Study E-100 November 9, 1998

Memorandum 98-83

Environment Code: Update for 1998 Legislation

The attached draft sets out revisions of the draft Environment Code that are required to account for legislation enacted in the 1998 legislative session. These revisions are technical and do not present any policy issues. Unless specific questions are raised, the staff does not intend to discuss them. The revisions will be incorporated in the draft Environment Code, if the creation of such a code is recommended at the meeting.

Respectfully submitted,

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PROPOSED LEGISLATION

ENVIRONMENT CODE

DIVISION 2. GENERAL PROVISIONS

§ 15201. Standardized format and protocol

15201. The secretary shall establish a standardized electronic format and protocol for the exchange of electronic data for the purpose of meeting environmental data reporting or other usage requirements that are imposed pursuant to all of the following laws and regulations adopted pursuant to those laws:

(a) Chapter 6.5 (commencing with Section 25100), including, but not limited to, Article 6 (commencing with Section 25160), Chapter 6.7 (commencing with Section 25280), and Chapter 6.95 (commencing with Section 25500) of Division 20 of the Health and Safety Code.

(b) Chapter 2 (commencing with Section 38750) of Title 7 of Part 4 of Division 4.

(c) Division 7 (commencing with Section 13000) of the Water Code.

(d) The Solid Waste Disposal Act (42 U.S.C. Sec. 6901 *et seq.*).

(e) The Emergency Planning and Community Right-to-Know Act (42 U.S.C. Sec. 11001 *et seq.*).

(f) Any other law relating to environmental protection, including, but not limited to, hazardous waste, substances, and materials, as determined by the secretary.

Comment. Section 15201 continues former Public Resources Code Section 71061 without change.

☞ **Staff Note.** Public Resources Code Section 71061 has been amended. See 1998 Cal. Stat. ch. 880, § 13.

DIVISION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT

§ 21006. Division integral to agency decisionmaking

21006. The Legislature finds and declares that this division is an integral part of any public agency's decisionmaking process, including, but not limited to, the issuance of permits, licenses, certificates, or other entitlements required for activities undertaken pursuant to federal statutes containing specific waivers of sovereign immunity.

Comment. Section 21006 continues former Public Resources Code Section 21006 without change.

☞ **Staff Note.** Public Resources Code Section 21006 is new. See 1998 Cal. Stat. ch. 272, § 2.

§ 21066. "Person"

21066. "Person" includes any person, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, county, city and county, city, town, the state, and any of the agencies and political subdivisions of those entities, and, to the extent permitted by federal law, the United States, or any of its agencies or political subdivisions.

Comment. Section 21066 continues former Public Resources Code Section 21066 without change.

☞ **Staff Note.** Originally, Public Resources Code Section 21066 was not continued in the proposed Environment Code. This is because the general definition of "person" was adequate. See proposed Environment Code Section 70. However, Section 21066 has since been amended to include federal agencies and is now broader in scope than the general definition. See 1998 Cal. Stat. ch. 272, § 2. Given this substantive difference, it makes since to add a section to the Environment Code continuing Public Resources Code Section 21066.

DIVISION 4. AIR RESOURCES

§ 30137. "Antelope Valley district"

30137. "Antelope Valley district" means the Antelope Valley Air Pollution Control District created pursuant to Section 34600.

Comment. Section 30137 continues former Health and Safety Code Section 39014.3 without change.

☞ **Staff Note.** Health and Safety Code Section 39014.3 is new. See 1998 Cal. Stat. ch. 876, § 12.

§ 30139. "Antelope Valley District Board"

30139. "Antelope Valley District Board" means the governing board of the Antelope Valley Air Pollution Control District created pursuant to Section 34600.

Comment. Section 30139 continues former Health and Safety Code Section 39014.5 without change.

☞ **Staff Note.** Health and Safety Code Section 39014.5 is new. See 1998 Cal. Stat. ch. 876, § 13.

§ 33100. Definitions

33100. For purposes of this article, the following terms have the following meaning:

(a) "Event center" means a community center, activity center, auditorium, convention center, stadium, coliseum, arena, sports facility, racetrack, pavilion, amphitheater, theme park, amusement park, fairgrounds, or other building, collection of buildings, or facility which is used exclusively or primarily for the holding of sporting events, athletic contests, contests of skill, exhibitions, conventions, meetings, spectacles, concerts, or shows, or for providing public amusement or entertainment.

(b) "Average vehicle ridership" means the total number of attendees arriving in vehicles parking in areas controlled by the event center, divided by the total number of those vehicles parking in areas controlled by the event center.

Comment. Section 33100 continues former Health and Safety Code Section 40717.8(a) without substantive change.

☞ **Staff Note.** This section originally continued Health and Safety Code Section 40928(a). Section 40928 has been renumbered as Section 40717.8. See 1998 Cal. Stat. ch. 485, § 108. The Comment has been revised to reflect this change.

§ 33101. Event centers

33101. (a) Notwithstanding Sections 32900 to 32907, inclusive, or any provision of this article, or of Chapter 3 (commencing with Section 33200), and to the extent consistent with federal law, no district, or regional or local agency to which a district has delegated the authority to implement transportation control measures pursuant to Sections 32900 to 32907, inclusive, and which is acting pursuant to that delegated authority, shall do either of the following:

(1) Require an event center which achieves an average vehicle ridership greater than 2.20 to implement any transportation control requirements that are intended to achieve reductions in vehicle trips or vehicle miles traveled by event center attendees.

(2) Require an event center which, since 1987, has achieved a 12.5 percent reduction in vehicle trips or vehicle miles traveled, to implement additional transportation control requirements that are also intended to achieve reductions in vehicle trips or vehicle miles traveled by event center attendees.

(b) A district, or regional or local agency, may require event centers which achieve an average vehicle ridership greater than 2.20, or which, since 1987, has achieved a 12.5 percent reduction in vehicle trips or vehicle miles traveled, to implement approved alternative strategies which will achieve emission reductions that are equivalent to those that would be achieved by the imposition of transportation control requirements intended to reduce vehicle trips or vehicle miles traveled by event center attendees, including, but not limited to, those strategies specified in Section 33102.

Comment. Section 33101 continues former Health and Safety Code Section 40717.8(b) without substantive change.

☞ **Staff Note.** This section originally continued Health and Safety Code Section 40928(b). Section 40928 has been renumbered as Section 40717.8. See 1998 Cal. Stat. ch. 485, § 108. The Comment has been revised to reflect this change.

§ 33102. Alternative strategies

33102. A district or regional or local agency may impose requirements on any event center, without permitting that event center to implement alternative strategies to achieve equivalent emissions reductions, for any of the following purposes:

(a) Traffic management before and after events.

(b) Parking management and vehicle flow within parking areas controlled by the event center.

(c) Reducing the amount of vehicle idling before and after events.

(d) Implementing marketing or education programs designed to educate attendees on mass transit or other alternative transportation methods for transit to and from the event center.

(e) Achieving a designated average vehicle ridership for vehicles which carry persons who are traveling to or from their employment at an event center.

(f) Other emission reduction strategies not relating to reductions in vehicle trips or vehicle miles traveled by event center attendees.

Comment. Section 33102 continues former Health and Safety Code Section 40717.8(c) without substantive change.

☞ **Staff Note.** This section originally continued Health and Safety Code Section 40928(c). Section 40928 has been renumbered as Section 40717.8. See 1998 Cal. Stat. ch. 485, § 108. The Comment has been revised to reflect this change.

§ 33150. General prohibition

33150. Notwithstanding Sections 36408, 32900 to 32907, inclusive, 32950 to 32952, inclusive, or any other provision of law, a district, congestion management agency, as defined in subdivision (b) of Section 65088.1 of the Government Code, or any other public agency shall not require an employer to implement an employee trip reduction program unless the program is expressly required by federal law and the elimination of the program will result in the imposition of federal sanctions, including, but not limited to, the loss of federal funds for transportation purposes.

Comment. Section 33150 continues former Health and Safety Code Section 40717.9(a) without substantive change. References to former Health and Safety Code Sections 40457 and 40717.1 are obsolete and have not been continued. See 1996 Cal. Stat. ch. 777, §§ 1, 3.

☞ **Staff Note.** This section originally continued Health and Safety Code Section 40929(a). Section 40929 has been renumbered as Section 40717.9. See 1998 Cal. Stat. ch. 485, § 109. The Comment has been revised to reflect this change.

§ 33151. Exception

33151. Nothing in this article shall preclude a public agency from regulating indirect sources in any manner that is not specifically prohibited by this article, where otherwise authorized by law.

Comment. Section 33151 continues former Health and Safety Code Section 40717.9(b) without substantive change.

☞ **Staff Note.** This section originally continued Health and Safety Code Section 40929(b). Section 40929 has been renumbered as Section 40717.9. See 1998 Cal. Stat. ch. 485, § 109. The Comment has been revised to reflect this change.

§ 33600. County districts

33600. (a) There is continued in existence and shall be, in every county, a county district, unless the entire county is included within the Antelope Valley district, the

bay district, the Mojave Desert district, the south coast district, the San Joaquin Valley Air Quality Management District, if that district is created, a regional district, or a unified district.

(b) If only a part of the county is included within the Antelope Valley district, the bay district, the south coast district, the Mojave Desert district, the San Joaquin Valley Air Quality Management District, if that district is created, a regional district, or a unified district, there is in that part of the county not included within any of those districts a county district, for which different air quality rules and regulations may be required.

Comment. Section 33600 continues former Health and Safety Code Section 40002 without change. The San Joaquin Valley Air Quality Management District will be created if the San Joaquin Valley Unified Air Pollution Control District ceases to exist. See 1994 Cal. Stat. ch. 915, § 5(d).

☞ **Staff Note.** Health and Safety Code Section 40002 has been amended. See 1998 Cal. Stat. ch. 876, § 14.

§ 36056. Assessment of socioeconomic impact

36056. (a) Whenever the south coast district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, the district, to the extent data are available from the district's regional economic model or other sources, shall perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation.

(b) For the purposes of this section, "socioeconomic impact" means only the following:

(1) The type of industries affected by the rule or regulation.

(2) The impact of the rule or regulation on employment and the economy in the south coast basin attributable to the adoption of the rule or regulation.

(3) The range of probable costs, including costs to industry, of the rule or regulation.

(4) The availability and cost effectiveness of alternatives to the rule or regulation, as determined pursuant to Section 33253.

(5) The emission reduction potential of the rule or regulation.

(6) The necessity of adopting, amending, or repealing the rule or regulation in order to attain state and federal ambient air standards pursuant to Chapter 3 (commencing with Section 33200) of Title 2.

Comment. Section 36056 continues former Health and Safety Code Section 40440.8 without substantive change.

☞ **Staff Note. (1)** Health and Safety Code Section 40440.8 has been amended. See 1998 Cal. Stat. ch. 997, § 5.

(2) Subdivision (c) of Health and Safety Code Section 40440.8 has been repealed. Consequently, proposed Environment Code Section 36057 will be deleted.

§ 36411. Ridesharing

36411. (a) Rules 1501 and 1501.1 adopted by the south coast district are void.

(b) Rule 2202 adopted by the south coast district shall be amended in the following manner:

(1) The worksite employee threshold shall be raised to 250.

(2) Nothing in this section is intended to prevent an early replacement and repeal of Rule 2202. The south coast district shall replace Rule 2202 as soon as possible with alternative direct light-duty mobile source emission reduction measures, other than new vehicle emission standards or reformulated fuel standards.

Comment. Section 36411 continues former Health and Safety Code Section 40458 without change.

☞ **Staff Note.** Health and Safety Code Section 40458 has been amended. See 1998 Cal. Stat. ch. 67, § 1.

§ 38856. Limitations on fees

38856. (a) Notwithstanding Sections 38850 to 38854, inclusive, a district shall not adopt or impose fees that exceed actual district administrative costs for processing or enforcing permits applicable to any of the following:

(1) Prescribed burning operations on state responsibility lands conducted under the terms of a permit issued by the Department of Forestry and Fire Protection pursuant to Article 3 (commencing with Section 4491) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code when the purpose of the operation is prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.

(2) Burning of vegetation or disposal of slash following timber operations required under regulations adopted by the State Board of Forestry and Fire Protection pursuant to Section 4551.5 or 4562 of the Public Resources Code and for the purpose of reducing the incidence and spread of fires on timberlands.

(3) Wildland vegetation management burns. For purposes of this subdivision, "wildland vegetation management burn" means the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency to burn land predominantly covered with chaparral, trees, grass, or standing brush. For purposes of this subdivision, "prescribed burning" is the planned application of fire to vegetation to achieve any specific objective on lands selected in advance of that application. The planned application of fire may include natural or accidental ignition.

(b) Prior to adopting or revising fees for the activities described in paragraph (1), (2), or (3) of subdivision (a), a district shall hold a public hearing and shall consider the following:

(1) The costs of the fees on private landowners and other persons who engage in activities specified in paragraph (1), (2), or (3) of subdivision (a).

(2) Any revenues currently provided to the county for general government by public agencies which administer public lands.

Comment. Section 38856 continues former Health and Safety Code Section 42311.2 without substantive change.

☞ **Staff Note.** Health and Safety Code Section 42311.2 has been amended. See 1998 Cal. Stat. ch. 972, § 9.

§ 40806. Regulations requiring addition of oxygenate

40806. (a) The state board may not adopt any regulation that requires the addition of any oxygenate to motor vehicle fuel unless the regulation is subject to multimedia rulemaking.

(b) As used in subdivision (a), "multimedia rulemaking" means rulemaking that is the product of consultation and coordination with other members of the council as is necessary to protect public health and the environment from any significant adverse effects in air, water, or soil from the use of the oxygenate.

Comment. Section 40806 continues former Health and Safety Code Section 43830.8 without change.

☞ **Staff Note.** Health and Safety Code Section 43830.8 is new. See 1998 Cal. Stat. ch. 997, § 6.

§ 41001. Motor vehicle fuel distributors

41001. (a) For purposes of this section, "motor vehicle fuel distributor" means any person who (1) refines, blends, or otherwise produces motor vehicle fuel, or (2) with an ownership interest in the fuel, transports or causes the transport of motor vehicle fuel at any point between a production or import facility and a retail outlet, or sells, offers for sale, or supplies motor vehicle fuel to motor vehicle fuel retailers.

(b) Any motor vehicle fuel distributor who conducts business within the state shall, annually on January 1, shall inform the state board in writing of the distributor's principal place of business, which shall be a physical address and not a post office box, and any other place of business at which company records are maintained or refining activities are conducted.

(c) The state board shall supply each complying motor vehicle fuel distributor with a certificate of compliance with this section not later than June 30. The certificate shall be effective from July 1 of the year of issuance through June 30 of the following year.

(d) All motor vehicle fuel distributors shall maintain complete records of each purchase, delivery, or supply of motor vehicle fuel for a period of not less than two years in the physical locations reported pursuant to subdivision (b) and shall not move the records to another physical location without notifying the state board of the new location. A complete record for each delivery shall consist of not less than a copy, or the information contained therein, of the bills of lading from the refinery or bulk terminal from which the fuel is received, the delivery ticket or receipt showing the location of the fuel at the time of sale, and the invoice showing the purchaser of the fuel. All those records may be kept in physical or electronic format and are subject to inspection and duplication by the state board.

(e) Any motor vehicle fuel distributor who intentionally fails to comply with subdivision (b) or (d) is liable for a civil penalty not to exceed one thousand dollars ($1,000) for each day of noncompliance.

(f) No person shall knowingly transport motor vehicle fuel for any motor vehicle fuel distributor who is not in possession of a current certificate of compliance as described in subdivision (c). Any person who transports or provides vehicles to transport motor vehicle fuel for a noncomplying distributor is liable for a civil penalty not exceeding ten thousand dollars ($10,000) for each day as well as any penalties prescribed by Section 41963 of the Health and Safety Code. However, any person who transports, or provides vehicles to transport, motor vehicle fuel for a distributor who is in possession of a current certificate of compliance shall not be liable for any penalties under this subdivision or Section 41963 unless that person has specific knowledge of noncompliance.

(g) Any retailer who knowingly sells or supplies motor vehicle fuel that was delivered to the retailer by, or on behalf of, a noncomplying motor vehicle fuel distributor is liable for a civil penalty not to exceed ten thousand dollars ($10,000) for each transaction.

(h) Any retailer who sells motor vehicle fuel that does not comply with regulations of the state board, after both oral and written notice to cease have been delivered to the owner, manager, or attendant on duty at the facility, and upon failure to comply with that notice, is subject to the issuance of a cease and desist order by the state board and a penalty of ten thousand dollars ($10,000) for each day of noncompliance with the cease and desist order.

(i) The state board shall annually compile and publish a complete listing of all certified wholesale petroleum distributors, and shall mail a copy to every licensed transporter of petroleum products.

(j) This section shall become operative January 1, 2003.

Comment. Section 41001 continues former Health and Safety Code Section 43021 without substantive change.

☞ **Staff Note.** Health and Safety Code Section 43021 has been amended. See 1998 Cal. Stat. ch. 432, § 1.

§ 41059. Report to legislative committees

41059. Notwithstanding Section 7550.5 of the Government Code, on or before January 1, 2002, the state board shall report to the Assembly Committee on Natural Resources, the Assembly Committee on Transportation, the Senate Committee on Criminal Procedure, and the Senate Committee on Transportation all violations that are subject to this article, any settlements reached, and the rate of compliance with any requirements that are subject to this article.

Comment. Section 41059 continues former Health and Safety Code Section 43032 without substantive change.

☞ **Staff Note.** Health and Safety Code Section 43032 has been amended. See 1998 Cal. Stat. ch. 432, § 2.

§ 41060. Duration of article

41060. This article shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

Comment. Section 41060 continues former Health and Safety Code Section 43033 without substantive change.

☞ **Staff Note.** Health and Safety Code Section 43033 has been amended. See 1998 Cal. Stat. ch. 432, § 2. The revised section reflects that amendment and also corrects an error in the leadline that appeared in the tentative recommendation.

§ 42708. Pretesting

42708. Every motor vehicle that is subject to testing pursuant to this title may be pretested. As used in this section, a pretest is a smog inspection in which the motor vehicle is submitted to some or all of the required elements of the emissions inspection as specified in Section 42751, the results of which will not be reported to the Department of Motor Vehicles and for which a certificate will not be issued. A person choosing to have his or her vehicle pretested has the right to have a complete pretest of the vehicle unless the person requests a partial pretest. If the person requests a partial pretest, the licensed technician or an authorized representative of the licensed smog check station shall inform the vehicle owner that the partial pretest may not indicate the likelihood of the vehicle passing a subsequent official inspection.

Comment. Section 42708 continues former Health and Safety Code Section 44011.3 without change.

☞ **Staff Note.** Health and Safety Code Section 44011.3 is new. See 1998 Cal. Stat. ch. 938, § 1.

§ 42904. Validity period of certificate

42904. Unless the certificate is issued to a licensed automobile dealer, a certificate of compliance or noncompliance shall be valid for 90 days. If the certificate is issued to a licensed automobile dealer, the certificate shall be valid for 180 days.

Comment. Section 42904 continues former Health and Safety Code Section 44015(e) without substantive change.

☞ **Staff Note.** Health and Safety Code Section 44015(e) was amended. See 1998 Cal. Stat. ch. 92, § 1.

§ 43253. Training and periodic retraining

43253. (a) The department shall prescribe training and periodic retraining courses for licensed smog check technicians pursuant to Sections 43255 and 43301.

(b) Smog check technicians shall have the option to do hands-on work in lieu of written work in order to successfully complete the department certified training and retraining courses or may complete comparable military training as documented by submission of Verification of Military Experience and Training

(V-MET) records in lieu of meeting any other training-related requirements of this section.

(c) The institution administering the department certified training or retraining courses shall issue a certificate of completion to each person who successfully completes the certified courses. The certificate shall be valid for one year.

Comment. Section 43253 continues former Health and Safety Code Section 44031.5(b) & (d)-(e) without substantive change.

☞ **Staff Note.** Health and Safety Code Section 44031.5(d) was amended. See 1998 Cal. Stat. ch. 405, § 4.

§ 44301. General civil penalty amount

44301. (a) Except as otherwise provided in Sections 44302 and 44303, any person who violates this title, or any order, rule, or regulation of the department adopted pursuant to this title, is liable for a civil penalty of not less than one hundred fifty dollars ($150) and not more than two thousand five hundred dollars ($2,500) for each day in which each violation occurs.

(b) The penalties specified in subdivision (a) do not apply to an owner or operator of a motor vehicle, except an owner or operator who does any of the following:

(1) Obtains, or who attempts to obtain, a certificate of compliance or noncompliance, or a repair cost waiver, or an economic hardship extension without complying with Sections 43903 to 42905, inclusive, and 42950 to 42952, inclusive.

(2) Obtains, or attempts to obtain, a certificate of compliance, a repair cost waiver, or an economic hardship extension by means of fraud, including, but not limited to, offering or giving any form of financial or other inducement to any person for the purpose of obtaining a certificate of compliance for a vehicle that has not been tested or has been tested improperly.

(3) Registers a motor vehicle at an address other than the owner's or operator's residence address for the purpose of avoiding the requirements of this title.

(4) Obtains, or attempts to obtain, a certificate of compliance by other means when required to report to the test-only facility after being identified as a tampered vehicle or gross polluter pursuant to Sections 43903 to 42905, inclusive, and 42950 to 42952, inclusive, or Article 2 (commencing with Section 43650) of Chapter 7.

Comment. Subdivision (a) of Section 44301 continues the first sentence of former Health and Safety Code Section 44056(a) without substantive change. Subdivision (b) of Section 44301 continues Health and Safety Code Section 44056(b) without substantive change.

☞ **Staff Note.** Health and Safety Code Section 44056(b) was amended. See 1998 Cal. Stat. ch. 485, § 111.

☞ **Staff Note.** Health and Safety Code Section 44243.5 was repealed. See 1998 Cal. Stat. ch. 67, § 2. Proposed Environment Code Section 40754, which continued Health and Safety Code Section 44243.5, will be deleted.

CONFORMING REVISIONS

Bus. & Prof. Code § 9886.2 (amended). Appropriation

SEC. ___. Section 9886.2 of the Business and Professions Code is amended to read:

9886.2. The money in the Vehicle Inspection and Repair Fund necessary for the administration of this chapter and ~~Chapter~~ Title 5 (commencing with Section ~~44000~~ 42300) of Part 5 of Division ~~26~~ 4 of the ~~Health and Safety~~ Environment Code is available to the department, when appropriated for those purposes.

Comment. Section 9886.2 is amended to substitute a reference to the Environment Code provisions that continue former Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code.

☞ **Staff Note.** Section 9886.2 has been amended. See 1998 Cal. Stat. ch. 970, § 207.

Code Civ. Proc. § 338 (amended). Three year limitation period

SEC. ___. Section 338 of the Code of Civil Procedure is amended to read:

338. Within three years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for trespass upon or injury to real property.

(c) An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property. The cause of action in the case of theft, as defined in Section 484 of the Penal Code, of any article of historical, interpretive, scientific, or artistic significance is not deemed to have accrued until the discovery of the whereabouts of the article by the aggrieved party, his or her agent, or the law enforcement agency which originally investigated the theft.

(d) An action for relief on the ground of fraud or mistake. The cause of action in that case is not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

(e) An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not to be deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

(f) An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action; provided, that any action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later; and provided further, that any action

against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

(g) An action for slander of title to real property.

(h) An action commenced under Section 17536 of the Business and Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing such an action.

(i) An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Water Resources Control Board or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

(j) An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

(k) An action commenced under Division ~~26~~ 4 (commencing with Section ~~39000~~ 30000) of the ~~Health and Safety~~ Environment Code. These causes of action shall not be deemed to have accrued until the discovery by the State Air Resources Board or by a district, as defined in Section ~~39025~~ 30220 of the ~~Health and Safety~~ Environment Code, of the facts constituting grounds for commencing the action under its jurisdiction.

(l) An action commenced under Section 1603.1 or 5650.1 of the Fish and Game Code. These causes of action shall not be deemed to have accrued until discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

(m) An action challenging the validity of the levy upon a parcel of a special tax levied by a local agency on a per parcel basis.

Comment. Section 338 is amended to substitute references to the Environment Code provisions that continue former Division 26 (commencing with Section 39000) of the Health and Safety Code and former Health and Safety Code Section 30925.

☞ **Staff Note.** Section 338 has been amended. See 1998 Cal. Stat. ch. 342, § 1.

Educ. Code § 17621 (amended). Adopting or increasing fee

SEC. ___. Section 17621 of the Education Code is amended to read:

17621. (a) Any resolution adopting or increasing a fee, charge, dedication, or other requirement pursuant to Section 17620, for application to residential, commercial, or industrial development, shall be enacted in accordance with Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the Government Code~~, with Section 54994.1 of the Government Code, and with the procedures for mailed notice set forth in Section 54992 of the Government Code~~. The adoption, increase, or imposition of any fee, charge, dedication, or other requirement pursuant to Section 17620 shall not be subject to the California Environmental Quality Act, Division ~~13~~ 3 (commencing with Section 21000) of

the ~~Public Resources~~ Environment Code. The adoption of, or increase in, the fee, charge, dedication, or other requirement shall be effective no sooner than 60 days following the final action on that adoption or increase, except as specified in subdivision (b).

(b) Without following the procedure otherwise required for adopting or increasing a fee, charge, dedication, or other requirement, the governing board of a school district may adopt an urgency measure as an interim authorization for a fee, charge, dedication, or other requirement, or increase in a fee, charge, dedication, or other requirement, where necessary to respond to a current and immediate threat to the public health, welfare, or safety. The interim authorization shall require a four-fifths vote of the governing board for adoption, and shall contain findings describing the current and immediate threat to the public health, welfare, or safety. The interim authorization shall have no force or effect on and after a date 30 days after its adoption. After notice and hearing in accordance with subdivision (a), the governing board, upon a four-fifths vote of the board, may extend the interim authority for an additional 30 days. Not more than two extensions may be granted.

(c) Upon adopting or increasing a fee, charge, dedication, or other requirement pursuant to subdivision (a) or (b), the school district shall transmit a copy of the resolution to each city and each county in which the district is situated, accompanied by all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, charge, dedication, or other requirement. The school district governing board shall specify, pursuant to that notification, whether or not the collection of the fee or other charge is subject to the restriction set forth in subdivision (a) of Section 66007 of the Government Code.

(d) Any party on whom a fee, charge, dedication, or other requirement has been directly imposed pursuant to Section 17620 may protest the establishment or imposition of that fee, charge, dedication, or other requirement in accordance with Section 66020 of the Government Code, except that the procedures set forth in Section 66021 of the Government Code are deemed to apply, for this purpose, to commercial and industrial development, as well as to residential development.

(e) In the case of any commercial or industrial development, the following procedures shall also apply:

(1) The school district governing board shall, in the course of making the findings required under subdivisions (a) and (b) of Section 66001 of the Government Code, do all of the following:

(A) Make the findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse.

(B) Conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development

upon the cost of providing school facilities within the district. For the purpose of making that determination, the study shall utilize employee generation estimates that are calculated on either an individual project or categorical basis, in accordance with subparagraph (A). Those employee generation estimates shall be based upon commercial and industrial factors within the district or upon, in whole or in part, the applicable employee generation estimates set forth in the January 1990 edition of "San Diego Traffic Generators," a report of the San Diego Association of Governments.

(C) The governing board shall take into account the results of that study in making the findings described in this subdivision.

(2) In addition to any other requirement imposed by law, in the case of any development project against which a fee, charge, dedication, or other requirement is to be imposed pursuant to Section 53080 on the basis of a category of commercial or industrial development, as described in paragraph (1), the governing board shall provide a process that permits the party against whom the fee, charge, dedication, or other requirement is to be imposed the opportunity for a hearing to appeal that imposition. The grounds for that appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the fee, charge, dedication, or other requirement is to be imposed, or that the employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project. The party appealing the imposition of the fee, charge, dedication, or other requirement shall bear the burden of establishing that the fee, charge, dedication, or other requirement is improper.

Comment. Section 17621 is amended to substitute a reference to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 17621 has been amended. See 1998 Cal. Stat. ch. 689, § 1.3.

Fish & Game Code § 1601 (amended). Review of public construction projects

SEC. ___. Section 1601 of the Fish & Game Code is amended to read:

1601. (a) Except as provided in this section, general plans sufficient to indicate the nature of a project for construction by, or on behalf of, any state or local governmental agency or any public utility shall be submitted to the department if the project will (1) divert, obstruct, or change the natural flow or the bed, channel, or bank of any river, stream, or lake designated by the department in which there is at any time an existing fish or wildlife resource or from which these resources derive benefit, (2) use material from the streambeds designated by the department, or (3) result in the disposal or deposition of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into any river, stream, or lake designated by the department. If an existing fish or wildlife resource may be substantially adversely affected by that construction, the department shall notify the governmental agency or public utility of the existence

of the fish or wildlife resource together with a description thereof and shall propose reasonable modifications in the proposed construction that will allow for the protection and continuance of the fish or wildlife resource, including procedures to review the operation of those protective measures. The department's description of an existing fish or wildlife resource shall be specific and detailed and the department shall make available upon request the information upon which its conclusion is based that the resource may be substantially adversely affected. The proposals shall be submitted within 30 days from the date of receipt of the plans, except that the time period may be extended by mutual agreement. Upon a determination by the department and after notice to the affected parties of the necessity for an onsite investigation or upon the request for an onsite investigation by the affected parties, the department shall make an onsite investigation of the proposed construction and shall make the investigation before it proposes any modifications.

(b)(1) Within 14 days from the date of receipt of the department's proposals, the affected agency or public utility shall notify the department in writing whether the proposals are acceptable, except that the time period may be extended by mutual agreement. If the department's proposals are not acceptable to the affected agency or public utility, the agency or public utility shall so notify the department. Upon request, the department shall meet with the affected agency or public utility within seven days of receipt of the notification, or at a time mutually agreed upon, for the purpose of developing proposals that are acceptable to the department and the affected agency or public utility.

(2) If mutual agreement is not reached at the meeting held pursuant to paragraph (1), a panel of arbitrators shall be established. The panel of arbitrators shall be established within seven days from the date of the meeting, or at a time mutually agreed upon, and shall be composed of one representative of the department, one representative of the affected agency or public utility, and a third person mutually agreed upon or, if no agreement can be reached, the third person shall be appointed in the manner provided by Section 1281.6 of the Code of Civil Procedure. The third person shall act as chair of the panel. The panel may settle disagreements and make binding decisions regarding the fish and wildlife modifications. The arbitration shall be completed within 14 days from the date that the composition of the panel is established, unless the time is extended by mutual agreement. The expenses of the department representative shall be paid by the department; the expenses of the representative of the governmental agency or the public utility shall be paid by the governmental agency or the public utility; and the expenses of the chair of the panel shall be paid one- half by each party.

(c) A governmental agency or public utility proposing a project subject to this section shall not commence operations on that project until the department has found that the project will not substantially adversely affect an existing fish or wildlife resource or until the department's proposals, or the decisions of a panel of arbitrators, have been incorporated into the project. The department shall not

condition the streambed alteration agreement on a project subject to this section on the receipt of another state or federal permit.

(d) The department shall determine and specify types of work, methods of performance, or remedial measures that are exempt from this section.

(e) With regard to any project that involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to, and agreement with, the department is not required subsequent to the initial notification and agreement, unless the work as described in the agreement is substantially changed or conditions affecting fish and wildlife resources substantially change, and the resources are adversely affected by the activity conducted under the agreement. This subdivision applies in any instance where notice to, and agreement with, the department has been attained prior to January 1, 1977.

(f)(1) Except as provided in paragraph (2), this section does not apply to any of the following projects:

(A) Immediate emergency work necessary to protect life or property.

(B) Immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(C) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. Work needed in the vicinity above and below a highway may be conducted outside of the existing right-of-way if it is needed to stop ongoing or recurring mudslides, landslides, or erosion that pose an immediate threat to the highway or to restore those roadways damaged by mudslides, landslides, or erosion to their predamage condition and functionality. This subparagraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(2) The agency or public utility performing the project shall notify the department within 14 days from the date of commencement of a project exempted by this subdivision.

(3) For purposes of this subdivision, "emergency" means an emergency, as defined in Section 21060.3 of the ~~Public Resources~~ Environment Code.

(g) The department may enter into agreements with applicants for a term of not more than five years for the performance of operations on projects subject to this section. The terms of the agreement may be renegotiated at any time by mutual

consent of the parties. Each agreement shall be renewed automatically by the department at the expiration of its term unless the department determines that there has been a substantial change in conditions. If there is a disagreement between the department and the applicant as to whether there has been a substantial change in conditions, the department and the applicant shall proceed to arbitration pursuant to subdivision (b). The department may charge a fee when the agreement is entered into and for each renewal,

Comment. Section 1601 is amended to substitute a reference to the Environment Code provision that continues former Public Resources Code Section 21060.3.

☞ **Staff Note.** Section 1601 has been amended so that it now includes a reference to CEQA. See 1998 Cal. Stat. ch. 9, §1 (1st ex. sess.).

Fish & Game Code § 1603 (amended). Activities adversely affecting fish or wildlife resources

SEC. ___. Section 1603 of the Fish & Game Code is amended to read:

1603. (a) It is unlawful for any person to substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by the department, or use any material from the streambeds, without first notifying the department of that activity, except when the department has been notified pursuant to Section 1601. The department, within 30 days from the date of receipt of that notice, or within the time determined by mutual written agreement, shall, when an existing fish or wildlife resource may be substantially adversely affected by that activity, notify the person of the existence of that fish or wildlife resource together with a description of the fish or wildlife, and shall submit to the person its proposals as to measures necessary to protect fish and wildlife. Upon a determination by the department of the necessity for onsite investigation or upon the request for an onsite investigation by the affected parties, the department shall notify the affected parties that it shall make an onsite investigation of the activity and shall make that investigation before it proposes any measure necessary to protect the fish and wildlife. The department's description of an existing fish or wildlife resource shall be specific and detailed and the department shall make available upon request the information upon which its conclusion is based that the resource may be substantially adversely affected.

(b)(1) Within 14 days from the date of receipt of the department's proposals, the affected person shall notify the department in writing whether the proposals are acceptable, except that the time period may be extended by mutual agreement. If the department's proposals are not acceptable to the affected person, the person shall so notify the department. Upon request, the department shall meet with the affected person within seven days from the date of receipt of that notification or by a date that may be mutually agreed upon for the purpose of developing proposals that are acceptable to the department and the affected person.

(2) If mutual agreement is not reached at the meeting held pursuant to paragraph (1), a panel of arbitrators shall be established. However, appointment of the panel

may be deferred by mutual consent of the parties. The panel shall be established within seven days from the date of that meeting and shall be composed of one representative of the department, one representative of the affected person, and a third person mutually agreed upon or, if no agreement can be reached, the third person shall be appointed in the manner provided by Section 1281.6 of the Code of Civil Procedure. The third person shall act as panel chair. The panel may settle disagreements and make binding decisions regarding fish and wildlife modifications. The arbitration shall be completed within 14 days from the date that the composition of the panel is established, unless the time period is extended by mutual agreement. The expenses of the department representative shall be borne by the department; the expenses of the representative of the person who diverts or obstructs the natural flow, or changes the bed, of any river, stream, or lake, or uses any material from the streambeds shall be borne by that person; and the expenses of the chair of the panel shall be paid one-half by each party.

(c) It is unlawful for any person to commence any activity affected by this section until the department has found that it will not substantially adversely affect an existing fish or wildlife resource or until the department's proposals, or the decisions of a panel of arbitrators, have been incorporated into the activity. If the department fails to act within 30 days from the date of the receipt of the notice, the person may commence the activity. The department shall not condition the streambed alteration agreement on the receipt of another state or federal permit.

(d) It is unlawful for any person to engage in an activity affected by this section, unless the activity is conducted in accordance with the department's proposals or the decisions of the panel of arbitrators.

(e) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required subsequent to the initial notification and agreement unless the work as described in the agreement is substantially changed or conditions affecting fish and wildlife resources substantially change and those resources are adversely affected by the activity conducted under the agreement. This subdivision applies in any instance where notice to, and agreement with, the department has been attained prior to January 1, 1977.

(f)(1) Except as provided in paragraph (2), this section does not apply to any of the following projects:

(A) Immediate emergency work necessary to protect life or property.

(B) Immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(C) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the

Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. Work needed in the vicinity above and below a highway may be conducted outside of the existing right-of-way if it is needed to stop ongoing or recurring mudslides, landslides, or erosion that pose an immediate threat to the highway or to restore those roadways damaged by mudslides, landslides, or erosion to their predamage condition and functionality. This subparagraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(2) The person performing the project shall notify the department within 14 days from the date of commencement of a project exempted by this subdivision.

(3) For purposes of this subdivision, "emergency" means an emergency, as defined in Section 21060.3 of the ~~Public Resources~~ Environment Code.

(g) The department may enter into agreements with applicants for a term of not more than five years for the performance of activities subject to this section. The terms of the agreement may be renegotiated at any time by mutual consent of the parties. Each agreement shall be renewed automatically by the department at the expiration of its term unless the department determines that there has been a substantial change in conditions. If there is a disagreement between the department and the applicant as to whether there has been a substantial change in conditions, the department and the applicant shall proceed to arbitration pursuant to subdivision (b). The department may charge a fee when the agreement is entered into and for each renewal, but may not charge an annual fee for this purpose.

Comment. Section 1603 is amended to substitute a reference to the Environment Code provision that continues former Public Resources Code Section 21060.3.

☞ **Staff Note.** Section 1603 has been amended so that it now includes a reference to CEQA. See 1998 Cal. Stat. ch. 9, §2 (1st ex. sess.).

Fish & Game Code § 7078 (amended). Fishery management plan

SEC. ___. Section 7078 of the Fish & Game Code is amended to read:

7078. (a) The commission shall hold at least two public hearings on a fishery management plan or plan amendment prior to the commission's adoption or rejection of the plan.

(b) The plan or plan amendment shall be heard not later than 60 days following receipt of the plan or plan amendment by the commission. The commission may adopt the plan or plan amendment at the second public hearing, at the commission's meeting following the second public hearing, or at any duly noticed subsequent meeting, subject to subdivision (c).

(c) When scheduling the location of a hearing or meeting relating to a fishery management plan or plan amendment, the commission shall consider factors,

including, among other factors, the area of the state, if any, where participants in the fishery are concentrated.

(d) Notwithstanding Section 7550.5 of the Government Code, prior to the adoption of a fishery management plan or plan amendment that would make inoperative a statute, the commission shall provide a copy of the plan or plan amendment to the Legislature for review by the Joint Committee on Fisheries and Aquaculture or, if there is no such committee, to the appropriate policy committee in each house of the Legislature.

(e) The commission shall adopt any regulations necessary to implement a fishery plan or plan amendment no more than 60 days following adoption of the plan or plan amendment. All implementing regulations adopted under this subdivision shall be adopted as a regulation pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commission's adoption of regulations to implement a fishery management plan or plan amendment shall not trigger an additional review process under the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resource~~s Environment Code).

(f) Regulations adopted by the commission to implement a plan or plan amendment shall specify any statute or regulation of the commission that is to become inoperative as to the particular fishery. The list shall designate each statute or regulation by individual section number, rather than by reference to articles or chapters.

Comment. Section 7078 is amended to substitute a reference to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 7078 is new. See 1998 Cal. Stat. ch. 1052, §8.

Gov't Code § 6276.04 (amended). Exemptions to disclosure

SEC. ___. Section 6276.04 of the Government Code is amended to read:

6276.04. Aeronautics Act, reports of investigations and hearings, Section 21693, Public Utilities Code.

Agricultural producers marketing, access to records, Section 59616, Food and Agricultural Code.

Aiding disabled voters, Section 14282, Elections Code.

Air pollution data, confidentiality of trade secrets, Section 6254.7, Government Code, and Sections ~~42303.2 and 43206, Health and Safety Code~~ 38805 and 41701 of the Environment Code.

Air toxics emissions inventory plans, protection of trade secrets, ~~Section 44346, Health and Safety Code~~ Sections 45350 to 45356 of the Environment Code.

Alcohol and drug abuse records and records of communicable diseases, confidentiality of, Section 123125, Health and Safety Code.

Apiary registration information, confidentiality of, Section 29041, Food and Agricultural Code.

Arrest not resulting in conviction, disclosure or use of records, Sections 432.7 and 432.8, Labor Code.

Arsonists, registered, confidentiality of certain information, Section 457.1, Penal Code.

Artificial insemination, donor not natural father, confidentiality of records, Section 7613, Family Code.

Assessor's records, confidentiality of information in, Section 408, Revenue and Taxation Code.

Assessor's records, confidentiality of information in, Section 451, Revenue and Taxation Code.

Assessor's records, display of documents relating to business affairs or property of another, Section 408.2, Revenue and Taxation Code.

Assigned risk plans, rejected applicants, confidentiality of information, Section 11624, Insurance Code.

Attorney applicant, investigation by State Bar, confidentiality of, Section 6060.2, Business and Professions Code.

Attorney-client confidential communication, Section 6068, Business and Professions Code and Sections 952, 954, 956, 956.5, 957, 958, 959, 960, 961, and 962, Evidence Code.

Attorney, disciplinary proceedings, confidentiality prior to formal proceedings, Section 6086.1, Business and Professions Code.

Attorney, disciplinary proceeding, State Bar access to nonpublic court records, Section 6090.6, Business and Professions Code.

Attorney, investigation by State Bar, confidentiality of, Section 6168, Business and Professions Code.

Attorney, law corporation, investigation by State Bar, confidentiality of, Section 6168, Business and Professions Code.

Attorney, State Bar survey information, confidentiality of, Section 6033, Business and Professions Code.

Attorney work product confidentiality in administrative adjudication, Section 11507.6, Government Code.

Attorney, work product, confidentiality of, Section 6202, Business and Professions Code.

Attorney work product, discovery, Section 2018, Code of Civil Procedure.

Auditor General, access to records for audit purposes, Sections 10527 and 10527.1, Government Code.

Auditor General, disclosure of audit records, Section 10525, Government Code.

Automobile Insurance Claims Depository, confidentiality of information, Section 1876.3, Insurance Code.

Automobile insurance, investigation of fraudulent claims, confidential information, Section 1872.8, Insurance Code.

Automotive repair facility, fact of certification or decertification, Section 9889.47, Business and Professions Code.

Automotive repair facility, notice of intent to seek certification, Section 9889.33, Business and Professions Code.

Avocado handler transaction records, confidentiality of, Sections 44982 and 44984, Food and Agricultural Code.

Comment. Section 6276.04 is amended to substitute a reference to the Environment Code provisions that continue former Sections 42303.2(e), 43206, and 44346 of the Health and Safety Code.

☞ **Staff Note.** Section 6276.04 is new. See 1998 Cal. Stat. ch. 620, § 11.

☞ **Staff Note.** Government Code § 7075 has been repealed. The conforming revision proposed for that section will be deleted. See 1998 Cal. Stat. ch. 485, § 84.

Gov't Code § 12012.5 (amended). Tribal-state gaming compacts

SEC. ___. Section 12012.5 of the Government Code is amended to read:

12012.5. (a) The following tribal-state compacts entered in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 *et seq.* and 25 U.S.C. Sec. 2701 *et seq*.) are hereby ratified:

(1) The compact between the State of California and the Barona Band of Mission Indians, executed on August 12, 1998.

(2) The compact between the State of California and the Big Sandy Rancheria of Mono Indians, executed on July 20, 1998.

(3) The compact between the State of California and the Cher-Ae Heights Indian Community of Trinidad Rancheria, executed on July 13, 1998.

(4) The compact between the State of California and the Jackson Rancheria Band of Miwuk Indians, executed on July 13, 1998.

(5) The compact between the State of California and the Mooretown Rancheria of Concow/Maidu Indians, executed on July 13, 1998.

(6) The compact between the State of California and the Pala Band of Mission Indians, as approved by the Secretary of the Interior on April 25, 1998.

(7) The compact between the State of California and the Redding Rancheria, executed on August 11, 1998.

(8) The compact between the State of California and the Rumsey Indian Rancheria of Wintun Indians of California, executed on July 13, 1998.

(9) The compact between the State of California and the Sycuan Band of Mission Indians, executed on August 12, 1998.

(10) The compact between the State of California and the Table Mountain Rancheria, executed on July 13, 1998.

(11) The compact between the State of California and the Viejas Band of Kumeyaay Indians, executed on or about August 17, 1998.

The terms of each compact apply only to the State of California and the tribe that has signed it, and the terms of these compacts do not bind any tribe that is not a signatory to any of the compacts.

(b) Any other compact entered into between the State of California and any other federally recognized Indian tribe which is executed after August 24, 1998, is hereby ratified if (1) the compact is identical in all material respects to any of the compacts ratified pursuant to subdivision (a), and (2) the compact is not rejected by each house of the Legislature, two-thirds of the membership thereof concurring, within 30 days of the date of the submission of the compact to the Legislature by the Governor. However, if the 30-day period ends during a joint recess of the Legislature, the period shall be extended until the fifteenth day following the day on which the Legislature reconvenes. A compact will be deemed to be materially identical to a compact ratified pursuant to subdivision (a) if the Governor certifies that it is materially identical at the time he or she submits it to the Legislature.

(c) The Legislature acknowledges the right of federally recognized tribes to exercise their sovereignty to negotiate and enter into compacts with the state that are materially different from the compacts ratified pursuant to subdivision (a). These compacts shall be ratified upon approval of each house of the Legislature, a majority of the membership thereof concurring.

(d) The Governor is the designated state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with federally recognized Indian tribes in the State of California pursuant to the federal Indian Gaming Regulatory Act of 1988 (18 U.S.C. Sec. 1166 *et seq.* and 25 U.S.C. Sec. 2701 *et seq*.) for the purpose of authorizing class III gaming, as defined in that act, on Indian lands. Nothing in this section shall be construed to deny the existence of the Governor's authority to have negotiated and executed tribal-state compacts prior to the effective date of this section.

(e) The Governor is authorized to waive the state's immunity to suit in federal court in connection with any compact negotiated with an Indian tribe or any action brought by an Indian tribe under the Indian Gaming Regulatory Act (18 U.S.C. Sec. 1166 *et seq.* and 25 U.S.C. Sec. 2701 *et seq*.).

(f) In deference to tribal sovereignty, the execution of, and compliance with the terms of, any compact specified under subdivision (a) or (b) shall not be deemed to constitute a project for purposes of the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(g) Nothing in this section shall be interpreted to authorize the unilateral imposition of a statewide limit on the number of lottery devices or of any allocation system for lottery devices on any Indian tribe that has not entered into a compact that provides for such a limit or allocation system. Each tribe may negotiate separately with the state over these matters on a government-to-government basis.

Comment. Section 12012.5 is amended to substitute a reference to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 12012.5. is new. See 1998 Cal. Stat. ch. 409.

Gov't Code § 51291 (amended). Public use of land within agricultural preserve

SEC. ___. Section 51291 of the Government Code is amended to read:

51291. (a) As used in this section and Sections 51292 and 51295, (1) "public agency" means any department or agency of the United States or the state, and any county, city, school district, or other local public district, agency, or entity, and (2) "person" means any person authorized to acquire property by eminent domain.

(b) Whenever it appears that land within an agricultural preserve may be required by a public agency or person for a public use, the public agency or person shall advise the Director of Conservation and the local governing body responsible for the administration of the preserve of its intention to consider the location of a public improvement within the preserve. In accordance with Section 51290, the notice shall include an explanation of the preliminary consideration of Section 51292, and give a general description, in text or by diagram, of the agricultural preserve land proposed for acquisition, and a copy of any applicable contract created under this chapter. The Director of Conservation shall forward to the Secretary of Food and Agriculture, a copy of any material received from the public agency or person relating to the proposed acquisition.

Within 30 days thereafter, the Director of Conservation and the local governing body shall forward to the appropriate public agency or person concerned their comments with respect to the effect of the location of the public improvement on the land within the agricultural preserve and those comments shall be considered by the public agency or person. In preparing those comments, the Director of Conservation shall consider issues related to agricultural land use, including, but not limited to, matters related to the effects of the proposal on the conversion of adjacent or nearby agricultural land to nonagricultural uses, and shall consult with, and incorporate the comments of, the Secretary of Food and Agriculture on any other matters related to agricultural operations. The failure of any public agency or person to comply with the requirements of this section shall not invalidate any action by the agency or person to locate a public improvement within an agricultural preserve. However, the failure by any person or public agency, other than a state agency, to comply with the requirements of this section shall be admissible in evidence in any litigation for the acquisition of that land or involving the allocation of funds or the construction of the public improvement. This subdivision does not apply to the erection, construction, alteration, or maintenance of gas, electric, water, or communication utility facilities within an agricultural preserve if that preserve was established after the submission of the location of those facilities to the city or county for review or approval.

(c) When land in an agricultural preserve is acquired by a public entity, the public entity shall notify the Director of Conservation within 10 working days. The notice shall include a general explanation of the decision and the findings made pursuant to Section 51292. If different from that previously provided pursuant to subdivision (b), the notice shall also include a general description, in

text or by diagram, of the agricultural preserve land acquired and a copy of any applicable contract created under this chapter.

(d) If, after giving the notice required under subdivisions (b) and (c) and before the project is completed within an agricultural preserve, the public agency or person proposes any significant change in the public improvement, it shall give notice of the changes to the Director of Conservation and the local governing body responsible for the administration of the preserve. Within 30 days thereafter, the Director of Conservation and the local governing body may forward to the public agency or person their comments with respect to the effect of the change to the public improvement on the land within the preserve and the compliance of the changed public improvements with this article. Those comments shall be considered by the public agency or person, if available within the time limits set by this subdivision.

(e) If the notices and findings required by this section and Section 51292 are given and contained within documents prepared pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) those documents may be used to meet the notification and findings requirements of this section and Section 51292, as long as they are provided no later than the times set forth in this section.

Any action or proceeding regarding notices or findings required by this article filed by the Director of Conservation or the local governing body administering the agricultural preserve shall be governed by Section 51294.

Comment. Section 51291 is amended to substitute a reference to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 51291 has been amended. See 1998 Cal. Stat. ch. 690, § 7.

Gov't Code § 65584 (amended). Share of city or county of regional housing needs

SEC. ___. Section 65584 of the Government Code is amended to read:

65584. (a) For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a general plan of the city or county. The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, the loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions, and the housing needs of farmworkers. The distribution shall seek to reduce the concentration of lower income households in cities or counties which already have disproportionately high proportions of lower income households. Based upon population projections produced by the Department of Finance and regional

population forecasts used in preparing regional transportation plans, and in consultation with each council of governments, the Department of Housing and Community Development shall determine the regional share of the statewide housing need at least two years prior to the second revision, and all subsequent revisions as required pursuant to Section 65588. Based upon data provided by the department relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. Within 30 days following notification of this determination, the department shall ensure that this determination is consistent with the statewide housing need. The department may revise the determination of the council of governments if necessary to obtain this consistency. The appropriate council of governments shall determine the share for each city or county consistent with the criteria of this subdivision and with the advice of the department subject to the procedure established pursuant to subdivision (c) at least one year prior to the second revision, and at five-year intervals following the second revision pursuant to Section 65588. The council of governments shall submit to the department information regarding the assumptions and methodology to be used in allocating the regional housing need. As part of the allocation of the regional housing need, the council of governments, or the department pursuant to subdivision (b), shall provide each city and county with data describing the assumptions and methodology used in calculating its share of the regional housing need. The department shall submit to each council of governments information regarding the assumptions and methodology to be used in allocating the regional share of the statewide housing need. As part of its determination of the regional share of the statewide housing need, the department shall provide each council of governments with data describing the assumptions and methodology used in calculating its share of the statewide housing need. The councils of governments shall provide each city and county with the department's information. The council of governments shall provide a subregion with its share of the regional housing need, and delegate responsibility for providing allocations to cities and a county or counties in the subregion to a subregional entity if this responsibility is requested by a county and all cities in the county, a joint powers authority established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1, or the governing body of a subregional agency established by the council of governments, in accordance with an agreement entered into between the council of governments and the subregional entity that sets forth the process, timing, and other terms and conditions of that delegation of responsibility.

(b) For areas with no council of governments, the department shall determine housing market areas and define the regional housing need for cities and counties within these areas pursuant to the provisions for the distribution of regional housing needs in subdivision (a). If the department determines that a city or county possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the identification and determination of housing

market areas and regional housing needs, the department shall delegate this responsibility to the cities and counties within these areas.

(c) (1) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a city or county may propose to revise the determination of its share of the regional housing need in accordance with the considerations set forth in subdivision (a). The proposed revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation.

(2) Within 60 days after the time period for the revision by the city or county, the council of governments or the department, as the case may be, shall accept the proposed revision, modify its earlier determination, or indicate, based upon available data and accepted planning methodology, why the proposed revision is inconsistent with the regional housing need.

(A) If the council of governments or the department, as the case may be, does not accept the proposed revision, then the city or county shall have the right to request a public hearing to review the determination within 30 days.

(B) The city or county shall be notified within 30 days by certified mail, return receipt requested, of at least one public hearing regarding the determination.

(C) The date of the hearing shall be at least 30 days from the date of the notification.

(D) Before making its final determination, the council of governments or the department, as the case may be, shall consider comments, recommendations, available data, accepted planning methodology, and local geological and topographic restraints on the production of housing.

(3) If the council of governments or the department accepts the proposed revision or modifies its earlier determination, the city or county shall use that share. If the council of governments or the department grant a revised allocation pursuant to paragraph (1), the council of governments or the department shall ensure that the current total housing need is maintained. If the council of governments or department indicates that the proposed revision is inconsistent with the regional housing need, the city or county shall use the share which was originally determined by the council of governments or the department.

(4) The determination of the council of governments or the department, as the case may be, shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

(5) The council of governments or the department shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(A) One or more cities within the county agree to increase its share or their shares in an amount which will make up for the reduction.

(B) The transfer of shares shall only occur between a county and cities within that county.

(C) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county' s share of moderate- and above moderate-income housing is reduced.

(D) The council of governments or the department, whichever assigned the county's share, shall have authority over the approval of the proposed reduction, taking into consideration the criteria of subdivision (a).

(6) The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall be made available upon request by any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship.

(d) (1) Except as provided in paragraph (2), any ordinance, policy, or standard of a city or county that directly limits, by number, the building permits that may be issued for residential construction, or limits for a set period of time the number of buildable lots that may be developed for residential purposes, shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(2) Paragraph (1) does not apply to any city or county that imposes a moratorium on residential construction for a specified period of time in order to preserve and protect the public health and safety. If a moratorium is in effect, the city or county shall, prior to a revision pursuant to subdivision (c), adopt findings that specifically describe the threat to the public health and safety and the reasons why construction of the number of units specified as its share of the regional housing need would prevent the mitigation of that threat.

(e) Any authority to review and revise the share of a city or county of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

(f) A fee may be charged interested parties for any additional costs caused by the amendments made to subdivision (c) by Chapter 1684 of the Statutes of 1984 reducing from 45 to seven days the time within which materials and data shall be made available to interested parties.

(g) Determinations made by the department, a council of governments, or a city or county pursuant to this section are exempt from the California Environmental Quality Act, Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code.

Comment. Section 65584 is amended to substitute a reference to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 65584 has been amended. See 1998 Cal. Stat. ch. 796, § 4.

Gov't Code § 65950 (amended). Period for agency action

SEC. ___. Section 65950 of the Government Code is amended to read:

65950. (a) Any public agency that is the lead agency for a development project shall approve or disapprove the project within whichever of the following periods is applicable:

(1) One hundred eighty days from the date of certification by the lead agency of the environmental impact report if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the ~~Public Resources~~ Environment Code for the development project.

(2) Sixty days from the date of adoption by the lead agency of the negative declaration if a negative declaration is completed and adopted for the development project.

(3) Sixty days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) if the project is exempt from the California Environmental Quality Act.

(b) Nothing in this section precludes a project applicant and a public agency from mutually agreeing in writing to an extension of any time limit provided by this section pursuant to Section 65957.

(c) For purposes of this section, "lead agency" and "negative declaration" shall have the same meaning as those terms are defined in Sections 21067 and 21064 of the ~~Public Resources~~ Environment Code, respectively.

Comment. Section 65950 is amended to substitute references to the Environment Code provisions that continue provisions of former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 65950 has been amended. See 1998 Cal. Stat. ch. 283, § 2.

Gov't Code § 65951 (amended). Combined environmental impact report and statement

SEC. ___. Section 65951 of the Government Code is amended to read:

65951. In the event that a combined environmental impact report-environmental impact statement is being prepared on a development project pursuant to Section ~~21083.6~~ 21096.6 of the ~~Public Resources~~ Environment Code, a lead agency shall approve or disapprove the project within 90 days after the combined environmental impact report-environmental impact statement has been completed and adopted.

Comment. Section 65951 is amended to substitute a reference to the Environment Code provision that continues former Section 21096.6 of the Public Resources Code.

☞ **Staff Note.** Section 65951 has been amended. See 1998 Cal. Stat. ch. 283, § 3.

Gov't Code § 65995.6 (amended). School facilities needs analysis

SEC. ___. Section 65995.6 of the Government Code is amended to read:

65995.6. (a) The school facilities needs analysis required by paragraph (2) of subdivision (b) of Section 65995.5 shall be conducted by the governing board of a school district to determine the need for new school facilities for unhoused pupils that are attributable to projected enrollment growth from the development of new

residential units over the next five years. The school facilities needs analysis shall project the number of unhoused elementary, middle, and high school pupils generated by new residential units, in each category of pupils enrolled in the district. This projection of unhoused pupils shall be based on the historical student generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed either in the school district or the city or county in which the school district is located, and relevant planning agency information, such as multiphased development projects, that may modify the historical figures. For purposes of this paragraph, "type" means a single family detached, single family attached, or multifamily unit. The existing school building capacity shall be calculated pursuant to Article 2 (commencing with Section 17071.10) of Chapter 12.5 of Part 10 of the Education Code. If a district meets the requirements of paragraph (3) of subdivision (b) of Section 65995.5 by having a substantial enrollment on a multitrack year-round schedule, the determination of whether the district has school building capacity area shall reflect the additional capacity created by the multitrack year-round schedule.

(b) When determining the funds necessary to meet its facility needs, the governing board shall do each of the following:

(1) Identify and consider any surplus property owned by the district that can be used as a schoolsite or that is available for sale to finance school facilities.

(2) Identify and consider the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities.

(3) Identify and consider local sources other than fees, charges, dedications, or other requirements imposed on residential construction available to finance the construction or reconstruction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units.

(c) The governing board shall adopt the school facility needs analysis by resolution at a public hearing. The school facilities needs analysis may not be adopted until the school facilities needs analysis in its final form has been made available to the public for a period of not less than 30 days during which time the school facilities needs analysis shall be provided to the local agency responsible for land use planning for its review and comment. Prior to the adoption of the school facilities needs analysis, the public shall have the opportunity to review and comment on the school facilities needs analysis and the governing board shall respond to written comments it receives regarding the school facilities needs analysis.

(d) Notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed school facilities needs analysis and any proposed revision of the school facilities needs analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the school district that is conducting the hearing no less than 30 days prior to the hearing. If there is no paper of general circulation, the notice shall be posted in at

least three conspicuous public places within the jurisdiction of the school district not less than 30 days prior to the hearing. In addition to these notice requirements, the governing board shall mail a copy of the school facilities needs analysis and any proposed revision to the school facilities needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The governing board may charge a fee reasonably related to the cost of providing these materials to those persons who request the school facilities needs analysis or revision.

(e) The school facilities needs analysis may be revised at any time in the same manner, and the revision is subject to the same conditions and requirements, applicable to the adoption of the school facilities needs analysis.

(f) A fee, charge, dedication, or other requirement in an amount authorized by this section or Section 65995.7, shall be adopted by a resolution of the governing board as part of the adoption or revision of the school facilities needs analysis and may not be effective for more than one year. Notwithstanding subdivision (a) of Section 17621 of the Education Code, or any other provision of law, the fee, charge, dedication, or other requirement authorized by the resolution shall take effect immediately after the adoption of the resolution.

(g) Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code may not apply to the preparation, adoption, or update of the school facilities needs analysis, or adoption of the resolution specified in this section.

(h) Notice and hearing requirements other than those provided in this section may not be applicable to the adoption or revision of a school facilities needs analysis or the resolutions adopted pursuant to this section.

Comment. Section 65995.6 is amended to substitute references to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 65995.6 is new. See 1998 Cal. Stat. ch. 407, § 21.

Gov't Code § 65996 (amended). Mitigation of impacts on school facilities

SEC. ___. Section 65996 of the Government Code is amended to read:

65996. (a) Notwithstanding Section 65858, or Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, or any other provision of state or local law, the following provisions shall be the exclusive methods of considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property or any change of governmental organization or reorganization, as defined in Section 56021 or 56073:

(1) Section 17620 of the Education Code.

(2) Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7.

(b) The provisions of this chapter are hereby deemed to provide full and complete school facilities mitigation and, notwithstanding Section 65858, or Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code, or any other provision of state or local law, a state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or any change in governmental organization or reorganization, as defined in Section 56021 or 56073, on the basis that school facilities are inadequate.

(c) For purposes of this section, "school facilities" means any school-related consideration relating to a school district's ability to accommodate enrollment.

(d) Nothing in this chapter shall be interpreted to limit or prohibit the ability of a local agency to utilize other methods to provide school facilities if these methods are not levied or imposed in connection with, or made a condition of, a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or a change in governmental organization or reorganization, as defined in Section 56021 or 56073. Nothing in this chapter shall be interpreted to limit or prohibit the assessment or reassessment of property in conjunction with ad valorum taxes, or the placement of a parcel on the secured roll in conjunction with qualified special taxes as that term is used in Section 50079.

(e) Nothing in this section shall be interpreted to limit or prohibit the ability of a local agency to mitigate the impacts of land use approvals other than on the need for school facilities, as defined in this section.

(f) This section shall become inoperative during any time that Section 65997 is operative and this section shall become operative at any time that Section 65997 is inoperative.

Comment. Section 65996 is amended to substitute references to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 65996 has been amended. See 1998 Cal. Stat. ch. 407, § 23.

Gov't Code § 65997 (amended). Mitigating environmental effects

SEC. ___. Section 65997 of the Government Code is amended to read:

65997. (a) The following provisions shall be the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or the establishment of conditions for the approval of a development project, as defined in Section 17620, pursuant to Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code:

(1) Chapter 12 (commencing with Section 17000) of Part 10 of the Education Code or Chapter 12.5 (commencing with Section 17070.10).

(2) Chapter 14 (commencing with Section 17085) of Part 10 of the Education Code.

(3) Chapter 18 (commencing with Section 17170) of Part 10 of the Education Code.

(4) Article 2.5 (commencing with Section 17430) of Chapter 4 of Part 10.5 of the Education Code.

(5) Section 17620 of the Education Code.

(6) Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 of the Government Code.

(7) Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7 of the Government Code.

(b) A public agency may not, pursuant to Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code or Division 2 (commencing with Section 66410) of this code, deny approval of a project on the basis of the adequacy of school facilities.

(c)(1) This section shall become operative on or after any statewide election in 2006, if a statewide general obligation bond measure submitted for voter approval in 2006 or thereafter that includes bond issuance authority to fund construction of kindergarten and grades 1 to 12, inclusive, public school facilities is submitted to the voters and fails to be approved.

(2)(A) This section shall become inoperative if subsequent to the failure of a general obligation bond measure described in paragraph (1) a statewide general bond measure as described in paragraph (1) is approved by the voters.

(B) Thereafter, this section shall become operative if a statewide general obligation bond measure submitted for voter approval that includes bond issuance authority to fund construction of kindergarten and grades 1 to 12, inclusive, public school facilities is submitted to the voters and fails to be approved and shall become inoperative if subsequent to the failure of the general obligation bond measure a statewide bond measure as described in this subparagraph is approved by the voters.

(d) Notwithstanding any other provision of law, a public agency may deny or refuse to approve a legislative act involving, but not limited to, the planning, use, or development of real property, on the basis that school facilities are inadequate, except that a public agency may not require the payment or satisfaction of a fee, charge, dedication, or other financial requirement in excess of that levied or imposed pursuant to Section 65995 and, if applicable, any amounts specified in Sections 65995.5 or 65995.7.

Comment. Section 65997 is amended to substitute references to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 65997 is new. See 1998 Cal. Stat. ch. 407, § 24.

Health & Safety Code § 25160 (amended). Hazardous waste manifest

SEC. ___. Section 25160 of the Health and Safety Code is amended to read:

25160. (a) For purposes of this chapter, "manifest" means a shipping document originated and signed by a generator of hazardous waste that contains all of the

information required by the department and that complies with all applicable federal and state regulations.

(b)(1) Any person generating hazardous waste which is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, shall complete a manifest prior to the time the waste is transported or offered for transportation, and shall designate on that manifest the facility to which the waste is to be shipped for the handling, treatment, storage, disposal, or combination thereof. The manifest shall be completed, as required by the department. The generator shall provide the manifest to the person who will transport the hazardous waste, who is the driver, if the hazardous waste will be transported by vehicle, or the person designated by the railroad corporation or vessel operator, if the hazardous waste will be transported by rail or vessel. The generator shall use the standard California Uniform Hazardous Waste Manifest supplied by the department for all shipments of hazardous waste for which a manifest is required, except as provided in paragraph (2). A manifest shall only be used for the purposes specified in this chapter, including, but not limited to, identifying materials that the person completing the manifest reasonably believes are hazardous waste. Within 30 days from the date of transport, or submission for transport, of hazardous waste, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator and the transporter. In lieu of submitting a copy of each manifest used, a generator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(2) Any person generating hazardous waste which is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, outside of the state, shall complete, whether or not the waste is determined to be hazardous by the importing country or state, a standard California Uniform Hazardous Waste Manifest, or the generator shall complete, in its own form of manifest, the manifest required by the receiving state and shall submit a copy of that manifest to the department within 30 days from the date of the transport, or submission for transport, of the hazardous waste. In lieu of submitting a copy of each manifest used, a generator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(3) Within 30 days from the date of transport, or submission for transport, of hazardous waste out of state, each generator of that hazardous waste shall submit to the department a legible copy of each manifest used. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the out-of-state facility operator. If within 35 days from the date of the initial shipment, or for exports by water to foreign countries, 60 days after the initial shipment, the generator has not received a copy of the manifest signed by all transporters and the facility operator, the generator shall contact the owner or operator of the designated facility to determine the status of the hazardous waste and to request that the owner or operator

immediately provide a signed copy of the manifest to the generator. If within 45 days from the date of the initial shipment or, for exports by water to foreign countries, 90 days from the date of the initial shipment, the generator has not received a copy of the signed manifest from the facility owner or operator, the generator shall submit an exception report to the department.

(4) For shipments of waste that do not require a manifest pursuant to Title 40 of the Code of Federal Regulations, the department, by regulation, may establish manifest requirements that differ from the requirements of this subdivision. The requirements for an alternative form of manifest shall ensure that the hazardous waste is transported by a registered hazardous waste transporter, that the hazardous waste is tracked, and that human health and safety and the environment are protected.

(c)(1) The department shall determine the form and manner in which a manifest shall be completed and the information that the manifest shall contain. The information requested on the manifest shall serve as the data dictionary for purposes of the developing of an electronic reporting format pursuant to Section ~~71062~~ 15202 of the ~~Public Resource~~s Environment Code. The form of each manifest and the information requested on each manifest shall be the same for all hazardous wastes, regardless of whether the hazardous wastes are also regulated pursuant to the federal act or by regulations adopted by the United States Department of Transportation. However, the form of the manifest and the information required shall be consistent with federal regulations.

(2) Pursuant to federal regulations, the department may require information on the manifest in addition to the information required by federal regulations.

(d)(1) Any person who transports hazardous waste in a vehicle shall have a manifest in his or her possession while transporting the hazardous waste. The manifest shall be shown upon demand to any representative of the department, any officer of the California Highway Patrol, any local health officer, or any local public officer designated by the director. If the hazardous waste is transported by rail or vessel, the railroad corporation or vessel operator shall comply with Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations and shall also enter on the shipping papers any information concerning the hazardous waste which the department may require.

(2) Any person who transports any waste, as defined by Section 25124, and who is provided with a manifest for that waste shall, while transporting that waste, comply with all requirements of this chapter, and the regulations adopted pursuant thereto, concerning the transportation of hazardous waste.

(3) Any person who transports hazardous waste shall transfer a copy of the manifest to the facility operator at the time of delivery, or to the person who will subsequently transport the hazardous waste in a vehicle. Any person who transports hazardous waste and then transfers custody of that hazardous waste to a person who will subsequently transport that waste by rail or vessel shall transfer a

copy of the manifest to the person designated by the railroad corporation or vessel operator, as specified by Subchapter C (commencing with Section 171.1) of Chapter 1 of Subtitle B of Title 49 of the Code of Federal Regulations.

(4) Any person transporting hazardous waste by motor vehicle, rail, or water shall certify to the department, at the time of initial registration and at the time of renewal of that registration pursuant to this article, that the transporter is familiar with the requirements of this section, the department regulations, and federal laws and regulations governing the use of manifests.

(e)(1) Any facility operator in the state who receives hazardous waste for handling, treatment, storage, disposal, or any combination thereof, which was transported with a manifest pursuant to this section, shall submit a copy of the manifest to the department within 30 days from the date of receipt of the hazardous waste. The copy submitted to the department shall contain the signatures of the generator, all transporters, excepting intermediate rail transporters, and the facility operator. In instances where the generator or transporter is not required by the generator's state or federal law to sign the manifest, the facility operator shall require the generator and all transporters, excepting intermediate rail transporters, to sign the manifest before accepting the waste at any facility in this state. In lieu of submitting a copy of each manifest used, a facility operator may submit an electronic report to the department meeting the requirements of Section 25160.3.

(2) Any treatment, storage, or disposal facility receiving hazardous waste generated outside this state may only accept the hazardous waste for treatment, storage, disposal, or any combination thereof, if the hazardous waste is accompanied by a completed standard California Uniform Hazardous Waste Manifest.

(3) A facility operator may accept hazardous waste generated offsite that is not accompanied by a properly completed and signed standard California Uniform Hazardous Waste Manifest if the facility operator meets both of the following conditions:

(A) The facility operator is authorized to accept the hazardous waste pursuant to a hazardous waste facilities permit or other grant of authorization from the department.

(B) The facility operator is in compliance with the regulations adopted by the department specifying the conditions and procedures applicable to the receipt of hazardous waste under these circumstances.

(4) This subdivision applies only to shipments of hazardous waste for which a manifest is required pursuant to this section and the regulations adopted pursuant to this section.

(f) A generator, transporter, or facility operator may comply with the requirements of Sections 66262.40, 66263.22, 66264.71, and 66265.71 of Title 22 of the California Code of Regulations by storing manifest information electronically. A generator, transporter, or facility operator who stores manifest

information electronically shall use the standardized electronic format and protocol for the exchange of electronic data established by the Secretary for Environmental Protection pursuant to Part ~~2~~ 4 (commencing with Section ~~71050~~ 15000) of Division ~~34~~ 2 of the ~~Public Resources~~ Environment Code and the stored information shall include all the information required to be retained by the department, including all signatures required by this section.

(g) The department shall make available for review, by any interested party, information regarding the department's progress in adopting revised regulations relating to hazardous waste manifests, including specific requirements for milk run operations set forth in Section 66263.42 of Title 22 of the California Code of Regulations.

(h)(1) The department shall make available for review, by any interested party, the department's plans for revising and enhancing its system for tracking hazardous waste for the purposes of protecting human health and the environment, enforcing laws, collecting revenue, and generating necessary reports.

(2) On or before April 1, 1997, the department shall make available for review, by any interested party, information regarding the department's progress in revising and enhancing its system for tracking hazardous waste.

Comment. Section 25160 is amended to substitute references to the Environment Code provisions that continue former Part 2 of Division 4 (commencing with Section 71050) of the Public Resources Code.

☞ **Staff Note.** Section 25160 has been amended. See 1998 Cal. Stat. ch. 880, § 3.

Health & Safety Code § 25160.3 (amended). Electronic report in lieu of manifest

SEC. ___. Section 25160.3 of the Health and Safety Code is amended to read:

25160.3. (a) Any person generating hazardous waste that is transported or submitted for transportation, for offsite handling, treatment, storage, disposal, or a combination thereof, subject to the manifest requirements of Section 25160, and any facility operator in the state who receives hazardous waste for handling, treatment, storage, disposal, or any combination thereof, that was transported subject to the manifest requirements of Section 25160, may submit an electronic report to the department in lieu of the copy of the manifests required by subdivision (b) or (e) of Section 25160. The electronic report shall contain the information required by the department pursuant to subdivision (c) of Section 25160, and shall be provided no more than five business days after the end of the previous calendar month, or, if submitted bimonthly, no more than 10 business days after the previous two calendar weeks. The electronic report shall utilize the standardized electronic format and protocol for the exchange of electronic data established by the Secretary for Environmental Protection pursuant to Part ~~2~~ 4 (commencing with Section ~~71050~~ 15000) of Division ~~34~~ 2 of the ~~Public Resources~~ Environment Code.

(b) The signatures required by Section 25160 and retained through the electronic reporting authorized by this section shall conform with the electronic signature

techniques prescribed pursuant to Section ~~71066~~ 15206 of the ~~Public Resources~~ Environment Code. Notwithstanding any other provision of law, printed representations of signatures and other information submitted in an electronic report pursuant to this section shall not be rendered inadmissible in any civil or criminal action by the best evidence rule and shall be deemed to meet the requirements of Section 1507 of the Evidence Code.

Comment. Section 25160.3 is amended to substitute references to the Environment Code provisions that continue former Part 2 of Division 4 (commencing with Section 71050) of the Public Resources Code.

☞ **Staff Note.** Section 25160.3 is new. See 1998 Cal. Stat. ch. 880, § 4.

Health & Safety Code § 25244.15.1 (amended). California Source Reduction Advisory Committee

SEC. ___. Section 25244.15.1 of the Health and Safety Code is amended to read:

25244.15.1. (a) The California Source Reduction Advisory Committee is hereby created and consists of the following members:

(1) The Executive Director of the State Air Resources Board, as an ex officio member.

(2) The Executive Director of the State Water Resources Control Board, as an ex officio member.

(3) The Director of Toxic Substances Control, as an ex officio member.

(4) The Executive Director of the Integrated Waste Management Board, as an ex officio member.

(5) The Chairperson of the California Environmental Policy Council established pursuant to Section ~~71017~~ 10115 of the ~~Public Resources~~ Environment Code, as an ex officio member.

(6) Ten public members with experience in source reduction as appointed by the department. These public members shall include all of the following:

(A) Two representatives of local governments from different regions of the state.

(B) One representative of a publicly owned treatment works.

(C) Two representatives of industry.

(D) One representative of small business.

(E) One representative of organized labor.

(F) Two representatives of statewide environmental advocacy organizations.

(G) One representative of a statewide public health advocacy organization.

(7) The department may appoint up to two additional public members with experience in source reduction and detailed knowledge of one of the priority categories of generators selected in accordance with Section 25244.17.1.

(b) The advisory committee shall select one member to serve as chairperson.

(c) The members of the advisory committee shall serve without compensation, but each member, other than officials of the state, shall be reimbursed for all reasonable expenses incurred in the performance of his or her duties, as authorized by the department.

(d) The advisory committee shall meet at least semiannually to provide a public forum for discussion and deliberation on matters pertaining to the implementation of this chapter.

(e) The advisory committee's responsibilities shall include, but not be limited to, the following:

(1) Reviewing and providing consultation and guidance in the preparation of the work plan required by Section 25244.22.

(2) Evaluating the performance and progress of the department's source reduction program.

(3) Making recommendations to the department concerning program activities and funding priorities, and legislative changes, if needed.

(f) The advisory committee established by this section shall be in existence until April 15, 2002, by which date the department shall, in consultation with the advisory committee, evaluate the role and activities of the advisory committee and determine if the committee is beneficial to the implementation of this article. On and after April 15, 2002, the advisory committee shall continue to exist and operate to the extent that the department, in consultation with the advisory committee, determines the advisory committee continues to be beneficial to the operation of the department's source reduction programs.

Comment. Section 25244.15.1 is amended to substitute a reference to the Environment Code provision that continues former Public Resources Code Section 71017.

☞ **Staff Note.** Section 25244.15.1 is new. See 1998 Cal. Stat. ch. 881, §7.

☞ **Staff Note.** Health and Safety Code Section 25174 has been amended such that it is no longer necessary to make a conforming revision. The conforming revision proposed for that section will be deleted. See 1998 Cal. Stat. ch. 882, § 3.

Health & Safety Code § 33492.21 (amended). Naval Training Center Redevelopment Plan

SEC. ___. Section 33492.21 of the Health and Safety Code is amended to read:

33492.21. (a) Notwithstanding the time limit in subdivision (b) of Section 33492.18, the City Council of the City of San Diego shall certify an environmental impact report for the Naval Training Center Redevelopment Plan within 30 months after the effective date of the ordinance adopting that redevelopment plan.

(b) The following provisions shall apply to the approval of projects that implement a redevelopment plan authorized by this article:

(1) For 18 months after the effective date of the ordinance adopting the redevelopment plan, or until the certification of an environmental impact report for the redevelopment plan if the report is certified during that 18-month period, subdivision (c) of Section 33492.18 shall apply.

(2) If an environmental impact report for the redevelopment plan is not certified within 18 months after the effective date of the ordinance adopting the plan, then during the succeeding 12 months or until the certification of an environmental impact report if the report is certified during that 12-month period, no project, as defined in Section 21065 of the ~~Public Resources~~ Environment Code, that

implements the redevelopment plan shall be approved by the agency or the community unless any of the following occurs:

(A) The agency or the community has approved a negative declaration or certified an environmental impact report, or has certified a subsequent or supplemental environmental impact report, for the project before the expiration of the 18-month period provided in Section 33492.18.

(B) The agency or the community has certified a subsequent or supplemental environmental impact report for the project where the environmental impact report for the project was certified before the expiration of the 18-month period provided in Section 33492.18.

(C) The agency or the community complies with Chapter ~~4.5~~ 7 (commencing with Section 21156) of Division ~~13~~ 3 of the ~~Public Resources~~ Environment Code for the subsequent projects described in a master environmental impact report as being within the scope of the report, and that master environmental impact report was certified before the expiration of the 18-month period provided in Section 33492.18.

(D) The project is categorically exempt pursuant to Article 19 (commencing with Section 15300) of Chapter 3 of Division 6 of Title 14 of the California Code of Regulations.

Comment. Section 33492.21 is amended to substitute references to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 33492.21 is new. See 1998 Cal. Stat. ch. 586, § 1.

Health & Safety Code § 33492.22 (amended). Hunter's Point Shipyard Redevelopment Plan

SEC. ___. Section 33492.22 of the Health and Safety Code is amended to read:

33492.22. (a) Notwithstanding the time limit in subdivision (b) of Section 33492.18, the Planning Commission and the Redevelopment Agency Commission of the City and County of San Francisco shall certify an environmental impact report for the Hunter's Point Shipyard Redevelopment Plan within 30 months after the effective date of the ordinance adopting the redevelopment plan.

(b) The following provisions shall apply to the approval of projects that implement a redevelopment plan authorized by this article:

(1) For 18 months after the effective date of the ordinance adopting the redevelopment plan, or until the certification of an environmental impact report for the redevelopment plan if the report is certified during that 18- month period, subdivision (c) of Section 33492.18 shall apply.

(2) If an environmental impact report for the redevelopment plan is not certified within 18 months after the effective date of the ordinance adopting the plan, then during the succeeding 12 months or until the certification of an environmental impact report if the report is certified during that 12-month period, no project, as defined in Section 21065 of the ~~Public Resources~~ Environment Code, that

implements the redevelopment plan shall be approved by the agency or the community unless any of the following occurs:

(A) The agency or the community has approved a negative declaration or certified an environmental impact report, or has certified a subsequent or supplemental environmental impact report, for the project before the expiration of the 18-month period provided in Section 33492.18.

(B) The agency or the community has certified a subsequent or supplemental environmental impact report for the project where the environmental impact report for the project was certified before the expiration of the 18-month period provided in Section 33492.18.

(C) The agency or the community complies with Chapter ~~4.5~~ 7 (commencing with Section 21156) of Division ~~13~~ 3 of the ~~Public Resources~~ Environment Code for subsequent projects described in a master environmental impact report as being within the scope of the report, and that master environmental impact report was certified before the expiration of the 18-month period provided in Section 33492.18.

(D) The project is categorically exempt pursuant to Article 19 (commencing with Section 15300) of Chapter 3 of Division 6 of Title 14 of the California Code of Regulations.

Comment. Section 33492.22 is amended to substitute references to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 33492.22 is new. See 1998 Cal. Stat. ch. 586, § 2.

Health & Safety Code § 33492.127 (amended). Alameda Naval Air Station and the Fleet Industrial Supply Center Redevelopment Project

SEC. ___. Section 33492.127 of the Health and Safety Code is amended to read:

33492.127. (a) A redevelopment plan covering all or part of the lands of the Alameda Naval Air Station and the Fleet Industrial Supply Center Redevelopment Project may be adopted pursuant to Article 1 (commencing with Section 33492), provided that the project area shall not include territory outside the boundaries of the Alameda Naval Air Station and the Fleet Industrial Supply Center.

(b) Notwithstanding the time limit in subdivision (b) of Section 33492.18, the agency or the community shall certify an environmental impact report for the redevelopment plan adopted pursuant to this section within 30 months after the effective date of the ordinance adopting the redevelopment plan.

(c) The following provisions shall apply to the approval of projects that implement a redevelopment plan authorized by this article:

(1) For 18 months after the effective date of the ordinance adopting the redevelopment plan, or until the certification of an environmental impact report for the redevelopment plan if the report is certified during that 18- month period, subdivision (c) of Section 33492.18 shall apply.

(2) If an environmental impact report for the redevelopment plan is not certified within 18 months after the effective date of the ordinance adopting the plan, then during the succeeding 12 months or until the certification of an environmental impact report if the report is certified during that 12-month period, no project, as defined in Section 21065 of the ~~Public Resources~~ Environment Code, that implements the redevelopment plan shall be approved by the agency or the community unless any of the following occurs:

(A) The agency or the community has approved a negative declaration or certified an environmental impact report, or has certified a subsequent or supplemental environmental impact report, for the project before the expiration of the 18-month period provided in Section 33492.18.

(B) The agency or the community has certified a subsequent or supplemental environmental impact report for the project where the environmental impact report for the project was certified before the expiration of the 18-month period provided in Section 33492.18.

(C) The agency or the community complies with Chapter ~~4.5~~ 7 (commencing with Section 21156) of Division ~~13~~ 3 of the ~~Public Resources~~ Environment Code for subsequent projects described in a master environmental impact report as being within the scope of the report, and that master environmental impact report was certified before the expiration of the 18-month period provided in Section 33492.18.

(D) The project is categorically exempt pursuant to Article 19 (commencing with Section 15300) of Chapter 3 of Division 6 of Title 14 of the California Code of Regulations.

Comment. Section 33492.127 is amended to substitute references to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 33492.127 has been amended. See 1998 Cal. Stat. ch. 586, § 3.

Health & Safety Code § 57000 (amended). Definitions

SEC. ___. Section 57000 of the Health and Safety Code is amended to read:

57000. For purposes of this division, the following terms have the following meaning:

(a) "Agency" means the California Environmental Protection Agency.

(b) "Council" means the California Environmental Policy Council established by Section ~~71017~~ 10115 of the ~~Public Resources~~ Environment Code.

(c) "Secretary" means the Secretary for Environmental Protection.

Comment. Section 57000 is amended to substitute a reference to the Environment Code provision that continues former Public Resources Code Section 71017.

☞ **Staff Note.** Section 57000 has been amended. See 1998 Cal. Stat. ch. 881, §12.

Penal Code § 803 (amended). Tolling or extension of time periods

SEC. ___. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until the discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation, the commission of the crimes of theft or embezzlement upon an elder or dependent adult, or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or Section 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) Felony insurance fraud in violation of Section 548 or 550 of this code or former Section 1871.1, or Section 1871.4, of the Insurance Code.

(7) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(8) A violation of Section 22430 of the Business and Professions Code.

(9) A violation of Section 10690 of the Health and Safety Code.

(10) A violation of Section 529a.

(11) A violation of subdivision (c) of Section 368.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100) of, Chapter 6.7 (commencing with Section 25280) of, or Chapter 6.8 (commencing with Section 25300) of, Division 20 of~~, or Part 4 (commencing with Section 41500) of Division 26 of~~, the Health and Safety Code, or Part 4 (commencing with Section 37100) of Division 4 of the Environment Code, or under Section 386.

(f)(1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a

responsible adult or agency by a child under 18 years of age that the child is a victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) For purposes of this subdivision, a "responsible adult" or "agency" means a person or agency required to report pursuant to Section 11166. This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The defendant has committed at least one violation of Section 261, 286, 288, 288a, 288.5, 289, or 289.5 against the same victim within the limitation period specified for that crime in either Section 800 or 801.

(3)(A) This subdivision applies to a cause of action arising before, on, or after January 1, 1990, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, but a new complaint or indictment is or was filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(B)(i) If the victim made the report required by this subdivision to a responsible adult or agency after January 1, 1990, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or

the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, including any review proceeding, shall not be binding upon refiling.

(g)(1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a California law enforcement agency by a person of any age alleging that he or she, while under the age of 18 years, was the victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The crime involved substantial sexual conduct, as described in subdivision (b) of Section 1203.066, excluding masturbation that is not mutual, and there is independent evidence that clearly and convincingly corroborates the victim's allegation. No evidence may be used to corroborate the victim's allegation that otherwise would be inadmissible during trial. Independent evidence does not include the opinions of mental health professionals.

(3)(A) This subdivision applies to a cause of action arising before, on, or after January 1, 1994, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

(i) The complaint or indictment was filed on or before January 1, 1997, and it was filed within the time period specified in this subdivision.

(ii) The complaint or indictment is or was filed subsequent to January 1, 1997, and it is or was filed within the time period specified within this subdivision.

(iii) The victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was not filed within the time period specified in this subdivision, but a complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this subdivision is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(iv) The victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, but a new complaint or indictment is filed no later than 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this subdivision is constitutional, becomes final or the

United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first.

(B)(i) If the victim made the report required by this subdivision to a law enforcement agency after January 1, 1994, and a complaint or indictment was filed within the time period specified in this subdivision, but the indictment, complaint, or subsequently filed information was dismissed, a new complaint or indictment may be filed notwithstanding any other provision of law, including, but not limited to, subdivision (c) of Section 871.5 and subdivision (b) of Section 1238.

(ii) An order dismissing an action filed under this subdivision, which is entered or becomes effective at any time prior to 180 days after the date on which either a published opinion of the California Supreme Court, deciding the question of whether retroactive application of this section is constitutional, becomes final or the United States Supreme Court files an opinion deciding the question of whether retroactive application of this subdivision is constitutional, whichever occurs first, shall not be considered an order terminating an action within the meaning of Section 1387.

(iii) Any ruling regarding the retroactivity of this subdivision or its constitutionality made in the course of the previous proceeding, by any trial court or any intermediate appellate court, shall not be binding upon refiling.

Comment. Section 803 is amended to substitute a reference to the Environment Code provisions that continue former Part 4 (commencing with Section 41500) of Division 26 of the Health and Safety Code.

☞ **Staff Note.** Section 803 has been amended. See 1998 Cal. Stat. ch. 944, § 2. The section was also amended by another bill, but that bill was chaptered out. See 1998 Cal. Stat. ch. 879, § 32.

Pub. Res. Code § 6217 (amended). Deposit of revenues

SEC. ___. Section 6217 of the Public Resources Code, as amended by Section 3 of Chapter 326 of the Statutes of 1998, is amended to read:

6217. With the exception of revenue derived from state school lands and from sources described in Sections 6217.6, 6301.5, 6301.6, 6855, and Sections 8551 to 8558, inclusive, and Section 6406 (insofar as the proceeds are from property that has been distributed or escheated to the state in connection with unclaimed estates of deceased persons), the commission shall deposit in the State Treasury all revenue, money, and remittances received by the commission under this division, and under Chapter 138 of the Statutes of 1964, First Extraordinary Session, and those funds shall be applied to the following obligations in the following order of priority:

(a) To the General Fund, the revenue necessary to provide in any fiscal year for the following:

(1) Payment of refunds, authorized by the commission, out of appropriations made for that purpose by the Legislature.

(2) Payment of expenditures of the commission as provided in the annual Budget Act enacted by the Legislature.

(3) Payments to cities and counties of the amounts specified in Section 6817 for the purposes specified in that section, and the revenues so deposited are appropriated for that purpose.

(4) Payments to cities and counties of the amounts agreed to pursuant to Section 6875.

(b) To the California Housing Trust Fund, each fiscal year, the amount of two million dollars ($2,000,000).

(c) After meeting the obligations in subdivisions (a) and (b), the Controller shall transfer the balance of all such revenue, money, and remittances received by the commission pursuant to this section in each fiscal year to the Resources Trust Fund.

The money in the Resources Trust Fund shall be collected for the purposes of, and held in trust for, preserving and protecting the natural and recreational resources of the state and, for this purpose, the Controller shall annually transfer the following sums from the Resources Trust Fund to the following accounts and funds in the following order of priority:

(1) Eight million dollars ($8,000,000) to the Salmon and Steelhead Trout Restoration Account in the Resources Trust Fund. The money in the account shall be appropriated in the annual Budget Act to the Department of Fish and Game for expenditure for the recovery of coho salmon, other species of salmon, and anadromous trout pursuant to Section 6217.1 of this code and Chapter 8 (commencing with Section 2760) of Division 3 of the Fish and Game Code.

(2) Two million two hundred thousand dollars ($2,200,000) to the Marine Life and Marine Reserve Management Account, which is hereby created in the Resources Trust Fund. The money in the account shall be appropriated in the annual Budget Act to the Department of Fish and Game for expenditure for marine life management pursuant to Section 6217.2.

(3) Ten million dollars ($10,000,000) to the State Parks System Deferred Maintenance Account, which is hereby created in the Resources Trust Fund. The money in the account shall be appropriated in the annual Budget Act to the Department of Parks and Recreation for deferred maintenance expenses.

(4) The remainder to the Natural Resources Infrastructure Fund which is an account in the Resources Trust Fund. The money in the Natural Resources Infrastructure Fund shall be available for expenditure, upon appropriation by the Legislature, for the purposes of preserving and protecting the natural and recreational resources of the state. Priority for the use of the money in the Natural Resources Infrastructure Fund shall be given to the following:

(A) For expenditure by the Department of Fish and Game, upon appropriation by the Legislature, for environmental review and monitoring, consultation with lead agencies, recommending mitigation measures, and enforcement related activities pursuant to Division ~~13~~ 3 (commencing with Section 21000) of the Environment Code.

(B) For expenditure, upon appropriation by the Legislature, for the purposes of land acquisition in Orange County and San Diego County pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code.

(C) For expenditure to meet the requirements of Section 2796 of the Fish and Game Code that are not met pursuant to Section 2795 of the Fish and Game Code, upon appropriation by the Legislature.

(D) For expenditure for nonpoint source pollution control programs of the State Water Resources Control Board and the California Coastal Commission, upon appropriation by the Legislature.

The Controller shall transfer any unencumbered balances remaining in the Salmon and Steelhead Trout Restoration Account, the Marine Life and Marine Reserve Management Account, the State Parks Deferred Maintenance Account, and the Natural Resources Infrastructure Fund on June 30 of each year to the General Fund.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

Comment. Section 6217 is amended to substitute a reference to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 6217 has been amended. See 1998 Cal. Stat. ch. 326, § 3.

Rev. & Tax. Code § 17053.66 (amended). Credit against net tax

SEC. ___. Section 17053.66 of the Revenue and Taxation Code is amended to read:

17053.66. (a) For each taxable year beginning on or after January 1, 1995, and before January 1, 2000, there shall be allowed, as determined by the Department of Fish and Game, a credit against the "net tax," as defined in Section 17039. The credit amount shall be equal to the lesser of 10 percent of the qualified costs paid or incurred by the taxpayer for salmon and steelhead trout habitat restoration and improvement projects or an amount determined in subparagraph (B) of paragraph (2) of subdivision (f). The credit allowed by this section shall be claimed on the return for the taxable year in which the expense for the habitat restoration or improvement project was paid or incurred.

(b) The taxpayer shall be eligible to claim the credit only after application to and certification by the Department of Fish and Game that all of the following conditions are met:

(1) The salmon or steelhead trout habitat restoration or improvement project meets the objectives of the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act (Chapter 8 (commencing with Section 6900) of Part 1 of Division 6 of the Fish and Game Code) and would aid in increasing the natural production of salmon and steelhead trout through improvement of stream and streambank

conditions, improvement of land use practices, or changes in streamflow operations.

(2) The work to be undertaken is not otherwise required to be carried out pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code), for mitigation of negative impacts to the environment caused by timber operations or required for mitigation of negative impacts on fish and wildlife habitat caused by a project pursuant to an approved environmental impact report or mitigated negative declaration required pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(c)(1) Qualified costs are those costs paid or incurred by the taxpayer or partnership which are directly related to labor and materials which aid in increasing the natural production of salmon and steelhead trout through improvement of stream and streambank conditions, improvement of land use practices, or changes in streamflow operations.

(2) Qualified costs do not include costs paid or incurred with respect to any of the following:

(A) Construction of office, storage, garage, or maintenance buildings.

(B) Drilling wells or installation of pumping equipment.

(C) Construction of permanent hatchery facilities, including raceways, water systems, or bird enclosures.

(D) Construction of permanent surface roadways or bridges.

(E) Any project requiring engineered design or certification by a registered engineer.

(3) Qualified costs shall be no greater than prevailing costs for similar work completed in the area where the project is proposed, and the project design and implementation shall follow Department of Fish and Game guidelines.

(d) For purposes of computing the credit provided by this section, the cost of any salmon or steelhead trout habitat restoration or improvement project eligible for the credit shall be reduced by the amount of any grant or cost-share payment provided by a public entity for that project. The Department of Fish and Game shall certify the amount of funding, if any, provided by the Department of Fish and Game for the project.

(e) The taxpayer shall do all of the following:

(1)(A) Submit an application for the restoration tax credit with a description of the proposed project in a format acceptable to the Department of Fish and Game.

(B) The application for the restoration tax credit shall include all information that is required by the Department of Fish and Game, pursuant to subdivision (b), as well as, but not limited to, all of the following:

(i) A project description of the habitat restoration or improvement work to be accomplished, including the location of the project.

(ii) If other than the project applicant, the name of the owner of the land where the project is to be carried out.

(iii) The estimated qualified cost to accomplish the project, as well as the project's overall estimated cost.

(iv) A statement that a reasonable attempt will be made to hire unemployed persons previously employed in the commercial fishing or forest products industries for implementation of the project.

(v) The tax identification number of each taxpayer allowed the credit.

(2) Obtain from the Department of Fish and Game certification that the project is approved, and the amount of credit allocation authorized, which shall not exceed the maximum amount of credit allocation set forth in subdivision (k).

(3) Notify the Department of Fish and Game in a form and manner specified by the department that the habitat restoration or improvement work was actually completed and the amount of qualified costs that were paid.

(4) Provide access, subject to prior notification by the Department of Fish and Game staff and permission by the taxpayer, to proposed project sites by the Department of Fish and Game staff for preproject and postproject evaluation, for project monitoring during all phases of implementation, and for verification that projects have been completed in accordance with department guidelines and recommendations. The Department of Fish and Game shall not include a project on its list of approved projects eligible for the tax credit that is submitted to the Franchise Tax Board unless these conditions are met.

(5) Retain a copy of and make the certification referred to in paragraph (3) of subdivision (f) available to the Franchise Tax Board upon demand.

(6) Calculate the credit amount, equal to the lesser of 10 percent of the taxpayer's actual qualified costs or the amount of credit allocation authorized to the taxpayer, as determined by the Department of Fish and Game.

(7) A partnership shall disclose in its partnership return for the taxable year all of the following:

(A) The name of each partner who received a distributive share of the credit.

(B) Each partner's social security number or identification number.

(C) Each partner's distributive share of the credit.

(f) The Department of Fish and Game shall do all of the following:

(1) Accept and review applications to determine if projects meet the conditions specified in subdivision (b).

(2) After all applications have been received for a calendar year, determine if 10 percent of the estimated costs for all approved projects exceeds the annual credit allocation. If the annual amount of credit allocation is exceeded, the amount of each taxpayer's credit allocation shall be calculated as follows:

(A) Divide the annual amount of credit allocation set forth in subdivision (j) by the total estimated qualified costs for all approved projects.

(B) Multiply each approved project's estimated qualified cost by the quotient of the calculation in subparagraph (A).

(C) If the annual amount of credit allocation is not exceeded, the amount of each credit allocation shall be 10 percent of the estimated qualified costs.

(3) Issue certificates to each taxpayer with an approved project that specifies the amount of credit allocated to the project.

(4) Provide an annual listing to the Franchise Tax Board (preferably on magnetic tape or other machine-readable form, and in a form and manner agreed upon by the Franchise Tax Board and the Department of Fish and Game) of the taxpayers who were issued the certification, their respective tax identification numbers, and the allowable amount of the credit allocated to each taxpayer.

(g) The Department of Fish and Game shall have the authority to establish annual timeframes for the receipt of applications.

(h) The taxpayers' social security numbers or identification numbers obtained through the tax credit application and certification process shall be used exclusively for state tax administrative purposes.

(i) In the case where the credit allowed by this section exceeds the "net tax," the excess may be carried over to reduce the "net tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(j) For purposes of this section, the annual amount of credit allocation means the aggregate amount of tax credits which may be granted pursuant to this section and Section 23666 shall not exceed five hundred thousand dollars ($500,000) per year. The Department of Fish and Game shall not authorize any credit which would cause the total amount of credits authorized with respect to any calendar year under this section and Section 23666 to exceed five hundred thousand dollars ($500,000).

(k) The maximum credit amount which the Department of Fish and Game may authorize with respect to any taxable year to any taxpayer is fifty thousand dollars ($50,000).

(*l*) In the case of a partnership, the credit limitation specified in subdivision (k) shall apply with respect to the partnership and with respect to each partner.

(m) This section shall remain in effect only until December 1, 2000, and as of that date is repealed.

Comment. Section 17053.66 is amended to substitute a reference to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 17053.66 has been amended. See 1998 Cal. Stat. ch. 49, § 6.

Rev. & Tax. Code § 23666 (amended). Credit against net tax

SEC. ___. Section 23666 of the Revenue and Taxation Code is amended to read:

23666. (a) For each income year beginning on or after January 1, 1995, and before January 1, 2000, there shall be allowed, as determined by the Department of Fish and Game, a credit against the "tax," as defined in Section 23036. The credit amount shall be equal to the lesser of 10 percent of the qualified costs paid or incurred by the taxpayer for salmon and steelhead trout habitat restoration and

improvement projects or an amount determined in subparagraph (B) of paragraph (2) of subdivision (f). The credit allowed by this section shall be claimed on the return for the income year in which the expense for the habitat restoration or improvement project was paid or incurred.

(b) A taxpayer shall be eligible to claim the credit only after application to and certification by the Department of Fish and Game that all of the following conditions are met:

(1) The salmon or steelhead trout habitat restoration or improvement project meets the objectives of the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act (Chapter 8 (commencing with Section 6900) of Part 1 of Division 6 of the Fish and Game Code) and would aid in increasing the natural production of salmon and steelhead trout through improvement of stream and streambank conditions, improvement of land use practices, or changes in streamflow operations.

(2) The work to be undertaken is not otherwise required to be carried out pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code), for mitigation of negative impacts to the environment caused by timber operations or required for mitigation of negative impacts on fish and wildlife habitat caused by a project pursuant to an approved environmental impact report or mitigated negative declaration required pursuant to the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code).

(c)(1) Qualified costs are those costs paid or incurred by the taxpayer which are directly related to labor and materials which aid in increasing the natural production of salmon and steelhead trout through improvement of stream and streambank conditions, improvement of land use practices, or changes in streamflow operations.

(2) Qualified costs do not include costs paid or incurred with respect to any of the following:

(A) Construction of office, storage, garage, or maintenance buildings.

(B) Drilling wells or installation of pumping equipment.

(C) Construction of permanent hatchery facilities, including raceways, water systems, or bird enclosures.

(D) Construction of permanent surface roadways or bridges.

(E) Any project requiring engineered design or certification by a registered engineer.

(3) Qualified costs shall be no greater than prevailing costs for similar work completed in the area where the project is proposed, and the project design and implementation shall follow the Department of Fish and Game guidelines.

(d) For purposes of computing the credit provided by this section, the cost of any salmon or steelhead trout habitat restoration or improvement project eligible for the credit shall be reduced by the amount of any grant or cost-share payment

provided by a public entity for that project. The Department of Fish and Game shall certify the amount of funding, if any, provided by the Department of Fish and Game for the project.

(e) The taxpayer shall do all of the following:

(1)(A) Submit an application for the restoration tax credit with a description of the proposed project in a format acceptable to the Department of Fish and Game.

(B) The application for the restoration tax credit shall include all information that is required by the Department of Fish and Game, pursuant to subdivision (b), as well as, but not limited to, all of the following:

(i) A project description of the habitat restoration or improvement work to be accomplished, including the location of the project.

(ii) If other than the project applicant, the name of the owner of the land where the project is to be carried out.

(iii) The estimated qualified cost to accomplish the project, as well as the project's overall estimated cost.

(iv) A statement that a reasonable attempt will be made to hire unemployed persons previously employed in the commercial fishing or forest products industries for implementation of the project.

The tax identification number of each taxpayer allowed the credit.

(2) Obtain from the Department of Fish and Game certification that the project is approved, and the amount of credit allocation authorized, which shall not exceed the maximum amount of credit allocation set forth in subdivision (k).

(3) Notify the Department of Fish and Game in a form and manner specified by the department that the habitat restoration or improvement work was actually completed and the amount of qualified costs that were paid.

(4) Provide access, subject to prior notification by the Department of Fish and Game staff and permission by the taxpayer, to proposed project sites by the Department of Fish and Game staff for preproject and postproject evaluation, for project monitoring during all phases of implementation, and for verification that projects have been completed in accordance with department guidelines and recommendations. The Department of Fish and Game shall not include a project on its list of approved projects eligible for the tax credit that is submitted to the Franchise Tax Board unless these conditions are met.

(5) Retain a copy of and make the certification referred to in paragraph (3) of subdivision (f) available to the Franchise Tax Board upon demand.

(6) Calculate the credit amount, equal to the lesser of 10 percent of the taxpayer's actual qualified costs or the amount of credit allocation authorized to the taxpayer, as determined by the Department of Fish and Game.

(f) The Department of Fish and Game shall do all of the following:

(1) Accept and review applications to determine if projects meet the conditions specified in subdivision (b).

(2) After all applications have been received for a calendar year, determine if 10 percent of the estimated costs for all approved projects exceeds the annual credit

allocation. If the annual amount of credit allocation is exceeded, the amount of each taxpayer's credit allocation shall be calculated as follows:

(A) Divide the annual amount of credit allocation set forth in subdivision (j) by the total estimated qualified costs for all approved projects.

(B) Multiply each approved project's estimated qualified cost by the quotient of the calculation in subparagraph (A).

(C) If the annual amount of credit allocation is not exceeded, the amount of each credit allocation shall be 10 percent of the estimated qualified costs.

(3) Issue certificates to each taxpayer with an approved project that specifies the amount of credit allocated to the project.

(4) Provide an annual listing to the Franchise Tax Board (preferably on magnetic tape or other machine-readable form, and in a form and manner agreed upon by the Franchise Tax Board and the Department of Fish and Game) of the taxpayers who were issued the certification, their respective tax identification numbers, and the allowable amount of the credit allocated to each taxpayer.

(g) The Department of Fish and Game shall have the authority to establish annual timeframes for the receipt of applications.

(h) The taxpayers' identification numbers obtained through the tax credit application and certification process shall be used exclusively for state tax administrative purposes.

(i) In the case where the credit allowed by this section exceeds the "tax," the excess may be carried over to reduce the "tax" in the following year, and succeeding years if necessary, until the credit has been exhausted.

(j) For purposes of this section, the annual amount of credit allocation means the aggregate amount of tax credits which may be granted pursuant to this section and Section 17053.66 shall not exceed five hundred thousand dollars ($500,000) per year. The Department of Fish and Game shall not authorize any credit which would cause the total amount of credits authorized with respect to any calendar year under this section and Section 17053.66 to exceed five hundred thousand dollars ($500,000).

(k) The maximum credit amount which the Department of Fish and Game may authorize with respect to any income year to any taxpayer is fifty thousand dollars ($50,000).

(*l*) In the case of a partnership, the credit limitation specified in subdivision (k) shall apply with respect to the partnership and with respect to each partner.

(m) This section shall remain in effect only until December 1, 2000, and as of that date is repealed.

Comment. Section 23666 is amended to substitute a reference to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 23666 has been amended. See 1998 Cal. Stat. ch. 49, § 14.

Veh. Code § 4000.3 (amended). Certificate of compliance

SEC. ___. Section 4000.3 of the Vehicle Code is amended to read:

4000.3. (a) Except as otherwise provided in Section ~~44011~~ 42900 of the ~~Health and Safety~~ Environment Code, the department shall require biennially, upon renewal of registration of any motor vehicle subject to Part 5 (commencing with Section ~~43000~~ 40000) of Division ~~26~~ 4 of the ~~Health and Safety~~ Environment Code, a valid certificate of compliance issued in accordance with Section ~~44015~~ 40903 of the ~~Health and Safety~~ Environment Code. The department, in consultation with the Department of Consumer Affairs, shall develop a schedule under which vehicles shall be required biennially to obtain certificates of compliance.

(b) The Department of Consumer Affairs shall provide the department with information on vehicle classes that are subject to the motor vehicle inspection and maintenance program.

(c) The department shall include any information pamphlet provided by the Department of Consumer Affairs with notification of the inspection requirement and with its renewal notices. The information pamphlet in the renewal notice shall also notify the owner of the motor vehicle of the right to have the vehicle pretested pursuant to Section ~~44011.3~~ 42708 of the ~~Health and Safety~~ Environment Code.

Comment. Section 4000.3 is amended to substitute references to the Environment Code provisions that continue provisions of former Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.

☞ **Staff Note.** Section 4000.3 has been amended. See 1998 Cal. Stat. ch. 938, § 2.

Veh. Code § 14607.6 (amended). Motor vehicles subject to forfeiture

SEC. ___. Section 14607.6 of the Vehicle Code is amended to read:

14607.6. (a) Notwithstanding any other provision of law, and except as provided in this section, a motor vehicle is subject to forfeiture as a nuisance if it is driven on a highway in this state by a driver with a suspended or revoked license, or by an unlicensed driver, who is a registered owner of the vehicle at the time of impoundment and has a previous misdemeanor conviction for a violation of subdivision (a) of Section 12500 or Section 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5.

(b) A peace officer shall not stop a vehicle for the sole reason of determining whether the driver is properly licensed.

(c)(1) If a driver is unable to produce a valid driver's license on the demand of a peace officer enforcing the provisions of this code, as required by subdivision (b) of Section 12951, the vehicle shall be impounded regardless of ownership, unless the peace officer is reasonably able, by other means, to verify that the driver is properly licensed. Prior to impounding a vehicle, a peace officer shall attempt to verify the license status of a driver who claims to be properly licensed but is unable to produce the license on demand of the peace officer.

(2) A peace officer shall not impound a vehicle pursuant to this subdivision if the license of the driver expired within the preceding 30 days and the driver would otherwise have been properly licensed.

(3) A peace officer may exercise discretion in a situation where the driver without a valid license is an employee driving a vehicle registered to the employer in the course of employment. A peace officer may also exercise discretion in a situation where the driver without a valid license is the employee of a bona fide business establishment or is a person otherwise controlled by such an establishment and it reasonably appears that an owner of the vehicle, or an agent of the owner, relinquished possession of the vehicle to the business establishment solely for servicing or parking of the vehicle or other reasonably similar situations, and where the vehicle was not to be driven except as directly necessary to accomplish that business purpose. In this event, if the vehicle can be returned to or be retrieved by the business establishment or registered owner, the peace officer may release and not impound the vehicle.

(4) A registered or legal owner of record at the time of impoundment may request a hearing to determine the validity of the impoundment pursuant to subdivision (n).

(5) If the driver of a vehicle impounded pursuant to this subdivision was not a registered owner of the vehicle at the time of impoundment, or if the driver of the vehicle was a registered owner of the vehicle at the time of impoundment but the driver does not have a previous conviction for a violation of subdivision (a) of Section 12500 or Section 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5, the vehicle shall be released pursuant to this code and is not subject to forfeiture.

(d)(1) This subdivision applies only if the driver of the vehicle is a registered owner of the vehicle at the time of impoundment. Except as provided in paragraph (5) of subdivision (c), if the driver of a vehicle impounded pursuant to subdivision (c) was a registered owner of the vehicle at the time of impoundment, the impounding agency shall authorize release of the vehicle if, within three days of impoundment, the driver of the vehicle at the time of impoundment presents his or her valid driver's license, including a valid temporary California driver's license or permit, to the impounding agency. The vehicle shall then be released to a registered owner of record at the time of impoundment, or an agent of that owner authorized in writing, upon payment of towing and storage charges related to the impoundment, and any administrative charges authorized by Section 22850.5, providing that the person claiming the vehicle is properly licensed and the vehicle is properly registered. A vehicle impounded pursuant to the circumstances described in paragraph (3) of subdivision (c) shall be released to a registered owner whether or not the driver of the vehicle at the time of impoundment presents a valid driver's license.

(2) If there is a community property interest in the vehicle impounded pursuant to subdivision (c), owned at the time of impoundment by a person other than the driver, and the vehicle is the only vehicle available to the driver's immediate

family that may be operated with a class C driver's license, the vehicle shall be released to a registered owner or to the community property interest owner upon compliance with all of the following requirements:

(A) The registered owner or the community property interest owner requests release of the vehicle and the owner of the community property interest submits proof of that interest.

(B) The registered owner or the community property interest owner submits proof that he or she, or an authorized driver, is properly licensed and that the impounded vehicle is properly registered pursuant to this code.

(C) All towing and storage charges related to the impoundment and any administrative charges authorized pursuant to Section 22850.5 are paid.

(D) The registered owner or the community property interest owner signs a stipulated vehicle release agreement, as described in paragraph (3), in consideration for the nonforfeiture of the vehicle. This requirement applies only if the driver requests release of the vehicle.

(3) A stipulated vehicle release agreement shall provide for the consent of the signator to the automatic future forfeiture and transfer of title to the state of any vehicle registered to that person, if the vehicle is driven by a driver with a suspended or revoked license, or by an unlicensed driver. The agreement shall be in effect for only as long as it is noted on a driving record maintained by the department pursuant to Section 1806.1.

(4) The stipulated vehicle release agreement described in paragraph (3) shall be reported by the impounding agency to the department not later than 10 days after the day the agreement is signed.

(5) No vehicle shall be released pursuant to paragraph (2) if the driving record of a registered owner indicates that a prior stipulated vehicle release agreement was signed by that person.

(e)(1) The impounding agency, in the case of a vehicle that has not been redeemed pursuant to subdivision (d), or that has not been otherwise released, shall promptly ascertain from the department the names and addresses of all legal and registered owners of the vehicle.

(2) The impounding agency, within two days of impoundment, shall send a notice by certified mail, return receipt requested, to all legal and registered owners of the vehicle, at the addresses obtained from the department, informing them that the vehicle is subject to forfeiture and will be sold or otherwise disposed of pursuant to this section. The notice shall also include instructions for filing a claim with the district attorney, and the time limits for filing a claim. The notice shall also inform any legal owner of its right to conduct the sale pursuant to subdivision (g). If a registered owner was personally served at the time of impoundment with a notice containing all the information required to be provided by this paragraph, no further notice is required to be sent to a registered owner. However, a notice shall still be sent to the legal owners of the vehicle, if any. If notice was not sent to the legal owner within two working days, the impounding agency shall not charge the

legal owner for more than 15-days' impoundment when the legal owner redeems the impounded vehicle.

(3) No processing charges shall be imposed on a legal owner who redeems an impounded vehicle within 15 days of the impoundment of that vehicle. If no claims are filed and served within 15 days after the mailing of the notice in paragraph (2), or if no claims are filed and served within five days of personal service of the notice specified in paragraph (2), when no other mailed notice is required pursuant to paragraph (2), the district attorney shall prepare a written declaration of forfeiture of the vehicle to the state. A written declaration of forfeiture signed by the district attorney under this subdivision shall be deemed to provide good and sufficient title to the forfeited vehicle. A copy of the declaration shall be provided on request to any person informed of the pending forfeiture pursuant to paragraph (2). A claim that is filed and is later withdrawn by the claimant shall be deemed not to have been filed.

(4) If a claim is timely filed and served, then the district attorney shall file a petition of forfeiture with the appropriate juvenile, municipal, or superior court within 10 days of the receipt of the claim. The district attorney shall establish an expedited hearing date in accordance with instructions from the court, and the court shall hear the matter without delay. The court filing fee, not to exceed fifty dollars ($50), shall be paid by the claimant, but shall be reimbursed by the impounding agency if the claimant prevails. To the extent practicable, the civil and criminal cases shall be heard at the same time in an expedited, consolidated proceeding. A proceeding in the civil case is a limited civil case.

(5) The burden of proof in the civil case shall be on the prosecuting agency, by a preponderance of the evidence. All questions that may arise shall be decided and all other proceedings shall be conducted as in an ordinary civil action. A judgment of forfeiture does not require as a condition precedent the conviction of a defendant of an offense which made the vehicle subject to forfeiture. The filing of a claim within the time limits specified in paragraph (3) is considered a jurisdictional prerequisite for the availing of the action authorized by that paragraph.

(6) All right, title, and interest in the vehicle shall vest in the state upon commission of the act giving rise to the forfeiture.

(f) Any vehicle impounded that is not redeemed pursuant to subdivision (d) and is subsequently forfeited pursuant to this section shall be sold once an order of forfeiture is issued by the district attorney of the county of the impounding agency or a court, as the case may be, pursuant to subdivision (e).

(g) Any legal owner who is a motor vehicle dealer, bank, credit union, acceptance corporation, or other licensed financial institution legally operating in this state, or the agent of that legal owner, may take possession and conduct the sale of the forfeited vehicle if the legal owner or agent notifies the agency impounding the vehicle of its intent to conduct the sale within 15 days of the mailing of the notice pursuant to subdivision (e). Sale of the vehicle after forfeiture

pursuant to this subdivision may be conducted at the time, in the manner, and on the notice usually given for the sale of repossessed or surrendered vehicles. The proceeds of any sale conducted by or on behalf of the legal owner shall be disposed of as provided in subdivision (i). A notice pursuant to this subdivision may be presented in person, by certified mail, by facsimile transmission, or by electronic mail.

(h) If the legal owner or agent of the legal owner does not notify the agency impounding the vehicle of its intent to conduct the sale as provided in subdivision (g), the agency shall offer the forfeited vehicle for sale at public auction within 60 days of receiving title to the vehicle. Low value vehicles shall be disposed of pursuant to subdivision (k).

(i) The proceeds of a sale of a forfeited vehicle shall be disposed of in the following priority:

(1) To satisfy the towing and storage costs following impoundment, the costs of providing notice pursuant to subdivision (e), the costs of sale, and the unfunded costs of judicial proceedings, if any.

(2) To the legal owner in an amount to satisfy the indebtedness owed to the legal owner remaining as of the date of sale, including accrued interest or finance charges and delinquency charges, providing that the principal indebtedness was incurred prior to the date of impoundment.

(3) To the holder of any subordinate lien or encumbrance on the vehicle, other than a registered or legal owner, to satisfy any indebtedness so secured if written notification of demand is received before distribution of the proceeds is completed. The holder of a subordinate lien or encumbrance, if requested, shall furnish reasonable proof of its interest and, unless it does so upon request, is not entitled to distribution pursuant to this paragraph.

(4) To any other person, other than a registered or legal owner, who can reasonably establish an interest in the vehicle, including a community property interest, to the extent of his or her provable interest, if written notification is received before distribution of the proceeds is completed.

(5) Of the remaining proceeds, funds shall be made available to pay any local agency and court costs, that are reasonably related to the implementation of this section, that remain unsatisfied.

(6) Of the remaining proceeds, half shall be transferred to the Controller for deposit in the Vehicle Inspection and Repair Fund for the high-polluter repair assistance and removal program created by ~~Article 9~~ Chapter 8 (commencing with Section ~~44090~~ 43800) of ~~Chapter 5~~ Title 5 of Part 5 of Division ~~26~~ 4 of the ~~Health and Safety~~ Environment Code and half shall be transferred to the general fund of the city or county of the impounding agency, or the city or county where the impoundment occurred. A portion of the local funds may be used to establish a reward fund for persons coming forward with information leading to the arrest and conviction of hit-and-run drivers and to publicize the availability of the reward fund.

(j) The person conducting the sale shall disburse the proceeds of the sale as provided in subdivision (i) and shall provide a written accounting regarding the disposition to the impounding agency and, on request, to any person entitled to or claiming a share of the proceeds, within 15 days after the sale is conducted.

(k) If the vehicle to be sold pursuant to this section is not of the type that can readily be sold to the public generally, the vehicle shall be conveyed to a licensed dismantler or donated to an eleemosynary institution. License plates shall be removed from any vehicle conveyed to a dismantler pursuant to this subdivision.

(l) No vehicle shall be sold pursuant to this section if the impounding agency determines the vehicle to have been stolen. In this event, the vehicle may be claimed by the registered owner at any time after impoundment, providing the vehicle registration is current and the registered owner has no outstanding traffic violations or parking penalties on his or her driving record or on the registration record of any vehicle registered to the person. If the identity of the legal and registered owners of the vehicle cannot be reasonably ascertained, the vehicle may be sold.

(m) Any owner of a vehicle who suffers any loss due to the impoundment or forfeiture of any vehicle pursuant to this section may recover the amount of the loss from the unlicensed, suspended, or revoked driver. If possession of a vehicle has been tendered to a business establishment in good faith, and an unlicensed driver employed or otherwise directed by the business establishment is the cause of the impoundment of the vehicle, a registered owner of the impounded vehicle may recover damages for the loss of use of the vehicle from the business establishment.

(n)(1) The impounding agency, if requested to do so not later than 10 days after the date the vehicle was impounded, shall provide the opportunity for a poststorage hearing to determine the validity of the storage to the persons who were the registered and legal owners of the vehicle at the time of impoundment, except that the hearing shall be requested within three days after the date the vehicle was impounded if personal service was provided to a registered owner pursuant to paragraph (2) of subdivision (e) and no mailed notice is required.

(2) The poststorage hearing shall be conducted not later than two days after the date it was requested. The impounding agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the storage of the vehicle. Failure of either the registered or legal owner to request a hearing as provided in paragraph (1) or to attend a scheduled hearing shall satisfy the poststorage hearing requirement.

(3) The agency employing the person who directed the storage is responsible for the costs incurred for towing and storage if it is determined that the driver at the time of impoundment had a valid driver's license.

(o) As used in this section, "days" means workdays not including weekends and holidays.

(p) Charges for towing and storage for any vehicle impounded pursuant to this section shall not exceed the normal towing and storage rates for other vehicle towing and storage conducted by the impounding agency in the normal course of business.

(q) The Judicial Council and the Department of Justice may prescribe standard forms and procedures for implementation of this section to be used by all jurisdictions throughout the state.

(r) The impounding agency may act as the agent of the state in carrying out this section.

(s) No vehicle shall be impounded pursuant to this section if the driver has a valid license but the license is for a class of vehicle other than the vehicle operated by the driver.

(t) This section does not apply to vehicles subject to Sections 14608 and 14609, if there has been compliance with the procedures in those sections.

(u) As used in this section, "district attorney" includes a city attorney charged with the duty of prosecuting misdemeanor offenses.

(v) The agent of a legal owner acting pursuant to subdivision (g) shall be licensed, or exempt from licensure, pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code.

Comment. Section 14607.6 is amended to substitute a reference to the Environment Code provisions that continue former Article 9 (commencing with Section 44090) of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code.

☞ **Staff Note.** Section 14607.6 has been amended by Section 457.5 of Chapter 931 of the Statutes of 1998, which will became operative on the operative date of Chapter 582 of the Statutes of 1998 (SB 117). See 1998 Cal. Stat. ch. 931, § 506 (double-jointing provision).

Veh. Code § 24007 (amended). Responsibility of dealer or other person selling motor vehicle

SEC. ___. Section 24007 of the Vehicle Code is amended to read:

24007. (a)(1) No dealer or person holding a retail seller's permit shall sell a new or used vehicle which is not in compliance with this code and departmental regulations adopted pursuant to this code, unless the vehicle is sold to another dealer, sold for the purpose of being legally wrecked or dismantled, or sold exclusively for off-highway use.

(2) Paragraph (1) does not apply to any vehicle sold by either (A) a dismantler after being reported for dismantling pursuant to Section 11520 or (B) a salvage pool after obtaining a salvage certificate pursuant to Section 11515 or a nonrepairable vehicle certificate issued pursuant to Section 11515.2.

(3) Notwithstanding paragraph (1), the equipment requirements of this division do not apply to the sale of a leased vehicle by a dealer to a lessee if the lessee is in possession of the vehicle immediately prior to the time of the sale and the vehicle is registered in this state.

(b)(1) Except as provided in Section 24007.5, no person shall sell, or offer or deliver for sale, to the ultimate purchaser, or to any subsequent purchaser a new or used motor vehicle, as those terms are defined in Chapter 2 (commencing with

Section ~~39010~~ 30100) of Part 1 of Division ~~26~~ 4 of the ~~Health and Safety~~ Environment Code, subject to Part 5 (commencing with Section ~~43000~~ 40000) of that Division ~~26~~ 4 which is not in compliance with that Part 5 and the rules and regulations of the State Air Resources Board, unless the vehicle is sold to a dealer or sold for the purpose of being legally wrecked or dismantled.

(2) Prior to or at the time of delivery for sale, the seller shall provide the purchaser a valid certificate of compliance or certificate of noncompliance, as appropriate, issued in accordance with Section ~~44015~~ 42903 of the ~~Health and Safety~~ Environment Code.

(3) Paragraph (2) does not apply to any vehicle whose transfer of ownership and registration is described in subdivision (d) of Section 4000.1.

(4) Paragraphs (1) and (2) do not apply to any vehicle sold by either (A) a dismantler after being reported for dismantling pursuant to Section 11520 or (B) a salvage pool after obtaining a salvage certificate pursuant to Section 11515 or a nonrepairable vehicle certificate issued pursuant to Section 11515.2.

(c)(1) With each application for initial registration of a new motor vehicle or transfer of registration of a motor vehicle subject to Part 5 (commencing with Section ~~43000~~ 40000) of Division ~~26~~ 4 of the ~~Health and Safety~~ Environment Code, a dealer, the purchaser, or his or her authorized representative, shall transmit to the Department of Motor Vehicles a valid certificate of compliance or noncompliance, as appropriate, issued in accordance with Section ~~44015~~ 42903 of the ~~Health and Safety~~ Environment Code.

(2) Notwithstanding paragraph (1) of this subdivision, with respect to new vehicles certified pursuant to Chapter ~~2~~ 3 (commencing with Section ~~43100~~ 41500) of Title 4 of Part 5 of Division ~~26~~ 4 of the ~~Health and Safety~~ Environment Code, a dealer may transmit, in lieu of a certificate of compliance, a statement, in a form and containing information deemed necessary and appropriate by the Director of Motor Vehicles and the Executive Officer of the State Air Resources Board, to attest to the vehicle's compliance with that Chapter ~~2~~ 3. The statement shall be certified under penalty of perjury, and shall be signed by the dealer or the dealer's authorized representative.

Comment. Section 24007 is amended to substitute references to the Environment Code provisions that continue provisions of former Chapter 2 (commencing with Section 39010) of Part 1 of, and Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code.

☞ **Staff Note.** Section 24007 has been amended. See 1998 Cal. Stat. ch. 517, § 2.

Water Code § 12565 (amended). Lining of All American Canal

SEC. ___. Section 12565 of the Water Code is amended to read:

12565. The two hundred million dollars ($200,000,000) made available to the director pursuant to subdivision (a) of Section 12562 may be expended solely for the lining of the All American Canal and the Coachella Branch of the All American Canal and only if all of the following requirements have been met:

(a) The Salton Sea Authority commissions a study of seepage and subsurface inflows to the Salton Sea from the All American Canal and the Coachella Branch of the All American Canal, and that study is completed. The study shall determine the nature of subsurface and drainage canal water movements from the unlined canals to the Salton Sea and to existing adjacent wetlands, and shall quantify the amount of water that may be lost to the Salton Sea and to those wetlands due to the canal lining projects. The Salton Sea Science Subcommittee shall review the requests for proposals for the study and shall be consulted in selecting the contractor responsible for conducting the study.

(b) Environmental documentation and permits required by the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), the National Environmental Policy Act of 1969 (42 U.S.C.A. Sec. 4321 *et seq*.), and any other applicable state and federal environmental laws are approved and certified for the All American Canal Lining Project or the Coachella Branch Lining Project.

(c) Pursuant to its responsibilities as a trustee agency under the California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code), the Director of Fish and Game makes a finding that a canal lining project that is the subject of a request for funding pursuant to this chapter will avoid or mitigate all significant effects of the project on fisheries and other wildlife. The finding shall be accompanied by a statement from the United States Secretary of the Interior certifying that measures for the replacement of incidental fish and wildlife values adjacent to the All American Canal and the Coachella Branch of the All American Canal foregone as a result of the lining of the canal, or the mitigation of resulting impacts on fish and wildlife resources from the construction of a new canal, or a portion thereof, meet the statutory requirements of Section 203(a)(2) of Public Law 100-675. These mitigation measures shall be on an acre-for-acre basis, based on ecological equivalency, and shall be implemented concurrent with the construction of the canal lining project.

Comment. Section 12565 is amended to substitute references to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 12565 is new. See 1998 Cal. Stat. ch. 813, § 1.

Water Code § 13274 (amended). General waste discharge requirements

SEC. ___. Section 13274 of the Water Code is amended to read:

13274. (a)(1) The state board or a regional board, upon receipt of applications for waste discharge requirements for discharges of dewatered, treated, or chemically fixed sewage sludge and other biological solids, shall prescribe general waste discharge requirements for that sludge and those other solids. General waste discharge requirements shall replace individual waste discharge requirements for

sewage sludge and other biological solids, and their prescription shall be considered to be a ministerial action.

(2) The general waste discharge requirements shall set minimum standards for agronomic applications of sewage sludge and other biological solids and the use of that sludge and those other solids as a soil amendment or fertilizer in agriculture, forestry, and surface mining reclamation, and may permit the transportation of that sludge and those other solids and the use of that sludge and those other solids at more than one site. The requirements shall include provisions to mitigate significant environmental impacts, potential soil erosion, odors, the degradation of surface water quality or fish or wildlife habitat, the accidental release of hazardous substances, and any potential hazard to the public health or safety.

(b) The state board or a regional board, in prescribing general waste discharge requirements pursuant to this section, shall comply with Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code and guidelines adopted pursuant to that division, and shall consult with the State Air Resources Board, the Department of Food and Agriculture, and the California Integrated Waste Management Board.

(c) The state board or a regional board may charge a reasonable fee to cover the costs incurred by the board in the administration of the application process relating to the general waste discharge requirements prescribed pursuant to this section.

(d) Notwithstanding any other provision of law, except as specified in subdivisions (f) to (i), inclusive, general waste discharge requirements prescribed by a regional board pursuant to this section supersede regulations adopted by any other state agency to regulate sewage sludge and other biological solids applied directly to agricultural lands at agronomic rates.

(e) The state board or a regional board shall review general waste discharge requirements for possible amendment upon the request of any state agency, including, but not limited to, the Department of Food and Agriculture and the State Department of Health Services, if the board determines that the request is based on new information.

(f) Nothing in this section is intended to affect the jurisdiction of the California Integrated Waste Management Board to regulate the handling of sewage sludge or other biological solids for composting, deposit in a landfill, or other use.

(g) Nothing in this section is intended to affect the jurisdiction of the State Air Resources Board or an air pollution control district or air quality management district to regulate the handling of sewage sludge or other biological solids for incineration.

(h) Nothing in this section is intended to affect the jurisdiction of the Department of Food and Agriculture in enforcing Sections 14591 and 14631 of the Food and Agricultural Code and any regulations adopted pursuant to those sections, regarding the handling of sewage sludge and other biological solids sold or used as fertilizer or as a soil amendment.

(i) Nothing in this section restricts the authority of a local government agency to regulate the application of sewage sludge and other biological solids to land within the jurisdiction of that agency, including, but not limited to, the planning authority of the Delta Protection Commission, the resource management plan of which is required to be implemented by local government general plans.

Comment. Section 13274 is amended to substitute a reference to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 13274 has been amended. See 1998 Cal. Stat. ch. 485, § 162.

Welf. & Inst. Code § 749.33 (amended). County juvenile facility grants

749.33. (a) Upon appropriation by the Legislature, moneys may be available to the board for the purpose of awarding grants on a competitive basis to counties for the renovation, reconstruction, construction, completion of construction, and replacement of county juvenile facilities, and the performance of deferred maintenance on county juvenile facilities. However, deferred maintenance for facilities shall only include items with a useful life of at least 10 years. Up to 1 1/2 percent of these moneys may be used by the board for administration of this article.

(b) No grant shall be awarded pursuant to this article unless the applicant makes available resources in an amount equal to at least 25 percent of the amount of the grant. Resources may include in-kind contributions from participating agencies, but in no event shall the applicant's cash contribution be less than 10 percent of the grant.

(c) An application for funds shall be in the manner and form prescribed by the board and pursuant to recommendations of an allocation advisory committee appointed by the board. From these recommendations, an allocation plan shall be developed and adopted by the board. The allocation advisory committee shall convene upon notification by the board.

(d) Any application for funds shall include, but not be limited to, all of the following:

(1) Documentation of need for the project or projects.

(2) Adoption of a formal county plan to finance construction of the proposed project or projects.

(3) Submittal of a preliminary staffing plan for the project or projects.

(4) Submittal of architectural drawings, which shall be approved by the board for compliance with minimum juvenile detention facility standards and which shall also be approved by the State Fire Marshal for compliance with fire and life safety requirements.

(5) Documentation that the facilities will be safely staffed and operated in compliance with law, including applicable regulations of the board.

(e) The board shall not be deemed a responsible agency, as defined in Section 21069 of the ~~Public Resources~~ Environment Code, or otherwise be subject to the

California Environmental Quality Act (Division ~~13~~ 3 (commencing with Section 21000) of the ~~Public Resources~~ Environment Code) for any activities undertaken or funded pursuant to this title. This subdivision does not exempt any local agency from the requirements of the California Environmental Quality Act.

Comment. Section 749.33 is amended to substitute references to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.

☞ **Staff Note.** Section 749.33 is new. See 1998 Cal. Stat. ch. 499, § 1.

Section 11 of Chapter 731 of the Statutes of 1998 (amended). Sale of surplus lands

11. (a) Notices of every public sale shall be posted on the property to be sold pursuant to Sections 6 to 8, inclusive, of this act and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated.

(b) Any sale, exchange, lease, or transfer of the parcels described in Sections 6 to 8, inclusive, of this act is exempt from Chapter ~~3~~ 5 (commencing with Section 21100) to Chapter ~~6~~ 9 (commencing with Section 21165), inclusive, of Division ~~13~~ 3 of the ~~Public Resources~~ Environment Code.

Comment. Section 11 is amended to substitute a reference to the Environment Code provisions that continue former Division 13 (commencing with Section 21000) of the Public Resources Code.