

ASSEMBLY BILL

No. 2595

Introduced by Assembly Member Huffman

February 19, 2010

An act to amend Section 13269 of the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 2595, as introduced, Huffman. Water quality: waste discharge requirements: waivers.

Existing law, the Porter-Cologne Water Quality Control Act, authorizes the State Water Resources Control Board and a California regional water quality control board to waive certain waste discharge requirements as to a specific discharge or type of discharge if the state board or the regional board makes a specified determination. Existing law authorizes the state board or a regional board to waive the monitoring requirements for discharges that it determines do not pose a significant threat to water quality.

This bill would make a technical, nonsubstantive change to that authorization.

Vote: majority. Appropriation: no. Fiscal committee: no.
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 13269. (a) (1) On and after January 1, 2000, the provisions
4 of subdivisions (a) and (c) of Section 13260, subdivision (a) of

1 Section 13263, or subdivision (a) of Section 13264 may be waived
2 by the state board or a regional board as to a specific discharge or
3 type of discharge if the state board or a regional board determines,
4 after any necessary state board or regional board meeting, that the
5 waiver is consistent with any applicable state or regional water
6 quality control plan and is in the public interest. The state board
7 or a regional board shall give notice of any necessary meeting by
8 publication pursuant to Section 11125 of the Government Code.

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

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

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

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

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

- 5 (i) The size of the operations.
- 6 (ii) Any compliance costs borne by the operations pursuant to
7 state and federal water quality regulations.
- 8 (iii) Any costs associated with water quality monitoring
9 performed or funded by the operations.
- 10 (iv) Participation in a watershed management program approved
11 by the applicable regional board.

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

- 16 (i) The size of the operations.
- 17 (ii) Any compliance costs borne by the operations pursuant to
18 state and federal water quality regulations.
- 19 (iii) Any costs associated with water quality monitoring
20 performed or funded by the operations.
- 21 (iv) The average annual number of timber harvest plans
22 proposed by the operations.

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

26 (b) (1) A waiver in effect on January 1, 2000, shall remain valid
27 until January 1, 2003, unless the regional board terminates that
28 waiver prior to that date. All waivers that were valid on January
29 1, 2000, and granted an extension until January 1, 2003, and not
30 otherwise terminated, may be renewed by a regional board in
31 five-year increments.

32 (2) Notwithstanding paragraph (1), a waiver for an onsite sewage
33 treatment system that is in effect on January 1, 2002, shall remain
34 valid until June 30, 2004, unless the regional board terminates the
35 waiver prior to that date. Any waiver for onsite sewage treatment
36 systems adopted or renewed after June 30, 2004, shall be consistent
37 with the applicable regulations or standards for onsite sewage
38 treatment systems adopted or retained in accordance with Section
39 13291.

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

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

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

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

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

35 (f) Prior to renewing any waiver for a specific type of discharge
36 established under this section, the state board or a regional board
37 shall review the terms of the waiver policy at a public hearing. At
38 the hearing, the state board or a regional board shall determine
39 whether the discharge for which the waiver policy was established

- 1 should be subject to general or individual waste discharge
- 2 requirements.

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