HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] *(Division 20 enacted by Stats. 1939, Ch. 60.)*

CHAPTER 6.5. Hazardous Waste Control [25100 - 25259] *(Chapter 6.5 added by Stats. 1972, Ch. 1236.)*

ARTICLE 5.6. The Toxic Injection Well Control Act of 1985 [25159.10 - 25159.25] *(Heading of Article 5.6 renumbered from Article 5.5 (as added by Stats. 1985, Ch. 1591, Sec. 1) by Stats. 2015, Ch. 303, Sec. 309.)*

25159.10. The Legislature hereby finds and declares all of the following:

(a) Specific state laws and regulations have been enacted to prevent leaks and hazardous waste discharges to land, such as those from underground storage tanks, surface impoundments, pits, ponds, or lagoons.

(b) The present federal law which regulates the discharge of hazardous waste to land in injection wells is inadequate to fully protect California's water supplies from contamination. As a result, underground injection of hazardous waste presents a serious short-term and long-term threat to the quality of waters in the state.

(c) State-of-the-art design and operation safeguards of injection wells without adequate groundwater monitoring, specific geological information, and other system safeguards cannot guarantee that migration of hazardous wastes into underground sources of drinking water will not occur.

(d) Monitoring requirements specified in federal law are not adequate to detect all leaks from injection wells and there are no requirements in federal law for monitoring the movement of wastes in the substrata to ensure that wastes have not escaped the injection zone or are not reacting with, or have not breached the confining strata.

(e) Injecting wastes into wells deep in the geological substrata is an unproven method for the containment of wastes because, among other things, hazardous wastes can react with geological substrata, rendering these containment barriers ineffective, pressure of the injected wastes can breach containment layers, and active or abandoned wells in the vicinity of waste injection can serve as a conduit for the wastes to migrate to drinking water supplies.

(f) Restoring contaminated groundwater to its original state after the fact and removal or cleanup of wastes once injected to these depths are formidable tasks which are not typically economically feasible.

(g) It is in the public interest to establish a continuing program for the purpose of preventing contamination from underground injection of waste. It is the intent of the Legislature to prohibit any injection of hazardous wastes into or above drinking water in the state, and to prohibit any injection of hazardous waste below drinking water in the state which is not properly permitted and monitored so as to prevent hazardous wastes from migrating to drinking water or otherwise endangering the environment of the state.

(h) It is the intent of the Legislature that the Legislature will provide a process for the public and industry to appeal the actions or inactions of the department under this article. However, the specific process cannot be developed until the Legislature determines the general organization of the department with regard to administration of hazardous waste management programs.

(Added by Stats. 1985, Ch. 1591, Sec. 1.)

25159.11. This article shall be known and may be cited as the Toxic Injection Well Control Act of 1985.

(Added by Stats. 1985, Ch. 1591, Sec. 1.)

25159.12. For purposes of this article, the following definitions apply:

(a) "Annulus" means the space between the outside edge of the injection tube and the well casing.

(b) "State board" means the State Water Resources Control Board.

(c) “Compatibility” means that waste constituents do not react with each other, with the materials constituting the injection well, or with fluids or solid geologic media in the injection zone or confining zone in a manner as to cause leaching, precipitation of solids, gas or pressure buildup, dissolution, or any other effect that will impair the effectiveness of the confining zone or the safe operation of the injection well.

(d) “Confining zone” means the geological formation, or part of a formation, that is intended to be a barrier to prevent the migration of waste constituents from the injection zone.

(e) “Constituent” means an element, chemical, compound, or mixture of compounds that is a component of a hazardous waste or leachate and that has the physical or chemical properties that cause the waste to be identified as hazardous waste by the department pursuant to this chapter.

(f) “Discharge” means to place, inject, dispose of, or store hazardous wastes into, or in, an injection well owned or operated by the person who is conducting the placing, disposal, or storage.

(g) “Drinking water” has the same meaning as “potential source of drinking water,” as defined in subdivision (t) of Section 25208.2.

(h) “Facility” means the structures, appurtenances, and improvements on the land, and all contiguous land, that are associated with an injection well and are used for treating, storing, or disposing of hazardous waste. A facility may consist of several waste management units, including, but not limited to, surface impoundments, landfills, underground or aboveground tanks, sumps, pits, ponds, and lagoons that are associated with an injection well.

(i) “Groundwater” means water, including, but not limited to, drinking water, below the land surface in a zone of saturation.

(j) “Hazardous waste” means any hazardous waste specified as hazardous waste or extremely hazardous waste, as defined in this chapter. Any waste mixture formed by mixing any waste or substance with a hazardous waste shall be considered hazardous waste for the purposes of this article.

(k) “Hazardous waste facilities permit” means a permit issued for an injection well pursuant to Sections 25200 and 25200.6.

(l) “Injection well” or “well” means any bored, drilled, or driven shaft, dug pit, or hole in the ground the depth of which is greater than the circumference of the bored hole and any associated subsurface appurtenances, including, but not limited to, the casing. For the purposes of this article, injection well does not include either of the following:

(1) Wells exempted pursuant to Section 25159.24.

(2) Wells that are regulated by the Division of Oil and Gas in the Department of Conservation pursuant to Division 3 (commencing with Section 3000) of the Public Resources Code and Subpart F (commencing with Section 147.250) of Subchapter D of Chapter 1 of Part 147 of Title 40 of the Code of Federal Regulations and are in compliance with that division and Subpart A (commencing with Section 146.1) of Part 147 of Subchapter D of Chapter 1 of Title 40 of the Code of Federal Regulations.

(m) “Injection zone” means that portion of the receiving formation that has received, is receiving, or is expected to receive, over the lifetime of the well, waste fluid from the injection well. “Injection zone” does not include that portion of the receiving formation that exceeds the horizontal and vertical extent specified pursuant to Section 25159.20.

(n) “Owner” means a person who owns a facility or part of a facility.

(o) “Perched water” means a localized body of groundwater that overlies, and is hydraulically separated from, an underlying body of groundwater.

(p) “pH” means a measure of a sample’s acidity expressed as a negative logarithm of the hydrogen ion concentration.

(q) “Qualified person” means a person who has at least five years of full-time experience in hydrogeology and who is a professional geologist registered pursuant to Section 7850 of the Business and Professions Code, or a registered petroleum engineer registered pursuant to Section 6762 of the Business and Professions Code. “Full-time experience” in hydrogeology may include a combination of postgraduate studies in hydrogeology and work experience, with each year of postgraduate work counted as one year of full-time work experience, except that not more than three years of postgraduate studies may be counted as full-time experience.

(r) “Receiving formation” means the geologic strata that are hydraulically connected to the injection well.

(s) “Regional board” means the California regional water quality control board for the region in which the injection well is located.

(t) “Report” means the hydrogeological assessment report specified in Section 25159.18.

(u) “Safe Drinking Water Act” means Subchapter XII (commencing with Section 300f) of Chapter 6A of Title 42 of the United States Code.

(v) “Strata” means a distinctive layer or series of layers of earth materials.

(w) “Waste management unit” means that portion of a facility used for the discharge of hazardous waste into or onto land, including all containment and monitoring equipment associated with that portion of the facility.

(Amended by Stats. 2006, Ch. 538, Sec. 378. Effective January 1, 2007.)

25159.15. (a) Notwithstanding any other provision of law, on or after January 1, 1986, a person shall not discharge hazardous waste into an injection well which commences operation on or after January 1, 1986, and after January 1, 1988, a person shall not discharge hazardous waste into an injection well which commenced operation before January 1, 1986, unless all of the following conditions are met:

(1) Unless granted an exemption pursuant to subdivision (b), no point along the length of the injection well, as measured either horizontally or vertically, is located within one-half mile of drinking water.

(2) The person has received a hazardous waste facilities permit for the well issued pursuant to Section 25200.6.

(3) The injection well does not discharge hazardous waste into or above a formation which contains a source of drinking water within one-half mile of the well.

(b) A person may apply to the department to exempt an injection well from paragraph (1) of subdivision (a) if the person has received a hazardous waste facilities permit and the person has filed a report pursuant to Section 25159.18 with the department on or before January 1, 1987, which has been approved by the department, pursuant to Section 25159.18. If the person proposes to commence operation of an injection well on or after January 1, 1986, the person shall file the request for an exemption and the report at least one year before any proposed discharge or injection.

(c) The department shall either grant or deny an exemption from paragraph (1) of subdivision (a) on or before December 31, 1987, or within one year after receipt of the application for a proposed injection well. The department may grant an exemption from paragraph (1) of subdivision (a) only if the department makes all of the following written findings, and supports these findings by citing specific evidence presented in the report or provided to the department:

(1) The hydrogeology report prepared pursuant to Section 25159.18 is current, accurate, and complete.

(2) No hazardous waste constituents have migrated from that portion of the injection well located above the injection zone or have migrated from the injection zone.

(3) Practical alternative technologies, other than well injection, do not exist to reduce, treat, or dispose of the hazardous wastes which are to be discharged.

(4) Continuing or commencing the operation of the injection well does not pose a potential of hazardous waste constituents migrating from that portion of the injection well located above the injection zone or migrating from the injection zone and a monitoring program pursuant to subdivision (c) of Section 25159.17 has been installed, or for a proposed injection well, the monitoring program has been designed and will be installed before any discharge or injections into the well.

(d) An exemption granted pursuant to subdivision (c) shall not be effective for more than five years. Applications for an exemption, or a renewal of an exemption, shall be accompanied by the fee specified in the fee schedules adopted by the department pursuant to Section 25159.19. The department shall not renew the exemption unless it makes all of the findings in subdivision (c).

(e) The department shall revoke an exemption granted pursuant to subdivision (c) if the department determines that there is migration of hazardous wastes, or a threat of migration of hazardous wastes, from the well into any strata or the waters of the state outside the injection zone. The department shall then prohibit the discharge of any hazardous waste into the injection well, require appropriate removal and remedial actions by the person granted the exemption, and require the responsible parties to take appropriate removal and remedial actions.

(f) The state board, the regional boards, and the department shall establish procedures providing for the interagency transfer and review of applications for exemption received pursuant to subdivision (b).

(g) This section applies only to injection wells into which hazardous waste is discharged.

(Amended by Stats. 1986, Ch. 1013, Sec. 1. Effective September 23, 1986.)

25159.16. (a) If the department or regional board determines that there is migration of hazardous waste constituents, or a threat of migration of hazardous waste constituents, from an injection well into any strata or waters of the state outside the injection zone, the department shall prohibit the discharge of any hazardous waste into the injection well until removal and remedial actions have been conducted to abate the migration or threat.

(b) The department shall determine, after the remedial and removal actions required pursuant to subdivision (a) are completed, whether the injection well should be continued to be used for the discharge of hazardous wastes. The department shall not approve the continued use of the injection well for the discharge of hazardous waste unless the department makes both of the following determinations:

(1) The removal or remedial action abated the contamination, or threat of contamination, from the migration or threat of migration.

(2) There is no potential, in continuing the operation of the injection well, for any future migration of hazardous waste constituents, from that portion of the injection well located above the injection zone, or from the injection zone.

The department shall make these determinations pursuant to a public hearing for which the department shall provide notice to all residents in the affected area, as determined by the department, and by mail to all persons listed on any mailing lists compiled by the department, using any appropriate mailing lists compiled by the regional board.

(c) If the department determines, pursuant to subdivision (b), that an injection well should not continue to be used for the discharge of hazardous wastes, the department shall require that all hazardous waste discharges be permanently terminated at the well and that the owner of the well take all actions necessary to prepare the injection well for closure pursuant to subdivision (d) and for postclosure maintenance which are required pursuant to the Federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the regulations adopted by the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act for proper closure, plugging, and monitoring of injection wells, and the regulations adopted by the state board and the department for closure of hazardous waste management units.

(d) Before any injection well used for the discharge of hazardous waste is closed, the department shall require the owner to certify that the well is in a state of static equilibrium, all defects or damages in the well casing are corrected prior to closure, that closure is sufficient to prevent the movement of fluids from the injection zone, and that all closure will commence within six months from the date the department orders closure. The injection well shall also be closed in accordance with the following requirements:

(1) Fluids and gases shall be confined to the stratum in which they occur by the use of cement grout or other suitable material. The amount, type, kind of material, and method of placement shall be approved by the department and the well shall be filled from bottom to top with the approved material.

(2) No well shall be sealed without the prior approval of the department. The person responsible for well closure shall submit a sealing plan to the department at least 90 days prior to the proposed date of sealing. The department may require that a representative of the department observe that sealing.

(e) The department shall consult with the regional board and the Division of Oil and Gas, where necessary, to fulfill the requirements of subdivision (d).

(f) This section applies only to injection wells into which hazardous waste is discharged.

(Amended by Stats. 1986, Ch. 1013, Sec. 2. Effective September 23, 1986.)

25159.17. (a) The department shall make an inspection at least once each year of all facilities with injection wells into which hazardous waste is discharged. The owner shall tabulate the monitoring data recovered, pursuant to subdivision (c), monthly. The department shall review the data specified in paragraphs (1), (2), and (3), of subdivision (c) monthly and the data specified in paragraph (4) of subdivision (c) quarterly to ensure that all injection wells into which hazardous waste is discharged comply with this chapter and that any equipment or programs required pursuant to this article are operating properly.

(b) The department shall require complete mechanical integrity testing of the well bore at least once a year and shall require pressure tests at least once every six months. The testing program shall be designed to detect defects, damage, and corrosion in the well, well casings, injection tube, packer, cement, and the screened or perforated portion of the well.

(c) The operator of an injection well into which hazardous waste is discharged shall conduct monitoring of the surface equipment, the well, and the movement of injected wastes, in the following manner:

(1) Injection fluids shall be sampled and analyzed at least monthly to yield representative data of their characteristics at all injection wells located at onsite facilities. If the injection well is located at an offsite facility, the fluids shall be sampled and analyzed every time the composition of the hazardous waste discharged into the injection well is different than the waste discharged immediately prior to the new discharge.

(2) Pressure gauges shall be installed and maintained in proper operating condition at all times on the injection tubing and annulus.

(3) Continuous recording devices shall be installed and maintained in proper operating condition at all times to record injection temperatures and pressures, injection flow rates, injection volumes, and annulus pressure.

(4) The monitoring system, including all monitoring wells, shall be constructed and operated in accordance with the standards specified in subdivision (p) of Section 25159.18. The design of the monitoring system and location and number of monitoring wells shall be approved by the department. Monitoring wells shall be sufficient in number and location for compliance with the monitoring requirements specified in subdivision (p) of Section 25159.18, the federal regulations adopted pursuant to the Safe Drinking Water Act, and for determining all of the following:

(A) The direction and rate of regional groundwater movement.

(B) Any upward migration of hazardous wastes and changes in water quality in the water bearing formation immediately above the injection zone.

(C) Any changes in water quality of drinking water within at least one-half mile of the well.

(D) The direction, rate, hydraulic effects, alteration, and characteristics of wastes injected into the injection zone, and any changes of pressure within or above the injection zone.

(d) The operator of an injection well shall equip the surface facilities of an injection well into which hazardous waste is discharged with shutoff devices, alarms, and fencing.

(e) The department shall require all abandoned water wells within three miles of a facility to be closed in accordance with standards at least as stringent as those set forth in the Department of Water Resources Bulletin No. 74-81.

(f) The department may require any subsurface structure or hole which is contaminated, may become contaminated, provides a potential conduit for contamination, or penetrates a formation containing drinking water to be closed in accordance with standards at least as stringent as those set forth in the Department of Water Resources Bulletin No. 74-81. If the subsurface structure or hole is an oil or gas well, the well shall be closed in accordance with standards at least as stringent as the regulations adopted by the Division of Oil and Gas. If the subsurface structure is an injection well into which hazardous waste is discharged, the injection well shall be closed in accordance with the procedures specified in subdivision (d) of Section 25159.16.

(g) The regional board shall revise any existing waste discharge requirements, issued for any injection well into which hazardous waste is discharged, pursuant to Section 13263 of the Water Code, based upon a review of the report.

(h) This section applies only to injection wells into which hazardous waste is discharged.

(Amended by Stats. 1986, Ch. 1013, Sec. 3. Effective September 23, 1986.)

25159.18. Any person who applies to the department for a hazardous waste facilities permit, or for the renewal or revision of a hazardous waste facilities permit, for the discharge of hazardous wastes into an injection well, including any proposed injection well, shall submit a hydrogeological assessment report to the department and to the appropriate regional board six months before making that application. A qualified person shall be responsible for the preparation of the report and shall certify its completeness and accuracy. The department shall not approve the report unless the department finds that the report is current, accurate, and complete, and that no hazardous waste constituents have migrated from the portion of the injection well located above the injection zone or have migrated from the injection zone. The report shall be accompanied by the fee established pursuant to Section 25159.19. The report shall contain, for each injection well, including any proposed injection well, any information required by the department, and all of the following information:

(a) A description of the injection well, including all of the following:

(1) Physical characteristics.

(2) A log of construction activities, including dates and methods used.

(3) A description of materials used in the injection well, including tubing, casing, packers, seals, and grout.

(4) Design specifications and a drawing of the well as completed.

(5) An analysis of the chemical and physical compatibility of the materials used with the wastes injected.

(6) Annulus fluid composition, level, and pressure at the time of well completion through the present time.

(b) A description of both of the following:

(1) The volume, temperature, pH, and radiological characteristics, and composition of hazardous waste constituents placed in the well, based on a statistically significant representative chemical analysis of each specific hazardous waste type, so that any variations in hazardous waste constituents over time are documented.

(2) The pressure and rate at which fluid is injected into the well.

(c) A map showing the distances, within the facility, to the nearest surface water bodies and springs, and the distances, within three miles from the facility's perimeter, to the nearest surface water bodies and springs.

(d) Tabular data from each surface water body and spring shown on the map specified in subdivision (c), within one mile from the facility's perimeter, which indicate its flow and a representative water analysis. The report shall include an evaluation and

characterization of seasonal changes and, if substantive changes occur from season to season, the tabular data shall reflect these seasonal changes.

(e) A map showing the location of all existing and abandoned wells, dry holes, mines, and quarries within the facility and within three miles of the facility's perimeter. The report shall include, for each well shown on the map, a description of the present use of the well, a representative water analysis from any existing wells, any known physical characteristics, and a determination as to whether the well, if abandoned, has been closed in accordance with standards at least as stringent as those set forth in the Department of Water Resources Bulletin No. 74-81, or, if the well is an oil or gas well, in accordance with standards at least as stringent as the regulations of the Division of Oil and Gas. The report also shall include, when possible, the water well driller's report or well log.

(f) A map showing the structural geology and stratigraphy within three miles of the facility's perimeter that can influence the direction of the groundwater flow or the movement of the discharged wastes. The report shall include a description of folds, domes, basins, faults, seismic activity, fractures, and joint patterns, and a geologic cross section and general description of the subsurface rock units, including stratigraphic position, lithology, thickness, and areal distribution.

(g) An analysis for all of the following:

(1) The vertical and lateral extent of any water-bearing strata that could be affected by leakage from the injection well.

(2) The vertical and lateral extent of any strata through which the well is drilled.

(3) The vertical and lateral limits of the confining beds above, below, and adjacent to, the injection well.

(h) The analysis specified in subdivision (g) shall include all of the following:

(1) A map and cross section of all hydrogeologic units.

(2) Maps showing contours of equal elevation of the water surface for perched water, unconfined water, and confined groundwater required to be analyzed by this subdivision.

(3) An estimate of the flow, and flow direction, of the water in all water-bearing formations shown on both the maps and the subsurface geologic cross sections.

(4) An estimate of the transmissivity, permeability, porosity, and storage coefficient for each perched zone of water and water-bearing formations identified on the maps specified in paragraph (1).

(5) A determination of the water quality of each zone of the water-bearing formations and perched water that is identified on the maps specified in paragraph (1) and is under, or above and adjacent to, the well. This determination shall be conducted by taking samples either upgradient of the injection well or from another location that has not been affected by leakage from the injection well.

(i) A determination as to whether the groundwater is contiguous with regional bodies of groundwater and the depth measured from the injection zone and well casing to the groundwater, including the depth measured to perched water and water-bearing strata identified on the maps specified in subdivision (h).

(j) All of the following information for the receiving formation:

(1) A description of the chemical and physical properties of the receiving formation, including its lithology, thickness, composition, structure, porosity, storage capacity, permeability, compressibility, density, subsurface stress, vertical and lateral continuity and extent, fluid temperature, pressure, composition, and the measurement of the minimum pressure that would fracture the receiving formation.

(2) The effect of the injection pressure on the receiving formation.

(3) The geologic stability and long-term integrity of the receiving formation.

(4) An assessment of compatibility of waste, formation fluids, and formation lithology. This shall include a description of short-range and long-range changes anticipated in the physical and chemical state of the receiving formation in its fluids through chemical reaction and interaction with injection fluids.

(k) All of the following information for the confining zone:

(1) A description of its chemical and physical properties, including its age, composition, thickness, vertical and lateral continuity, unconformities, permeability, transmissivity, compressibility, porosity, density, and subsurface stress.

(2) The minimum amount of pressure that would fracture the confining zone, calculated specifically for the particular confining zone, a description of the number and types of existing fractures, faults, and cavities, and an analysis as to whether fractures were created or enlarged by past injection of wastes.

(3) The geologic stability and long-term integrity of the confining zone.

(4) Anticipated short-range and long-range changes in the physical state of the confining zone through chemical reaction and interaction with injection fluids.

(5) An estimate of the rate of migration of the hazardous waste constituents through the confining zone.

(l) A geologic cross section and description of the composition of each stratum through which the injection well is drilled. This description shall include a physical, chemical, and hydrogeological characterization of both the consolidated and unconsolidated rock material, including lithology, mineralogy, texture, bedding, thickness, and permeability. It shall also include an analysis for pollutants, including those constituents discharged into the injection well. The report shall arrange all monitoring data in a tabular form so that the dates, the constituents, and the concentrations are readily discernible.

(m) A description of surface facilities, including, but not limited to, pressure gauges, automatic shutoff devices, alarms, fencing, specifications for valves and pipe fittings, and operator training and requirements.

(n) A description of contingency plans for well failures and shutdowns to prevent migration of contaminants from the well.

(o) A description of the monitoring being conducted to detect migration of hazardous waste constituents, including the number and positioning of the monitoring wells, the monitoring wells' distances from the injection well, the monitoring wells' design data, the monitoring wells' installation, the monitoring development procedures, the sampling and analytical methodologies, the sampling frequency, and the chemical constituents analyzed. The design data of the monitoring wells shall include the monitoring wells' depth, the monitoring wells' diameters, the monitoring wells' casing materials, the perforated intervals within the well, the size of the perforations, the gradation of the filter pack, and the extent of the wells' annular seals.

(p) Documentation demonstrating that the monitoring system and methods used at the facility can detect any seepage, including any leaks, cracks, or malfunctions in the well or a breach of the confining zone, before the hazardous waste constituents migrate from the well above the injection zone or from the confining zone. This documentation shall include, but is not limited to, substantiation of all of the following:

(1) The monitoring system is effective enough, and includes a sufficient number of monitoring wells in the major water-bearing zones, which are located close enough to the injection well casing and to the injection zone, to verify that no lateral and vertical migration of any constituents discharged into the well is occurring outside of the injection zone.

(2) Monitoring wells are not located within the influence of any adjacent pumping wells that might impair their effectiveness.

(3) Monitoring wells are only screened in the aquifer to be monitored and are monitored for both pressure and water quality.

(4) The chosen casing material does not adversely react with the potential contaminants of major concern at the facility.

(5) The casing diameter allows an adequate amount of water to be removed during sampling and allows full development of the monitor well.

(6) Monitoring wells are constructed so as not to provide potential conduits for migration of pollution, and the wells' construction features, including annular seals, prevent pollutants from migrating up or down the monitoring well.

(7) The methods of water sample collection require that the samples are transported and handled in accordance with the United States Geological Survey's "National Handbook of Recommended Methods for Water-Data Acquisition," which provides guidelines for collection and analysis of groundwater samples for selected unstable constituents and any additional procedures specified by the department. For all monitoring wells, except those extending into the injection zone, the sample shall be collected after at least five well volumes have been removed from the well.

(8) The hazardous waste constituents selected for analysis are specific to the facility, taking into account the chemical composition of hazardous wastes previously discharged into the injection well. The monitoring data shall be arranged in tabular form so that the date, the constituents, and the concentrations are readily discernible.

(9) The frequency of monitoring is sufficient to give timely warning of migration of hazardous waste constituents so that remedial action can be taken prior to any adverse changes in the quality of the groundwater.

(10) A written statement from the qualified person preparing the report indicating whether any constituents have migrated into the surface water bodies or any strata outside the injection zone, including water-bearing strata.

(11) A written statement from the qualified person preparing the report indicating whether any migration of hazardous waste constituents into surface water bodies or any strata outside the injection zone, including water-bearing strata, is likely or not likely to occur within five years, and any evidence supporting that statement.

(q) This section applies only to injection wells into which hazardous waste is discharged.

(Amended by Stats. 1994, Ch. 146, Sec. 108. Effective January 1, 1995.)

25159.19. (a) On or before July 1, 1986, the department shall, by emergency regulation, adopt a fee schedule that assesses a fee upon any person discharging any hazardous wastes into an injection well. The department shall include in this fee schedule the fees charged for filing a hazardous waste injection statement specified in former Section 25159.13, as added by Chapter 1591 of the Statutes of 1985, the report specified in Section 25159.18, and applications for, and renewals of, the exemptions specified in Section 25159.15. The department shall also include provisions in the fee schedule for assessing a penalty pursuant to subdivision (c). These fees shall be based on the reasonable anticipated costs that will be incurred by the department to implement and administer this article. The department may also request an appropriation to be used in combination with these fees to perform the monitoring, inspections, review of reports, or any other implementation and administrative actions required by this article.

(b) The emergency regulations that set the fee schedule shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the department.

(c) The department shall send a notice to each person subject to the fee specified in subdivision (a). If a person fails to pay the fee within 60 days after receipt of this notice, the department shall require the person to pay an additional penalty fee. The department shall set the penalty fee at not more than 100 percent of the assessed fee, but in an amount sufficient to deter future noncompliance, as based upon that person's past history of compliance and ability to pay, and upon additional expenses incurred by this noncompliance.

(d) The department shall collect and deposit the fees and penalties collected pursuant to this section in the Hazardous Waste Injection Well Account, which is hereby created in the General Fund. The money within the Hazardous Waste Injection Well Account is available, upon appropriation by the Legislature, to the department for purposes of administering this article.

(e) This section applies only to injection wells into which hazardous waste is discharged.

(Amended by Stats. 2004, Ch. 193, Sec. 96. Effective January 1, 2005.)

25159.20. (a) The department shall specify, for purposes of paragraph (4) of Section 25200.6, the horizontal and vertical extent of any injection zone for an injection well. The department shall cite specific information presented in the report prepared pursuant to Section 25159.18 as the basis for specifying the extent of the injection zone and shall make a finding as to whether the injection wells' hydrogeological and operating conditions ensure that there is no potential for any migration of any hazardous waste constituents to any strata or waters of the state outside the injection zone.

(b) This section applies only to injection wells into which hazardous waste is discharged.

(Added by Stats. 1985, Ch. 1591, Sec. 1.)

25159.21. (a) The state board, a regional board, or the department may enter and inspect a facility for determining compliance with this article, including, for this purpose, inspecting, at a reasonable time, records, files, papers, processes, and controls.

(b) Nothing in this article shall prevent the department from enforcing existing permit conditions for the land disposal of hazardous wastes that are more stringent than the restrictions of this article or prohibit the department, the state board, or the regional boards from imposing more stringent restrictions on the discharge of hazardous wastes at any particular hazardous waste disposal facility.

(Added by Stats. 1985, Ch. 1591, Sec. 1.)

25159.22. This article shall not be construed to limit or abridge the powers and duties granted to the department pursuant to this chapter or pursuant to Part 2 (commencing with Section 78000) of Division 45 or to the state board or any regional board pursuant to Division 7 (commencing with Section 13000) of the Water Code, to the Division of Oil and Gas pursuant to Division 3 (commencing with Section 3000) of the Public Resources Code, or the authority of any city, county, or district to act pursuant to the local agency's ordinances or regulations.

(Amended by Stats. 2022, Ch. 258, Sec. 41. (AB 2327) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 130 of Stats. 2022, Ch. 258.)

25159.23. The State Oil and Gas Supervisor shall promptly report to the department and the state board any injection well regulated by the Division of Oil and Gas pursuant to Subpart F of Part 147 of Title 40 of the Code of Federal Regulations that is not in compliance with these regulations because fluids not authorized by these regulations are discharged into the well.

(Added by Stats. 1985, Ch. 1591, Sec. 1.)

25159.24. (a) Any injection well used to inject contaminated groundwater that has been treated and is being reinjected into the same formation from which it was drawn for the purpose of improving the quality of the groundwater in the formation is exempt from this article if this method is part of a remedial program initiated in response to an order, requirement, or other action of a federal or state agency.

(b) Any injection well used for the reinjection of geothermal resources, as defined in Section 6903 of the Public Resources Code, is exempt from this article if the well is in compliance with Chapter 4 (commencing with Section 3700) of Division 3 of the Public Resources Code.

(Added by Stats. 1985, Ch. 1591, Sec. 1.)

25159.25. Any action taken by the department pursuant to this article shall comply with and incorporate any waste discharge requirements issued by the state board or a regional board, and the action shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of the Water Code and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of the Water Code and with the state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, and any amendments made to these plans, policies, or requirements. The department may also include any more stringent requirement which the department determines is necessary or appropriate to protect water quality.

(Added by Stats. 1985, Ch. 1591, Sec. 1.)