Senate Bill No. 989

CHAPTER 812

An act to amend Sections 15399.10, 15399.11, 15399.14, and 15399.17 of, to amend and renumber Section 15399.19 of, to add Sections 15399.15, 15399.15.1, and 15399.15.2 to, and to add and repeal Section 65964 of, the Government Code, to amend Sections 25288, 25299, 25299.37.1, 25299.51, 25299.52, 25299.57, 25299.59, 25299.81, 25299.94, and 25299.99.2 of, and to add Sections 25284.1, 25292.4, 25299.18, 25299.38.1, 25299.99.3, 43013.1, and 43013.3 to, and to repeal and add Section 43830.8 of, the Health and Safety Code, to add Section 25310.5 to, and to add and repeal Section 21178 of, the Public Resources Code, and to amend Section 13752 of the Water Code, relating to pollution.

[Approved by Governor October 8, 1999. Filed with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 989, Sher. Pollution: groundwater: MTBE.

(1) Under existing law, with specified exceptions, no person may own or operate an underground storage tank containing hazardous substances unless a permit for its operation has been issued by the local agency to the owner or operator of the tank, or a unified program facility permit has been issued by the local agency to the owner or operator of the unified program facility on which the tank is located. Existing law requires an underground storage tank permit to require compliance with certain design and construction requirements, and requires the local agency to inspect every underground tank system within its jurisdiction at least once every 3 years. Existing law imposes specified civil penalties upon owners or operators of underground storage tanks who violate certain requirements.

This bill would require the State Water Resources Control Board, on or before June 1, 2000, to initiate a specified research program to quantify the probability and environmental significance of releases from petroleum underground storage tank systems that meet certain upgrade requirements. The board would be required, by January 1, 2001, to adopt specified regulations and the board would be directed to require a tank to be fitted with under-dispenser containment or a spill containment or control system approved by the board, as specified, and to review existing enforcement authority. The bill would require a local agency to inspect every tank system at least once every year, thereby creating a state-mandated local program by imposing new duties upon local agencies. The bill would require the holder of a permit for an underground storage tank, within 60 days

after receiving a specified inspection or compliance report, to file a plan to implement the compliance report or make a specified demonstration. The bill would provide for the imposition of civil liability upon an operator of an underground storage tank who tampers with, or disables, automatic leak detection devices and would impose criminal penalties upon a person who intentionally takes such an action, thereby imposing a state-mandated local program by creating a new crime. The bill would require the board, in consultation with the State Department of Health Services, to develop guidelines for the investigation and remediation of MTBE and other ether-based oxygenates in groundwater and appropriate cleanup standards.

The bill also would require, on and after November 1, 2000, an owner or operator of a tank system with a single-walled component, located as specified, to implement a program of enhanced leak detection or monitoring pursuant to regulations that the board would be required to adopt.

(2) Under the existing Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, every owner of an underground storage tank is required to pay a storage fee for each gallon of petroleum placed in the tank. The fees are required to be deposited in the Underground Storage Tank Cleanup Fund. The money in the fund may be expended by the State Water Resources Control Board, upon appropriation by the Legislature, for various purposes, including the payment of claims of up to $1,000,000 per occurrence, including joint claims, to aid owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks. The act is repealed by its own terms on January 1, 2005.

This bill would increase the amount of a corrective action claim to $1,500,000 per occurrence, would revise the requirements for claims for regulatory assistance, and would increase the amount to $1,500,000 for joint claims. The bill would extend the operation of the act until January 1, 2011, thereby imposing a state-mandated local program by continuing the imposition of duties upon the local agencies that implement the act.

(3) Existing law authorizes the State Air Resources Board, among other things, to adopt and implement motor vehicle fuel specifications for the control of air contaminants and sources of air pollution, as specified. Existing law, however, prohibits the state board from adopting any regulation that requires the addition of any oxygenate to motor vehicle fuel unless the regulation is subject to multimedia rulemaking, as defined in existing law.

This bill would instead prohibit the state board from adopting any regulation that establishes a specification for motor vehicle fuel unless that regulation, and a multimedia evaluation conducted by affected agencies and coordinated by the state board, are reviewed

by the California Environmental Policy Council. The bill would revise the procedures for the conduct of such a multimedia evaluation.

The bill would require the State Energy Resources Conservation and Development Commission, in consultation with the state board, to develop a timetable for the removal of MTBE from gasoline at the earliest possible date, consistent with a specified executive order. The bill would require the state board to ensure that specified regulations for reformulated gasoline maintain or improve upon emissions and air quality benefits achieved by other specified reformulated gasoline and are evaluated, as specified. The bill would require a city, county, or air pollution control district, upon receiving an application to construct a phase 3 reformulated gasoline project, as defined, to undertake all reasonable efforts to expedite action on the permit, thereby imposing a state-mandated local program.

The bill would also authorize the Secretary for Environmental Protection to prohibit the use of MTBE in motor vehicle fuel prior to December 31, 2002, on a subregional basis in the Bay Area Air Basin, or in any other air basin in the state, if the secretary makes specified findings.

The bill would require the commission, if it determines that specified studies do not adequately assess the ongoing supply and availability of gasoline for the state's consumers associated with the phaseout of MTBE, to submit a report to the Legislature and the Governor by July 1, 2000, concerning the impact of that phaseout on the supply and availability of gasoline.

The bill would require the board to convene a working group to review and evaluate options for the closure of certain petroleum underground storage tanks and to submit recommendations to the Secretary for Environmental Protection by January 1, 2001.

(4) The existing California Environmental Quality Act requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if the lead agency finds that the project will not have that effect, unless the project is exempt from the act.

This bill would, until January 1, 2003, impose certain requirements on districts and lead agencies, as defined, for purposes of that act, with regard to the processing of permits and environmental impact reports for a construction project consisting of facilities, processing units, or equipment necessary to produce Phase 3 reformulated gasoline, as defined, thereby imposing a state-mandated local program.

(5) Existing law requires a person who digs, bores, or drills a water well, cathodic protection well, or a monitoring well, or abandons or destroys a well, or deepens or reperforates a well, to file a report of

completion with the Department of Water Resources within 30 days after the construction or alteration is completed. Under existing law, those reports may not be made available to the public, except to a person who obtains a written authorization from the owner of the well.

This bill would also allow a person performing an environmental cleanup study under order from a regulatory agency to obtain a report with regard to specified wells.

(6) Under existing law, until January 1, 2002, the State Department of Health Services is authorized to expend the money in the Drinking Water Treatment and Research Fund in the State Treasury to make payments to public water systems for the costs of treating contaminated groundwater and surface water for drinking water purposes, investigating contamination, acquiring alternate drinking water supplies, and for conducting research into treatment technologies. Existing law, operative June 30, 1999, requires the board to annually transfer $5,000,000, from June 30, 1999, until January 1, 2002, from the Underground Storage Tank Cleanup Fund to the drinking water fund for expenditure for those purposes, if a public drinking water well has been contaminated by an oxygenate and there is substantial evidence that the contamination was caused by a release from an underground storage tank.

This bill would extend the operation of the provision providing for the transfer of those funds from January 1, 2002, to January 1, 2010.

The bill would require the board to transfer $5,000,000 from the Underground Storage Tank Cleanup Fund to the drinking water fund, if the department makes a specified determination.

(7) Existing law, until December 22, 2005, or except as specified, requires the Trade and Commerce Agency to conduct a program to make loans to small businesses to upgrade, replace, or remove petroleum underground storage tanks to meet applicable local, state, or federal standards and to take corrective actions. Under existing law, funds in the Petroleum Underground Storage Tank Financing Account in the General Fund are continuously appropriated to the agency, without regard to fiscal year, for making these loans. Existing law specifies that the maximum amount of a loan is $750,000, but provides that, if at least $6,500,000 is not transferred to the account each fiscal year, the maximum amount of a loan is $350,000 an applicant is restricted to one loan at any one time.

This bill would delete the contingency provision thereby decreasing the maximum amount of a loan and restricting an applicant to one loan at any one time. The bill would additionally authorize the agency to conduct a grant program to assist small businesses to comply with the new requirements imposed by the bill on petroleum underground storage tanks and tanks with single-walled components that are located, as specified. The bill would specify eligibility requirements for grant applicants and the

maximum amount of those grants. The bill would require the agency, on or before April 1, 2001, to submit a report to the Legislature detailing the status of the grant program.

The bill would authorize the agency to expend the money in the Petroleum Underground Storage Tank Financing Account, upon appropriation by the Legislature, to make those grants.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

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

SECTION 1. Section 15399.10 of the Government Code is amended to read:

15399.10. For purposes of this chapter, the following terms have the following meaning:

(a) ''Agency'' means the Trade and Commerce Agency.

(b) ''Board'' means the State Water Resources Control Board.

(c) ''Loan applicant'' means a small business that applies to the agency for a loan pursuant to this chapter.

(d) ''Grant applicant'' means a small business that applies to the agency for a grant pursuant to this chapter.

(e) ''Tank'' means an underground storage tank, as defined in Section 25281 of the Health and Safety Code, used for the purpose of storing petroleum, as defined in Section 25299.22 of the Health and Safety Code. ''Tank'' also includes under-dispenser containment systems, spill containment systems, enhanced monitoring and control systems, and vapor recovery systems and dispensers connected to the underground piping and the underground storage tank.

(f) ''Project tank'' means one or more tanks that would be upgraded, replaced, or removed with loan or grant funds.

SEC. 2. Section 15399.11 of the Government Code is amended to read:

15399.11. The agency shall conduct a loan program pursuant to this chapter, to assist small businesses in upgrading, replacing, or removing tanks to meet applicable local, state, or federal standards. Loan funds may also be used for corrective actions, as defined in Section 25299.14 of the Health and Safety Code. The agency shall also conduct a grant program, pursuant to this chapter, to assist small businesses to comply with Sections 25284.1 and 25292.4 of the Health and Safety Code.

SEC. 3. Section 15399.14 of the Government Code is amended to read:

15399.14. (a) The minimum amount that the agency may loan an applicant is ten thousand dollars ($10,000), and the maximum amount that the agency may loan an applicant is seven hundred fifty thousand dollars ($750,000).

(b) The term of the loan shall be for a maximum of 20 years if secured by real property, and for 10 years if not secured by real property. The interest rate for loans shall be set at the rate earned by the Surplus Money Investment Fund at the time of the loan commitment.

(c) Loan funds may be used to finance up to 100 percent of the costs necessary to upgrade, remove, or replace project tanks, including corrective actions, to meet applicable local, state, or federal standards, including, but not limited to, any design, construction, monitoring, operation, or maintenance requirements adopted pursuant to Sections 25284.1 and 25292.4 of the Health and Safety Code.

(d) The repeal of this chapter pursuant to Section 15399.21 shall not extinguish a loan obligation and shall not impair the deed of trust or other collateral made pursuant to this chapter or the authority of the state to pursue appropriate action for collection.

(e) The agency may charge a loan fee to loan applicants of up to 2 percent of the requested loan amount. The loan fee shall be deposited in the Petroleum Financing Collection Account.

SEC. 4. Section 15399.15 is added to the Government Code, to read:

15399.15. (a) The agency shall make grant funds available from the Petroleum Underground Storage Tank Financing Account to eligible grant applicants who meet all of the following eligibility requirements:

(1) The grant applicant is a small business, pursuant to the following requirements:

(A) The grant applicant meets the conditions for a small business as defined in Section 632 of Title 15 of the United States Code, and in the federal regulations adopted to implement that section, as specified in Section 121.2 of Title 13 of the Code of Federal Regulations.

(B) The grant applicant employs fewer than 20 full-time and part-time employees, is independently owned and operated, and is not dominant in its field of operation.

(2) The principal office of the grant applicant is domiciled in the state, and the officers of the grant applicant are domiciled in this state.

(3) The grant applicant, the applicant’s family, or an affiliated entity, has owned or operated the project tank since January 1, 1997.

(4) All tanks owned and operated by the grant applicant are subject to compliance with Chapter 6.7 (commencing with Section

25280) of Division 20 of the Health and Safety Code, and the regulations adopted pursuant to that chapter.

(5) The facility where the project tank is located has sold at retail less than 900,000 gallons of gasoline annually for each of the two years preceding the submission of the grant application. The numbers of gallons sold shall be based upon taxable sales figures provided to the State Board of Equalization for that facility.

(6) The grant applicant owns or operates a tank that is in compliance with Section 25291 of the Health and Safety Code, or subdivisions (d) and (e) of Section 25292, of the Health and Safety Code, and the regulations adopted to implement those sections.

(7) The grant applicant has acquired debt, or is currently making payments on a preexisting loan, to upgrade the grant applicant's underground storage tanks to meet state and federal requirements prior to the December 22, 1998, deadline.

(8) The facility where the project tank is located was legally in business retailing gasoline after January 1, 1999.

(b) Grant funds may only be used to pay the costs necessary to comply with the requirements of Section 25284.1 or 25292.4, or both, of the Health and Safety Code.

(c) If the total amount of grant requests by eligible grant applicants to the agency pursuant to this section exceed, or are anticipated to exceed, the amount in the Petroleum Underground Storage Tank Financing Account, the agency may adopt a priority ranking list to award grants based upon the level of demonstrated financial hardship of the eligible grant applicant, or the relative impact upon the local community where the project tank is located if the claim is denied.

SEC. 5. Section 15399.15.1 is added to the Government Code, to read:

15399.15.1. A complete grant application shall include all of the following information:

(a) Evidence of eligibility.

(b) Financial and legal documents necessary to demonstrate the applicant's financial hardship, if any. The agency shall develop a standard list of documents required of all applicants, and may also request from individual applicants additional financial and legal documents not provided on this list.

(c) An explanation of the actions the applicant is required to take comply with the requirements of Sections 25284.1 and 25292.4 of the Health and Safety Code.

(d) A detailed cost estimate of the actions that are required to be completed for the project tanks to comply with applicable local, state, or federal standards.

(e) Any other information that the department determines to be necessary to include in an application form.

SEC. 6. Section 15399.15.2 is added to the Government Code, to read:

15399.15.2. (a) (1) The minimum amount that the agency may grant an applicant is ten thousand dollars ($10,000), and the maximum amount that the agency may grant an applicant is fifty thousand dollars ($50,000).

(b) Grant funds may be used to finance up to 100 percent of the costs necessary to upgrade project tanks to comply with Sections 25284.1 and 25292.4 of the Health and Safety Code. No person or entity is eligible to receive more than fifty thousand dollars ($50,000) in grant funds pursuant to this chapter.

SEC. 7. Section 15399.17 of the Government Code is amended to read:

15399.17. (a) The Petroleum Underground Storage Tank Financing Account is hereby created in the General Fund. The Petroleum Underground Storage Tank Financing Account is created for both of the following purposes:

(1) Receiving federal, state, and local money.

(2) Receiving repayments of loans and interest and late fees on those accounts.

(b) (1) Notwithstanding Section 13340, the funds deposited into the account are hereby continuously appropriated to the agency without regard to fiscal year for making loans pursuant to this chapter.

(2) The funds deposited in the account may be expended by the agency to make grants pursuant to this chapter, upon appropriation by the Legislature.

(c) The agency shall annually make available not more than 33 percent of the available funds from the account for the purposes of providing grants pursuant to this chapter.

(d) Notwithstanding Section 16305.7, all interest or other increments resulting from the investment of the funds in the Petroleum Underground Storage Tank Financing Account pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 shall be deposited in the Petroleum Underground Storage Tank Financing Account.

(e) All interest accruing on interest payments from loan applicants or interest earned on the funds in the Petroleum Underground Storage Tank Financing Account shall be deposited in a subaccount of the account.

SEC. 8. Section 15399.19 of the Government Code, as added by Section 6 of Chapter 814 of the Statutes of 1995, is amended and renumbered to read:

15399.19.1. (a) On or before January 1, 1997, and on or before January 1 annually thereafter, the agency shall submit an annual report to the Legislature concerning the performance of the grant and loan program established by this chapter, including the number

and size of grants and loans made, characteristics of grant and loan recipients, the number of underground storage tanks removed and upgraded as a result of the grant and loan program, and the amount of money spent on administering the program. Copies of the report shall be submitted to the appropriate fiscal and policy committees of the Legislature and, upon request, to individual Members of the Legislature.

(b) Notwithstanding Section 7550.5 of the Government Code, on or before April 1, 2001, the agency shall submit a report to the Legislature detailing the status of the grant program, the remaining needs, if any, of eligible candidates for financial assistance from the account, and any suggested statutory changes so that the account may better serve affected small businesses.

SEC. 9. Section 65964 is added to the Government Code, to read:

65964. (a) For the purposes of this section, the following definitions apply:

(1) ''Permitting agency'' means a city or county, or an air pollution control district, as defined in Section 65926, authorized to issue a permit or other preconstruction authorization to construct a Phase 3 reformulated gasoline project.

(2) ''Phase 3 Reformulated Gasoline Project'' means a project to construct or modify a facility consisting of processing units or other equipment necessary to produce California Phase 3 Reformulated Gasoline, as required to be produced pursuant to paragraph 6 of Executive Order D-5-99, and that is located within the physical boundaries of an existing oil refinery or terminal.

(b) A permitting agency for a phase 3 reformulated gasoline project shall undertake all reasonable efforts to expedite action on the permit or other authorization with the objective of acting upon the permit or other authorization within 12 months of receiving a completed application for a permit or other authorization, if the permit applicant has made reasonable efforts to cooperate with the permitting agency in expediting the processing of the permit or other authorization.

(c) The permitting agency, or a permit applicant with the concurrence of the permitting agency, may request the State Air Resources Board or the State Energy Resources Conservation and Development Commission, or both agencies, to provide appropriate assistance to the permitting agency to assist that agency in achieving the objective of acting upon the permit or other authorization within 12 months.

(d) Upon receipt of a request made pursuant to subdivision (c), the State Air Resources Board or the State Energy Resources Conservation and Development Commission, or both agencies, shall provide appropriate assistance to a permitting agency with the objective of acting upon a permit for a phase 3 reformulated gasoline project within 12 months.

(e) Nothing in this section shall affect any of the following:

(1) The authority or obligation of a public agency under any law, regulation, or ordinance.

(2) The ability of a public agency to hold a public hearing upon, to comment upon, or to impose conditions upon, a reformulated gasoline project.

(3) The rights or remedies of any party pursuant to any law, regulation, or ordinance.

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

SEC. 10. Section 25284.1 is added to the Health and Safety Code, to read:

25284.1. (a) The board shall take all of the following actions with regard to the prevention of unauthorized releases from petroleum underground storage tanks:

(1) On or before June 1, 2000, initiate a field-based research program to quantify the probability and environmental significance of releases from underground storage tank systems meeting the 1998 upgrade requirements specified in subdivision (c) of Section 25284. The research program shall do all of the following:

(A) Seek to identify the source and causes of releases and any deficiencies in leak detection systems.

(B) Include single-walled, double-walled, and hybrid tank systems, and avoid bias toward known leaking underground storage tank systems by including a statistically valid sample of all operating underground storage tank systems.

(C) Include peer review.

(2) Complete the research program on or before June 1, 2002.

(3) Use the results of the research program to develop appropriate changes in design, construction, monitoring, operation, and maintenance requirements for tank systems.

(4) On or before January 1, 2001, adopt regulations to do all of the following:

(A) (i) Require underground storage tank owners, operators, service technicians, installers, and inspectors to meet minimum industry-established training standards and require tank facilities to be operated in a manner consistent with industry-established best management practices.

(ii) The board shall implement an outreach effort to educate small business owners or operators on the importance of the regulations adopted pursuant to this subparagraph.

(B) Require testing of the secondary containment components, including under-dispenser and pump turbine containment components, upon initial installation of a secondary containment component and periodically thereafter, to ensure that the system is capable of containing releases from the primary containment until

a release is detected and cleaned up. The board shall consult with the petroleum industry and local government to assess the appropriate test or tests that would comply with this subparagraph.

(C) Require annual testing of release detection sensors and alarms, including under-dispenser and pump turbine containment sensors and alarms. The board shall consult with the petroleum industry and local government to assess the appropriate test or tests that would comply with this subparagraph.

(5) (A) Require an owner or operator of an underground storage tank installed after July 1, 1987, if a tank is located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping data base, to have the underground storage tank system fitted, on or before July 1, 2001, with under-dispenser containment or a spill containment or control system that is approved by the board as capable of containing any accidental release.

(B) Require all underground storage tanks installed after January 1, 2000, to have the tank system fitted with under-dispenser containment or a spill containment system or control system to meet the requirements of subparagraph (A).

(C) Require an owner or operator of an underground storage tank that is not otherwise subject to subparagraph (A), and not subject to subparagraph (B), to have the underground storage tank system fitted to meet the requirements of subparagraph (A), on or before December 31, 2003.

(D) On and after January 1, 2002, no person shall install, repair, maintain, or calibrate monitoring equipment for an underground storage tank unless that person satisfies both of the following requirements:

(i) The person has fulfilled training standards identified by the board in regulations adopted pursuant to this section.

(ii) The person possesses a Class ''A'' General Engineering Contractor License, C-10 Electrical Contractor License, C-34 Pipeline Contractor License, C-36 Plumbing Contractor License, or C-61 (D40) Limited Specialty Service Station Equipment and Maintenance Contractor License issued by the Contractors' State License Board.

(E) Loans and grants for the installation of under-dispenser containment or a spill containment or control system shall be made available pursuant to Chapter 8.5 (commencing with Section 15399.10) of Part 6.7 of Division 3 of Title 2 of the Government Code.

(6) Convene a panel of local agency and regional board representatives to review existing enforcement authority and procedures and to advise the board of any changes that are needed to enable local agencies to take adequate enforcement action against owners and operators of noncompliant underground storage tank facilities. The panel shall make its recommendations to the board on or before September 30, 2001. Based on the recommendations of the

panel, the board shall also establish effective enforcement procedures in cases involving fraud.

(b) On or before July 1, 2001, the Contractors State License Board, in consultation with the board, the petroleum industry, air pollution control districts, air quality management districts, and local government, shall review its requirements for petroleum underground storage tank system installation and removal contractors and make changes, where appropriate, to ensure these contractors are qualified.

SEC. 11. Section 25288 of the Health and Safety Code is amended to read:

25288. (a) The local agency shall inspect every underground tank system within its jurisdiction at least once every year. The purpose of the inspection is to determine whether the tank system complies with the applicable requirements of this chapter and the regulations adopted by the board pursuant to Section 25299.3, including the design and construction standards of Section 25291 or 25292, whichever is applicable, whether the operator has monitored and tested the tank system as required by the permit, and whether the tank system is in a safe operating condition.

(b) After an inspection conducted pursuant to subdivision (a), the local agency shall prepare a compliance report detailing the inspection and shall send a copy of this report to the permitholder and the owner or operator, if the owner or operator is not the permitholder. Any report prepared pursuant to this section shall be consolidated into any other inspection reports required pursuant to Chapter 6.11 (commencing with Section 25404), the requirements listed in subdivision (c) of Section 25404, and the regulations adopted to implement the requirements listed in subdivision (c) of Section 25404.

(c) In lieu of the annual local agency inspections, the local agency may require the permitholder to employ a special inspector to conduct the annual inspection. The local agency shall supply the permitholder with a list of at least three special inspectors that are qualified to conduct the inspection. The permitholder shall employ a special inspector from the list provided by the local agency. The special inspector’s authority shall be the same as that of the local agency as set forth in subdivision (a).

(d) Within 60 days after receiving a compliance report or special inspection report prepared in accordance with subdivision (b) or (c), respectively, the permitholder shall file with the local agency a plan to implement all recommendations contained in the compliance report or shall demonstrate, to the satisfaction of the local agency, why these recommendations should not be implemented. Any corrective action conducted pursuant to the recommendations in the report shall be taken pursuant to Sections 25299.36 and 25299.37.

SEC. 12. Section 25292.4 is added to the Health and Safety Code, to read:

25292.4. (a) On and after November 1, 2000, an owner or operator of an underground storage tank system with a single-walled component that is located within 1,000 feet of a public drinking water well, as identified pursuant to the state G1S mapping data base, shall implement a program of enhanced leak detection or monitoring, in accordance with the regulations adopted by the board pursuant to subdivision (c).

(b) The board shall notify the owner and operator of each underground storage tank system that is located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping data base, of the owner and operators' responsibilities pursuant to this section. The board shall provide each local agency with a list of tank systems within the local agency's jurisdiction that are located within 1,000 feet of a public drinking water well, as identified pursuant to the state GIS mapping data base.

(c) The board shall adopt regulations to implement the enhanced leak detection and monitoring program required by subdivision (a). Before adopting these regulations, the board shall consult with the petroleum industry, local governments, environmental groups, and other interested parties to assess the appropriate technology and procedures to implement the enhanced leak detection or monitoring program required by subdivision (a). In adopting these regulations, the board shall consider existing leak detection technology and external monitoring techniques or procedures for underground storage tanks.

SEC. 13. Section 25299 of the Health and Safety Code is amended to read:

25299. (a) Any operator of an underground tank system shall be liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) for each underground storage tank for each day of violation for any of the following violations:

(1) Operating an underground tank system which has not been issued a permit, in violation of this chapter.

(2) Violation of any of the applicable requirements of the permit issued for the operation of the underground tank system.

(3) Failure to maintain records, as required by this chapter.

(4) Failure to report an unauthorized release, as required by Sections 25294 and 25295.

(5) Failure to properly close an underground tank system, as required by Section 25298.

(6) Violation of any applicable requirement of this chapter or any requirement of this chapter or any regulation adopted by the board pursuant to Section 25299.3.

(7) Failure to permit inspection or to perform any monitoring, testing, or reporting required pursuant to Section 25288 or 25289.

(8) Making any false statement, representation, or certification in any application, record, report, or other document submitted or required to be maintained pursuant to this chapter.

(9) Tampering with or otherwise disabling automatic leak detection devices or alarms.

(b) Any owner of an underground tank system shall be liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for each underground storage tank, for each day of violation, for any of the following violations:

(1) Failure to obtain a permit as specified by this chapter.

(2) Failure to repair or upgrade an underground tank system in accordance with this chapter.

(3) Abandonment or improper closure of any underground tank system subject to this chapter.

(4) Knowing failure to take reasonable and necessary steps to assure compliance with this chapter by the operator of an underground tank system.

(5) Violation of any applicable requirement of the permit issued for operation of the underground tank system.

(6) Violation of any applicable requirement of this chapter or any regulation adopted by the board pursuant to Section 25299.3.

(7) Failure to permit inspection or to perform any monitoring, testing, or reporting required pursuant to Section 25288 or 25289.

(8) Making any false statement, representation, or certification in any application, record, report, or other document submitted or required to be maintained pursuant to this chapter.

(c) Any person who intentionally fails to notify the board or the local agency when required to do so by this chapter or who submits false information in a permit application, amendment, or renewal, pursuant to Section 25286, is liable for a civil penalty of not more than five thousand dollars ($5,000) for each underground storage tank for which notification is not given or false information is submitted.

(d) (1) Any person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) or more than ten thousand dollars ($10,000), by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.

(2) Any person who intentionally disables or tampers with an automatic leak detection system in a manner that would prevent the automatic leak detection system from detecting a leak or alerting the owner or operator of the leak, shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) or more than ten

thousand dollars ($10,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(e) In determining both the civil and criminal penalties imposed pursuant to this section, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person who holds the permit.

(f) Each civil penalty or criminal fine imposed pursuant to this section for any separate violation shall be separate, and in addition to, any other civil penalty or criminal fine imposed pursuant to this section or any other provision of law, and shall be paid to the treasury of the local agency or state, whichever is represented by the office of the city attorney, district attorney, or Attorney General bringing the action. All penalties or fines collected on behalf of the board or a regional board by the Attorney General shall be deposited in the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund, and are available for expenditure by the board, upon appropriation, pursuant to Section 13441 of the Water Code.

(g) Paragraph (9) of subdivision (a) does not prohibit the owner or operator of an underground storage tank, or his or her designee, from maintaining, repairing, or replacing automatic leak detection devices or alarms associated with that tank.

SEC. 14. Section 29299.18 is added to the Health and Safety Code, to read:

25299.18. ‘‘MTBE’’ means methyl tertiary-butyl ether.

SEC. 15. Section 25299.37.1 of the Health and Safety Code is amended to read:

25299.37.1. (a) No closure letter pursuant to this chapter shall be issued unless the soil or groundwater, or both, where applicable, at the site have been tested for MTBE and the results of that testing are known to the regional board.

(b) Subdivision (a) does not apply to a closure letter for a tank case for which the board, a regional board, or local agency determines that the tank has only contained diesel or jet fuel.

SEC. 16. Section 25299.38.1 is added to the Health and Safety Code, to read:

25299.38.1. (a) The board, in consultation with the State Department of Health Services, shall develop guidelines for the investigation and cleanup of MTBE and other ether-based oxygenates in groundwater. The guidelines shall include procedures for determining, to the extent practicable, whether the contamination associated with an unauthorized release of MTBE is from the tank system prior to the system’s most recent upgrade or

replacement or if the contamination is from an unauthorized release from the current tank system.

(b) The board, in consultation with the State Department of Health Services, shall develop appropriate cleanup standards for contamination associated with a release of MTBE.

SEC. 17. Section 25299.50 of the Health and Safety Code is amended to read:

25299.50. (a) The Underground Storage Tank Cleanup Fund is hereby created in the State Treasury. The money in the fund may be expended by the board, upon appropriation by the Legislature, for purposes of this chapter. From time to time, the board may modify existing accounts or create accounts in the fund or other funds administered by the board, which the board determines are appropriate or necessary for proper administration of this chapter.

(b) Except for funds transferred to the Drinking Water Treatment and Research Fund created pursuant to subdivision (c) of Section 116367, all of the following amounts shall be deposited in the fund:

(1) Money appropriated by the Legislature for deposit in the fund.

(2) The fees, interest, and penalties collected pursuant to Article 5 (commencing with Section 25299.40).

(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money deposited in the fund.

(4) Any money recovered by the fund pursuant to Section 25299.70.

(5) Any civil penalties collected by the board or regional board pursuant to Section 25299.76.

(c) (1) Notwithstanding subdivision (a), any funds appropriated by the Legislature in the annual Budget Act for payment of a claim for the costs of a corrective action in response to an unauthorized release, that are encumbered for expenditure for a corrective action pursuant to a letter of credit issued by the board pursuant to subdivision (e) of Section 25299.57, but are subsequently not expended for that corrective action claim, may be reallocated by the board for payment of other claims for corrective action pursuant to Section 25299.57.

(2) Notwithstanding Section 7550.5 of the Government Code, the board shall report at least once every three months on the implementation of this subdivision to the Senate Committee on Budget and Fiscal Review, the Senate Committee on Environmental Quality, the Assembly Committee on Budget, and the Assembly Committee on Environmental Safety and Toxic Materials, or to any successor committee, and to the Director of Finance.

SEC. 18. Section 25299.51 of the Health and Safety Code is amended to read:

25299.51. The board may expend the money in the fund for all the following purposes:

(a) In addition to the purposes specified in subdivisions (c), (d), and (e), for expenditure by the board for the costs of implementing this chapter, which shall include costs incurred by the board pursuant to Article 8.5 (commencing with Section 25299.80.1).

(b) To pay for the administrative costs of the State Board of Equalization in collecting the fee imposed by Article 5 (commencing with Section 25299.40).

(c) To pay for the reasonable and necessary costs of the regional board or local agency for corrective action pursuant to Section 25299.36, up to one million five hundred thousand dollars ($1,500,000) per occurrence. The Legislature may appropriate the money in the fund for expenditure by the board, without regard to fiscal year, for prompt action in response to any unauthorized release.

(d) To pay for the costs of an agreement for the abatement of, and oversight of the abatement of, an unauthorized release of hazardous substances from underground storage tanks, by a local agency, as authorized by Section 25297.1 or by any other provision of law, except that, for the purpose of expenditure of these funds, only underground storage tanks, as defined in Section 25299.24, shall be the subject of the agreement.

(e) To pay for the costs of cleanup and oversight of unauthorized releases at abandoned tank sites. The board shall not expend more than 25 percent of the total amount of money collected and deposited in the fund annually for the purposes of this subdivision and subdivision (h).

(f) To pay claims pursuant to Section 25299.57.

(g) To pay, upon order of the Controller, for refunds pursuant to Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code.

(h) To pay for the reasonable and necessary costs of the regional board or the local agency for corrective action pursuant to subdivision (g) of Section 25299.37.

(i) To pay claims pursuant to Section 25299.58.

SEC. 19. Section 25299.52 of the Health and Safety Code is amended to read:

25299.52. (a) The board shall adopt a priority ranking list at least annually for awarding claims pursuant to Section 25299.57 or 25299.58. Any owner or operator eligible for payment of a claim pursuant to Section 25299.54 shall file an application with the board within a reasonable period, to be determined by the board, prior to adoption of the priority ranking list.

(b) Except as provided in subdivision (c), in awarding claims pursuant to Section 25299.57 or 25299.58, the board shall pay claims in accordance with the following order of priority:

(1) Owners of tanks who are eligible to file a claim pursuant to subdivision (e) of Section 25299.54.

(2) Owners and operators of tanks that are either of the following:

(A) An owner or operator of a tank that is a small business, by meeting the requirements of subdivision (d) of Section 14837 of the Government Code. An owner or operator that meets that definition of small business, but who is domiciled or has its principal office outside of the state, shall be classified in this category if the owner or operator otherwise meets the requirements of subdivision (d) of Section 14837 of the Government Code with regard to the number of employees and the total annual revenues received.

(B) An owner or operator that is a city, county, district, or nonprofit organization that receives total annual revenues of not more than seven million dollars ($7,000,000). In determining the amount of a nonprofit organization's annual revenues, the board shall calculate only those revenues directly attributable to the particular site at which the tank or tanks for which the claim is submitted are located.

(3) Owners or operators of tanks that are either of the following:

(A) The owner or operator owns and operates a business that employs fewer than 500 full-time and part-time employees, is independently owned and operated, and is not dominant in its field of operation.

(B) The owner or operator is a city, county, district, or nonprofit organization that employs fewer than 500 full-time and part-time employees. In determining the number of employees employed by a nonprofit organization, the board shall calculate only those employees employed at the particular site at which a tank for which the claim is being submitted is located.

(4) All other tank owners and operators.

(c) (1) In any year in which the board is not otherwise authorized to award at least 15 percent of the total amount of funds committed for that year to tank owners or operators in those categories set forth in paragraph (3) or (4) of subdivision (b) due to the priority ranking list award limitations set forth in subdivision (b), the board shall allocate between 14 and 16 percent of the total amount of funds committed for that year to each category that is not otherwise entitled to at least that level of committed funding for that year.

(2) If the total amount of claims outstanding in one or more of the priority categories specified in paragraph (3) or (4) of subdivision (b) is less than 15 percent of the total amount annually appropriated from the fund for the purpose of awarding claims, the board shall reserve for making claims in that category only the amount that is necessary to satisfy the outstanding claims in that category.

(d) The board shall give priority to a claim that is filed before September 24, 1993, by a city, county, or district that is eligible for payment pursuant to Section 25299.54 in the following manner:

(1) The board shall determine whether the priority category specified for a city, county, or district pursuant to subparagraph (B) of paragraph (2), or pursuant to subparagraph (B) of paragraph (3),

of subdivision (b) requires that the priority ranking of the claim be changed.

(2) If the priority ranking of the claim is changed and the claim is placed into either the priority category specified in subparagraph (B) of paragraph (2), or specified in subparagraph (B) of paragraph (3), of subdivision (b), the board shall pay all other claims that were assigned to that priority category prior to January 1, 2000, before paying the claim of the city, county, or district.

(e) The board may, to carry out the intent specified in paragraph (1) of subdivision (b) of Section 25299.10 and to expedite the processing and awarding of claims pursuant to Sections 25299.57 and 25299.58, implement the contracting procedures required by Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, as may be necessary, to alleviate the claims processing and award backlog. If, at the conclusion of any fiscal year, 25 percent or more of the funds appropriated annually for awards to claimants during that year have not actually been obligated by the board, the board shall, at its next regularly scheduled meeting, determine, in a public hearing, whether, given the circumstances of the awards backlog, it is appropriate to implement those contracting procedures for some, or all, of the claims filed with the board.

(f) For purposes of this section, the following definitions shall apply:

(1) ''Nonprofit organization'' means a nonprofit public benefit organization incorporated pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code.

(2) ''Annual revenue,'' with respect to public entities, means the total annual general purpose revenues, excluding all restricted revenues over which the governing agency has no discretion, as reported in the Annual Report of Financial Transactions submitted to the Controller, for the latest fiscal year ending prior to the date the fund reimbursement claim application was filed.

(3) ''Annual revenue,'' with respect to nonprofit organizations, means the total annual revenues, as shown in an annual fiscal report filed with the Registry of Charitable Trusts of state and federal tax records, based on the latest fiscal year ending prior to the date the fund reimbursement claim application was filed.

(4) ''General purpose revenues,'' as used in paragraph (2), means revenues consisting of all of the following: secured and unsecured revenues; less than countywide funds, secured and unsecured; prior year secured and unsecured penalties and delinquent taxes; sales and use taxes; transportation taxes (nontransit); property transfer taxes; transient lodging taxes; timber yield taxes; aircraft taxes; franchise taxes; fines, forfeitures, and penalties; revenues from use of money and property; motor vehicle in-lieu taxes; trailer coach in-lieu taxes; homeowner property tax relief; open-space tax relief; and cigarette taxes.

SEC. 20. Section 25299.57 of the Health and Safety Code is amended to read:

25299.57. (a) If the board makes the determination specified in subdivision (d), the board may only pay for the costs of a corrective action that exceeds the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million five hundred thousand dollars ($1,500,000) for each occurrence. In the case of an owner or operator who, as of January 1, 1988, was required to perform corrective action, who initiated that corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), and who is undertaking the corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), the owner or operator may apply to the board for satisfaction of a claim filed pursuant to this article. It is the intent of the Legislature that claimants applying for satisfaction of claims from the fund be notified of eligibility for reimbursement in a prompt and timely manner and that a letter of credit or commitment that will obligate funds for reimbursement follow the notice of eligibility as soon thereafter as possible.

(b) (1) For claims eligible for reimbursement pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the actual cost of corrective action to the board, which shall either approve or disapprove the costs incurred as reasonable and necessary.

(2) The board shall not reject any actual costs of corrective action in a claim solely on the basis that the invoices submitted fail to sufficiently detail the actual costs incurred, if all of the following applies:

(A) Auxiliary documentation is provided which documents to the board’s satisfaction that the invoice is for necessary corrective action work.

(B) The costs of corrective action work in the claim are reasonably commensurate with similar corrective action work performed during the same time period covered by the invoice for which reimbursement is sought.

(C) The invoices include a brief description of the work performed, the date that the work was performed, the vendor, and the amount.

(c) For claims eligible for prepayment pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the estimated cost of the corrective action to the board, which shall approve or disapprove the reasonableness of the cost estimate.

(d) Except as provided in subdivision (j), a claim specified in subdivision (a) may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant is required to undertake or contract for corrective action pursuant to Section 25299.37, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code.

(3) (A) Except as provided in subparagraph (B), the claimant has complied with Section 25299.31 and the permit requirements of Chapter 6.7 (commencing with Section 25280).

(B) All claimants who file their claim on or after January 1, 1994, and all claimants who filed their claim prior to that date but are not eligible for a waiver of the permit requirement pursuant to board regulations in effect on the date of the filing of the claim, and who did not obtain or apply for any permit required by subdivision (a) of Section 25284 by January 1, 1990, shall be subject to subparagraph (A) regardless of the reason or reasons that the permit was not obtained or applied for. However, on and after January 1, 1994, the board may waive the provisions of subparagraph (A) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement prior to January 1, 1990, and there was no intent to intentionally avoid the permit requirement or the fees associated with the permit.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all current underground storage tank fees imposed pursuant to Section 25299.41 and all prior fees due on and after January 1, 1991.

(C) (i) A claimant exempted pursuant to subparagraph (B) shall obtain a level of financial responsibility twice as great as the amount which the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32.

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph (B) were satisfied prior to the causing of any contamination. That demonstration may be made through a certification issued by the permitting agency based on site and tank tests at the time of permit application or in any other manner acceptable to the board.

(D) The board shall rank all claims resubmitted pursuant to subparagraph (B) lower than all claims filed before January 1, 1994, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(4) The board has approved either the costs incurred for the corrective action pursuant to subdivision (b) or the estimated costs for corrective action pursuant to subdivision (c).

(e) The board shall provide the claimant, whose cost estimate has been approved, a letter of credit authorizing payment of the costs from the fund.

(f) The claimant may submit a claim for partial payment to cover the costs of corrective action performed in stages, as approved by the board.

(g) (1) Any claimant who submits a claim for payment to the board shall submit multiple bids for prospective costs as prescribed in regulations adopted by the board pursuant to Section 25299.77.

(2) Any claimant who submits a claim to the board for the payment of professional engineering and geologic work shall submit multiple proposals and fee estimates, as required by the regulations adopted by the board pursuant to Section 25299.77. The claimant's selection of the provider of these services is not required to be based on the lowest estimated fee, if the fee estimate conforms with the range of acceptable costs established by the board.

(3) Any claimant who submits a claim for payment to the board for remediation construction contracting work shall submit multiple bids, as required in the regulations adopted by the board pursuant to Section 25299.77.

(4) Paragraphs (1), (2), and (3) do not apply to a tank owned or operated by a public agency if the prospective costs are for private professional services within the meaning of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code and those services are procured in accordance with the requirements of that chapter.

(h) The board shall provide, upon the request of a claimant, assistance to the claimant in the selection of contractors retained by the claimant to conduct reimbursable work related to corrective actions. The board shall develop a summary of expected costs for common remedial actions. This summary of expected costs may be used by claimants as a guide in the selection and supervision of consultants and contractors.

(i) The board shall pay, within 60 days from the date of receipt of an invoice of expenditures, all costs specified in the work plan developed pursuant to Section 25299.37, and all costs which are otherwise necessary to comply with an order issued by a local, state, or federal agency.

(j) (1) The board shall pay a claim of not more than three thousand dollars ($3,000) per occurrence for regulatory technical assistance to an owner or operator who is otherwise eligible for reimbursement under this chapter.

(2) For the purposes of this subdivision, regulatory technical assistance is limited to assistance from a person, other than the

claimant, in the preparation and submission of a claim to the fund. Regulatory technical assistance does not include assistance in connection with proceedings under Section 25299.39.2 or 25299.56 or any action in court.

(k) (1) Notwithstanding any other provision of this section, the board shall pay a claim for the costs of corrective action to a person who owns property on which is located a release from a petroleum underground storage tank which has been the subject of a completed corrective action and for which additional corrective action is required because of additionally discovered contamination from the previous release, only if the person who carried out the earlier and completed corrective action was eligible for, and applied for, reimbursement pursuant to subdivision (b), and only to the extent that the amount of reimbursement for the earlier corrective action did not exceed the amount of reimbursement authorized by subdivision (a). Reimbursement to a claimant on a reopened site shall occur when funds are available, and reimbursement commitment shall be made ahead of any new letters of commitment to be issued, as of the date of the reopening of the claim, if funding has occurred on the original claim, in which case funding shall occur at the time it would have occurred under the original claim.

(2) For purposes of this subdivision, a corrective action is completed when the local agency or regional board with jurisdiction over the site or the board issues a closure letter pursuant to subdivision (h) of Section 25299.37.

SEC. 21. Section 25299.59 of the Health and Safety Code is amended to read:

25299.59. (a) If the board has paid out of the fund for any costs of corrective action, the board shall not pay any other claim out of the fund for the same costs.

(b) Notwithstanding Sections 25299.57 and 25299.58, the board shall not reimburse or authorize prepayment of any claim in an aggregate amount exceeding one million five hundred thousand dollars ($1,500,000), less the minimum level of financial responsibility specified in Section 25299.32, for a claim arising from the same event or occurrence. If a claim exceeds one million dollars ($1,000,000) for an occurrence, the board may only reimburse costs submitted pursuant to Section 25299.57 for those costs in excess of one million dollars ($1,000,000).

(c) The board may conduct an audit of any corrective action claim honored pursuant to this chapter. The claimant shall reimburse the state for any costs disallowed in the audit. A claimant shall preserve, and make available, upon request of the board or the board's designee, all records pertaining to the corrective action claim for a period of three years after the final payment is made to the claimant.

SEC. 22. Section 25299.81 of the Health and Safety Code is amended to read:

25299.81. (a) Except as provided in subdivisions (b) and (c), this chapter shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2011, deletes or extends that date.

(b) Notwithstanding subdivision (a), Article 1 (commencing with Section 25299.10), Article 2 (commencing with Section 25299.11), and Article 4 (commencing with Section 25299.36) shall not be repealed and shall remain in effect on January 1, 2011.

(c) The repeal of certain portions of this chapter does not terminate any of the following rights, obligations, or authorities, or any provision necessary to carry out these rights and obligations:

(1) The filing and payment of claims against the fund, until the moneys in the fund are exhausted. Upon exhaustion of the fund, any remaining claims shall be invalid.

(2) The repayment of loans, outstanding as of January 1, 2011, due and payable to the board under the terms of Chapter 8.5 (commencing with Section 15399.10) of Part 6.7 of Division 3 of Title 2 of the Government Code.

(3) The resolution of any cost recovery action.

(d) Notwithstanding Section 7550.5 of the Government Code, the board shall annually, on or before September 30, prepare and submit a report to the Legislature which describes the status of the fund and sets forth recommendations for legislative changes to improve the efficiency of the program established pursuant to this chapter, with a special emphasis on expediting environmental cleanup and the distribution of money from the fund, including alternative methods for the distribution of that money.

SEC. 23. Section 25299.94 of the Health and Safety Code is amended to read:

25299.94. (a) The board may pay the cost of corrective actions and third-party compensation claims that are submitted as part of a joint claim and which exceed the amount specified in subdivision (b), but do not exceed an amount equal to one million five hundred thousand dollars ($1,500,000) per occurrence, for which an owner or operator named in the joint claim is eligible for reimbursement under this chapter. If a claim from a contributing site exceeds one million dollars ($1,000,000) for an occurrence, the board may only reimburse costs submitted pursuant to Section 25299.57 for those costs in excess of one million dollars ($1,000,000).

(b) For each joint claim, the board may only pay for the costs of corrective action and third-party compensation claims that exceed the aggregate of the levels of financial responsibility required pursuant to Section 25299.32 for each owner or operator named in the joint claim.

(c) The costs of corrective action determined eligible for reimbursement shall be paid before third-party compensation claims.

(d) Except as provided in paragraph (1) of subdivision (e), reimbursement for costs of corrective action is limited to costs incurred by the joint claimants after executing an agreement under paragraph (7) of subdivision (a) of Section 25299.93.

(e) Both of the following costs of corrective action incurred at a contributing site may be reimbursed in accordance with subdivision (f):

(1) Costs incurred by an owner or operator before executing an agreement described in paragraph (7) of subdivision (a) of Section 25299.93.

(2) Costs relating to unauthorized releases that do not contribute to the commingled plume, but which are included in the occurrence which is the subject of the joint claim.

(f) An owner or operator may seek reimbursement of costs described in subdivision (e) by doing either of the following:

(1) Including a payment request for those corrective action costs with the claim filed under this article.

(2) Filing a claim or maintaining an existing claim under Article 6 (commencing with Section 25299.50).

(g) Any reimbursement received pursuant to subdivision (f) and any amount excluded from the payment based on the amount of financial responsibility required to be maintained shall be applied toward the limitations prescribed in subdivision (a).

(h) The board shall not reimburse a claimant or joint claimant for any eligible costs for which the claimant or joint claimant has been, or will be, compensated by another party.

SEC. 24. Section 25299.99.2 of the Health and Safety Code is amended to read:

25299.99.2. This article, notwithstanding Section 25299.81, shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2010, deletes or extends that date.

SEC. 25. Section 25299.99.3 is added to the Health and Safety Code, to read:

25299.99.3. In any fiscal year, if the department determines that less than two million dollars ($2,000,000) of unencumbered funds remain in the fund, it shall notify the board and the board shall transfer five million dollars ($5,000,000) from the Underground Storage Tank Cleanup Fund to the Drinking Water Treatment and Research Fund, to be expended for the purposes set forth in Section 116367, if a drinking water well has been contaminated with oxygenate and there is substantial evidence that the contamination was caused by a release from an underground storage tank.

SEC. 26. Section 43013.1 is added to the Health and Safety Code, to read:

43013.1. (a) The State Energy Resources Conservation and Development Commission, in consultation with, and the state board,

shall develop a timetable for the removal of MTBE from gasoline at the earliest possible date. In developing the timetable, the commission and the state board shall consider studies conducted by the commission and should ensure adequate supply and availability of gasoline.

(b) The state board shall ensure that regulations for California Phase 3 Reformulated Gasoline (CaRFG3) adopted pursuant to Executive Order D-5-99 meet all of the following conditions:

(1) Maintain or improve upon emissions and air quality benefits achieved by California Phase 2 Reformulated Gasoline in California as of January 1, 1999, including emission reductions for all pollutants, including precursors, identified in the State Implementation Plan for ozone, and emission reductions in potency-weighted air toxics compounds.

(2) Provide additional flexibility to reduce or remove oxygen from motor vehicle fuel in compliance with the regulations adopted pursuant to subdivision (a).

(3) Are subject to a multimedia evaluation pursuant to Section 43830.8.

(c) On or before April 1, 2000, the State Water Resources Control Board, in consultation with the Department of Water Resources and the State Department of Health Services, shall identify areas of the state that are most vulnerable to groundwater contamination by MTBE or other ether-based oxygenates. The State Water Resources Control Board shall direct resources to those areas for protection and cleanup on a prioritized basis. Loans for upgrading, replacing, or removing tanks shall be made available pursuant to Chapter 8.5 (commencing with Section 15399.10) of Part 6.7 of Division 3 of Title 2 of the Government Code. In identifying areas vulnerable to groundwater contamination, the State Water Resources Control Board shall consider criteria including, but not limited to, any one, or any combination of, the following:

(1) Hydrogeology.

(2) Soil composition.

(3) Density of underground storage tanks in relation to drinking water wells.

(4) Degree of dependence on groundwater for drinking water supplies.

SEC. 27. Section 43013.3 is added to the Health and Safety Code, to read:

43013.3. Notwithstanding Section 43013.1, the Secretary for Environmental Protection may prohibit the use of methyl tertiary-butyl ether (MTBE) in motor vehicle fuel prior to December 31, 2002, on a subregional basis in the Bay Area Air Basin, or in any other air basin in the state, if the secretary finds and determines all of the following:

(a) That the removal of MTBE in motor vehicle fuel on a subregional basis will not cause or contribute to the basin being designated as a state or federal nonattainment area for one or more ambient air quality standards, including, but not limited to, state or federal ambient air standards for ambient ozone and carbon monoxide.

(b) That the removal of MTBE in motor vehicle fuel will not increase potency-weighted air toxic compounds, or violate one or more control measures adopted by the state board or a district pursuant to Chapter 3.5 (commencing with Section 39650) of Part 2.

(c) That the subregion is a vulnerable groundwater area as defined in Section 25292.4.

(d) That the removal of MTBE will not significantly affect the price or supply of gasoline in the subregion.

SEC. 28. Section 43830.8 of the Health and Safety Code is repealed.

SEC. 29. Section 43830.8 is added to the Health and Safety Code, to read:

43830.8. (a) The state board may not adopt any regulation that establishes a specification for motor vehicle fuel unless that regulation, and a multimedia evaluation conducted by affected agencies and coordinated by the state board, are reviewed by the California Environmental Policy Council established pursuant to subdivision (b) of Section 71017 of the Public Resources Code.

(b) As used in this section, ''multimedia evaluation'' means the identification and evaluation of any significant adverse impact on public health or the environment, including air, water, or soil, that may result from the production, use, or disposal of the motor vehicle fuel that may be used to meet the state board's motor vehicle fuel specifications.

(c) The evaluation shall be based on the best available scientific data, written comments submitted by any interested person, and information collected by the state board. At a minimum, the evaluation shall address impacts associated with both of the following:

(1) Emissions of air pollutants, including ozone forming compounds, particulate matter, toxic air contaminants, and greenhouse gases.

(2) Contamination of surface water, groundwater, and soil.

(d) The state board shall prepare a written summary of the multimedia evaluation, and shall submit the summary for external scientific peer review in accordance with Section 57004. The state board shall maintain, for public inspection, a record of any relevant materials from any state agencies and any written public comments on the multimedia evaluation. The state board shall submit the written summary, and the results of the peer review, to the California Environmental Policy Council prior to the adoption of the proposed regulation.

(e) The California Environmental Policy Council shall complete its review of the multimedia review within 90 calendar days following notice from the state board of its intention to adopt a regulation subject to this section. If the council determines that any significant impact on public health or the environment is adverse, or that alternatives exist that would be less adverse, the council shall recommend those alternatives, or other measures that the state board or other state agencies may take, to reduce the adverse public health or environmental impacts. The council shall make all information relating to this review available to the public.

(f) Within 60 days after receiving a notice from the council of a determination of an adverse impact on public health or the environment, the state board shall revise the proposed regulation to avoid or reduce the adverse impacts, or the state agencies subject to this section shall take those appropriate actions that will, to the extent feasible, mitigate the adverse impacts, so that, on balance, there are no adverse impacts on public health or the environment.

(g) In conducting a multimedia evaluation pursuant to subdivision (a), the state board shall consult with other boards and departments within the California Environmental Protection Agency, the State Department of Health Services, the State Energy Resources Conservation and Development Commission, the Department of Forestry and Fire Protection, the Department of Food and Agriculture, and other state agencies with responsibility for, or expertise regarding, impacts that could result from the production, use, or disposal of the motor vehicle fuel that may be used to meet the specification.

(h) Notwithstanding subdivisions (a) to (g), inclusive, the state board may, on or before July 1, 2000, adopt a regulation that was formally proposed prior to January 1, 2000, to revise existing specifications for motor vehicle fuels, if the California Environmental Policy Council has reviewed the environmental assessment of the proposed revision and concurs that there will be no significant adverse impact on public health or the environment, including the impacts on air, water, or soil, that is likely to result from the changes in motor vehicle fuels that are expected to be used to meet the state board's revised motor vehicle fuel specifications. The state board shall deem the determination by the council to be final and conclusive.

(i) The state board shall enter into an agreement, consistent with Section 57004, to conduct an external scientific peer review of the state board's predictive model and, notwithstanding Section 7550.5 of the Government Code, shall submit the findings of that review to the Legislature, on or before July 1, 2000.

SEC. 30. Section 21178 is added to the Public Resources Code, to read:

21178. (a) This section applies only to an application received on or before January 1, 2001, by the permit issuing agency, for a permit to construct a project consisting of facilities, processing units, or equipment necessary to produce Phase 3 reformulated gasoline.

(b) A lead agency shall determine whether an environmental impact report should be prepared within 30 days of its determination that the application for the project is complete.

(c) If a lead agency determines that an environmental impact report should be prepared, the lead agency shall send a notice of preparation, as provided in Section 21080.4, within 10 days of that determination.

(d) If the environmental impact report will be prepared under contract with the lead agency pursuant to Section 21082.1, the lead agency shall issue a request for proposals for preparation of the report as soon as it has adequate information to prepare a request for proposals, and in any event, not later than 30 days after the time for response to the notice of preparation has expired. The contract shall be awarded within 30 days of the response date for the request for proposals.

(e) The period of time for public review and comment on a draft environmental impact report shall be 45 days from the date that a copy of the draft environmental impact report is sent with the public notice by first-class mail, or any other method that is at least as prompt, to any requester. The lead agency may extend the comment period for not more than 15 days if it determines that the public interest will be served. This subdivision shall not be construed to limit the authority of the lead agency to hold a public hearing to receive comments on the draft report after expiration of the 45-day period, or any extended review period. Any comment concerning the adequacy of a negative declaration or environmental impact report that is not received by the lead agency within the 45-day comment period, within any extended review period, or at a public hearing held after the expiration of the 45-day period, shall not be considered part of the record before the lead agency in considering a project approval.

(f) Where a public agency has approved a negative declaration or certified an environmental impact report and approved a project, but has failed to file within five working days after the approval becomes final, the notice required by subdivision (a) of Section 21152, the permit applicant may file a notice of approval, as specified in Section 21152 with the county clerk. The notice shall identify the approving agency and shall contain all of the information required by Section 21152. For purposes of Section 21167, a permit applicant's filing of a notice pursuant to this subdivision shall have the same effect as the public agency's filing of the notice required by Section 21152.

(g) No environmental impact report shall include a discussion of a ''no project'' alternative, nor shall it include a discussion of any alternative sites for the project that are outside of existing refinery boundaries.

(h) Any action or proceeding brought pursuant to subdivision (c) of Section 21167 shall be commenced within 20 days after the filing of the notice required by subdivision (a) of Section 21152 by the lead agency if the final environmental impact report is sent, by first-class mail at least 15 days before the notice is filed.

(i) For the purposes of this section, ''Phase 3 reformulated gasoline'' means gasoline meeting the specifications adopted by the State Air Resources Board on or before January 1, 2000, pursuant to Executive Order D-5-99.

(j) The deadlines established in subdivisions (b), (c), and (d) may be extended by a public agency, to the extent that delay is caused by a failure of the applicant to provide necessary information on a timely basis or by the applicant's delay in paying any fees required by the lead agency for preparation of the environmental impact report.

(k) This section shall be repealed on January 1, 2003, unless a later enacted statute, which is enacted on or before January 1, 2003, deletes or extends the date on which it is repealed.

SEC. 31. Section 25310.5 is added to the Public Resources Code, to read:

25310.5. If the commission determines the studies on methyl tertiary-butyl ether (MTBE) undertaken by the commission pursuant to Executive Order D-5-99 and pursuant to the Supplemental Report of the Budget Act of 1997 do not adequately assess the ongoing supply and availability of gasoline for the state's consumers associated with the phaseout of MTBE, notwithstanding Section 7550.5 of the Government Code, the commission shall submit a report to the Legislature and the Governor on or before July 1, 2000, concerning the impact of that phaseout on the supply and availability of gasoline.

SEC. 32. Section 13752 of the Water Code is amended to read:

13752. Reports made in accordance with paragraph (1) of subdivision (b) of Section 13751 shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in making studies, or to any person who obtains a written authorization from the owner of the well. However, a report associated with a well located within two miles of an area affected or potentially affected by a known unauthorized release of a contaminant shall be made available to any person performing an environmental cleanup study associated with the unauthorized release, if the study is conducted under the order of a regulatory agency. A report released to a person conducting an environmental cleanup study shall not be used for any purpose other than for the purpose of conducting the study.

SEC. 33. Nothing in this act shall abrogate, limit, or restrict any right to relief under any theory of liability that any person or any state or local agency may have under any statute or common law for any injury or damage, whether to person or property, including any legal, equitable, or administrative remedy under federal or state law, against any party, with respect to methyl tertiary-butyl ether (MTBE).

SEC. 34. The State Water Resources Control Board shall convene a working group of interested parties, including, but not limited to, local agency, regional board, industry, environmental, and water agency representatives to review and evaluate options for the prompt closure of petroleum underground storage tanks that have not been upgraded to meet the December 22, 1998, upgrade deadline and that have not been closed in conformance with Section 25298 of the Health and Safety Code. On or before January 1, 2001, the working group shall recommend to the Secretary for Environmental Protection appropriate actions to reduce the threat to groundwater resources posed by those tanks.

SEC. 35. (a) It is the intent of the Legislature that California Phase 3 Reformulated Gasoline (CaRFG3) regulations adopted pursuant to Executive Order D-5-99, and proposed by the State Air Resources Board prior to January 1, 2000, be subject to a comprehensive multimedia evaluation consistent with the objectives of this act, to the extent practicable within the timeframe provided in the executive order.

(b) It is further the intent of the Legislature that the evaluation of any significant adverse impact in the conduct of a multimedia evaluation pursuant to Section 43830.8 of the Health and Safety Code be performed by the agency with lead responsibility and expertise over the public health or environmental impact, that the evaluation be subject to peer review, and that the evaluation be submitted to the California Environmental Policy Council for final review and approval.

SEC. 36. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code or because costs may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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