones to the commission within 30 days after project certification. Construction milestones shall require the start of construction within the 12-month period established by this subdivision. The commission shall approve milestones within 60 days after project certification. If the 30-day deadline to submit construction milestones to the commission is not met, the commission shall establish milestones for the project.

(d) The failure of the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to meet construction or commercial operation milestones, without a finding by the commission of good cause, shall be cause for revocation of certification or the imposition of other penalties by the commission.

(e) A finding by the commission that there is good cause for failure to meet the start-of-construction deadline required by paragraph (4) of subdivision (a) or any subsequent milestones of subdivision (c) shall be made if the commission determines that any of the following criteria are met:

(1) The change in any deadline or milestone does not change the established deadline or milestone for the start of commercial operation.

(2) The deadline or milestone is changed due to circumstances beyond the project owner's control, including, but not limited to, administrative and legal appeals.

(3) The deadline or milestone will be missed but the project owner demonstrates a good faith effort to meet the project deadline or milestone.

(4) The deadline or milestone will be missed due to unforeseen natural disasters or acts of God that prevent timely completion of the project deadline or milestone.



(5) The deadline or milestone will be missed for any other reason determined reasonable by the commission.

(f) The commission shall extend the start-of-construction deadline required by paragraph (4) of subdivision (a) by an additional 24 months, if the owner reimburses the commission's actual cost of licensing the project, less the amount paid pursuant to subdivision (a) of Section 25806. For the purposes of this section, the commission's actual cost of licensing the project shall be based on a certified audit report filed by the commission staff within 180 days of the commission's certification of the project. The certified audit shall be filed and served on all parties to the proceeding, is subject to public review and comment, and is subject to at least one public hearing if requested by the project owner. Any reimbursement received by the commission pursuant to this subdivision shall be deposited in the General Fund.

(g) If the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) fails to commence construction, without good cause, within 12 months after the project has been certified by the commission and has not received an extension pursuant to subdivision (f), the commission shall provide immediate notice to the California Consumer Power and Conservation Financing Authority. The authority shall evaluate whether to pursue the project independently or in conjunction with any other public or private entity, including the original certificate holder. If the authority demonstrates to the commission that it is willing and able to construct the project either independently or in conjunction with any other public or private entity, including the original certificate holder, the commission may revoke the original certification and issue a new certification for the project to the authority, unless the authority's statutory authorization to finance or approve new programs, enterprises, or projects has expired. If the authority declines to pursue the project, the permit shall remain with the current project owner until it expires pursuant to the regulations adopted by the commission.

(h) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the authority, the commission shall adopt new milestones for the project that allow the authority up to 24 months to start construction of the project or to start to meet the applicable deadlines or milestones. If the authority fails to begin construction in conformity with the deadlines or milestones adopted by the commission, without good cause, the certification may be revoked.

(i) (1) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the authority and the authority pursues the project



without participation of the original certificate holder, the authority shall offer to reimburse the original certificate holder for the actual costs the original certificate holder incurred in permitting the project and in procuring assets associated with the license, including, but not limited to, major equipment and the emission offsets. In order to receive reimbursement, the original certificate holder shall provide to the commission documentation of the actual costs incurred in permitting the project. The commission shall validate those costs. The certificate holder may refuse to accept the offer of reimbursement for any asset associated with the license and retain the asset. To the extent the certificate holder chooses to accept the offer for an asset, it shall provide the authority with the asset.

(2) If the authority reimburses the original certificate holder for the costs described in paragraph (1), the original certificate holder shall provide the authority with all of the assets for which the original certificate holder received reimbursement.

(j) This section does not prevent a certificate holder from selling its license to construct and operate a project prior to its revocation by the commission. In the event of a sale to an entity that is not an affiliate of the certificate holder, the commission shall adopt new deadlines or milestones for the project that allow the new certificate holder up to 12 months to start construction of the project or to start to meet the applicable deadlines or milestones.

(k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued for the modernization, repowering, replacement, or refurbishment of existing facilities or to a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. Parts 292.101 to 292.602, inclusive), nor shall those provisions apply to any other generation units installed, operated, and maintained at a customer site exclusively to serve that facility's load. For the purposes of this subdivision, "replacement" of an existing facility includes, but is not limited to, a comparable project at a location different than the facility being replaced, provided that the commission certifies that the new project will result in the decommissioning of the existing facility.

(l) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued to "local publicly owned electric utilities" as defined in subdivision (d) of Section 9604 of the Public Utilities Code whose governing bodies certify to the commission



that the project is needed to meet the projected native load of the local publicly owned utility.

(m) To implement this section, the commission and the California Consumer Power and Conservation Financing Authority may, in consultation with each other, adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 76. Section 25806 is added to the Public Resources Code, to read:

25806. (a) A person who submits to the commission an application for certification for a proposed generating facility shall submit with the application a fee of one hundred thousand dollars (\$100,000) plus two hundred fifty dollars (\$250) per megawatt of gross generating capacity of the proposed facility. The total fee accompanying an application may not exceed three hundred fifty thousand dollars (\$350,000).

(b) A person who receives certification of a proposed generating facility shall pay an annual fee of fifteen thousand dollars (\$15,000). The first payment of the annual fee is due on the date this section takes effect. For a facility certified on or after the effective date of this section, the first payment of the annual fee is due on the date the commission adopts the final decision. All subsequent payments are due by July 1 of each year in which the facility retains its certification. The fiscal year for the annual fee is July 1 to June 30, inclusive.

(c) The fees in subdivisions (a) and (b) shall be adjusted annually to reflect the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce.

(d) No fee is required to accompany an application for certification, and no annual fee is required thereafter, for a generating facility that uses a renewable resource as its primary fuel or power source. For purposes of this subdivision, a renewable resource includes, but is not limited to, biomass, solar thermal, geothermal, digester gas, municipal solid waste conversion, landfill gas, ocean thermal, and solid waste converted to a clean burning fuel by using a noncombustion thermal process.

(e) The Energy Facility License and Compliance Fund is hereby created in the State Treasury. All fees received by the commission pursuant to this section shall be remitted to the Treasurer for deposit in the fund. The money in the fund shall be expended, upon appropriation



by the Legislature, for processing applications for certification and for compliance monitoring.

SEC. 77. The Legislature finds and declares all of the following:

(a) The current fiscal crisis requires that the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50) be administered in the most cost-efficient manner consistent with ensuring public participation in the development of program guidelines and outreach and technical assistance to communities throughout the state.

(b) Notwithstanding Sections 79505.6, 79506.7, and 79575 of the Water Code, agencies responsible for the development of guidelines, technical assistance and reports pursuant to those sections shall use electronic communication, including publication of information on the Internet, shall determine the timing of the development of guidelines, and shall use any and all other efficiencies necessary to provide a public process reasonably calculated to provide access and relevant grant application and award information to interested persons within the budgetary and personnel constraints imposed by the state budget.

(c) It is the intent of the Legislature that, through the annual budget process, there be a review of progress undertaken by state agencies to develop guidelines to implement this act.

SEC. 78. Section 1 of Chapter 240 of the Statutes of 2003 is amended to read:

Sec. 1. The Legislature finds and declares the following:

In order to protect the intent of the voters in approving the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Division 26.5 (commencing with Section 79500) of the Water Code), it is necessary and desirable that, to the maximum extent possible, and where appropriate, the following principles apply to the implementation of that act:

(a) Guidelines developed for grant and loan programs pursuant to that act shall encourage integrated, multiple-benefit projects.

(b) Preference shall be given to funding safe drinking water and water quality projects that serve disadvantaged communities.

(c) Programs shall support projects that improve local and regional water supply reliability.

(d) For projects that affect water quality, preference shall be given to those projects that contribute expeditiously and measurably to the long-term attainment and maintenance of water quality standards.

(e) For projects that affect water quality, preference shall be given to funding projects that will eliminate or significantly reduce pollution into impaired waters and sensitive habitat areas, including areas of special biological significance.



(f) Projects that affect water quality shall include a monitoring component that allows the integration of data into statewide monitoring efforts, including, but not limited to, the surface water ambient monitoring program carried out by the State Water Resources Control Board.

(g) Groundwater projects and projects that affect groundwater shall include groundwater monitoring requirements consistent with the Groundwater Quality Monitoring Act of 2001 (Part 2.76 (commencing with Section 10780) of Division 6 of the Water Code).

SEC. 79. Section 1025.5 of the Water Code is amended to read:

1025.5. (a) If both the lessor and lessee are private parties, the lessor shall file an application with the board for approval of the lease agreement and shall include in the application all of the following:

(1) The information and materials described in subdivisions (a) to (e), inclusive, of Section 1025.

(2) Other information that the state board determines is necessary to review the application.

(3) The application fee set pursuant to Section 1525.

(b) The board, after providing notice and opportunity for a hearing, may approve the lease if, in the judgment of the board, the lease would not operate to injure the legal users of water or unreasonably affect fish, wildlife, or other instream beneficial uses.

SEC. 80. Section 1031 is added to the Water Code, to read:

1031. A water lease pursuant to this chapter shall not take effect until the first annual fee, set pursuant to Section 1525, is paid, and the lease shall not continue in effect in any subsequent year unless the annual fee for that year is paid.

SEC. 81. Section 1052 of the Water Code is amended to read:

1052. (a) The diversion or use of water subject to this division other than as authorized in this division is a trespass.

(b) Civil liability may be administratively imposed by the board pursuant to Section 1055 for a trespass as defined in this section in an amount not to exceed five hundred dollars (\$500) for each day in which the trespass occurs.

(c) The Attorney General, upon request of the board, shall institute in the superior court in and for any county wherein the diversion or use is threatened, is occurring, or has occurred appropriate action for the issuance of injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, or permanent injunction.

(d) Any person or entity committing a trespass as defined in this section may be liable for a sum not to exceed five hundred dollars (\$500) for each day in which the trespass occurs. The Attorney General, upon request of the board, shall petition the superior court to impose, assess,



and recover any sums pursuant to this subdivision. In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(e) All funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

(f) The remedies prescribed in this section are cumulative and not alternative.

SEC. 82. Section 1228.3 of the Water Code is amended to read:

1228.3. (a) Registration of water use pursuant to this article shall be made upon a form prescribed by the board. The registration form shall set forth all of the following:

- (1) The name and post office address of the registrant.
- (2) The source of water supply.
- (3) The nature and amount of the proposed use.
- (4) The proposed place of diversion.
- (5) The place where it is intended to use the water.
- (6) The time for completion of construction of diversion works and for complete application of the water to the proposed use.
- (7) A certification that the registrant has contacted a representative of the Department of Fish and Game designated by that department for that purpose, has provided information to that department that is set forth in the registration form, and has agreed to comply with all lawful conditions, including, but not limited to, conditions upon the construction and operation of diversion works, required by the Department of Fish and Game. The certification shall include a copy of any conditions required by the Department of Fish and Game pursuant to this paragraph.

(8) Any other information that may reasonably be required by the board.

(b) Registration of water use shall be deemed completed on the date that the form, executed in substantial compliance with the requirements of this section, and the registration fee specified in Section 1525 are received by the board.

(c) The board shall issue monthly a list of registrations filed under this article during the preceding calendar month. This list shall contain the information required by paragraphs (1) to (6), inclusive, of subdivision (a). The list shall set forth a date prior to which any interested person may file a written protest in opposition to the approval of a stockpond registration. That date shall be not later than 30 days from the date on



which the list is issued. The board shall mail the monthly list of registrations filed to any person who so requests.

(d) Prior to the date set forth on the list required under subdivision (c), any interested person may file with the board a written protest in opposition to the approval of a stockpond registration. The protest shall clearly set forth the protestant’s objections to the registered use based on interference with prior rights. The protest shall be served on the registrant by the protestant by mailing a duplicate copy of the protest to the registrant, or through service undertaken in another manner determined to be adequate by the board. The procedures set forth in Article 1.5 (commencing with Section 1345) of Chapter 5 shall be used for reviewing a protested registration.

SEC. 83. Section 1228.8 of the Water Code is repealed.

SEC. 84. Chapter 8 (commencing with Section 1525) of Part 2 of Division 2 of the Water Code is repealed.

SEC. 85. Chapter 8 (commencing with Section 1525) is added to Part 2 of Division 2 of the Water Code, to read:

CHAPTER 8. WATER RIGHT FEES

Article 1. Fee Schedules

1525. (a) Each person or entity who holds a permit or license to appropriate water, and each lessor of water leased under Chapter 1.5 (commencing with Section 1020) of Part 1, shall pay an annual fee according to a fee schedule established by the board.

(b) Each person or entity who files any of the following shall pay a fee according to a fee schedule established by the board:

- (1) An application for a permit to appropriate water.
- (2) A registration of appropriation for a small domestic use or livestock stockpond.
- (3) A petition for an extension of time within which to begin construction, to complete construction, or to apply the water to full beneficial use under a permit.
- (4) A petition to change the point of diversion, place of use, or purpose of use, under a permit or license.
- (5) A petition to change the conditions of a permit or license, requested by the permittee or licensee, that is not otherwise subject to paragraph (3) or (4).
- (6) A petition to change the point of discharge, place of use, or purpose of use, of treated wastewater, requested pursuant to Section 1211.
- (7) An application for approval of a water lease agreement.



(8) A request for release from priority pursuant to Section 10504.

(9) An application for an assignment of a state-filed application pursuant to Section 10504.

(c) The board shall set the fee schedule authorized by this section so that the total amount of fees collected pursuant to this section equals that amount necessary to recover costs incurred in connection with the issuance, administration, review, monitoring, and enforcement of permits, licenses, certificates, and registrations to appropriate water, water leases, and orders approving changes in point of discharge, place of use, or purpose of use of treated wastewater. The board may include, as recoverable costs, but is not limited to including, the costs incurred in reviewing applications, registrations, petitions and requests, prescribing terms of permits, licenses, registrations, and change orders, enforcing and evaluating compliance with permits, licenses, certificates, registrations, change orders, and water leases, inspection, monitoring, planning, modeling, reviewing documents prepared for the purpose of regulating the diversion and use of water, applying and enforcing the prohibition set forth in Section 1052 against the unauthorized diversion or use of water subject to this division, and the administrative costs incurred in connection with carrying out these actions.

(d) (1) The board shall adopt the schedule of fees authorized under this section as emergency regulations in accordance with Section 1530.

(2) For filings subject to subdivision (b), the schedule may provide for a single filing fee or for an initial filing fee followed by an annual fee, as appropriate to the type of filing involved, and may include supplemental fees for filings that have already been made but have not yet been acted upon by the board at the time the schedule of fees takes effect.

(3) The board shall set the amount of total revenue collected each year through the fees authorized by this section at an amount equal to the revenue levels set forth in the annual Budget Act for this activity. The board shall review and revise the fees each fiscal year as necessary to conform with the revenue levels set forth in the annual Budget Act. If the board determines that the revenue collected during the preceding year was greater than, or less than, the revenue levels set forth in the annual Budget Act, the board may further adjust the annual fees to compensate for the over or under collection of revenue.

(e) Annual fees imposed pursuant to this section for the 2003–04 fiscal year shall be assessed for the entire 2003–04 fiscal year.

1528. Each person or entity who files a proof of claim under Article 4 (commencing with Section 2575) of Chapter 3 of Part 3 shall pay a fee according to a fee schedule established by the board. The board shall adopt the schedule of fees pursuant to Section 1530. The board shall



establish the fees so as to be sufficient on the average to pay the administrative expenses of the board in processing, reviewing, and preparing a report on the claims submitted to the board.

1529. Each person or entity who files a notice pursuant to Part 5 (commencing with Section 4999) shall pay an annual fee according to a fee schedule established by the board. The board shall adopt the schedule of fees pursuant to Section 1530. The board shall set the filing fees in an amount that is sufficient, on the average, to pay the administrative expenses of the board in processing, compiling, and retaining the notices.

1530. (a) The board shall adopt, by emergency regulation, the schedules of fees authorized under this article. The emergency regulation may include provisions concerning the administration and collection of the fees. The fee schedules may be graduated in accordance with the number of diversions or the amount of water involved. The board shall periodically adjust the amount of the fees specified in the schedule in accordance with this article.

(b) The emergency regulations adopted pursuant to this section, any amendment thereto, or subsequent adjustments to the regulations, shall be adopted by the board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the board, or any adjustment to an annual fee made by the board pursuant to this section, shall remain in effect until revised by the board.

Article 2. Collection and Enforcement

1535. (a) Any fee subject to this chapter that is required in connection with the filing of an application, registration, request or proof of claim, other than an annual fee required after the period covered by the initial filing fee, shall be paid to the board.

(b) If a fee established under subdivision (b) of Section 1525, Section 1528, or Section 13160.1 is not paid when due, the board may cancel the application, registration, petition, request, or claim, or may refer the matter to the State Board of Equalization for collection of the unpaid fee.

1536. All annual fees, other than the initial filing fee required in connection with the filing of an application, registration, petition, or request, or proof of claim, and all unpaid fees and expenses referred to



the State Board of Equalization for collection pursuant to subdivision (b) of Section 1535 or Section 2868, shall be paid to the State Board of Equalization.

1537. (a) The State Board of Equalization shall collect any fee or expense required to be paid to the State Board of Equalization under this chapter.

(b) (1) The State Board of Equalization shall collect the fees pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

(2) Notwithstanding the appeal provisions in the Fee Collection Procedures Law, a determination by the board that a person or entity is required to pay a fee, or a determination by the board regarding the amount of that fee, is subject to review under Chapter 4 (commencing with Section 1120) of Part 1 and is not subject to a petition for redetermination by the State Board of Equalization.

(3) Notwithstanding the refund provisions in the Fee Collection Procedures Law, the State Board of Equalization shall not accept any claim for refund that is based on the assertion that a determination by the board improperly or erroneously calculated the amount of a fee, or incorrectly determined that the person or entity is subject to the fee, unless that determination has been set aside by the board or a court reviewing the determination of the board.

(4) This subdivision shall not be construed to apply Chapter 4 (commencing with Section 1120) of Part 1 to the adoption of regulations under this chapter or to a determination of expenses under Part 3 (commencing with Section 2000).

(c) The board shall provide to the State Board of Equalization the name and address of each person or entity who is liable for a fee or expense, the amount of the fee or expense, and the due date.

1538. In any proceeding pursuant to Section 1052 in which it is determined that there has been a violation of the prohibition against the unauthorized diversion or use of water subject to this division, the board or court, as the case may be, may impose an additional liability in the amount of any annual fees that would have been required under this division if the diversion or use had been authorized by a permit or license to appropriate water.

1539. If a permit or license holder fails to pay an annual fee imposed pursuant to subdivision (a) of Section 1525 for a period of five years, the board may revoke the permit or license in accordance with the procedures for revocation specified in Section 1241.

1540. If the board determines that the person or entity on whom a fee or expense is imposed will not pay the fee or expense based on the fact that the fee payer has sovereign immunity under Section 1560, the



board may allocate the fee or expense, or an appropriate portion of the fee or expense, to persons or entities who have contracts for the delivery of water from the person or entity on whom the fee or expense was initially imposed. The allocation of the fee or expense to these contractors does not affect ownership of any permit, license, or other water right, and does not vest any equitable title in the contractors.

1541. This article applies to any fee established or required to be paid under Article 1 (commencing with Section 1525), to any fee or expense set to cover the expenses of the board under Part 3 (commencing with Section 2000), and to any fee set under Section 13160.1 that is required to be deposited in the Water Rights Fund.

Article 3. Water Rights Fund

1550. There is in the State Treasury a Water Rights Fund, which is hereby established.

1551. All of the following shall be deposited in the Water Rights Fund:

(a) All fees, expenses, and penalties collected by the board or the State Board of Equalization under this chapter and Part 3 (commencing with Section 2000).

(b) All funds collected under Section 1052, 1845, or 5107.

(c) All fees collected under Section 13160.1 in connection with certificates for activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.

1552. The money in the Water Rights Fund is available for expenditure, upon appropriation by the Legislature, for the following purposes:

(a) For expenditure by the State Board of Equalization in the administration of this chapter and the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code) in connection with any fee or expense subject to this chapter.

(b) For the payment of refunds, pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code, of fees or expenses collected pursuant to this chapter.

(c) For expenditure by the board for the purposes of carrying out this division, Division 1 (commencing with Section 100), Part 2 (commencing with Section 10500) of Division 6, and Article 7 (commencing with Section 13550) of Chapter 7 of Division 7.

(d) For expenditures by the board for the purposes of carrying out Section 13160 and 13160.1 in connection with activities involving



hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.

(e) For expenditures by the board for the purposes of carrying out Section 13140 and 13170 in connection with plans and policies that address the diversion or use of water.

Article 4. Sovereign Immunity

1560. (a) The fees and expenses established under this chapter and Part 3 (commencing with Section 2000) apply to the United States and to Indian tribes, to the extent authorized under federal or tribal law.

(b) If the United States or an Indian tribe declines to pay a fee or expense, or the board determines that the United States or the Indian tribe is likely to decline to pay a fee or expense, the board may do any of the following:

(1) Initiate appropriate action to collect the fee or expense, including any appropriate enforcement action for failure to pay the fee or expense, if the board determines that federal or tribal law authorizes collection of the fee or expense.

(2) Allocate the fee or expense, or an appropriate portion of the fee or expense, in accordance with Section 1540. The board may make this allocation as part of the emergency regulations adopted pursuant to Section 1530.

(3) Enter into a contractual arrangement that requires the United States or the Indian tribe to reimburse the board, in whole or in part, for the services furnished by the board, either directly or indirectly, in connection with the activity for which the fee or expense is imposed.

(4) Refuse to process any application, registration, petition, request, or proof of claim for which the fee or expense is not paid, if the board determines that refusal would not be inconsistent with federal law or the public interest.

SEC. 86. Section 1845 of the Water Code is amended to read:

1845. (a) Upon the failure of any person to comply with a cease and desist order issued by the board pursuant to this chapter, the Attorney General, upon the request of the board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction.

(b) (1) Any person or entity who violates a cease and desist order issued pursuant to this chapter may be liable for a sum not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs.



(2) Civil liability may be imposed by the superior court. The Attorney General, upon the request of the board, shall petition the superior court to impose, assess, and recover those sums.

(3) Civil liability may be imposed administratively by the board pursuant to Section 1055.

(c) In determining the appropriate amount, the court, or the board, as the case may be, shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(d) All funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

SEC. 87. Section 2850 of the Water Code is amended to read:

2850. At the time of the submission of proofs, the board shall collect from each claimant the fee established pursuant to Section 1528.

SEC. 88. Section 2865 is added to the Water Code, to read:

2865. During the pendency of any proceedings under this chapter, the board, after at least 20 days' notice to the parties, may order interim or partial payments of the expense to be made by the parties as the board deems proper and equitable under the circumstances.

SEC. 89. Section 2868 is added to the Water Code, to read:

2868. If a party fails to pay the expenses apportioned to that party when due, the board may refer the matter for collection of the unpaid expenses pursuant to Section 1536.

SEC. 90. Section 5006 of the Water Code is amended to read:

5006. Each notice shall be sworn to and shall be accompanied by a filing fee which shall be fixed by the board pursuant to Section 1529.

SEC. 91. Section 5107 of the Water Code is amended to read:

5107. (a) The making of any willful misstatement pursuant to this part is a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail for not to exceed six months, or both.

(b) Any person who makes a material misstatement pursuant to this part may be liable civilly as provided in subdivision (c).

(c) Civil liability may be administratively imposed by the board pursuant to Section 1055 in an amount not to exceed five hundred dollars (\$500) for each violation. In determining the appropriate amount, the board shall consider all relevant circumstances, including, but not limited to, all of the following factors:

- (1) The extent of harm caused by the violation.
- (2) The nature and persistence of the violation.
- (3) The length of time over which the violation occurs.



(4) Any corrective action undertaken by the violator.

(d) All funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

SEC. 92. Section 6307 of the Water Code is amended to read:

6307. (a) (1) The department shall adopt, by regulation, a schedule of fees to cover the department's costs in carrying out the supervision of dam safety.

(2) The revenue generated by the fees imposed under this section shall be adjusted periodically for cost-of-living increases. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the director shall adjust the fees to compensate for the overcollection or undercollection of revenue. The department shall provide a schedule of fees to the Legislature and to every dam owner that has a permit or has applied for a permit, when any adjustment is made to the fees under this section.

(b) (1) An annual fee shall be paid on or before January 31, 2004, July 1, 2004, and on or before July 1 of each succeeding year, based upon a fixed rate and height of the dam, including all enlargements thereto, substantially completed by or in operation on June 30, 2003, and on June 30 of each succeeding year. The fees collected on December 31, 2003, will be credited toward the fees due January 31, 2004. The annual fee shall be four hundred dollars (\$400) per dam, plus one hundred ten dollars (\$110) per foot of height. This fee shall be periodically adjusted, as described in subdivision (a).

(2) A penalty plus interest, as set forth in Section 6428 of the Water Code, shall be imposed for fees received after July 1 in any year, except that for the year 2003, the penalty plus interest shall be imposed for any fees received after January 31, 2004.

(c) For the purposes of this section, "height of the dam" means the vertical distance, to the nearest foot, from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the department, or from the lowest elevation of the outside limit of the barrier, as determined by the department, if it is not across a stream channel or watercourse, to the maximum possible water storage elevation.

(d) Notwithstanding subdivision (b), the department shall limit the total annual fee per dam to not more than seventy-five dollars (\$75) if both of the following apply:

(1) The dam has a storage capacity of not more than 100 acre-feet.

(2) The governing body of a private school or the governing board of a public school certifies that the dam is used as a subject of study by its students.



(e) (1) Notwithstanding subdivision (b), the department shall limit the total annual fee for dams or reservoirs located on farms or ranch properties to one hundred fifty dollars (\$150) per dam, and sixteen dollars (\$16) per foot of height.

(2) For purposes of this subdivision, “farm” has the same meaning as defined in Section 52262 of the Food and Agricultural Code.

(f) (1) Privately owned dams with less than 100 acre-feet of storage capacity shall be assessed an annual fee in accordance with paragraph (1) of subdivision (e).

(2) As used in this subdivision, “privately owned” does not include dams owned by municipalities, water districts or companies, irrigation districts, private, investor owned or publicly owned utilities, or public agencies.

SEC. 93. Section 6308 of the Water Code is amended to read:

6308. All fees, penalties, interest, fines, or charges collected by the department under this division shall be deposited in the Dam Safety Fund, which is hereby established in the State Treasury. The money in that fund shall be available to the department, upon appropriation by the Legislature, for the administration of the dam safety program.

SEC. 94. Section 6308.5 of the Water Code is repealed.

SEC. 95. Section 6309 of the Water Code is amended to read:

6309. The fees provided for in this chapter shall be required of any “owner,” as defined in Section 6005.

SEC. 96. Section 13160.1 of the Water Code is amended to read:

13160.1. (a) The state board may establish a reasonable fee schedule to cover the costs incurred by the state board and the regional boards in connection with any certificate that is required or authorized by any federal law with respect to the effect of any existing or proposed facility, project, or construction work upon the quality of waters of the state, including certificates requested by applicants for a federal permit or license pursuant to Section 401 of the Federal Water Pollution Control Act, as amended, and certificates requested pursuant to Section 169 of the Internal Revenue Code, as amended, with respect to water pollution control facilities.

(b) In providing for the recovery of costs incurred by the state board and regional board pursuant to this section, the state board may include in the fee schedule, but is not limited to including, the costs incurred in reviewing applications for certificates, prescribing terms of certificates and monitoring requirements, enforcing and evaluating compliance with certificates and monitoring requirements, conducting monitoring and modeling, analyzing laboratory samples, reviewing documents prepared for the purpose of regulating activities subject to certificates, and administrative costs incurred in connection with carrying out these



actions. The costs of reviewing applications for certificates include, but are not limited to, the costs incurred in anticipation of the filing of an application for a certificate, including participation in any pre-filing consultation, and investigation or studies to evaluate the impacts of the proposed activity.

(c) (1) The fee schedule may provide for payment of a single fee in connection with the filing of an application, or for periodic or annual fees, as appropriate to the type of certificate issued and the activity authorized by the certificate.

(2) The fee schedule authorized by this section may impose a fee upon any of the following:

(A) Any person who files an application for a certificate.

(B) Any person who files with the state board or a regional board a notice of intent to file an application for a certificate, or who files with a federal agency a notice of intent to apply for a federal permit or license for which a certificate will be required under Section 401 of the Federal Water Pollution Control Act.

(C) Any person holding a federal permit or license for which a certificate has been issued.

(D) Any person required to send a notice of intent to the state board or a regional board to proceed with an activity permitted by a general permit subject to certification under Section 13160.

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

(2) The emergency regulations adopted pursuant to this subdivision, any amendment thereto, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government



Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall remain in effect until revised by the state board.

(e) Any fees collected pursuant to this section in connection with certificates for activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission shall be deposited in the Water Rights Fund.

SEC. 97. Section 79505.5 of the Water Code is amended to read:

79505.5. As used in this division, the following terms shall have the following meanings:

(a) “Disadvantaged community” means a community with an annual median household income that is less than 80 percent of the statewide annual median household income.

(b) “Matching funds” means funds made available by nonstate sources, which may include, but are not limited to, donated services from nonstate sources.

(c) Notwithstanding subdivision (b), matching funds for a state agency may include state funds and services.

SEC. 98. The repeal of Section 1228.8 of the Water Code by this act, and the repeal of Chapter 8 (commencing with Section 1525) of Part 2 of Division 2 of the Water Code, as that chapter read on December 31, 2003, by this act, does not terminate any of the following:

(a) Any obligation to pay fees due on or before January 1, 2004.

(b) Any obligation to pay for reimbursements due under contractual arrangements, if those reimbursements became due before January 1, 2004.

(c) The applicability of Section 1536 of the Water Code, as that section read on January 1, 2003, as applied to any application fee that was due before January 1, 2004, and was not paid when due.

SEC. 99. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution. In addition, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain other costs because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by the act, within the meaning of Section 17556 of the Government Code.



However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

