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Environmental Protection

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Environmental Protection

Environmental Protection; agricultural hazardous wastes--collection program

Health and Safety Code §§ 25207, 25207.1, 25207.2, 25207.3, 25207.4, 25207.5, 25207.6, 25207.7, 25207.8, 25207.9, 25207.10, 25207.11, 25207.12, 25207.13 (repealed and new).
AB 563 (Hannigan); 1990 STAT. Ch. 1173

Existing law prohibits persons from transporting or storing hazardous waste¹ materials prior to obtaining a permit.² Chapter 1173 allows counties to create programs for the collection of banned or unregistered agricultural waste,³ and establishes requirements for these programs.⁴ Chapter 1173 requires participating counties to enact a program to educate participants on proper container disposal procedures, liability problems, and the legal disposal of other hazardous wastes generated by agricultural processes.⁵ Chapter 1173 specifies requirements for the transportation of waste to and from collection sites,⁶ and requires a participating county to report any accidents involving these wastes to the Department of Health and Safety.⁷ Under Chapter 1173, eligible participants⁸ in the program need not obtain a hazardous waste permit⁹ or pay specified fees or taxes.¹⁰ In

1. See CAL. HEALTH & SAFETY CODE § 25117 (West Supp. 1990) (definition of hazardous waste).

2. *Id.* § 25201.

3. See *id.* § 25207.1(a) (enacted by Chapter 1173) (definition of banned or unregistered agricultural waste).

4. *Id.* § 25207.2 (enacted by Chapter 1173). Chapter 1173 requires all participating counties to conduct a survey to identify and determine the kind, condition, and amounts of agricultural waste to be collected under this program. *Id.* § 25207.3 (enacted by Chapter 1173). See generally *id.* §§ 25207.4-25207.12 (enacted by Chapter 1173) (requirements that counties must meet in enacting agricultural hazardous waste collection programs).

5. *Id.* § 25207.5 (enacted by Chapter 1173).

6. See *id.* §§ 25207.6-25207.7 (enacted by Chapter 1173). The requirements include the mandatory transportation of the waste in the participant's own vehicle, limitations on shipment size, and compliance with the California Vehicle Code and California Highway Patrol regulations. *Id.* § 25207.6 (enacted by Chapter 1173).

7. *Id.* § 25207.8 (enacted by Chapter 1173).

8. See *id.* § 25207.1(c) (enacted by Chapter 1173) (definition of eligible participants).

9. *Id.* § 25207.11(b) (enacted by Chapter 1173).

addition, Chapter 1173 exempts a county from liability when properly handling and transporting the waste to an authorized treatment facility.¹¹

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Environmental Protection; air pollution--limitation of actions

Civil Procedure Code § 338 (amended).

AB 4049 (amended); 1990 STAT. Ch. 669

Support: State Air Resources Board, California Air Pollution Control Officers Association, Sacramento Metropolitan Air Quality Management District

Under existing law, local and regional authorities are required to enforce air pollution regulations with respect to all non-vehicular pollution sources.¹ Chapter 669 imposes a three year statute of limitations period for bringing actions to enforce specified air pollution laws.²

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10. *Id.* § 25207.11(a) (enacted by Chapter 1173).

11. *Id.* § 25207.11(c) (enacted by Chapter 1173).

1. CAL. HEALTH & SAFETY CODE § 39002 (West 1986). The state Air Resources Board is also required to control air pollution from vehicular sources. *Id.* See *id.* § 40001 (air pollution control districts must adopt and enforce rules and regulations to maintain state and federal ambient air quality standards). See also *id.* § 39043 (definition of non-vehicular source).

2. CAL. CIV. PRO. CODE § 338(k) (amended by Chapter 669). The accrual of the statute of limitations period begins once the state Air Resources Board or an air pollution control district discovers facts giving rise to the action. *Id.* Cf. CAL. CIV. PRO. CODE § 338(i) (amended by Chapter 669) (similar limitation period for violations of water pollution laws).

Environmental Protection; demolition permits

Health and Safety Code § 19827.5 (new).

AB 2791 (Speier); 1990 STAT. Ch. 418

Support: California Air Pollution Control Officers Association,
City of San Diego, Sacramento Metropolitan Air Quality
Management District

Existing law requires the Division of Occupational Safety and Health¹ to issue a permit prior to the demolition of a building.² Federal regulations require written notification to the Environmental Protection Agency (EPA) or an appropriate local agency³ prior to the demolition of a building containing asbestos.⁴ Chapter 418 prohibits the issuance of a building demolition permit until the applicant provides all agencies requiring such permits a copy of each written notification provided to the EPA.⁵

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1. See CAL. LAB. CODE § 6308 (West 1989) (powers of Division of Occupational Safety and Health).

2. *Id.* § 6500(c) (West 1989). See 8 CAL. CODE REGS. § 341 (1990) (requirements for permits).

3. See 42 U.S.C. § 7601 (1988) (EPA may authorize a local agency to implement and enforce the national emission standards). See also 40 C.F.R. § 61.04(b) (1989) (approved local agencies).

4. 42 U.S.C. § 7601(a) (1988). See also 40 C.F.R. § 61.146 (1989) (specific notification requirements depend upon the amount of asbestos in the structure being demolished).

5. CAL. HEALTH & SAFETY CODE § 19827.5 (enacted by Chapter 418). A permit will be issued without the written notification from the EPA if the applicant states that the notification is unnecessary for the demolition project. *Id.* See also ASSEMBLY OFFICE OF RESEARCH, WILL WE LOSE THE WAR AGAINST ASBESTOS IN BUILDINGS?, at i (1988) (over 70 percent of the asbestos abatement work in California is not physically inspected by a regulatory agency and improper asbestos removal practices endanger workers and building occupants).

Environmental Protection; hazardous materials facilities--school sites

Education Code §§ 39003, 39120 (new); Public Resources Code § 21151.8 (new).

SB 2262 (Torres); 1990 STAT. Ch. 1602

Support: Mayor of City of Cudahy

Existing law requires all state and local agencies¹ to prepare an environmental impact report (EIR)² for any project³ that may have a significant effect on the environment.⁴ Existing law prohibits the approval of an EIR or a negative declaration⁵ for a project involving the purchase of a school site or the construction of a school building unless prescribed conditions are met.⁶ Chapter 1602 imposes additional conditions and requirements on the approval of an EIR or a negative declaration for a project involving

1. See CAL. PUB. RES. CODE § 21062 (West 1986) (definition of "local agency" as any public agency other than a state agency). See also *id.* § 21063 (definition of public agency).

2. See *id.* § 21061 (definition and purposes of an EIR).

3. See *id.* § 21065 (definition of "project" includes activities directly undertaken by any public agency).

4. *Id.* §§ 21100, 21151. See *id.* § 21068 (definition of "significant effect on the environment" as a substantial or potentially substantial adverse change in the environment). See also *id.* § 21060.5 (definition of environment).

5. See *id.* § 21064 (definition of negative declaration as a written statement describing why a proposed project does not require an EIR).

6. *Id.* § 21151.3 (West Supp. 1990). The lead agency preparing the EIR or the negative declaration must consult with the city or county, and the air pollution control district or the air quality management district where the proposed school site is located to identify facilities within one-fourth of a mile of the proposed school site that might release hazardous or acutely hazardous air emissions. *Id.* § 21151.3(a). The school district must find either that no facilities as described in California Public Resources Code section 21151.3(a) exist, or that the facilities exist but pose no health risk to the school's employees and students. *Id.* 21151.3(b). See *id.* §§ 21067 (West 1986) (definition of "lead agency" as a public agency with principal responsibility for a project that may have a significant effect on the environment); 21151.3(c)(1) (West Supp. 1990) (definition of hazardous air emissions); 21151.3(c)(2) (definition of acutely hazardous air emissions). See also *id.* § 21151.4 (withholding approval of an EIR or a negative declaration for any project within one-fourth of a mile of a school that might release hazardous or acutely hazardous air emissions, with specified exceptions).

the purchase of a school site or the construction of a school building.⁷

Existing law requires that prior to acquiring any site for purposes of constructing a school building,⁸ the governing board of the school district must have a site thoroughly investigated, to ensure that the final site selection considers all factors concerning the public interest and is not based solely on land cost.⁹ Chapter 1602 prohibits the governing board of the school district from approving the acquisition of a school site unless specified findings are made.¹⁰

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7. *Id.* § 21151.8 (enacted by Chapter 1602). Chapter 1602 requires that the EIR or the negative declaration include any information needed to determine if the property is: (1) A current or former hazardous or solid waste disposal site and whether the wastes have been removed; (2) a hazardous substance release site; or (3) a site containing pipelines that carry hazardous substances, wastes, or acutely hazardous materials other than natural gas for the school or neighborhood. *Id.* § 21151.8(a) (enacted by Chapter 1602). *See id.* §§ 21151.8(b)(1) (enacted by Chapter 1602) (definition of hazardous substance); 21151.8(b)(2) (enacted by Chapter 1602) (definition of acutely hazardous material); 21151.8(b)(3) (enacted by Chapter 1602) (definition of hazardous waste); 21151.8(b)(4) (enacted by Chapter 1602) (definition of hazardous waste disposal site). *See generally* L.A. Times, July 20, 1989, Part 2, at 1, col. 5 (closing of Park Avenue Elementary School in Cudahy by Los Angeles Unified School District to investigate source of oily substance seeping up through the asphalt playground); *id.*, Aug. 3, 1989, Part 2, at 3, col. 5 (identification of seepage as refuse and petroleum products dumped years before in old landfill where Park Avenue School is now located); *id.*, Aug. 12, 1989, Part 2, at 2, col. 1 (schoolchildren's testimony at hearings concerning Park Avenue School conducted by Senate Toxics and Public Safety Management Committee, chaired by Senator Torres).

8. *See* CAL. EDUC. CODE § 39141 (West 1978) (definition of school building).

9. *Id.* § 39002 (West Supp. 1990).

10. *Id.* § 39003 (enacted by Chapter 1602). In order to approve the acquisition of a school site, the site may not be: (1) The site of a current or former hazardous or solid waste disposal site, unless all solid wastes have been removed; (2) a hazardous substance release site; or (3) a site containing pipelines that carry hazardous substances, wastes, or acutely hazardous materials other than natural gas for that school or neighborhood. *Id.* § 39003(a) (enacted by Chapter 1602). Chapter 1602 requires the lead agency preparing an EIR or negative declaration to consult with the city or county and the air pollution control district or air quality management district where the proposed school site is located, to identify facilities within one-fourth of a mile of the proposed school site that might release hazardous air emissions. *Id.* § 39003(b) (enacted by Chapter 1602). The school district must find either that no facilities as described in California Education Code section 39003(b) exist, or that the facilities exist but pose no health risk to the school's employees and students. *Id.* § 39003(c) (enacted by Chapter 1602).

Environmental Protection; hazardous waste facility fees

Health and Safety Code § 25244.25 (repealed); §§ 25187.2, 25205.9 (new); §§ 25174, 25205.1, 25205.5, 25205.7, 25221 (amended); Revenue and Taxation Code §§ 43008.1, 43055, 43152.9 (new); §§ 43101, 43551 (amended).

AB 2794 (Wright); 1990 STAT. Ch. 1267

Sponsor: California Department of Health Services

Existing law requires an applicant seeking a hazardous waste¹ facility² permit to submit facility closure³ and postclosure plans⁴ to the Department of Health Services (Department).⁵ Under Chapter 1267, postclosure permits are required for all hazardous waste facilities if hazardous waste will remain after the facility is closed.⁶

1. See CAL. HEALTH & SAFETY CODE § 25117 (West Supp. 1990) (definition of hazardous waste).

2. See *id.* § 25117.1 (definition of hazardous waste facility).

3. See *id.* § 25159 (requirement of closure plans). See also 26 CAL. CODE REGS. § 22-67212 (1990) (requirements of a closure plan).

4. See CAL. HEALTH & SAFETY CODE § 25159 (West Supp. 1990) (requirement of postclosure plans). See also 26 CAL. CODE REGS. § 22-67218 (1990) (requirements of a postclosure plan).

5. CAL. HEALTH & SAFETY CODE § 25200 (West Supp. 1990). See *id.* § 25246 (applicant must also submit closure and postclosure plans to the regional water quality control board for the region in which the facility is located). See also 26 CAL. CODE REGS. § 22-66391(a)(13) (1990) (permit requirement of closure and postclosure plans).

6. CAL. HEALTH & SAFETY CODE § 25205.7(k) (amended by Chapter 1267). A permit for postclosure treatment is required if hazardous waste is to remain at a facility and the facility is not subject to any other hazardous waste facility permits. *Id.* Applicants submitting a permit application for postclosure treatment of a land disposal facility must pay a fee of \$8,000 for a small facility, \$18,000 for a medium facility, and \$30,000 for a large facility. *Id.* The fee schedule for all other applicants required to perform post closure care is \$50,000 for a small facility, \$101,000 for a medium facility, and \$179,000 for a large facility. *Id.* Facility size, for the purpose of the postclosure fee, is based upon the largest amount of waste remaining during the fiscal year of the assessment. *Id.* A facility is small if it manages no more than 0.5 tons of hazardous waste in any month, medium if it manages between 0.5 tons and 1000 tons of hazardous waste in any month, and large if it manages 1000 or more tons of hazardous waste in any month. *Id.* § 25205.7(l) (amended by Chapter 1267).

Existing law authorizes the Department to issue a corrective order to any person violating hazardous waste control laws.⁷ Existing law also requires the Board of Equalization (Board)⁸ to assess fees upon a potentially responsible party for the oversight of a removal or remedial action.⁹ Under Chapter 1267, the party receiving the corrective order from the Department is assessed the removal or remedial action fees.¹⁰

Existing law establishes a fee schedule for each generator of hazardous waste and each operator of a hazardous waste facility.¹¹ Prior law required the Department to adopt a system for charging and collecting fees from hazardous waste generators.¹² Chapter 1267 instead imposes a waste reporting surcharge on every generator of hazardous waste.¹³

Existing law requires any land owner or lessor with knowledge of a significant hazardous waste disposal on the land to apply to the Department for a determination as to whether their land should be designated a hazardous waste property¹⁴ or a border zone property¹⁵ before beginning any construction.¹⁶ Chapter 1267 requires the Department to exact an additional \$7,500 fee from an applicant if an endangerment assessment is deemed necessary to

7. *Id.* § 25187 (West Supp. 1990). *See id.* § 25101 (West 1934) (declaration of waste control law).

8. *See* CAL. GOV'T CODE § 15606 (West Supp. 1990) (powers and duties of the Board of Equalization).

9. CAL. HEALTH & SAFETY CODE § 25347.6 (West Supp. 1990). *See id.* §§ 25323 (definition of a removal); 25322 (West 1984) (definition of a remedial action).

10. *Id.* § 25187.2 (enacted by Chapter 1267).

11. *Id.* §§ 25205.2 (West Supp. 1990); 25205.5. *See id.* §§ 25205.1(b) (definition of facility); 25205.1(e) (definition of "generator" excludes a person paying the facility fee and definitions of treatment and storage facilities). *See also* CAL. REV. & TAX. CODE § 43101 (amended by Chapter 1267) (persons subject to specified fees must register with the Board).

12. 1989 Legis. Serv. ch. 1218, sec. 1, at 4144 (West) (enacting CAL. HEALTH & SAFETY CODE § 25244.25) (repealed by Chapter 1267). *See also* CAL. HEALTH & SAFETY CODE § 25100 (West 1984) (legislative intent is to ensure proper handling and disposal of hazardous waste).

13. CAL. HEALTH & SAFETY CODE § 25205.9 (amended by Chapter 1267). The surcharge must be adjusted in accordance with the consumer price index. *Id.* Generators subject to the surcharge include those who have paid the facility fee. *Id.*

14. *See id.* § 25117.3 (West 1984) (definition of hazardous waste property).

15. *See id.* § 25117.4 (definition of border zone property).

16. *Id.* § 25221(a) (amended by Chapter 1267). The land owner or lessor must also apply to the Department if the land is within 2,000 feet of a significant disposal. *Id.* *See id.* § 25232(b) (West 1984) (definition of construction).

determine whether the property is a hazardous waste or border zone property.¹⁷

Prior law required applicants for a “permit by regulation”¹⁸ to operate a hazardous waste facility to pay a \$1,000 application fee.¹⁹ Chapter 1267 requires applicants for a permit by regulation to pay \$1,000 for each initial notification and not more than \$1,000 for each subsequent notification of confirmation.²⁰

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Environmental Protection; hazardous wastes-- transportation

Health and Safety Code §§ 25160, 25161 (amended).
SB 2774 (Torres); 1990 STAT. Ch. 1054

Existing law requires generators of hazardous waste to provide persons transporting hazardous waste with a manifest.¹ A copy of the manifest must also be transferred to the person responsible for the hazardous waste disposal.²

Chapter 1054 amends the definition of “manifest” to mean a shipping document that originates with and is signed by a generator

17. *Id.* § 25221(e)(1) (amended by Chapter 1267). The applicant must pay an additional \$7,500 if the Department finds a risk assessment is needed to make the determination. *Id.*

18. *See id.* § 25202 (West Supp. 1990) (every hazardous waste facility permit shall comply with any existing or subsequent regulations adopted by the Department).

19. 1989 Cal. Legis. Serv. ch. 269, sec. 17, at 1182 (amending CAL. HEALTH & SAFETY CODE § 25205.7(h)) (amended by Chapter 1267).

20. CAL. HEALTH & SAFETY CODE § 25205.7(h) (amended by Chapter 1267).

1. CAL. HEALTH & SAFETY CODE § 25160(a)-(b) (amended by Chapter 1054). The generator of hazardous waste must send a copy of the manifest to the Department of Health Services (Department) within 30 days of waste transport. *Id.* § 25160(b) (amended by Chapter 1054). The manifest is used to identify materials reasonably believed by a generator to be hazardous waste). *Id.*

2. *Id.* § 25160(f) (amended by Chapter 1054). The person receiving the hazardous waste for disposal must submit a copy of the manifest to the Department within 30 days of receiving the hazardous waste. *Id.* § 25160(g) (amended by Chapter 1054).

of hazardous waste.³ Under Chapter 1054, a person generating hazardous waste that is to be transported must prepare a manifest prior to the shipment of the hazardous waste.⁴ If any hazardous waste is shipped out of state, the hazardous waste generator must complete a standard California Uniform Hazardous Manifest regardless of whether the importing country or state considers the waste to be hazardous.⁵ Chapter 1054 also mandates that operators of treatment, storage, or disposal facilities must receive a standard California manifest before accepting any hazardous waste generated out of state.⁶ The Department of Health Services must also develop a data base to track all hazardous waste shipping activity in the state.⁷

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3. *Id.* § 25160(a) (amended by Chapter 1054). Prior law defined "manifest" as the Uniform Hazardous Waste Manifest. 1972 Cal. Stat. ch. 1236, sec. 1, at 2388 (enacting CAL. HEALTH & SAFETY CODE § 25160(a) (amended by Chapter 1054)).

4. *Id.* § 25160(b)(1) (amended by Chapter 1054). The generator of hazardous waste must use a standard California Hazardous Waste Manifest issued by the Department and the manifest must contain the name of the facility receiving the hazardous waste. *Id.*

5. *Id.* § 25160(b)(2) (amended by Chapter 1054). If an importing state requires its own manifest, the hazardous waste generator must complete the importing state's manifest and attach a one page out-of-state manifest cover form supplied by the Department. *Id.*

6. *Id.* § 25160(e) (amended by Chapter 1054). These manifests must be signed by the hazardous waste generator, main transporters, and the facility operator, and a copy must be submitted to the Department. *Id.* Any person transporting hazardous waste by motor vehicle, rail, or water must certify to the Department that the transporter is familiar with the requirements of Chapter 1054, with Department regulations, and with federal laws and regulations that govern the use of manifests. *Id.* § 25160(d)(4) (amended by Chapter 1054).

7. *Id.* § 25161(b) (amended by Chapter 1054). The data base must contain details on the destination and time that the shipments of hazardous waste were made. *Id.*

Environmental Protection; Oil Spill Prevention and Response Act

Government Code §§ 8574.5, 8574.6 (repealed); §§ 8670.1, 8670.2, 8670.3, 8670.4, 8670.5, 8670.6, 8670.7, 8670.8, 8670.8.5, 8670.9, 8670.10, 8670.11, 8670.12, 8670.13, 8670.14, 8670.15, 8670.16, 8670.17, 8670.18, 8670.19, 8670.20, 8670.21, 8670.22, 8670.23, 8670.24, 8670.25, 8670.25.5, 8670.26, 8670.27, 8670.28, 8670.28.5, 8670.29, 8670.30, 8670.30.5, 8670.31, 8670.32, 8670.33, 8670.34, 8670.35, 8670.36, 8670.37, 8670.37.5, 8670.37.51, 8670.37.52, 8670.37.53, 8670.37.54, 8670.37.55, 8670.37.56, 8670.37.57, 8670.38, 8670.39, 8670.40, 8670.46, 8670.47, 8670.47.5, 8670.48, 8670.48.5, 8670.49, 8670.50, 8670.51, 8670.51.1, 8670.52, 8670.53, 8670.53.15, 8670.53.2, 8670.53.3, 8670.53.4, 8670.53.5, 8670.53.6, 8670.53.7, 8670.53.8, 8670.53.9, 8670.53.95, 8670.54, 8670.55, 8670.56, 8670.56.5, 8670.56.6, 8670.57, 8670.58, 8670.59, 8670.61, 8670.61.5, 8670.62, 8670.63, 8670.64, 8670.65, 8670.66, 8670.67, 8670.67.5, 8670.68, 8670.68.5, 8670.69, 8670.69.4, 8670.69.6, 8670.70, 8670.71, 8670.72 (new); §§ 8574.1, 8574.4 (amended); §§ 8574.7, 8574.8, 8574.9, 8574.11, 8574.12, 8574.13, 8574.14, 8574.15 (amended and renumbered); Harbors and Navigation Code § 152 (repealed); Public Resources Code §§ 8750, 8751, 8752, 8753, 8754, 8755, 8756, 8757, 8758, 8759, 8760 (new); Water Code §§ 13272 (amended).

SB 2040 (Keene); 1990 STAT. Ch. 1248

Existing law authorizes the Governor to establish a state oil spill contingency plan.¹ Chapter 1248 establishes a comprehensive oil spill response and prevention program within the Resources Agency.² Under Chapter 1248, the governor must appoint an

1. CAL. GOV'T. CODE § 8574.1 (amended by Chapter 1248).

2. *Id.* § 8574.7 (enacted by Chapter 1248).

Administrator for Oil Spill Response (Administrator),³ who is a Chief Deputy Director⁴ of the Department of Fish and Game.⁵

Chapter 1248 requires the Administrator to implement regulations governing oil spill contingency plans.⁶ The Administrator has the authority to direct prevention, removal, abatement response, containment, and cleanup efforts of any oil spill into the marine waters⁷ of California.⁸ The Administrator is additionally required to adopt rules and regulations that govern marine terminals,⁹ the use of equipment and personnel, and the operations of vessels.¹⁰

Chapter 1248 requires all marine facility operators to submit to the Administrator interim and final contingency plans for responding to oil spills.¹¹ Under Chapter 1248, any person who causes or permits any oil spill in marine waters, regardless of intent or negligence, must begin cleanup immediately.¹² Cleanup must be performed in accordance with the applicable contingency plan.¹³ However, if a responsible party¹⁴ or potentially

3. See *id.* § 8670.3(a) (enacted by Chapter 1248) (definition of Administrator).

4. See CAL. FISH & GAME CODE § 39 (West Supp. 1990) (definition of Director).

5. CAL. GOV'T CODE § 8670.4 (enacted by Chapter 1248).

6. *Id.* § 8670.28(a) (enacted by Chapter 1248). The administrator, taking into consideration the marine facility or vessel contingency plan requirements of the national and state contingency plans, the state Lands Commission, The state Fire Marshal, and the California Coastal Commission, must adopt and implement regulations and guidelines governing the adequacy of oil spill contingency plans. *Id.*

7. *Id.* § 8670.3(h) (enacted by Chapter 1248) (definition of marine waters).

8. *Id.* § 8670.7(a) (enacted by Chapter 1248). In addition, the Administrator must conduct periodic studies and evaluations to ensure that the best achievable methods of containment and cleanup in marine waters are available. *Id.* § 8670.12(a) (enacted by Chapter 1248).

9. See *id.* § 8670.3(g) (enacted by Chapter 1248) (definition of marine terminal).

10. *Id.* § 8670.17(a) (enacted by Chapter 1248). See *id.* § 8670.3(s) (enacted by Chapter 1248) (definition of vessel).

11. *Id.* § 8670.30 (enacted by Chapter 1248). These plans must include proof of financial responsibility, a demonstration that the vessel operator is capable of providing timely and effective spill response and removal consistent with the state contingency plan, and details of the procedures for reporting oil spills to state and federal agencies. *Id.* A tanker or barge operator that has not had a contingency plan approved must obtain the approval of the Administrator by telephone or facsimile machine before entering the marine waters. *Id.* § 8670.33(a) (enacted by Chapter 1248). These contingency plans must be consistent with the state contingency plan. *Id.* § 8670.28(a)-(d) (enacted by Chapter 1248) (specifying requirements of contingency plans).

12. *Id.* § 8670.25 (enacted by Chapter 1248).

13. *Id.* § 8670.27(a) (enacted by Chapter 1248).

14. See *id.* § 8670.3(n)(1)-(2) (definition of responsible party).

responsible party reasonably and in good faith believes that the Administrator's orders in accordance with the contingency plan will substantially endanger the public safety or the environment, the responsible party may refuse to comply.¹⁵

Chapter 1248 requires the State Oil Spill Contingency Plan (Plan)¹⁶ to be reviewed periodically by the State Interagency Oil Spill Committee (Committee),¹⁷ and to include specified elements.¹⁸

Chapter 1248 mandates that each operator of a vessel used to transport oil across marine waters of the state must obtain a certificate of financial responsibility, issued by the Administrator, for the vessel itself, or for the owner of all of the oil contained in and to be transferred to or from the vessel.¹⁹

Chapter 1248 authorizes the Administrator and others to obtain a court order to stop violations of the provisions of Chapter 1248.²⁰ In addition, Chapter 1248 makes any responsible party absolutely liable for any damages caused by or arising out of an oil discharge into marine waters.²¹

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15. *Id.* § 8670.27(b) (enacted by Chapter 1248). In an action against a responsible party, brought under Chapter 1248, the burden of proof rests on the responsible party to demonstrate by clear and convincing evidence why the refusal was justified. *Id.*

16. *See id.* § 8670.3(q) (enacted by Chapter 1248) (definition of state oil spill contingency plan).

17. *See id.* § 8670.3(p) (enacted by Chapter 1248) (definition of State Interagency Oil Spill Committee).

18. *Id.* § 8670.29(b) (enacted by Chapter 1248).

19. *Id.* § 8670.37.51 (enacted by Chapter 1248).

20. *Id.* § 8670.57(a) (enacted by Chapter 1248).

21. *Id.* § 8670.56.5(a) (enacted by Chapter 1248). *See id.* § 8670.56(b)(1)-(6) (enacted by Chapter 1248) (exceptions to strict liability).

Environmental Protection; plastic bags

Public Resources Code §§ 41970, 41971, 41971.5, 41972, 41973, 41975, 41976, 41977 (new).
SB 2092 (Hart); 1990 STAT. Ch. 1452

Existing law requires every consumer of newsprint¹ to ensure that twenty-five percent of all newsprint used is manufactured from recycled content newsprint.² Chapter 1452 requires every seller³ of trash bags that are one mil or greater in thickness to ensure that the trash bags contain at least ten percent recycled postconsumer material.⁴ Chapter 1452 additionally requires sellers of trash bags to certify to the California Integrated Waste Management Board (Board)⁵ that they have complied with Chapter 1452.⁶ Sellers of trash bags that are unable to comply with Chapter 1452 must

1. See 1990 Cal. Stat. ch. 35, sec. 23, at ____ (enacting CAL. PUB. RES. CODE § 42750) (definition of "consumer of newsprint" is a person that uses newsprint in a commercial printing operation).

2. 1990 Cal. Stat. ch. 35, sec. 23, at ____ (enacting CAL. PUB. RES. CODE § 42760). Existing law requires cities and counties to implement a plan to divert 25% of all solid waste from landfill or transformation facilities by the use of recycling and other methods. CAL. PUB. RES. CODE § 41780(a) (West Supp. 1990). Cities and counties are also required to divert 50% of solid waste by the year 2000. *Id.* See 1990 Cal. Stat. ch. 35, sec. 23, at 149 (enacting CAL. PUB. RES. CODE § 42750) (definition of recycled content newsprint as newsprint consisting of at least 40% postconsumer waste paper).

3. See CAL. PUB. RES. CODE § 41970(d) (enacted by Chapter 1452) (definition of seller).

4. *Id.* § 41970(a) (enacted by Chapter 1452). After Jan. 1, 1995, trash bags of .075 mil or greater thickness must contain 30% recycled postconsumer material. *Id.* § 41970(b) (enacted by Chapter 1452). See *id.* § 41970(c) (enacted by Chapter 1452) (definition of postconsumer material).

5. See *id.* §§ 40500-40510 (West Supp. 1990) (powers and duties of the Board).

6. *Id.* § 41971 (enacted by Chapter 1452). This requirement becomes effective January 1, 1993, and the certification must be made by March 1 of each year. *Id.* Sellers of recycled postconsumer materials must submit certain information required by the Board, including the methods by which these materials are produced. *Id.* § 41971.5 (enacted by Chapter 1452). Chapter 1452 additionally allows the Board to audit sellers. *Id.* § 41972 (enacted by Chapter 1452). Any seller that submits a false or misleading certificate to the Board is subject to prosecution by the attorney general for fraud. *Id.* §§ 41975, 41976 (enacted by Chapter 1452).

certify to the Board that they were not able to obtain sufficient amounts of recycled postconsumer material.⁷

GWA

Environmental Protection; recycled glass

Public Resources Code §§ 14513.2, 14513.3, 14549, 14552.5, 14552.51 (new).

AB 2622 (Eastin); 1990 STAT. Ch. 1094

Support: California Federation of Women's Clubs, Southern California Association of Governments

Prior to the enactment of Chapter 1094, California law did not regulate the use of recycled glass in food, drink, or beverage containers.¹ Chapter 1094 directs glass container manufacturers² to report the percentage of postfilled glass³ used in the production of new food, drink, or beverage containers.⁴ Under Chapter 1094, glass container manufacturers must use annually increasing percentages of postfilled glass in the production of new glass containers.⁵ Chapter 1094 further requires a glass container

7. *Id.* § 41973 (enacted by Chapter 1452). Sellers must certify that the postconsumer material was not available within a reasonable period of time, or that the material did not meet the quality standards required by the Board. *Id.*

1. *See generally* CAL. PUB. RES. CODE §§ 14500-14591 (West Supp. 1990) (establishment and regulation of State's recycling effort). *See id.* §§ 14513.3 (enacted by Chapter 1094) (definition of glass food or drink container); 14513 (West Supp. 1990) (definition of glass beverage container); 14504 (West Supp. 1990) (definition of beverage); 14511.5 (West Supp. 1990) (definition of drink).

2. *See id.* § 14513.2 (enacted by Chapter 1094) (definition of glass container manufacturer).

3. *See id.* § 14517.5 (West Supp. 1990) ("postfilled container" is any container which had been previously filled with food or a beverage).

4. *Id.* § 14549(a) (enacted by Chapter 1094). Chapter 1094 requires glass container manufacturers to report monthly to the Department of Conservation the total tons of new glass containers made or sold, and the percentage of postfilled glass used in their production. *Id.*

5. *Id.* § 14549(b) (enacted by Chapter 1094). Chapter 1094 requires 25% postfilled glass to be used in new glass containers by 1993 and increases the required percentage by 10% every three years to a minimum of 65% in the year 2005. *Id.* The Department of Conservation may reduce the 65% minimum required usage of postfilled glass if the Department determines that the manufacturers

manufacturer to fill out a standardized rejection form explaining the manufacturer's reasons for rejecting postfilled glass material from a certified processor.⁶

WTB

Environmental Protection; toxic air contaminants--penalties

Health and Safety Code § 39675 (new).
AB 3153 (Tanner); 1990 STAT. Ch. 660

Under existing law, the Air Resources Board (Board)¹ must adopt airborne toxic control measures to reduce emissions of toxic air contaminants² from non-vehicular sources.³ Existing law also

cannot meet the standard due to lack of available cull glass, or the Department may grant a waiver of the 65% minimum if it determines that a particular manufacturer feasibly cannot attain this amount.

6. *Id.* § 14552.5(b) (enacted by Chapter 1094). The Department of Conservation must supply all certified processors with the standardized rejection form to be filled out by the manufacturer at the time of rejection and submitted by the processor to the Department. *Id.* § 14552.5(a)-(b) (enacted by Chapter 1094). The processor will be permitted to fill out the rejection form if the processor is unable to locate a purchaser after a good faith effort. *Id.* § 14552.5(c) (enacted by Chapter 1094). Chapter 1094 prohibits a processor from disposing of rejected containers without the prior approval of the Department of Conservation. *Id.* § 14552.51 (enacted by Chapter 1094). *See id.* § 14518 (West Supp. 1990) (definition of processor).

1. *See* CAL. HEALTH & SAFETY CODE § 39510-39517 (West 1986) (administration of the Board). *See also id.* §§ 39600-39612 (West 1986 & Supp. 1990) (powers and duties of the Board).

2. *See id.* § 39655 (West 1986) (definition of toxic air contaminant).

3. *Id.* § 39666(a). *See id.* § 39043 (definition of non-vehicular sources). *See also* Western Oil & Gas Assoc. v. Monterey Bay Unified Air Pollution Control Dist. 49 Cal. 3d 408, 412-14, 777 P.2d 157, 159-60, 248 Cal. Rptr. 418, 419-20, (1989) ("Tanner Act" creates state procedure for identifying and controlling toxic air contaminants). *See generally* Dufour, *Regulation of Emissions of Airborne Toxic Substances-Nuisance to Risk Assessment: An Analysis of AB 2588, The California Air Toxics "Hot Spots" Information and Assessment Act of 1987*, 16 W. ST. U.L. REV. 139, 147 (1988) (history of California airborne toxic contaminant control programs, including airborne toxic control measures).

allows local air pollution control districts⁴ to enact toxic air contaminant control measures for non-vehicular sources.⁵

Chapter 660 clarifies existing law by applying certain civil⁶ and criminal⁷ penalties for violations of air quality laws to violations of the toxic air contamination laws.⁸ Chapter 660 further declares that recovery of a civil penalty precludes criminal prosecution for the same offense.⁹

NJH

Environmental protection; transportation of toxic substances

Health and Safety Code § 25323.6 (new); § 25163 (amended).
AB 3089 (Frizelle); 1990 STAT. Ch. 659

Existing law prohibits any person from transporting hazardous waste¹ without a valid registration.² Existing law also requires hazardous waste to be transported in a container inspected by the

4. *See* CAL. HEALTH & SAFETY CODE § 39025 (West 1986) (definition of air pollution control district).

5. *Id.* § 40001 (West Supp. 1990).

6. *See id.* § 39674 (West 1986) (civil penalties for violation of toxic air contaminant laws). Chapter 660 specifies that California Health and Safety Code section 42402.2, authorizing civil penalties for knowing emission of an air contaminant, also applies to toxic air contaminant violations. *Id.* § 39675 (enacted by Chapter 660).

7. *See id.* §§ 42400-42400.2 (West Supp. 1990) (criminal penalties for violation of air quality laws).

8. *Id.* § 39675 (enacted by Chapter 660).

9. *Id.* Additionally, any criminal complaint filed for violation of toxic air contamination laws requires dismissal of any civil action brought under the air resources laws. *Id.* § 39675 (enacted by Chapter 660).

1. *See* CAL. HEALTH & SAFETY CODE § 25117 (West Supp. 1990) (definition of hazardous waste).

2. *Id.* § 25163(a)(1)-(2) (amended by Chapter 659). The registration must be issued by the Department of Health and Safety and must be in the possession of the person transporting hazardous waste. *Id.*

California Highway Patrol.³ Under Chapter 659, any authorized solid waste⁴ collector who unknowingly transports hazardous waste to a solid waste facility⁵ is exempt from the registration and packaging requirements applicable to the transportation of hazardous wastes.⁶

JYE

Environmental Protection; underground storage tanks

Business and Professions Code §§ 7028.1, 7058.7 (amended); Government Code § 15399.18, 15399.20 (amended); Health and Safety Code §§ 25299.40, 25299.41, 25299.42 (repealed and new); §§ 25299.58, 25299.61 (new); §§ 25299.10, 25299.32, 25299.36, 25299.37, 25299.50, 25299.51, 25299.52, 25299.53, 25299.54, 25299.55, 25299.57 (amended); §§ 25299.58, 25299.59, 25299.60, 25299.62, 25299.63, 25299.64, 25299.65, 25299.66, 25299.67, 25299.68 (amended and renumbered); Revenue and Taxation Code §§ 50109, 50110, 50111, 50112 (repealed and new); §§ 50108.1, 50108.2, 50112.1, 50112.2, 50112.3, 50113.1, 51113.2, 50120.1, 50120.2, 50120.3, 50142.1,

3. *Id.* § 25163(e) (amended by Chapter 659).

4. *See* CAL. PUB. RES. CODE § 40191 (West Supp. 1990) (definition of solid waste).

5. *See id.* § 40194 (definition of solid waste facility).

6. CAL. HEALTH & SAFETY CODE § 25163(f) (amended by Chapter 659). Any person who unknowingly transports hazardous waste to a solid waste facility is not considered a responsible party as defined by California Health and Safety Code section 25323.5. *Id.* 25323.6 (enacted by Chapter 659). *See id.* §§ 25163(a) (amended by Chapter 659) (registration requirements); 25163(e) (amended by Chapter 659) (packaging requirements). *See also* 42 U.S.C. §§ 9601(35)(A) (1988) (liability cannot be assessed against a responsible party if the responsible party did not know and did not have reason to know that any hazardous substance was disposed of on, in or at the facility, if the responsible party acquired the facility by escheat, other involuntary transfer, or inheritance or bequest); 9607(a) (1988) (potentially liable persons include the owner and operator of a vessel or facility, any person who contracted for transport, disposal or treatment of hazardous waste, or any person who accepts any hazardous substance for transport to disposal or treatment facilities); 9607(b) (West 1988). An otherwise liable person who can establish by the preponderance of the evidence that the release or threat of release of a hazardous substance and the resulting damages which were caused by an act of God, an act of war, or an act or omission of a third party other than an employee or agent of the defendant will not held liable. *Id.*

50148.1 (new); §§ 50107, 50108, 50113, 50114, 50119, 50123, 50124, 50129, 50131, 50132, 50134, 50136, 50139, 50140, 50157, 50160 (amended).

SB 2004 (Keene); 1990 STAT. Ch. 1366

Support: California Independent Oil Marketers

Existing law prohibits contractors¹ from engaging in a removal or remedial action² without a hazardous substance removal certificate.³ Chapter 1366 additionally prohibits a contractor from installing or removing an underground storage tank⁴ unless the contractor has passed the hazardous substance removal certification examination.⁵ Under Chapter 1366, every person that is required to have a permit to own or operate an underground storage tank must pay a storage fee⁶ and must register with the State Water Resources Control Board (Board).⁷

Under existing law, every owner⁸ and operator⁹ must maintain

1. See CAL. BUS. & PROF. CODE § 7026.6 (West Supp. 1990) (definition of contractor).

2. See *id.* § 7058.5(d) (definition of removal or remedial action).

3. *Id.* § 7028.1 (amended by Chapter 1366). A violation of the hazardous substance removal certificate requirement is an infraction punishable by a fine up to \$3,000 and by revocation or suspension of any contractor's license. *Id.* § 7028.1(a) (amended by Chapter 1366). A subsequent violation is a misdemeanor requiring revocation or suspension of any contractor's license and authorizing a fine of up to \$5,000, imprisonment up to one year in the county jail, or both. *Id.* § 7028.1(b) (amended by Chapter 1366). See also *id.* § 7058(b)(2) (West Supp. 1990) (the Contractor's State License Board must develop a written test for the certification of contractors engaged in hazardous substance removal or remedial action).

4. See CAL. HEALTH & SAFETY CODE § 25281(x) (West Supp. 1990) (definition of underground storage tank).

5. CAL. BUS. & PROF. CODE §§ 7028.1, 7058.7(e) (amended by Chapter 1366). Chapter 1366 also applies to a contractor that is bidding for the installation or removal of an underground storage tank. *Id.* Cf. IND. CODE ANN. § 13-7-20-13.3 (West Supp. 1990) (certification for installing, testing, retrofitting, or removal of underground storage tanks and denial or revocation of certification).

6. CAL. HEALTH & SAFETY CODE § 25299.41 (enacted by Chapter 1366). Under prior law, every underground storage tank owner or operator was required to pay an annual maintenance fee of \$200 for each underground petroleum storage tank. 1989 Cal. Legis. Serv., ch. 1442, article 5, at 5483 (West) (enacting CAL. HEALTH & SAFETY CODE § 25299.40) (repealed by Chapter 1366). Under Chapter 1366, every underground storage tank owner that is required to obtain a permit must pay a storage fee of \$0.006 for each gallon of petroleum placed in an underground storage tank. CAL. HEALTH & SAFETY CODE § 25299.41 (enacted by Chapter 1366).

7. CAL. REV. & TAX CODE § 50108.1 (enacted by Chapter 1366). See CAL. WATER CODE §§ 174-189 (West 1971 & Supp. 1990) (administration, organization, and duties of the State Water Resources Control Board).

8. See CAL. HEALTH & SAFETY CODE § 25299.20 (West Supp. 1990) (definition of owner includes any city, county, or district but does not include the state or the federal government).

evidence of financial responsibility¹⁰ for taking corrective action¹¹ and for compensating third parties for bodily injuries and property damage arising from the operation of an underground storage tank.¹² Existing law authorizes the Board to reimburse eligible owners or operators of underground storage tanks for the costs of corrective action.¹³ Chapter 1366 additionally allows the Board to reimburse eligible owners and operators of underground

9. *See id.* § 25299.19 (definition of operator).

10. *See id.* § 25299.32 (amended by Chapter 1366) (levels and requirements of financial responsibility). Chapter 1366 decreases the minimum level of financial responsibility required from \$50,000 to \$10,000. *Id.* § 25299.32(a).

11. *See id.* § 25299.14 (West Supp. 1990) (definition of corrective action).

12. *Id.* § 25299.31(a) (West Supp. 1990). Existing law also provides that an owner, operator, or other responsible party must conduct a corrective action in response to an unauthorized release of petroleum from an underground storage tank, and that a regional board or a local agency may undertake or contract for corrective action if a situation requires prompt action to protect human health or the environment. *Id.* §§ 25299.36, 25299.37(a) (amended by Chapter 1366). Chapter 1366 additionally provides that if there is a situation that requires prompt action, a regional board or local agency may enter into oral work contracts, regardless of any other provisions of law, and the contracts may include provisions for equipment rental and the furnishing of labor and materials. *Id.* § 25299.36 (amended by Chapter 1366). The regional board or local agency may, under certain circumstances, recover costs for undertaking a corrective action. *Id.* § 25299.37(f) (amended by Chapter 1366). *See also id.* § 25299.53 (amended by Chapter 1366) (guidelines that the local agency or regional board must follow before undertaking a corrective action). *Cf. GA. CODE ANN.* § 12-13-11 (1989) (corrective action for the release of petroleum products into the environment).

13. *CAL. HEALTH & SAFETY CODE* § 25299.57 (amended by Chapter 1366) (Board may only reimburse those costs of corrective actions that exceed the level of financial responsibility required by of the California Health and Safety Code, section 25299.32, up to an amount of \$990,000, and then only if the Board makes specified findings). Chapter 1366 also requires the claimant to submit the estimated cost of the corrective action to the Board, which must determine that the costs are reasonable before any funds may be distributed for reimbursement. *Id.* § 25299.57(b) (amended by Chapter 1366). *See also id.* § 25299.54 (West Supp. 1990) (applications to the Board for satisfactions of claims and eligibility restrictions).

storage tanks for the compensation of property damage or bodily injury to third parties.¹⁴

DPC

Environmental Protection; used oil

Health and Safety Code § 25250.22 (repealed); § 25250.12 (new); §§ 25250.1, 25250.5, 25250.11, 25250.15, 25250.18, 25250.19 (amended).

AB 2965 (Eastin); 1990 STAT. Ch. 1219

Existing law prohibits the use of used oil¹ or recycled oil² as a dust suppressant or a weed control agent unless the oil meets specified lead and cadmium concentration requirements.³ Chapter 1219 lowers the concentration standards for lead and cadmium and imposes an additional requirement regulating halogenated solvents.⁴

14. *Id.* § 25299.58 (enacted by Chapter 1366). The reimbursement is limited to expenses which exceed the level of financial responsibility required by of the California Health and Safety Code section 25299.32, up to a maximum of \$990,000, and then only if the Board finds that: (1) There has been an unauthorized release of petroleum into the environment from an underground storage tank; (2) the claimant has paid a settlement or judgement for third-party injuries from operating the underground storage tank; (3) the claimant has complied with financial responsibility and permit requirements; and (4) the claimant has paid the required fees. *Id.* See *id.* § 25299.61 (enacted by Chapter 1366) (Board will not pay any claims resulting from the gross negligence or the intentional or reckless acts of the claimant). Cf. IND. CODE ANN. § 13-7-20-38 (West 1990) (indemnification of third parties from excess liability fund).

1. See CAL. HEALTH & SAFETY CODE § 25250.1(a) (amended by Chapter 1219) (definition of used oil).

2. See *id.* § 25250.1(c) (amended by Chapter 1219) (definition of recycled oil).

3. *Id.* § 25250.5(b) (amended by Chapter 1219).

4. *Id.* Chapter 1219 also requires that any person claiming that oil complies with the requirements of California Health and Safety Code Section 25250.5(b) for use of oil as a dust suppressant or weed control agent must: (1) Notify the State Department of Health Services, in writing, of that claim; (2) test the oil; and (3) certify the oil as being in compliance with these requirements. *Id.* § 25250.5(c) (enacted by Chapter 1219).

Existing law exempts any person receiving used oil from having to comply with hazardous waste facility permit requirements⁵ if specified conditions are met.⁶ Existing law also requires a used oil recycler to ensure that all recycled oil transported from the recycling facility⁷ has been tested and certified for compliance with specified standards.⁸ Chapter 1219 requires the tests to be performed by the used oil recycler prior to transportation.⁹ Chapter 1219 also requires used or recycled oil transporters to maintain compliance certification records¹⁰ signed by the used recycling facility or generator.¹¹

DPC

Environmental Protection; water quality--discharge fees

Water Code § 13396.5 (new and repealed).
SB 1845 (Torres); 1990 STAT. Ch. 1294

Existing law requires the state Water Resources Control Board (Board)¹ to devise a plan to prevent the creation of “toxic hot

5. See *id.* §§ 25200.1-25204.5 (West Supp. 1990) (hazardous waste facility requirements).

6. *Id.* § 25250.11(a) (amended by Chapter 1219). The conditions include size restrictions on receipts of oil and restrictions on receipts of other hazardous wastes. *Id.*

7. See *id.* § 25250.1(f) (West Supp. 1990) (definition of used oil recycling facility).

8. *Id.* § 25250.19 (amended by Chapter 1219).

9. *Id.* § 25250.19(a) (amended by Chapter 1219). Chapter 1219 also requires greater specificity in the records of the tests performed. *Id.*

10. The certification form, provided by the Department of Health Services, must contain the following information: (1) The name and address of the used oil recycling facility or generator claiming the oil meets the requirements of California Health and Safety Code section 25250.1; (2) the name and address of the facility receiving the shipment; (3) the quantity of oil delivered; (4) the date of shipment or delivery; and (5) a cross reference to the records required under section 25250.1. *Id.* § 25250.18(a) (amended by Chapter 1219).

11. *Id.* § 25250.18 (amended by Chapter 1219). Chapter 1219 also requires maintenance of the compliance records for three years. *Id.*

1. See CAL. WATER CODE § 179 (West 1971) (powers and duties of the Board).

spots'' in bays and estuaries.² Chapter 1294 requires the Board to collect an annual fee from point³ and nonpoint dischargers who pollute enclosed bays, estuaries, or water sources in coastal zones.⁴ The fee is to be calculated in proportion to the amount of waste discharged by each entity, with an aggregate fee not to exceed four million dollars per year.⁵

UOR

2. *Id.* § 13392 (West Supp. 1990). *See id.* § 13391.5 (definition of "toxic hot spots").

3. *See* 33 U.S.C. § 1362 (1988) (definition of point source).

4. CAL. WATER CODE § 13396.5(a) (enacted by Chapter 1294). Coastal zones include contiguous zones or oceans as defined by federal statutes. *Id.* *See id.* §§ 13391.5(a) (West Supp. 1990) (definition of enclosed bays); 13391.5(b) (definition of estuaries). *See also* 33 U.S.C. §§ 1362(9) (1988) (definition of contiguous zone); 1362(10) (definition of ocean). *See generally* A. KNEESE & B. BOWER, *MANAGING WATER QUALITY: ECONOMICS, TECHNOLOGY, INSTITUTIONS* (1968) (discussion of various methods used to control pollution).

5. CAL. WATER CODE § 13396.5(b) (enacted by Chapter 1294). Fees are designed to promote a reduction of discharge into the ocean, bays and estuaries, and must be based on the relative threat to water quality from point and nonpoint discharge. *Id.* Fees collected under Chapter 1294 are separate from any fees collected pursuant to California Water Code section 13260. *Id.* § 13396.5(d) (enacted by Chapter 1294). Violators of Chapter 1294 are guilty of a misdemeanor as defined by California Water Code section 13261(d). *Id.* § 13396.5(e) (enacted by Chapter 1294). *See generally* GAF Corp. v. N.J. Dep't of Env'tl. Protection, 214 N.J. Super. 446, 448, 519 A.2d 931, 933-34 (1986) (upholding a statutory fee structure based on the amount of impact the pollution has on the environment). *Cf.* W. VA. CODE § 20-5G-4(a) (1989) (requiring entities generating waste to pay a fee based on the amount of tonnage discharged).