

AMENDED IN SENATE APRIL 4, 2005

SENATE BILL

No. 1070

**Introduced by Senator Kehoe
(Coauthor: Senator Alquist)**

February 22, 2005

An act to amend Section 13269 of the Water Code, relating to An act to amend Sections 13167 and 13225 of, and to repeal and add Section 13181 to, the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1070, as amended, Kehoe. Water quality: ~~waivers~~ *information.*

(1) Existing law, the Porter-Cologne Water Quality Control Act provides that a state board or a regional board may waive certain waste discharge requirements for specific discharges or specific types of discharges if the waiver is consistent with any applicable state or regional water quality control and is in the public interest.

This bill, in addition, would require that a waiver does not pose a significant threat to the beneficial uses of the waters of the state, requires the State Water Resources Control Board, in conjunction with the California regional water quality control boards, to implement a public information program on matters involving water quality and to maintain an information file on water quality research and other pertinent matters.

This bill would require the state board to place on its Web site a public information file on water quality research, standards, regulation, enforcement, and other pertinent matters, as prescribed.

(2) The act requires the state board, to the extent that funds are available, to prepare and complete, on or before January 1, 2000, an inventory of existing water quality monitoring activities within state coastal watersheds, bays, estuaries, and coastal waters.

This bill would repeal that provision and would require the California Environmental Protection Agency and the Resources Agency, on or before December 1, 2006, to enter into a memorandum of understanding for the purposes of establishing the California Water Quality Monitoring Council, which the state board would be required to administer. The bill would require the memorandum of understanding to describe the means by which the monitoring council will work to (a) reduce redundancies, inefficiencies, and inadequacies in existing data collection programs and (b) ensure that sufficient information is collected to track improvements in water quality and evaluate the effectiveness of programs administered by the state board or the regional boards and other water quality improvement projects in achieving clean water and healthy ecosystems. The bill would require the monitoring council to undertake various actions relating to data collection. The bill would require the Secretary of the California Environmental Protection Agency, beginning December 1, 2008, to conduct a biennial audit of the effectiveness of a specified monitoring and assessment network developed and implemented by the monitoring council.

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

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

1 ~~SECTION 1. Section 13269 of the Water Code is amended to~~
2 ~~read:~~
3 *SECTION 1. The Legislature finds and declares all of the*
4 *following:*
5 *(a) The Legislative Analyst's Office has concluded that*
6 *ambient water quality monitoring is the foundation for much of*
7 *the work of the State Water Resources Control Board, including*
8 *basin planning, standards setting, and permitting.*
9 *(b) The Government Accounting Office has determined that*
10 *the United States Environmental Protection Agency (EPA) and*
11 *the states need comprehensive water quality monitoring and*
12 *assessment information on environmental changes and*
13 *conditions over time and that, in the absence of this information,*
14 *it is difficult for the EPA and the states to establish priorities,*
15 *evaluate the success of programs and activities, and report on*
16 *accomplishments.*

1 (c) *The National Research Council has similarly*
2 *recommended the development of a uniform, consistent approach*
3 *to ambient water quality monitoring and data collection,*
4 *increased resources for water monitoring, and improved*
5 *coordination of monitoring.*

6 (d) *According to California's biennial monitoring report to the*
7 *EPA, the state can only report on the health of 22 percent of its*
8 *coastal shoreline, 34 percent of its lakes and reservoirs, and 15*
9 *percent of its rivers and streams. There is no single place where*
10 *the public can go to get a specific look at the health of water*
11 *bodies in its own backyard, or even to get an overall picture of*
12 *the health of the state's waters.*

13 (e) *State board funding for ambient surface water monitoring*
14 *has decreased significantly over the years. The efforts that are*
15 *underway could be enhanced significantly if the state effectively*
16 *coordinates the many separate monitoring activities that are*
17 *going on at the local, state, and federal levels, but different*
18 *protocols and agency interests have precluded coordination of*
19 *the data.*

20 (f) *The development of new programs to control agricultural*
21 *and timber pollution, and the implementation of hundreds of new*
22 *projects financed by bond funds to improve water quality, may*
23 *produce water quality improvements that will essentially go*
24 *unmeasured without significant improvements in the*
25 *coordination, integration, and funding of water quality*
26 *monitoring. The State of California cannot afford to waste the*
27 *opportunities provided by these and other water quality*
28 *improvement programs.*

29 (g) *Numerous water monitoring efforts are conducted by local,*
30 *state, and federal agencies, regulated entities, and citizen*
31 *monitoring groups. Many of these efforts are uncoordinated, and*
32 *as a result funds and information are not being used as*
33 *effectively as they could be. In addition, redundant monitoring*
34 *activities can occur because of a lack of basic information*
35 *relative to the scope of monitoring activities throughout the state.*
36 *For example, there are 100 water quality monitoring efforts*
37 *underway in the central valley alone, and coordination is*
38 *minimal.*

39 (h) *The state's Nonpoint Source Pollution Monitoring Council*
40 *should be expanded to provide a complete, coordinated picture*

1 of current and changing water health throughout the state, to
2 inform the public with regard to safe use of its waters, and to
3 report to the public on the success of efforts to protect and
4 restore those waters.

5 (i) Federal funding and funding from other sources is
6 available to make sure that the State of California improves its
7 monitoring efforts so that Californians have a better
8 understanding of the health of the state's waters. Additional
9 support can be found through the savings provided by increased
10 coordination and integration of existing monitoring efforts.

11 (j) Californians should be able to readily access basic
12 information that already exists about the state's waters and how
13 those waters are protected and restored. By their recent approval
14 of a constitutional amendment (Proposition 59), California
15 voters have indicated their strong support for open and
16 transparent government. The "government" of state waters
17 should be carried out in a similarly open manner. At a minimum,
18 all information that is currently available to agencies should be
19 made readily available to the public via the Internet.

20 SEC. 2. Section 13167 of the Water Code is amended to read:

21 13167. (a) The state board shall implement a public
22 information program on matters involving water quality, and
23 shall maintain and place on its Web site, in a format accessible to
24 the general public, an information file on water quality research,
25 standards, regulation, enforcement, and other pertinent matters.

26 (b) The information file described in subdivision (a) shall
27 include, but need not be limited to, information relating to
28 permits, waste discharge requirements, waivers, reports, lists,
29 charts, standards, objectives, agreements, enforcement actions,
30 and other information and documents prepared pursuant to
31 Sections 13164, 13170.1, 13181, 13240, 13241, 13243, 13260,
32 13263, 13266, 13267, 13269, 13320, 13323, 13376, 13377, and
33 13399.27. To the maximum extent practicable given available
34 funding, the state board, in consultation with the regional
35 boards, shall ensure that the information is available in single
36 locations, rather than separately by region, and that the
37 information is presented in a manner easily understandable by
38 the general public.

39 SEC. 3. Section 13181 of the Water Code is repealed.

1 13181. (a) For the purposes of this section, the following
2 terms have the following meanings:

3 (1) “Coastal waters” means waters within the area bounded by
4 the mean high tide line to the three-mile state waters limit, from
5 the Oregon to the Mexican borders:

6 (2) “Coastal watersheds” means the watersheds of tributary
7 waters that drain to the ocean and significantly influence coastal
8 water quality:

9 (b) (1) To the extent that funds are available for that purpose,
10 the state board shall prepare and complete on or before January
11 1, 2000, an inventory of existing water quality monitoring
12 activities within state coastal watersheds, bays, estuaries, and
13 coastal waters. The information generated by preparing the
14 inventory shall be made available as a report, and as an
15 Internet-based index, that is available to the general public. A
16 summary of the results shall be made available to the Legislature.
17 The inventory shall include, but not be limited to, descriptions of
18 all of the following:

19 (A) The sources of monitoring data, including federal, state,
20 and local governments, the private sector, citizen groups, and
21 nonprofit organizations:

22 (B) The monitoring methods being used by these sources:

23 (C) The location of the monitoring sites:

24 (D) Existing efforts to investigate the discharge of nonvolatile
25 organic pollutants, including trace metals and nontarget organic
26 chemicals, through storm drains into Santa Monica Bay, San
27 Francisco Bay, Humboldt Bay, and San Diego Bay:

28 (2) Notwithstanding any other provision of law, the state board
29 shall carry out paragraph (1) by contracting with institutions with
30 expertise in coastal water quality monitoring, which may include
31 the Southern California Coastal Water Research Project and the
32 San Francisco Estuary Institute, to undertake the inventory:

33 (c) (1) To the extent that funds are available for that purpose,
34 the state board, not later than January 1, 2001, shall prepare and
35 submit to the Legislature a report that proposes the
36 implementation of a comprehensive program to monitor the
37 quality of state coastal watersheds, bays, estuaries, and coastal
38 waters and their marine resources for pollutants, including, but
39 not limited to, bacteria and viruses, petroleum hydrocarbons,
40 heavy metals, and pesticides, as defined in Section 12753 of the

1 Food and Agricultural Code. The proposed program shall utilize
2 information available through the sources identified in paragraph
3 (1) of subdivision (b), as appropriate, and shall avoid the
4 duplication of existing and ongoing monitoring efforts to the
5 extent feasible. The proposed program shall include, but not be
6 limited to, all of the following:

7 (A) To the extent possible, a determination regarding the
8 extent to which existing water quality objectives, sediment
9 quality guidelines, tissue contaminant burden guidelines, and
10 health standards are being met. Where information is not
11 available to make this determination, the report shall identify
12 methods for determining this information.

13 (B) To the extent possible, a determination regarding the
14 sources of pollution in areas where objectives, standards, and
15 guidelines are not being met. Where information is not available
16 to make this determination, the report shall identify methods for
17 determining this information.

18 (C) Methods for determining the degree of improvement or
19 degradation in coastal water quality over time with respect to
20 these objectives, guidelines, and standards.

21 (D) To the extent possible, estimates of the total discharges of
22 pollutants into state coastal watersheds, bays, estuaries, and
23 coastal waters from all sources.

24 (E) Standard protocols for sampling and data collection
25 methods, to maximize the usefulness of the data resulting from
26 the program.

27 (F) Recommendations for a standard format for reporting
28 monitoring results to maximize access to and use of the data.

29 (G) The estimated costs of implementing the program and the
30 proposed schedule of implementation.

31 (H) A description of the method by which the state board shall
32 provide biennial reporting to the public on water quality within
33 the state's coastal watersheds, bays, estuaries, and coastal waters,
34 and recommended actions that should be undertaken to maintain
35 and improve water quality in those areas.

36 (I) A description of the method by which the state board shall
37 develop a system for monitoring mass contaminant discharges,
38 including, but not limited to, heavy metals, PCBs, PAHs, and
39 pesticides from storm water at the point of discharge. The system
40 shall provide for the appropriate frequency of monitoring for

1 ~~each specific contaminant. The system shall be designed to~~
2 ~~identify the relative contribution of contaminants in storm water~~
3 ~~to the overall anthropogenic discharges into near coastal waters.~~
4 ~~To the extent possible, the system shall be designed to determine~~
5 ~~the effectiveness of best management practices in reducing the~~
6 ~~discharges of contaminants to near coastal waters.~~

7 ~~(2) The state board shall consult with the San Francisco~~
8 ~~Estuary Institute and the Southern California Coastal Water~~
9 ~~Research Project to prepare the report. Notwithstanding any other~~
10 ~~provision of law, the state board may carry out paragraph (1) by~~
11 ~~contracting with institutions with expertise in coastal water~~
12 ~~quality monitoring, including, but not limited to, the Southern~~
13 ~~California Coastal Water Research Project and the San Francisco~~
14 ~~Estuary Institute, to prepare the report. The state board or its~~
15 ~~contractors shall convene workshops, symposia, and other~~
16 ~~professional and scientific meetings for the purpose of~~
17 ~~developing a consensus on the part of regulatory agencies and~~
18 ~~dischargers with regard to the appropriate methods to be used to~~
19 ~~monitor water quality on a statewide basis.~~

20 ~~(d) The state board shall not use more than 5 percent of the~~
21 ~~funds allocated to implement subdivisions (b) and (c) for the~~
22 ~~administrative costs of the contracts permitted under those~~
23 ~~provisions.~~

24 *SEC. 4. Section 13181 is added to the Water Code, to read:*

25 *13181. (a) On or before December 1, 2006, the California*
26 *Environmental Protection Agency and the Resources Agency*
27 *shall enter into a memorandum of understanding for the*
28 *purposes of establishing the California Water Quality*
29 *Monitoring Council, which shall be administered by the state*
30 *board. The ___ shall determine the composition of the*
31 *monitoring council. The monitoring council shall include*
32 *representatives from state agencies with responsibilities for*
33 *water quality monitoring. The purpose of the monitoring council*
34 *shall be to coordinate the water quality monitoring efforts of*
35 *federal, state and local government, institutions of higher*
36 *education, representatives of the regulated community, citizen*
37 *monitoring groups, and other interested parties, to develop a*
38 *coordinated, integrated, comprehensive network for collecting*
39 *and disseminating water quality information and assessments.*
40 *Among other things, the memorandum of understanding shall*

1 describe the means by which the monitoring council shall do
2 both of the following:

3 (1) Work to reduce redundancies, inefficiencies, and
4 inadequacies in existing data collection programs in order to
5 improve the effective delivery of sound, comprehensive
6 information to the public and decisionmakers.

7 (2) Ensure that sufficient information is collected to track
8 improvements in water quality and evaluate the overall
9 effectiveness of programs administered by the state board or the
10 regional boards, and water quality improvement projects
11 financed by the state or the federal government, with regard to
12 achieving clean water and healthy ecosystems.

13 (b) The monitoring council shall report annually to the
14 California Environmental Protection Agency and the Resources
15 Agency as to its recommendations for maximizing the efficiency
16 and effectiveness of water quality data collection and
17 dissemination, to ensure that sufficient data are maintained and
18 available for use by decisionmakers and the public. The
19 monitoring council shall consult with the United States
20 Environmental Protection Agency in preparing these
21 recommendations. The monitoring council's recommendations,
22 and any responses submitted by the California Environmental
23 Protection Agency or the Resources Agency to those
24 recommendations, shall be made available to decisionmakers
25 and the public via the Internet.

26 (c) The monitoring council shall undertake and complete, on
27 or before March 1, 2007, an inventory of existing water quality
28 monitoring and data collection efforts statewide and make that
29 information available to the public.

30 (d) All entities of the state, including institutions of higher
31 education to the extent permitted by law, that collect water
32 quality data or information shall cooperate with the state board
33 in the development and implementation of the memorandum of
34 understanding to develop a coordinated, efficient, and effective
35 statewide water quality data collection, dissemination, and
36 assessment network.

37 (e) The coordinated monitoring and assessment network
38 developed and implemented by the monitoring council shall
39 include all of the following components:

1 (1) *A comprehensive monitoring program strategy that utilizes*
2 *and expands upon the state's existing monitoring capabilities*
3 *and describes how the state will develop an integrated*
4 *monitoring program that will serve all of the state's water*
5 *quality monitoring needs and address all of the state's waters*
6 *over time. The strategy shall include a timeframe with milestones*
7 *that will ensure completion of the strategy within 10 years. The*
8 *strategy shall be comprehensive in scope and identify the*
9 *technical, integration, and resource needs that are currently*
10 *impediments to an adequate monitoring program, and*
11 *recommend solutions to those issues so that the strategy will be*
12 *implemented within the 10-year timeframe.*

13 (2) *Monitoring objectives that will ensure a program that is*
14 *efficient and effective in generating data that facilitate*
15 *management decisions and public information needs.*

16 (3) *An approach and rationale for selection of coordinated*
17 *monitoring designs and sites that most efficiently and effectively*
18 *serve the monitoring objectives.*

19 (4) *Core indicators selected to represent applicable water*
20 *uses, and supplemental indicators, as needed, for particular*
21 *pollutants of concern. Core indicators may include, but need not*
22 *be limited to, physical/habitat, chemical/toxicological, and*
23 *biological/ecological endpoints, that are appropriate for use in*
24 *assessing attainment of water quality standards throughout the*
25 *state. Core indicators developed pursuant to the environmental*
26 *protection indicators for California reports shall be given high*
27 *priority as core indicators for purposes of this coordinated*
28 *monitoring and assessment network.*

29 (5) *Quality management plans and quality assurance plans*
30 *that ensure the validity and utility of the data collected.*

31 (6) *An accessible and user-friendly electronic data system for*
32 *water quality, fish tissue, toxicity, sediment chemistry, habitat,*
33 *biological and other data, with timely data entry and ready*
34 *public access via the Internet. To the maximum extent possible,*
35 *the geographic location of the assessment units shall be*
36 *consistently defined using the national hydrography dataset, or*
37 *other similar locator.*

38 (7) *Methodology for compiling, analyzing, and integrating all*
39 *readily available information, including but not limited to, data*

1 *acquired from discharge reports, volunteer monitoring groups,*
2 *and local, state, and federal agencies.*

3 *(8) Production of timely and complete water quality reports*
4 *and lists that are required under Sections 303(d), 305(b), 314*
5 *and 319 of the Federal Water Pollution Control Act and Section*
6 *406 of the Beaches Environmental Assessment and Coastal*
7 *Health Act of 2000 Act, that include all available information*
8 *from discharge reports, volunteer monitoring groups, and local,*
9 *state, and federal agencies.*

10 *(9) An update of the state board's surface water ambient*
11 *monitoring program needs assessment in light of the benefits of*
12 *increased coordination and integration of information from other*
13 *agencies and information sources. This update shall include*
14 *identification of current and future resource needs required to*
15 *fully implement the coordinated, comprehensive monitoring*
16 *network, including, but not limited to, funding, staff, training,*
17 *laboratory and other resources, and projected improvements in*
18 *the network.*

19 *(f) Data, summary information, and reports prepared pursuant*
20 *to this section shall be made available to appropriate public*
21 *agencies and the public by means of the Internet.*

22 *(g) (1) Commencing December 1, 2008, the Secretary of the*
23 *California Environmental Protection Agency shall conduct a*
24 *biennial audit of the effectiveness of the monitoring and*
25 *assessment network and the monitoring council established*
26 *pursuant to this section. The audit shall include an assessment of*
27 *the effectiveness of the monitoring and assessment program and*
28 *the monitoring council in tracking improvements in water*
29 *quality, evaluating the overall effectiveness of programs*
30 *administered by the state board or a regional board and of state*
31 *and federally-funded water quality improvement projects.*

32 *(2) The Secretary of the California Environmental Protection*
33 *Agency shall consult with the Secretary of the Resources Agency*
34 *in preparing the audit, consistent with the memorandum of*
35 *understanding entered into pursuant to subdivision (a).*

36 *(h) The state board shall prioritize the use of federal funding*
37 *that may be applied to monitoring, including, but not limited to,*
38 *funding under Section 106 of the Federal Water Pollution*
39 *Control Act, for the purpose of implementing this section.*

1 (i) *The state board shall not use more than 5 percent of the*
2 *funds made available to implement this section for the*
3 *administrative costs of any contracts entered into for purpose of*
4 *implementing this section.*

5 *SEC. 5. Section 13225 of the Water Code is amended to read:*

6 13225. Each regional board, with respect to its region, shall:

7 (a) Obtain coordinated action in water quality control,
8 including the prevention and abatement of water pollution and
9 nuisance.

10 (b) Encourage and assist in self-policing waste disposal
11 programs, and upon application of any person, advise the
12 applicant of the condition to be maintained in any disposal area
13 or receiving waters into which the waste is being discharged.

14 (c) Require as necessary any state or local agency to
15 investigate and report on any technical factors involved in water
16 quality control or to obtain and submit analyses of water;
17 provided that the burden, including costs, of such reports shall
18 bear a reasonable relationship to the need for the report and the
19 benefits to be obtained therefrom.

20 (d) Request enforcement by appropriate federal, state and local
21 agencies of their respective water quality control laws.

22 (e) Recommend to the state board projects which the regional
23 board considers eligible for any financial assistance which may
24 be available through the state board.

25 (f) Report to the state board and appropriate local health
26 officer any case of suspected contamination in its region.

27 (g) File with the state board, at its request, copies of the record
28 of any official action.

29 (h) Take into consideration the effect of its actions pursuant to
30 this chapter on the California Water Plan adopted or revised
31 pursuant to Division 6 (commencing with Section 10000) of this
32 code and on any other general or coordinated governmental plan
33 looking toward the development, utilization or conservation of
34 the water resources of the state.

35 (i) Encourage regional planning and action for water quality
36 control.

37 (j) *Comply with the public information requirements set forth*
38 *in Section 13167.*

39 ~~13269. (a) (1) On and after January 1, 2000, the provisions~~
40 ~~of subdivisions (a) and (c) of Section 13260, subdivision (a) of~~

1 ~~Section 13263, or subdivision (a) of Section 13264 may be~~
2 ~~waived by the state board or a regional board as to a specific~~
3 ~~discharge or type of discharge if the state board or a regional~~
4 ~~board determines, after any necessary state board or regional~~
5 ~~board meeting, that the waiver is consistent with any applicable~~
6 ~~state or regional water quality control plan, does not pose a~~
7 ~~significant threat to the beneficial uses of the waters of the state,~~
8 ~~and is in the public interest. The state board or a regional board~~
9 ~~shall give notice of any necessary meeting by publication~~
10 ~~pursuant to Section 11125 of the Government Code.~~

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

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

32 ~~(4) (A) The state board or a regional board may include as a~~
33 ~~condition of a waiver the payment of an annual fee established by~~
34 ~~the state board in accordance with subdivision (f) of Section~~
35 ~~13260.~~

36 ~~(B) Funds generated by the payment of the fee shall be~~
37 ~~deposited in the Waste Discharge Permit Fund for expenditure,~~
38 ~~upon appropriation by the Legislature, by the state board or~~
39 ~~appropriate regional board for the purpose of carrying out~~
40 ~~activities limited to those necessary to establish and implement~~

1 the waiver program pursuant to this section. The total amount of
2 annual fees collected pursuant to this section shall not exceed the
3 costs of those activities necessary to establish and implement
4 waivers of waste discharge requirements pursuant to this section.

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

9 (i) The size of the operations:

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

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

14 (iv) Participation in a watershed management program
15 approved by the applicable regional board:

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

20 (i) The size of the operations:

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

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

25 (iv) The average annual number of timber harvest plans
26 proposed by the operations:

27 (5) The state board or a regional board shall give notice of the
28 adoption of a waiver by publication within the affected county or
29 counties as set forth in Section 6061 of the Government Code:

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

36 (2) Notwithstanding paragraph (1), a waiver for an onsite
37 sewage treatment system that is in effect on January 1, 2002,
38 shall remain valid until June 30, 2004, unless the regional board
39 terminates the waiver prior to that date. Any waiver for onsite
40 sewage treatment systems adopted or renewed after June 30,

1 2004, shall be consistent with the applicable regulations or
2 standards for onsite sewage treatment systems adopted or
3 retained in accordance with Section 13291.

4 (e) Upon notification of the appropriate regional board of the
5 discharge or proposed discharge, except as provided in
6 subdivision (d), the provisions of subdivisions (a) and (e) of
7 Section 13260, subdivision (a) of Section 13263, and subdivision
8 (a) of Section 13264 do not apply to a discharge resulting from
9 any of the following emergency activities:

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

17 (2) Emergency projects undertaken, carried out, or approved
18 by a public agency to maintain, repair, or restore an existing
19 highway, as defined in Section 360 of the Vehicle Code, except
20 for a highway designated as an official state scenic highway
21 pursuant to Section 262 of the Streets and Highways Code,
22 within the existing right-of-way of the highway, damaged as a
23 result of fire, flood, storm, earthquake, land subsidence, gradual
24 earth movement, or landslide within one year of the damage.
25 This paragraph does not exempt from this section any project
26 undertaken, carried out, or approved by a public agency to
27 expand or widen a highway damaged by fire, flood, storm,
28 earthquake, land subsidence, gradual earth movement, or
29 landslide.

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

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

39 (f) Prior to renewing any waiver for a specific type of
40 discharge established under this section, the state board or a

1 ~~regional board shall review the terms of the waiver policy at a~~
2 ~~public hearing. At the hearing, the state board or a regional board~~
3 ~~shall determine whether the discharge for which the waiver~~
4 ~~policy was established should be subject to general or individual~~
5 ~~waste discharge requirements.~~

O