

Senate Bill No. 2240

Passed the Senate August 28, 1998

Secretary of the Senate

Passed the Assembly August 24, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Sections 25173.6, 25173.7, 25174, 25187.5, 25205.6, 25205.7, 25205.15, 25354, and 25354.5 of, to amend and repeal Section 25174.8 of, and to add Section 25174.9 to, the Health and Safety Code, to amend Section 43551 of, to add Sections 43055 and 43552 to, the Revenue and Taxation Code, and to amend Section 53 of Chapter 870 of the Statutes of 1997, relating to hazardous waste and substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 2240, Committee on Environmental Quality. Hazardous waste and substances: fees.

(1) Existing law provides that the revenues from specified fees and charges imposed upon the management of hazardous waste and money received from the federal government pursuant to the Resource Conservation and Recovery Act of 1976 (RCRA) are deposited in the Hazardous Waste Control Account in the General Fund and the money in that account is available, upon appropriation by the Legislature, to the Department of Toxic Substances Control for, among other things, hazardous waste management. Under existing law, the Environmental Cleanup and Fee Reform Act of 1997 creates the Toxic Substances Control Account in the General Fund, as of July 1, 1998, and requires that specified funds be deposited in that account, including the charge imposed on corporations handling hazardous materials. The funds deposited in the Toxic Substances Control Account are appropriated to the department for specified purposes, including, among other things, the unified hazardous waste and hazardous materials management program.

Existing law makes a statement of legislative intent concerning the appropriation of funds from the Toxic Substances Control Account by the annual Budget Act. Existing law establishes the Federal Receipts Account as a subaccount in the Hazardous Waste Control Account.



Existing law requires the department, at the time of the release of the annual Governor's Budget, to make available the budgetary amounts and allocations of staff resources of the department, as proposed for specified activities.

This bill would authorize the funds in the Toxic Substances Control Account to be appropriated for the unified hazardous waste and hazardous material program only until June 30, 1999, and would instead authorize the funds in the Hazardous Waste Control Account to be appropriated to the department, on and after July 1, 1999, for these purposes.

The bill would revise the statement of legislative intent concerning the appropriation of funds from the Toxic Substances Control Account.

The bill would revise the information the department is required to provide at the time of the release of the annual Governor's Budget and would make the Federal Receipt Account inoperative on June 30, 1999, and would repeal that account on January 1, 2000. The bill would provide for the transfer of the assets, liabilities, and surplus in that account to the Hazardous Waste Control Account and provide for the continuous availability of those funds for the same purposes for which these funds were appropriated.

(2) Existing law authorizes the department to enter into oral contracts of up to \$2,000 when immediate corrective action is necessary with regard to a release of hazardous waste from a hazardous waste facility.

This bill would increase the amount for which the department may enter into oral contracts for immediate corrective action to these hazardous waste releases to \$10,000.

(3) Existing law requires corporations that use, generate, store, or conduct activities in this state related to hazardous materials to pay an annual charge, based upon a schedule of standard Industrial Classification Codes provided by the department to the State Board of Equalization. A violation of the hazardous waste control laws, including the provisions imposing fees, is a crime.



Existing law requires the department to assess a fee equal to the department's costs in reviewing and overseeing specified corrective action programs. Existing law requires a person who applies for, or requests, a new hazardous waste facilities permit or modification, a permit renewal, a variance, or a waste classification determination, to enter into a written agreement with the department, pursuant to which that person is required to reimburse the department for the costs incurred by the department in processing the application or responding to the request, but also allows a person to instead elect to pay a specified fee.

This bill would revise the schedule of codes that the department is required to provide the board, with regard to the charges imposed upon corporations that handle hazardous materials.

This bill would require the department to recover all of the department's costs in reviewing and overseeing specified corrective action programs, and would provide that the fee amounts for permit applications are in addition to amounts required to be recovered by the department for corrective action review and oversight.

(4) Existing law requires a specified fee be paid for each manifest form used before June 30, 1998, except as specified, and requires the department to impose a specified manifest fee system after June 30, 1998, that excludes certain wastes that are recycled. Existing law requires the department to annually expend \$1,050,000, commencing with the 1999–2000 fiscal year, upon appropriation by the Legislature, from the manifest fees deposited in the Hazardous Waste Control Account, to encourage pollution prevention measures.

This bill would revise the payment requirements for the manifest fee system and would instead require the department to implement a system by July 1, 2000, that distinguishes between manifests used solely for transporting hazardous wastes that are recycled and manifests used for transporting waste for any other purpose. Since a failure to pay these charges would be a crime, the bill would impose a state-mandated local



program by creating new crimes. The bill would repeal the requirement that funds be expended from the Hazardous Waste Control Account for pollution prevention measures.

The bill would also make other related changes in the fees and charges levied for hazardous waste management.

(5) Existing law continuously appropriates \$1,000,000 annually to the department from the Toxic Substances Control Account for taking immediate corrective action with regard to hazardous substance releases. The department is authorized to enter into oral contracts of up to \$5,000 when immediate corrective action is necessary.

This bill would increase the amount for which the department may enter into oral contracts for immediate corrective action for these hazardous substance releases to \$10,000.

(6) Existing law, as of July 1, 1998, requires the department to take removal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the unlawful manufacture of controlled substances, and the department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose.

This bill would revise that requirement to require the department to report the location and time of such a removal action to the local environmental health officer, as specified, and to include, in the removal action, waste material from the unlawful manufacture of a controlled substance. The bill would allow the department to enter into oral contracts of not more than \$10,000 in obligation, when in the judgment of the department, immediate corrective action is necessary to remedy or prevent an emergency regarding such a hazardous substance.

(7) The bill would make conforming changes in the provisions authorizing the collection of the fees imposed upon hazardous waste.



(8) Existing law, the Johnston-Filante Hazardous Substance Cleanup Bond Act of 1984, establishes the Superfund Bond Trust Fund in the State Treasury as a sinking fund to ensure the payment of the principal of, and interest upon, the bonds sold pursuant to that act. Existing law provides for the transfer, from the General Fund to the Superfund Bond Trust Fund, for payment of the principal of, and interest on, the bonds issued and sold pursuant to the bond act, \$3,500,000 on or before August 1, 2000, \$3,300,000 on or before August 1, 2001, \$3,100,000 on or before August 1, 2002, \$2,900,000 on or before August 1, 2003, and the amount needed to repay the remainder of the funds transferred pursuant to Budget Item 4260-016-826 of the Budget Act of 1991, plus all interest accrued since the date that the transfer took place, on or before August 1, 2004.

This bill would revise those dates to instead transfer, from the General Fund to the Superfund Bond Trust Fund, for payment of the principal of, and interest on, those bonds, \$3,300,000 on or before August 1, 1999, \$3,100,000 on or before August 1, 2000, and the amount needed to repay the remainder of the funds transferred pursuant to that budget item, plus all interest accrued since the date that the transfer took place, on or before August 1, 2001.

(9) The bill would incorporate changes to Section 25173.7 of the Health and Safety Code proposed by both this bill and SB 1916 that would only become operative if both bills are enacted and become effective on or before January 1, 1999, each bill amends that section, and this bill is chaptered last.

The bill would also incorporate changes to Section 25205.15 of the Health and Safety Code proposed by both this bill and AB 2067 that would only become operative if both bills are enacted and become effective on or before January 1, 1999, each bill amends that section, and this bill is chaptered last.

(10) 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 a specified reason.

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

SECTION 1. Section 25173.6 of the Health and Safety Code is amended to read:

25173.6. (a) There is in the General Fund the Toxic Substances Control Account, which shall be administered by the director. In addition to any other money that may be appropriated by the Legislature to the Toxic Substances Control Account, all of the following shall be deposited in the account:

(1) The fees collected pursuant to Section 25205.6.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for oversight of a removal or remedial action taken under Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396).

(3) Any fines or penalties collected pursuant to this chapter, Chapter 6.8 (commencing with Section 25300) or Chapter 6.85 (commencing with Section 25396), except as directed otherwise by Section 25192.

(4) Any interest earned upon money deposited in the Toxic Substances Control Account.

(5) All money recovered pursuant to Section 25360, except recoveries of amounts paid from the Hazardous Substance Cleanup Fund.

(6) All money recovered pursuant to Section 25380.

(7) Any reimbursements for funds expended from the Toxic Substances Control Account for services provided by the department, including, but not limited to, reimbursements required pursuant to Sections 25201.9 and 25343.

(8) Any money received from the federal government pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).



(9) Any money received from responsible parties for remedial action or removal at a specific site, except as otherwise provided by law.

(b) The funds deposited in the Toxic Substances Control Account may be appropriated to the department for the following purposes:

(1) The administration and implementation of the following:

(A) Chapter 6.8 (commencing with Section 25300), except that no funds may be expended from the Toxic Substances Control Account for purposes of Section 25354.5.

(B) Chapter 6.85 (commencing with Section 25396).

(C) Chapter 6.11 (commencing with Section 25404), on and before June 30, 1999.

(D) Article 10 (commencing with Section 7710) of Chapter 1 of Division 4 of the Public Utilities Code, to the extent the department has been delegated responsibilities by the secretary for implementing that article.

(2) The administration of the following units within the department:

(A) The Human and Ecological Risk Division.

(B) The Hazardous Materials Laboratory.

(C) The Office of Pollution Prevention and Technology Development.

(3) For allocation to the Office of Environmental Health Hazard Assessment, pursuant to an interagency agreement, to assist the department as needed in administering the programs described in subparagraphs (A) and (B) of paragraph (1).

(4) For allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Section 43054 of the Revenue and Taxation Code.

(5) For the state share mandated pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9404(c)(3)).



(6) For the purchase by the state, or by any local agency with the prior approval of the director, of hazardous substance response equipment and other preparations for response to a release of hazardous substances. However, all equipment shall be purchased in a cost-effective manner after consideration of the adequacy of existing equipment owned by the state or the local agency, and the availability of equipment owned by private contractors.

(7) For payment of all costs of removal and remedial action incurred by the state, or by any local agency with the approval of the director, in response to a release or threatened release of a hazardous substance, to the extent the costs are not reimbursed by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).

(8) For payment of all costs of actions taken pursuant to subdivision (b) of Section 25358.3, to the extent that these costs are not paid by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).

(9) For all costs incurred by the department in cooperation with the Agency for Toxic Substances and Disease Registry established pursuant to subsection (i) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9604(i)) and all costs of health effects studies undertaken regarding specific sites or specific substances at specific sites. Funds appropriated for this purpose shall not exceed five hundred thousand dollars (\$500,000) in any single fiscal year. However, these actions shall not duplicate reasonably available federal actions and studies.

(10) For repayment of the principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385).

(11) For the reasonable and necessary administrative costs and expenses of the Hazardous Substance Cleanup Arbitration Panel created pursuant to Section 25356.2.



(12) Direct site remediation costs.

(13) For the department's expenses for staff to perform oversight of investigations, characterizations, removals, remediations, or long-term operation and maintenance.

(14) For the administration and collection of the fees imposed pursuant to Section 25205.6.

(c) The funds deposited in the Toxic Substances Control Account may be appropriated by the Legislature to the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of Chapter 6.8 (commencing with Section 25300) and Chapter 6.85 (commencing with Section 25396). Expenditures for the purposes of this subdivision are not subject to an interagency or interdepartmental agreement.

(d) The director shall expend federal funds in the Toxic Substances Control Account consistent with the requirements specified in Section 114 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601), upon appropriation by the Legislature, for the purposes for which they were provided to the state.

(e) Money in the Toxic Substances Control Account shall not be expended to conduct removal or remedial actions if any significant portion of the hazardous substances to be removed or remedied originated from a source outside the state.

(f) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Toxic Substances Control Account to meet cash needs. The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

SEC. 2. Section 25173.7 of the Health and Safety Code is amended to read:

25173.7. (a) It is the intent of the Legislature that funds deposited in the Toxic Substances Control Account



shall be appropriated in the annual Budget Act each year in the following manner:

(1) Not less than six million seven hundred fifty thousand dollars (\$6,750,000) to the Site Remediation Account in the General Fund for direct site remediation costs, as defined in Section 25337. The amount specified in this paragraph shall be increased in any fiscal year by the amount of increased revenues specified by the Legislature in the Budget Act for that fiscal year pursuant to subdivision (f) of Section 25205.6.

(2) Not less than four hundred thousand dollars (\$400,000) to the Expedited Site Remediation Trust Fund in the State Treasury, created pursuant to subdivision (a) of Section 25399.1, for purposes of paying the orphan share of response costs pursuant to Chapter 6.85 (commencing with Section 25396).

(3) Not more than five hundred thousand dollars (\$500,000) for purposes of the administration and collection of the fees specified in paragraph (14) of subdivision (b) of Section 25173.6.

(4) Commencing with the 1999–2000 fiscal year and annually thereafter, not less than one million fifty thousand dollars (\$1,050,000) to establish a program to encourage hazardous waste generators to implement pollution prevention measures. The program shall be administered pursuant to administrative and expenditure criteria established by the Legislature.

(5) Funds not appropriated as specified in paragraphs (1) to (4), inclusive, may be appropriated for any of the purposes specified in subdivision (b) of Section 25173.6, except the purposes specified in subparagraph (C) of paragraph (1) of, and paragraph (14) of, subdivision (b) of Section 25173.6.

(b) The amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a) are the amounts that the Legislature intends to appropriate for the 1998–99 fiscal year for the purposes specified in those paragraphs, and the amount specified in paragraph (4) of subdivision (a) is the amount the Legislature intends to appropriate for the 1999–2000 fiscal year for the purposes specified in that



paragraph. Beginning with the 1999–2000 fiscal year, and for each fiscal year thereafter, the amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a), and beginning with the 2000–01 fiscal year, and for each fiscal year thereafter, the amount specified in paragraph (4) of subdivision (a) shall be adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

SEC. 2.5. Section 25173.7 of the Health and Safety Code is amended to read:

25173.7. (a) It is the intent of the Legislature that funds deposited in the Toxic Substances Control Account shall be appropriated in the annual Budget Act each year in the following manner:

(1) Not less than six million seven hundred fifty thousand dollars (\$6,750,000) to the Site Remediation Account in the General Fund for direct site remediation costs, as defined in Section 25337. The amount specified in this paragraph shall be increased in any fiscal year by the amount of increased revenues specified by the Legislature in the Budget Act for that fiscal year pursuant to subdivision (f) of Section 25205.6.

(2) Not less than four hundred thousand dollars (\$400,000) to the Expedited Site Remediation Trust Fund in the State Treasury, created pursuant to subdivision (a) of Section 25399.1, for purposes of paying the orphan share of response costs pursuant to Chapter 6.85 (commencing with Section 25396).

(3) Not more than five hundred thousand dollars (\$500,000) for purposes of the administration and collection of the fees specified in paragraph (14) of subdivision (b) of Section 25173.6.

(4) Commencing with the 1999–2000 fiscal year and annually thereafter, not less than one million fifty thousand dollars (\$1,050,000) for purposes of establishing and implementing a program pursuant to Sections 25244.15.1, 25244.17.1, 25244.17.2, 25244.22, and 25244.24 to



encourage hazardous waste generators to implement pollution prevention measures.

(5) Funds not appropriated as specified in paragraphs (1) to (4), inclusive, may be appropriated for any of the purposes specified in subdivision (b) of Section 25173.6, except the purposes specified in subparagraph (C) of paragraph (1) of, and paragraph (14) of, subdivision (b) of Section 25173.6.

(b) The amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a) are the amounts that the Legislature intends to appropriate for the 1998–99 fiscal year for the purposes specified in those paragraphs, and the amount specified in paragraph (4) of subdivision (a) is the amount the Legislature intends to appropriate for the 1999–2000 fiscal year for the purposes specified in that paragraph. Beginning with the 1999–2000 fiscal year, and for each fiscal year thereafter, the amounts specified in paragraphs (1) to (3), inclusive, of subdivision (a), and beginning with the 2000–01 fiscal year, and for each fiscal year thereafter, the amount specified in paragraph (4) of subdivision (a) shall be adjusted annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

SEC. 3. Section 25174 of the Health and Safety Code, as amended by Section 9 of Chapter 870 of the Statutes of 1997, is amended to read:

25174. (a) There is in the General Fund the Hazardous Waste Control Account, which shall be administered by the director. In addition to any other money that may be deposited in the Hazardous Waste Control Account, pursuant to statute, all of the following amounts shall be deposited in the account:

(1) The fees collected pursuant to Sections 25174.1, 25205.2, 25205.5, 25205.15, and 25205.16.

(2) The fees collected pursuant to Section 25187.2, to the extent that those fees are for the oversight of corrective action taken under this chapter.



(3) Any interest earned upon the money deposited in the Hazardous Waste Control Account.

(4) Any money received from the federal government pursuant to the federal act.

(5) Any reimbursements for funds expended from the Hazardous Waste Control Account for services provided by the department pursuant to this chapter, including, but not limited to, the reimbursements required pursuant to Sections 25201.9 and 25205.7.

(b) The funds deposited in the Hazardous Waste Control Account may be appropriated by the Legislature, for expenditure as follows:

(1) To the department for the administration and implementation of this chapter.

(2) To the department for allocation to the State Board of Equalization to pay refunds of fees collected pursuant to Sections 43051 and 43053 of the Revenue and Taxation Code.

(3) To the department for the costs of performance or review of analyses of past, present, or potential environmental public health effects related to toxic substances, including extremely hazardous waste, as defined in Section 25115, and hazardous waste, as defined in Section 25117.

(4) (A) To the office of the Attorney General for the support of the Toxic Substance Enforcement Program in the office of the Attorney General, in carrying out the purposes of this chapter.

(B) Notwithstanding subdivision (c), expenditures for the purposes of this paragraph shall not be subject to an interagency or interdepartmental agreement.

(C) On or before October 1 of each year, the Attorney General shall report to the Legislature on the expenditure of any funds appropriated to the office of the Attorney General for the preceding fiscal year pursuant to this paragraph and subdivision (c) of Section 25173.6. The report shall include all of the following:

(i) A description of cases resolved by the office of the Attorney General through settlement or court order,



including the monetary benefit to the department and the state.

(ii) A description of injunctions or other court orders benefiting the people of the state.

(iii) A description of any cases in which the Attorney General's Toxic Substance Enforcement Program is representing the department or the state against claims by defendants or responsible parties.

(iv) A description of other pending litigation handled by the Attorney General's Toxic Substance Enforcement Program.

(D) Nothing in subparagraph (C) shall require the Attorney General to report on any confidential or investigatory matter.

(5) To the department, on and after July 1, 1999, for administration and implementation of Chapter 6.11 (commencing with Section 25404).

(c) Except for the appropriation to the office of the Attorney General pursuant to paragraph (4) of subdivision (b), expenditures from the Hazardous Waste Control Account for support of state agencies other than the department shall, upon appropriation by the Legislature to the department, be subject to an interagency or interdepartmental agreement between the department and the state agency receiving the support.

(d) The department shall, at the time of the release of the annual Governor's Budget, describe the budgetary amounts proposed to be allocated to the State Board of Equalization, as specified in paragraph (2) of subdivision (b) and in paragraph (3) of subdivision (b) of Section 25173.6, for the upcoming fiscal year. With respect to expenditures for the purposes of paragraphs (1) and (3) of subdivision (b) and paragraphs (1) and (2) of subdivision (b) of Section 25173.6, the department shall also make available the budgetary amounts and allocations of staff resources of the department proposed for the following activities:

(1) The department shall identify, by permit type, the projected allocations of budgets and staff resources for



hazardous waste facilities permits, including standardized permits, closure plans, and postclosure permits.

(2) The department shall identify, with regard to surveillance and enforcement activities, the projected allocations of budgets and staff resources for the following types of regulated facilities and activities:

(A) Hazardous waste facilities operating under a permit or grant of interim status issued by the department, and generator activities conducted at those facilities. This information shall be reported by permit type.

(B) Transporters.

(C) Response to complaints.

(3) The department shall identify the projected allocations of budgets and staff resources for both of the following activities:

(A) The registration of hazardous waste transporters.

(B) The operation and maintenance of the hazardous waste manifest system.

(4) The department shall identify, with regard to site mitigation and corrective action, the projected allocations of budgets and staff resources for the oversight and implementation of the following activities:

(A) Investigations and removal and remedial actions at military bases.

(B) Voluntary investigations and removal and remedial actions.

(C) State match and operation and maintenance costs, by site, at joint state and federally funded National Priority List Sites.

(D) Investigation, removal and remedial actions, and operation and maintenance at the Stringfellow Hazardous Waste Site.

(E) Investigation, removal and remedial actions, and operation and maintenance at the Casmalia Hazardous Waste Site.

(F) Investigations and removal and remedial actions at nonmilitary, responsible party lead National Priority List Sites.



(G) Preremedial activities under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

(H) Investigations, removal and remedial actions, and operation and maintenance at state-only orphan sites.

(I) Investigations and removal and remedial actions at nonmilitary, non-National Priority List responsible party lead sites.

(J) Investigations, removal and remedial actions, and operation and maintenance at Expedited Remedial Action Program sites pursuant to Chapter 6.85 (commencing with Section 25396).

(K) Corrective actions at hazardous waste facilities.

(5) The department shall identify, with regard to the regulation of hazardous waste, the projected allocation of budgets and staff resources for the following activities:

(A) Determinations pertaining to the classification of hazardous wastes.

(B) Determinations for variances made pursuant to Section 25143.

(C) Other determinations and responses to public inquiries made by the department regarding the regulation of hazardous waste and hazardous substances.

(6) The department shall identify projected allocations of budgets and staff resources needed to do all of the following:

(A) Identify, remove, store, and dispose of, suspected hazardous substances or hazardous materials associated with the investigation of clandestine drug laboratories.

(B) Respond to emergencies pursuant to Section 25354.

(C) Create, support, maintain, and implement the railroad accident prevention and immediate deployment plan developed pursuant to Section 7718 of the Public Utilities Code.

(7) The department shall identify projected allocations of budgets and staff resources for the administration and implementation of the unified hazardous waste and hazardous materials regulatory



program established pursuant to Chapter 6.11 (commencing with Section 25404).

(8) The department shall identify the total cumulative expenditures of the Regulatory Structure Update and Site Mitigation Update projects since their inception, and shall identify the total projected allocations of budgets and staff resources that are needed to continue these projects.

(9) The department shall identify the total projected allocations of budgets and staff resources that are necessary for all other activities proposed to be conducted by the department.

(e) Notwithstanding this chapter, or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, for any fees, surcharges, fines, penalties, and funds which are required to be deposited into the Hazardous Waste Control Account or the Toxic Substances Control Account, the department, with the approval of the Secretary for Environmental Protection, may take any of the following actions:

(1) Assume responsibility for, or enter into a contract with a private party or with another public agency, other than the State Board of Equalization, for the collection of any fees, surcharges, fines, penalties and funds described in subdivision (a) or otherwise described in this chapter or Chapter 6.8 (commencing with Section 25300), for deposit into the Hazardous Waste Control Account or the Toxic Substances Control Account.

(2) Administer, or by mutual agreement, contract with a private party or another public agency, for the making of those determinations and the performance of functions that would otherwise be the responsibility of the State Board of Equalization pursuant to this chapter, Chapter 6.8 (commencing with Section 25300), or Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, if those activities and functions for which the State Board of Equalization would otherwise be responsible become the responsibility of the department or, by mutual agreement, the contractor selected by the department.



(f) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall be responsible for ensuring that persons who are subject to the fees specified in subdivision (e) have equivalent rights to public notice and comment, and procedural and substantive rights of appeal, as afforded by the procedures of the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Final responsibility for the administrative adjustment of fee rates and the administrative appeal of any fees or penalty assessments made pursuant to this section may only be assigned by the department to a public agency.

(g) If, pursuant to subdivision (e), the department, or a private party or another public agency, pursuant to a contract with the department, performs the determinations and functions that would otherwise be the responsibility of the State Board of Equalization, the department shall have equivalent authority to make collections and enforce judgments as provided to the State Board of Equalization pursuant to Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code. Unpaid amounts, including penalties and interest, shall be a perfected and enforceable state tax lien in accordance with Section 43413 of the Revenue and Taxation Code.

(h) The department, with the concurrence of the Secretary for Environmental Protection, shall determine which administrative functions should be retained by the State Board of Equalization, administered by the department, or assigned to another public agency or private party pursuant to subdivisions (e), (f), and (g).

(i) The department may adopt regulations to implement subdivisions (e) to (h), inclusive.

(j) The Director of Finance, upon request of the director, may make a loan from the General Fund to the Hazardous Waste Control Account to meet cash needs.



The loan shall be subject to the repayment provisions of Section 16351 of the Government Code and the interest provisions of Section 16314 of the Government Code.

(k) The department shall establish, within the Hazardous Waste Control Account, a reserve of at least one million dollars (\$1,000,000) each year to ensure that all programs funded by the Hazardous Waste Control Account will not be adversely affected by any revenue shortfalls.

(l) When the department prepares the annual report required by Section 10359 of the Public Contract Code, the department shall, in addition to providing the information required by that section, include all of the following information:

(1) The source of funding for each contract.

(2) The statutory authorization, if applicable, for each contract.

SEC. 4. Section 25174.8 of the Health and Safety Code is amended to read:

25174.8. (a) All fees assessed pursuant to this chapter, and received from agencies of the federal government, shall be deposited in the Federal Receipts Account which is hereby created as a subaccount in the Hazardous Waste Control Account. Upon appropriation by the Legislature, money in the Federal Receipts Account may be expended by the department for the purposes of this chapter, but may not be expended for site remediation or the removal of hazardous substances. Notwithstanding this section, fees or other money provided to the department by federal agencies to reimburse the state for its costs of overseeing or undertaking remediation or removal on specific federally owned sites, including, but not limited to, investigation and characterization, shall not be placed in the Federal Receipts Account. In addition, any money received through grant or agreement to be placed in the Federal Trust Fund, in accordance with Article 1.5 (commencing with Section 16360) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, shall not be deposited in the Federal Receipts Account.



(b) This section shall become inoperative on June 30, 1999, and, as of January 1, 2000, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2000, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 25174.9 is added to the Health and Safety Code, to read:

25174.9. The Hazardous Waste Control Account is the successor fund of the Federal Receipts Account that was established pursuant to Section 25174.8, as that section read on January 1, 1999. All assets, liabilities, and surplus of the Federal Receipts Account shall, as of June 30, 1999, be transferred to, and become a part of the Hazardous Waste Control Account, as provided by Section 16346 of the Government Code. All existing appropriations from the Federal Receipts Account, to the extent encumbered, and also those which had been made for particular projects from the Federal Receipts Account, shall continue to be available for the same purposes and periods from the Hazardous Waste Control Account.

SEC. 6. Section 25187.5 of the Health and Safety Code is amended to read:

25187.5. (a) If corrective action is not taken on or before the date specified in an order issued pursuant to Section 25187, or if in the judgment of the department immediate corrective action is necessary to remedy or prevent an imminent substantial danger to the public health, domestic livestock, wildlife, or the environment, the department may take, or contract for the taking of, that corrective action and recover the cost thereof as provided in subdivision (c).

(b) (1) The department may expend up to one hundred thousand dollars (\$100,000) in a 12-month period of available moneys in the Hazardous Waste Control Account in the General Fund to take corrective action pursuant to subdivision (a).

(2) Notwithstanding any other provision of law, the department may enter into written contracts for corrective action taken or to be taken pursuant to subdivision (a).



(3) Notwithstanding any other provision of law, the department may enter into oral contracts, not to exceed ten thousand dollars (\$10,000) in obligation, when in the judgment of the department immediate corrective action is necessary to remedy or prevent an imminent substantial danger to the public health, domestic livestock, wildlife, or the environment.

(4) The contracts entered into pursuant to this subdivision, whether written or oral, may include provisions for the rental of tools or equipment, either with or without operators furnished, and for the furnishing of labor and materials necessary to accomplish the work.

(5) Any contract entered into by the department pursuant to this subdivision shall be exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

(c) If corrective action is taken pursuant to subdivision (a), the person or persons who were subject to the order issued pursuant to Section 25187, or any person or persons whose violation resulted in the imminent and substantial danger to health or the environment shall be liable to the department for the reasonable cost actually incurred in taking corrective action. In addition, the person or persons shall be liable to the department for administrative costs in an amount equal to 10 percent of the reasonable cost actually incurred or five hundred dollars (\$500), whichever is greater. The amount of cost determined pursuant to this subdivision shall be recoverable in a civil action by the department, in addition to any other fees or penalties. Persons who may be liable pursuant to this subdivision shall include, but not be limited to, present or prior owners, lessees, or operators of the property where the hazardous waste is located and producers, transporters or disposers of the hazardous waste.

(d) Neither the department, nor any person authorized by the department to enter upon any lands for the purpose of taking corrective action pursuant to subdivision (a) is liable to civil or criminal action for



trespass for any acts that are necessary to carry out the corrective action.

(e) This section does not impose any new liability associated with acts that occurred before January 1, 1981, if the acts were not in violation of existing law or regulations at the time they occurred.

SEC. 7. Section 25205.6 of the Health and Safety Code is amended to read:

25205.6. (a) On or before November 1 of each year, the department shall provide the board with a schedule of codes, that consists of the types of corporations that use, generate, store, or conduct activities in this state related to hazardous materials, as defined in subdivision (k) of Section 25501, including, but not limited to, hazardous waste. The schedule shall consist of identification codes from one of the following classification systems, as deemed suitable by the department:

(1) The Standard Industrial Classification (SIC) system established by the United States Department of Commerce.

(2) The North American Industry Classification System (NAICS) adopted by the United States Census Bureau.

(b) Each corporation of a type identified in the schedule adopted pursuant to subdivision (a) shall pay an annual fee, which shall be set at two hundred dollars (\$200) for those corporations with 50 or more employees, but less than 75 employees, three hundred fifty dollars (\$350) for those corporations with 75 or more employees, but less than 100 employees, seven hundred dollars (\$700) for those corporations with 100 or more employees, but less than 250 employees, one thousand five hundred dollars (\$1,500) for those corporations with 250 or more employees, but less than 500 employees, two thousand eight hundred dollars (\$2,800) for those corporations with 500 or more employees, but less than 1,000 employees, and nine thousand five hundred dollars (\$9,500) for those corporations with 1,000 or more employees.



(c) The fee imposed pursuant to this section shall be paid by each corporation that is identified in the schedule adopted pursuant to subdivision (a) in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code and shall be deposited in the Toxic Substances Control Account. The revenues shall be available, upon appropriation by the Legislature, for the purposes specified in subdivision (b) of Section 25173.6.

(d) For purposes of this section, the number of employees employed by a corporation is the number of persons employed in this state for more than 500 hours during the calendar year preceding the calendar year in which the fee is due.

(e) The fee rates specified in subdivision (b) are the rates for the 1998 calendar year. Beginning with the 1999 calendar year, and for each calendar year thereafter, the board shall adjust the rates annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(f) Pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9404(c)(3)), the state is obligated, as authorized by paragraph (2) of subdivision (a) of Section 25351, to pay specified costs of removal and remedial actions carried out pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.). The fee rates specified in subdivision (b) are intended to provide sufficient revenues to fund the purposes of subdivision (b) of Section 25173.6, including appropriations in any given fiscal year of three million three hundred thousand dollars (\$3,300,000) to fund the state's obligation pursuant to paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42



U.S.C. Sec. 9404(c)(3)). If the department determines that the state's obligation under paragraph (3) of subsection (c) of Section 104 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9404(c)(3)) will exceed three million three hundred thousand dollars (\$3,300,000) in any fiscal year, the department shall report that determination to the Legislature in the Governor's Budget. If, as part of the Budget Act deliberations, the Legislature concurs with the department's determination, the Legislature shall specify in the annual Budget Act those pro rata changes to the fee rates specified in subdivision (b) that will increase revenues in the next calendar year as necessary to fund the state's increased obligations. However, the Legislature shall not specify fee rates in the annual Budget Act that increase revenues in an amount greater than eight million two hundred thousand dollars (\$8,200,000) above the revenues provided by the fee rates specified in subdivision (b). Any changes in the fee rates approved by the Legislature in the annual Budget Act pursuant to this subdivision shall have effect only on the fee payment that is due and payable by the end of February in the fiscal year for which that annual Budget Act is enacted.

(g) This section does not apply to nonprofit corporations primarily engaged in the provision of residential social and personal care for children, the aged, and special categories of persons with some limits on their ability for self-care, as described in SIC Code 8361 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

SEC. 8. Section 25205.7 of the Health and Safety Code, as amended by Section 22 of Chapter 870 of the Statutes of 1997, is amended to read:

25205.7. (a) (1) Except as otherwise provided in this section, any person who applies for, or requests, one of the following shall enter into a written agreement with the department pursuant to which that person shall



reimburse the department, pursuant to Article 9.2 (commencing with Section 25206.1), for the costs incurred by the department in processing the application or responding to the request:

(A) A new hazardous waste facilities permit, including a standardized permit.

(B) A hazardous waste facilities permit for postclosure.

(C) A renewal of an existing hazardous waste facilities permit, including a standardized permit or postclosure permit.

(D) A class 2 or class 3 modification of an existing hazardous waste facilities permit or grant of interim status, including a standardized permit or grant of interim status or a postclosure permit.

(E) A variance.

(F) A waste classification determination.

(2) Any agreement required pursuant to paragraph (1) may provide for some, or all, of the reimbursement to be made in advance of the processing of the application or the response to the request.

(3) Any agreement entered into pursuant to this subdivision may include costs of reviewing and overseeing corrective action as set forth in subdivision (b).

(4) This subdivision does not apply to any application or request submitted to the department prior to July 1, 1998. Any person who submitted such an application or request shall pay the applicable fee, if not already paid, for the application or request as required by this chapter as it read prior to January 1, 1998, unless the department and the applicant or requester mutually agree to enter into a reimbursement agreement in lieu of any unpaid portion of the required fee.

(b) The department shall recover all the department's costs in reviewing and overseeing any corrective action program described in the application for a standardized permit pursuant to subparagraph (C) of paragraph (2) of subdivision (c) of Section 25201.6 or required pursuant to subdivision (b) of Section 25200.10, and in reviewing and



overseeing any corrective action work undertaken at the facility pursuant to that corrective action program.

(c) Any reimbursements received pursuant to this section shall be placed in the Hazardous Waste Control Account for appropriation in accordance with Section 25174.

(d) (1) In lieu of entering into a reimbursement agreement with the department pursuant to subdivision (a), any person who applies for a new permit, a permit for postclosure, a renewal of an existing permit, or a class 2 or class 3 permit modification may instead elect to pay a fee as follows:

(A) A person submitting a hazardous waste facilities permit application for a land disposal facility shall pay one hundred four thousand one hundred eighty-seven dollars (\$104,187) for a small facility, two hundred twenty-two thousand one hundred eighty-three dollars (\$222,183) for a medium facility, and three hundred eighty-one thousand six hundred two dollars (\$381,602) for a large facility.

(B) A person submitting a hazardous waste facilities permit application for any incinerator shall pay sixty-two thousand seven hundred sixty-two dollars (\$62,762) for a small facility, one hundred thirty-three thousand sixty dollars (\$133,060) for a medium facility, and two hundred twenty-eight thousand four hundred fifty-eight dollars (\$228,458) for a large facility.

(C) Except as provided in subparagraph (D), a person submitting a hazardous waste facility permit application for a storage facility, a treatment facility, or a storage and treatment facility shall pay twenty-one thousand three hundred forty dollars (\$21,340) for a small facility, thirty-eight thousand nine hundred thirteen dollars (\$38,913) for a medium facility, and seventy-five thousand three hundred seventeen dollars (\$75,317) for a large facility.

(D) A person submitting an application for a standardized permit for a storage facility, a treatment facility, or a storage and treatment facility, as specified in Section 25201.6, shall pay thirty-two thousand fifty-two



dollars (\$32,052) for a Series A standardized permit, twenty thousand eleven dollars (\$20,011) for a Series B standardized permit, and five thousand three hundred thirty-two dollars (\$5,332) for a Series C standardized permit. The board shall assess the fees specified in this subparagraph, in accordance with paragraph (2), based upon the classifications specified in subdivision (a) of Section 25201.6.

(E) (i) A person submitting a hazardous waste facilities permit application for a transportable treatment unit shall pay sixteen thousand three hundred twenty dollars (\$16,320) for a small unit, thirty-seven thousand six hundred fifty-seven dollars (\$37,657) for a medium unit, and seventy-five thousand three hundred seventeen dollars (\$75,317) for a large unit.

(ii) Notwithstanding clause (i), the fee for any application for a new permit, permit modification, or permit renewal for a transportable treatment unit, that was pending before the department as of January 1, 1996, shall be determined according to the type of permit authorizing operation of that unit, as provided by subdivision (d) of Section 25200.2 or the regulations adopted pursuant to subdivision (a) of Section 25200.2. Any standardized permit issued to the operator of a transportable treatment unit after January 1, 1996, that succeeds a full hazardous waste facilities permit issued by the department prior to January 1, 1996, in accordance with subdivision (d) of Section 25200.2 or the regulations adopted pursuant to subdivision (a) of Section 25200.2, shall not be considered to be a new hazardous waste facilities permit.

(F) A person submitting a hazardous waste facilities permit application for a postclosure permit shall pay a fee of ten thousand forty dollars (\$10,040) for a small facility, twenty-two thousand five hundred ninety-six dollars (\$22,596) for a medium facility, and thirty-seven thousand six hundred fifty-seven dollars (\$37,657) for a large facility.

(G) A person submitting an application for one or more class 2 permit modifications, including a class 2



modification to a standardized permit, shall pay a fee equal to 20 percent of the fee for a new permit for that facility for each unit directly impacted by the modifications, up to a maximum of 40 percent for each application, except that each person who applies for one or more class 2 permit modifications for a land disposal facility or an incinerator shall pay a fee equal to 15 percent of the fee for a new permit for that facility for each unit directly impacted by the modifications, up to a maximum of 30 percent for each application.

(H) A person submitting an application for one or more class 3 permit modifications, including a class 3 modification to a standardized permit, shall pay a fee equal to 40 percent of the fee for a new permit for that facility for each unit directly impacted by the modifications, up to a maximum of 80 percent for each application, except that a person who applies for one or more class 3 permit modifications for a land disposal facility or an incinerator shall pay a fee equal to 30 percent of the fee for a new permit for that facility for each unit directly impacted by the modifications, up to a maximum of 60 percent for each application.

(I) A person who submits an application for renewal of any existing permit shall pay an amount equal to the fee that would have been assessed had the person requested the same changes in a modification application, but not less than one-half the fee required for a new permit.

(J) A person who submits a single application for a facility that falls within more than one fee category shall pay only the higher fee.

(2) The fees required by paragraph (1) shall be assessed by the board upon application to the department. For a facility operating pursuant to a grant of interim status, the submittal of the application shall be the submittal of the Part B application in accordance with regulations adopted by the department. The fee shall be nonrefundable, even if the application is withdrawn or denied. The department shall provide the board with any information that is necessary to assess fees pursuant to this section. The fee shall be collected in accordance with Part



22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code, and deposited into the Hazardous Waste Control Account.

(3) The amounts stated in this subdivision are the base rates for the 1997 calendar year. Thereafter, the fees shall be adjusted annually by the board to reflect increases or decreases in the cost of living, during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations, or a successor agency.

(4) Except as provided in paragraph (5), for purposes of this section, and notwithstanding Section 25205.1, any facility or unit is “small” if it manages 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the state’s current fiscal year, “medium” if it manages more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month of the state’s current fiscal year, and “large” if it manages 1,000 or more tons of hazardous waste during any one month of the state’s current fiscal year.

(5) For purposes of subparagraph (F) of paragraph (1) of this subdivision and paragraph (8) of subdivision (c) of Section 25205.4, any facility or unit is “small” if 0.5 tons (1,000 pounds) or less of hazardous waste remain after closure, “medium” if more than 0.5 tons (1,000 pounds), but less than 1,000 tons of hazardous waste remain after closure, and “large” if 1,000 or more tons of hazardous waste remain after closure.

(6) The amounts stated in this subdivision are in addition to any amounts required to reimburse the department for the corrective action review and oversight costs required to be recovered pursuant to subdivision (b).

(e) Subdivision (a) does not apply to any variance granted pursuant to Article 4 (commencing with Section 66263.40) of Chapter 13 of Division 4.5 of Title 22 of the California Code of Regulations.

(f) Subdivisions (a) and (d) do not apply to a permit modification resulting from a revision of a facility’s or operator’s closure plan if the facility is exempted from



fees pursuant to subdivision (e) of Section 25205.3, or if the operator is subject to paragraph (2) or (3) of subdivision (d) of Section 25205.2.

(g) (1) Except as provided in paragraphs (3) and (4), subdivisions (a) and (d) do not apply to any permit or variance to operate a research, development, and demonstration facility, if the duration of the permit or variance is not longer than one year, unless the permit or variance is renewed pursuant to the regulations adopted by the department.

(2) For purposes of this section, a “research, development, and demonstration facility” is a facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which regulations prescribing permit standards have not been adopted.

(3) The exemption provided by this subdivision does not apply to a facility which operates as a medium or large multiuser offsite commercial hazardous waste facility and which does not otherwise possess a hazardous waste facilities permit pursuant to Section 25200.

(4) The fee exemption authorized pursuant to paragraph (1) shall be effective for a total duration of not more than two years.

(h) Subdivisions (a) and (d) do not apply to any of the following:

(1) Any variance issued to a public agency to transport wastes for purposes of operating a household hazardous waste collection facility, or to transport waste from a household hazardous waste collection facility, which receives household hazardous waste or hazardous waste from conditionally exempted small quantity generators pursuant to Article 10.8 (commencing with Section 25218).

(2) A permanent household hazardous waste collection facility.

(3) Any variance issued to a public agency to conduct a collection program for agricultural wastes.

(i) Notwithstanding subdivisions (a) and (b), the department shall not assess any fees or seek any



reimbursement for the department's costs in reviewing and overseeing any preliminary site assessment in conjunction with a hazardous waste facilities permit application.

(j) The changes made in this section by Chapter 870 of the Statutes of 1997 do not require amendment of, or otherwise affect, any agreement entered into prior to July 1, 1998, pursuant to which any person has agreed to reimburse the department for the costs incurred by the department in processing applications, responding to requests, or otherwise providing other services pursuant to this chapter.

SEC. 9. Section 25205.15 of the Health and Safety Code is amended to read:

25205.15. (a) Except for the first four manifests used in a calendar year by a business with less than 100 employees, and except as provided in subdivision (b), the department shall impose a fee of twelve dollars (\$12) for each California Uniform Hazardous Waste Manifest form used on or before June 30, 1998, by any person in the following manner:

(1) The Governor may order the department to refund three-quarters of the amount of manifest fees paid on manifests used during the 1991 calendar year.

(2) (A) On and after the 1992 calendar year, for all manifests used on or before June 30, 1998, the manifest fee shall be assessed on all manifests used in the calendar year ending prior to the start of the fiscal year in which the billing occurs.

(B) Notwithstanding subparagraph (A), the department may bill a person for a manifest used from January 1, 1998, to June 30, 1998, inclusive, during the period beginning January 1, 1999, and ending June 30, 1999, inclusive.

(b) The manifest fee for any manifest that is used on or before June 30, 1998, solely for wastes that are to be recycled is six dollars (\$6) and the total amount of manifest fees paid in a calendar year for these manifests shall not exceed five thousand dollars (\$5,000) for each hazardous waste identification number issued either by



the department or the Environmental Protection Agency.

(c) Except as provided in paragraph (3), after June 30, 1998, in addition to any fees to cover printing and distribution costs, the department shall impose a manifest fee of seven dollars and fifty cents (\$7.50) for each California Hazardous Waste Manifest form or electronic equivalent used after June 30, 1998, by any person, in the following manner:

(1) Except as provided in paragraph (2), on and after July 1, 1998, the department shall bill generators for each California Uniform Hazardous Waste Manifest form, manifest number, or electronic equivalent used after June 30, 1998. The billing frequency specified by the department may range from monthly to annually, with the payment by the generator required within 30 days from the date of receipt of the billing, and shall be determined based on consultation with the regulated community. In preparing the bills, the department shall distinguish between manifests used solely for recycled hazardous wastes and those used for nonrecycled hazardous wastes. In determining the billing frequency, the department may take into account each person's volume of manifest usage.

(2) On or before July 1, 2000, the department shall determine if revenues from the manifest fee as collected pursuant to paragraph (1) will equal or exceed one million seven hundred thousand dollars (\$1,700,000) for the 1999–2000 fiscal year. If the department determines that the manifest fee revenues will not equal or exceed one million seven hundred thousand dollars (\$1,700,000) for the 1999–2000 fiscal year, the department shall do the following:

(A) Commencing July 1, 2000, implement a system to collect the manifest fee at the time of original sale of the manifest or distribution of manifest numbers or electronic equivalent to users by the department for all manifests that will be used after June 30, 2000.

(B) On or before July 1, 2000, implement a system for the use of manifests that distinguishes between manifests



used solely for transporting hazardous wastes that are recycled and manifests used for transporting waste for any other purpose.

(3) (A) The manifest fee shall not be collected on the use of California Hazardous Waste Recycling Manifests that are used after June 30, 1998, solely for hazardous wastes that are recycled.

(B) If a person uses a manifest that reports that it is being used for hazardous wastes that are recycled for other types of hazardous waste, the person shall pay the manifest fee provided for in this subdivision and an additional error correction fee of twenty dollars (\$20) per manifest, as required pursuant to Section 25160.5. However, the department shall provide the manifest user with a reasonable opportunity to notify the department of any incorrect use of the manifest and provide the department with the appropriate manifest fee payment without additional fines, penalties, or payment of the error correction fee.

(4) The department may adopt regulations to implement and administer the manifest fee system imposed pursuant to this subdivision.

(d) The department shall expend the sum of one million dollars (\$1,000,000) from the manifest fees deposited in the Hazardous Waste Control Account, upon appropriation by the Legislature in the annual Budget Act, to cover this one-time cost of implementing changes to the hazardous waste manifest tracking system during the 1998–99 fiscal year.

(e) The manifest fees shall be deposited in the Hazardous Waste Control Account and be available for expenditure, upon appropriation by the Legislature.

SEC. 9.5. Section 25205.15 of the Health and Safety Code is amended to read:

25205.15. (a) Except for the first four manifests used in a calendar year by a business with less than 100 employees, and except as provided in subdivision (b), the department shall impose a fee of twelve dollars (\$12) for each California Uniform Hazardous Waste Manifest form



used on or before June 30, 1998, by any person in the following manner:

(1) The Governor may order the department to refund three-quarters of the amount of manifest fees paid on manifests used during the 1991 calendar year.

(2) (A) On and after the 1992 calendar year, for all manifests used on or before June 30, 1998, the manifest fee shall be assessed on all manifests used in the calendar year ending prior to the start of the fiscal year in which the billing occurs.

(B) Notwithstanding subparagraph (A), the department may bill a person for a manifest used from January 1, 1998, to June 30, 1998, inclusive, during the period beginning January 1, 1999, and ending June 30, 1999, inclusive.

(b) The manifest fee for any manifest that is used on or before June 30, 1998, solely for wastes that are to be recycled is six dollars (\$6) and the total amount of manifest fees paid in a calendar year for these manifests shall not exceed five thousand dollars (\$5,000) for each hazardous waste identification number issued either by the department or the Environmental Protection Agency.

(c) Except as provided in paragraph (3), after June 30, 1998, in addition to any fees to cover printing and distribution costs, the department shall impose a manifest fee of seven dollars and fifty cents (\$7.50) for each California Hazardous Waste Manifest form or electronic equivalent used after June 30, 1998, by any person, in the following manner:

(1) Except as provided in paragraph (2), on and after July 1, 1998, the department shall bill generators for each California Uniform Hazardous Waste Manifest form, manifest number, or electronic equivalent used after June 30, 1998. The billing frequency specified by the department may range from monthly to annually, with the payment by the generator required within 30 days from the date of receipt of the billing, and shall be determined based on consultation with the regulated community. In preparing the bills, the department shall



distinguish between manifests used solely for recycled hazardous wastes and those used for nonrecycled hazardous wastes. In determining the billing frequency, the department may take into account each person's volume of manifest usage.

(2) On or before July 1, 2000, the department shall determine if revenues from the manifest fee as collected pursuant to paragraph (1) will equal or exceed one million seven hundred thousand dollars (\$1,700,000) for the 1999–2000 fiscal year. If the department determines that the manifest fee revenues will not equal or exceed one million seven hundred thousand dollars (\$1,700,000) for the 1999–2000 fiscal year, the department shall instead, commencing July 1, 2000, implement a system to collect the manifest fee at the time of original sale of the manifest or distribution of manifest numbers or electronic equivalent to users by the department for all manifests that will be used after June 30, 2000. In developing this system, the department shall consult with the regulated community and shall take into consideration the potential economic effects that a system of collecting manifest fees at the point of original sale may have on generators and transporters.

(3) (A) The manifest fee shall not be collected on the use of California Hazardous Waste Recycling Manifests that are used solely for hazardous wastes that are recycled.

(B) On and after January 1, 1999, the manifest fee for each California Uniform Hazardous Waste Manifest form used after December 31, 1998, solely for hazardous waste derived from air compliance solvents, shall be three dollars and fifty cents (\$3.50) This is in addition to any fees charged to cover printing and distribution costs.

(4) The department shall implement a system for the use of manifests that, after January 1, 1999, distinguishes among recycling manifests used solely for hazardous wastes that are to be recycled, manifests used solely to transport hazardous waste derived from air compliance solvents, and general manifests that may be used for transporting waste for any purpose.



(5) (A) If a person erroneously reports on a California Uniform Hazardous Waste Manifest that the manifest is being used for the transport of hazardous wastes that are being shipped for recycling or for the transport of hazardous wastes derived from air compliance solvents rather than the transport of other types of hazardous waste, the person shall pay the seven dollars and fifty cents (\$7.50) manifest fee and an additional error correction fee of twenty dollars (\$20) per manifest, as required pursuant to Section 25160.5.

(B) Notwithstanding subparagraph (A) the department shall provide the manifest user with a reasonable opportunity to notify the department of any incorrect use of the recycling manifest, as described in subparagraph (A), and to provide the department with the appropriate manifest fee payment without additional fines, penalties, or payment of the error correction fee.

(6) The department may adopt regulations to implement and administer the manifest fee system imposed pursuant to this subdivision.

(d) (1) The department shall expend the sum of one million dollars (\$1,000,000) from the manifest fees deposited in the Hazardous Waste Control Account, upon appropriation by the Legislature in the annual Budget Act, to cover the one-time cost of implementing changes to the hazardous waste manifest tracking system during the 1998–99 fiscal year.

(2) On and after July 1, 1999, commencing with 1999–2000 fiscal year and annually thereafter, the department shall expend, upon appropriation by the Legislature in the annual Budget Act, not less than one million fifty thousand dollars (\$1,050,000) from the manifest fees, deposited in the Hazardous Waste Control Account, to establish a program to encourage hazardous waste generators to implement pollution prevention measures. The program shall be administered pursuant to administrative and expenditure criteria to be established by the Legislature.



(e) The manifest fees shall be deposited in the Hazardous Waste Control Account and be available for expenditure, upon appropriation by the Legislature.

(f) For purposes of this section, “air compliance solvent” means a solvent, including aqueous solutions, that are required or approved for use by regulations adopted by the State Air Resources Board, an air pollution control district, or an air quality management district, to meet air emission standards adopted by that board or district and, pursuant to those regulations, is required to be used instead of another solvent that was used and recycled prior to the adoption of those regulations.

SEC. 10. Section 25354 of the Health and Safety Code is amended to read:

25354. (a) There is hereby continuously appropriated from the state account to the department the sum of one million dollars (\$1,000,000) for each fiscal year as a reserve account for emergencies, notwithstanding Section 13340 of the Government Code. The department shall expend moneys available in the reserve account only for the purpose of taking immediate corrective action necessary to remedy or prevent an emergency resulting from a fire or an explosion of, or human exposure to, hazardous substances caused by the release or threatened release of a hazardous substance.

(b) (1) Notwithstanding any other provision of law, the department may enter into written contracts for corrective action taken or to be taken pursuant to subdivision (a).

(2) Notwithstanding any other provision of law, the department may enter into oral contracts, not to exceed ten thousand dollars (\$10,000) in obligation, when, in the judgment of the department, immediate corrective action is necessary to remedy or prevent an emergency specified in subdivision (a).

(3) The contracts made pursuant to this subdivision, whether written or oral, may include provisions for the rental of tools or equipment, either with or without operators furnished, and for the furnishing of labor and materials necessary to accomplish the work.



(4) If the department finds that the corrective action includes the relocation of individuals, the department may contract with those individuals for out-of-pocket expenses incurred in moving for an amount of not more than one thousand dollars (\$1,000).

(c) The department shall include in the biennial report specified in Section 25178 an accounting of the moneys expended pursuant to this section. Once the appropriation made pursuant to subdivision (a) is fully expended, the director may file a report with the Legislature if it is in session or, if it is not in session, with the Committee on Rules of the Assembly and the Senate as to the moneys expended pursuant to this section. The Legislature may appropriate moneys from the state account, in addition to those moneys appropriated pursuant to subdivision (a), to the department for the purpose of taking corrective action pursuant to subdivision (a).

(d) Except as provided in subdivision (c), the amount deposited in the reserve account and appropriated pursuant to this section shall not exceed one million dollars (\$1,000,000) in any fiscal year. On June 30 of each year, the unencumbered balance of the reserve account shall revert to and be deposited in the state account.

SEC. 11. Section 25354.5 of the Health and Safety Code, as amended by Section 45 of Chapter 870 of the Statutes of 1997, is amended to read:

25354.5. (a) Any state or local law enforcement officer or investigator or other law enforcement agency employee who, in the course of an official investigation or enforcement action regarding the manufacture of any illegal controlled substance, comes in contact with, or is aware of, the presence of a substance that the person suspects is a hazardous substance at a site where an illegal controlled substance is or was manufactured, shall notify the department for the purpose of taking removal action, as necessary, to prevent, minimize, or mitigate damage that might otherwise result from the release or threatened release of the hazardous substance, except for samples required to be kept for evidentiary purposes.



(b) (1) Notwithstanding any other provision of law, upon receipt of a notification pursuant to subdivision (a), the department shall take removal action, as necessary, with respect to any hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, a material intended to be used in the unlawful manufacture of a controlled substance, or a waste material from the unlawful manufacture of a controlled substance. The department may expend funds appropriated from the Illegal Drug Lab Cleanup Account created pursuant to subdivision (e) to pay the costs of removal actions required by this section. The department may enter into oral contracts, not to exceed ten thousand dollars (\$10,000) in obligation, when, in the judgment of the department, immediate corrective action to a hazardous substance subject to this section is necessary to remedy or prevent an emergency.

(2) The department shall, as soon as the information is available, report the location of any removal action that will be carried out pursuant to paragraph (1), and the time that the removal action will be carried out, to the local environmental health officer within whose jurisdiction the removal action will take place, if the local environmental officer does both of the following:

(A) Requests, in writing, that the department report this information to the local environmental health officer.

(B) Provides the department with a single 24-hour telephone number to which the information can be reported.

(c) (1) For purposes of Chapter 6.5 (commencing with Section 25100) or this chapter, any person who is found to have operated a site for the purpose of manufacturing an illegal controlled substance or a precursor of an illegal controlled substance is the generator of any hazardous substance at, or released from, the site that is subject to removal action pursuant to this section.

(2) During the removal action, for purposes of complying with the manifest requirements in Section 25160, the department, the county health department,



the local environmental health officer, or their designee may sign the hazardous waste manifest as the generator of the hazardous waste. In carrying out that action, the department, the county health department, the local environmental health officer, or their designee shall be considered to have acted in furtherance of their statutory responsibilities to protect the public health and safety and the environment from the release, or threatened release, of hazardous substances, and the department, the county health department, the local environmental health officer, or their designee are not responsible parties for the release or threatened release of the hazardous substances.

(3) The officer, investigator, or agency employee specified in subdivision (a) is not a responsible party for the release or threatened release of any hazardous substances at, or released from, the site.

(d) The department may adopt regulations to implement this section in consultation with appropriate law enforcement and local environmental agencies.

(e) The Illegal Drug Lab Cleanup Account is hereby created in the General Fund and the department may expend any money in the account, upon appropriation by the Legislature, to carry out the removal actions required by this section. The account shall be funded by moneys appropriated directly from the General Fund.

(f) The responsibilities assigned to the department by the act adding this subdivision apply only to the extent that sufficient funding is made available for that purpose.

SEC. 12. Section 43055 is added to the Revenue and Taxation Code, to read:

43055. The surcharge imposed pursuant to Section 25205.9 of the Health and Safety Code, as that section read on December 31, 1997, and was repealed by Section 24 of Chapter 870 of the Statutes of 1997, shall be administered and collected by the board in accordance with this part, with regards to any amounts due and payable on or before February 28, 1998.

SEC. 13. Section 43551 of the Revenue and Taxation Code is amended to read:



43551. All taxes, interest, and penalties imposed and all amounts of tax required to be paid to the state pursuant to Sections 43051, 43053, and 43055, shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payments to the Treasurer to be deposited in the State Treasury to the credit of the Hazardous Waste Control Account.

SEC. 14. Section 43552 is added to the Revenue and Taxation Code, to read:

43552. All taxes, interest, and penalties imposed and all amounts of tax required to be paid to the state pursuant to Section 43054 shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payments to the Treasurer for deposit in the State Treasury to the credit of the Toxic Substances Control Account.

SEC. 15. Section 53 of Chapter 870 of the Statutes of 1997 is amended to read:

Sec. 53. (a) The Legislature hereby finds and declares all of the following:

(1) Section 25385.8 of the Health and Safety Code requires that five million dollars (\$5,000,000) be transferred annually from the Hazardous Substance Account to the Superfund Bond Trust Fund to be held in reserve and provides that money deposited in the Hazardous Substance Clearing Account may be used only to pay the principal of, and interest on, the bonds issued and sold pursuant to Article 7.5 (commencing with Section 25385) of Chapter 6.8 of Division 20 of the Health and Safety Code.

(2) Notwithstanding Section 25358.8 of the Health and Safety Code, Item 4260-016-826 of the Budget Act of 1991 (Chapter 118 of the Statutes of 1991) directed the Controller, upon approval of the Department of Finance, to transfer not less than twenty million dollars (\$20,000,000) from the Superfund Bond Trust Fund to the General Fund to balance the budget for the 1991-92 fiscal year. In accordance with the Budget Act of 1991, the



Controller transferred twenty million dollars (\$20,000,000) from the Superfund Bond Trust Fund to the General Fund on June 2, 1992.

(3) The transfer of funds described in paragraph (2) will cause a shortfall in funds needed to repay the principal of, and interest on, the bonds issued and sold pursuant to Article 7.5 (commencing with Section 25385) of Chapter 6.8 of Division 20 of the Health and Safety Code beginning with the 1998–99 fiscal year. Because of the impending shortfall, the Legislature finds that the General Fund should reimburse the Superfund Bond Trust Fund for the money transferred pursuant to Item 4260-016-826 of the Budget Act of 1991, plus interest at the applicable State Surplus Money Investment Fund interest rate, for all periods during which the General Fund had use of the funds and until the Superfund Bond Trust Fund is fully reimbursed.

(b) The following amounts shall be transferred from the General Fund to the Superfund Bond Trust Fund to pay the principal of, and interest on, the bonds issued and sold pursuant to Article 7.5 (commencing with Section 25385) of Chapter 6.8 of Division 20 of the Health and Safety Code, in accordance with the following schedule:

(1) Three million three hundred thousand dollars (\$3,300,000) shall be transferred from the General Fund to the Superfund Bond Trust Fund on or before August 1, 1999.

(2) Three million one hundred thousand dollars (\$3,100,000) shall be transferred from the General Fund to the Superfund Bond Trust Fund on or before August 1, 2000.

(3) The amount needed to repay the remainder of the funds transferred pursuant to Item 4260-016-826 of the Budget Act of 1991, plus all interest accrued since the date that the transfer took place, shall be transferred from the General Fund to the Superfund Bond Trust Fund on or before August 1, 2001.

SEC. 16. Section 2.5 of this bill incorporates amendments to Section 25173.7 of the Health and Safety Code proposed by both this bill and SB 1916. It shall only



become operative if (1) both bills are enacted and become effective on or before January 1, 1999, (2) each bill amends Section 25173.7 of the Health and Safety Code, and (3) this bill is enacted after SB 1916, in which case Section 2 of this bill shall not become operative.

SEC. 17. Section 9.5 of this bill incorporates amendments to Section 25205.15 of the Health and Safety Code proposed by both this bill and AB 2067. It shall only become operative if (1) both bill are enacted and become effective on or before January 1, 1999, (2) each bill amends Section 25205.15 of the Health and Safety Code, and (3) this bill is enacted after AB 2067, in which case Section 9 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that 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.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.



Approved _____, 1998

Governor

