

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1130

Introduced by Assembly Member Laird

February 23, 2007

~~An act to add Article 4.5 (commencing with Section 6880) to Chapter 3 of Part 2 of Division 6 of the Public Resources Code, relating to state lands. An act to amend Sections 25270, 25270.2, 25270.3, 25270.6, 25270.8, 25270.12, 25270.13, 25404, and 25404.5 of, to add Section 25270.4.5 to, to repeal Sections 25270.7 and 25270.10 of, and to repeal and add Sections 25270.4, 25270.5, 25270.9, and 25270.11 of, the Health and Safety Code, relating to aboveground storage tanks, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1130, as amended, Laird. ~~State lands: decommissioning of offshore oil platforms. Aboveground storage tanks.~~

(1) Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program. A city or local agency that meets specified requirements is authorized to apply to the secretary to implement the unified program, and every county is required to apply to the secretary to be certified to implement the unified program.

The Aboveground Petroleum Storage Act defines, for purposes of the act, a "storage tank" as any aboveground tank or container used for the storage of petroleum, except as specified. Existing law requires the State Water Resources Control Board and the California regional water quality control boards to administer the act with regard to a tank facility that is subject to specified federal regulations and requires a certified

unified program agency to enforce the requirements of the act regarding a spill prevention control and countermeasure plan. Existing law imposes specified inspection and monitoring requirements upon the board and the regional boards with regard to these tanks and requires a tank facility owner or operator to file a storage statement with the board. Existing law establishes the Environmental Protection Trust Fund in the State Treasury and provides that the money in the fund is available for expenditure by the board, upon appropriation by the Legislature, for specified purposes.

This bill would instead require the unified program agency (UPA) to implement that act, and would make conforming changes.

The bill would define the term “aboveground storage tank” and would revise the types of storage tanks subject to the act. A storage tank at a tank facility subject to specified federal regulations would be required to prepare a spill prevention control and countermeasure plan and a tank facility located on a farm, nursery, logging site, or construction site that is less than a specified capacity would be required to be subject to inspections and secondary containment requirements.

The bill would require the UPA to inspect, at least once every 3 years, each storage tank within its jurisdiction that has a storage capacity of 10,000 gallons or more of petroleum, except as specified. The owner or operator of a tank facility would be required to file an annual tank facility statement with the local agency, accompanied by a fee established by the UPA.

The board, the regional board, and the UPA would be required to oversee the cleanup or abatement efforts, or to cause cleanup or abatement efforts, with regard to a release from a storage tank at a tank facility.

Any expenses recovered by the board or a regional board in overseeing, or contracting for, a cleanup or abatement would be required to be deposited in the State Water Pollution Cleanup and Abatement Account, for expenditure by the board, as specified, thereby making an appropriation.

The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the regulation of aboveground storage tanks.

The bill would appropriate a portion of the money in the Environmental Protection Trust Fund, as of January 1, 2008, in an amount determined by the Secretary of Environmental Protection in consultation with the UPAs to a training account established and

maintained by the secretary to be used for purposes of training UPA personnel in the bill's requirements of this chapter, and would appropriate all remaining funds to the UPAs to implement the bill's requirements, thereby making an appropriation.

(2) 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.

~~Existing law authorizes the State Lands Commission to lease tidelands and submerged lands for the extraction of oil and gas.~~

~~This bill would authorize an owner or operator of an offshore oil platform to request, in writing, that the State Lands Commission approve an alternative to the complete removal of an offshore oil platform when the extraction of oil has become uneconomical. Upon commitment by an owner or operator to pay the state's cost of determining the advantages and disadvantages of complete removal of a platform or alternatives to complete removal, the commission shall initiate a process, in cooperation with the owner or operator, the Department of Fish and Game, any affected counties, regulatory agencies, and interested persons, to determine whether any of the alternatives are preferred.~~

~~The bill would create the Ocean Resources Fund in the State Treasury to receive specified payments from an owner or operator. Upon appropriation by the Legislature, moneys in the fund would be required to be expended only for purposes of the act.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~^{yes}. Fiscal committee: yes. State-mandated local program: ~~no~~^{yes}.

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

- 1 SECTION 1. Section 25270 of the Health and Safety Code is
- 2 amended to read:
- 3 25270. The Legislature finds and declares all of the following:
- 4 (a) There are ~~65,000~~ 4,500 or more aboveground tanks in the
- 5 state ~~which~~ *that* hold a variety of dangerous substances ~~which~~ *that*
- 6 may pose ~~minor to very~~ serious threats to the environment and the
- 7 public.
- 8 (b) Aboveground storage tanks have been found to leak and
- 9 spill into the ground and water, causing major contamination

1 problems. In one event alone, in Martinez, California, during April
2 1988, an estimated 400,000 gallons of crude oil were spilled into
3 sensitive marshes, Suisun Bay, and the Bay Delta Estuary, causing
4 major damage to the ecosystem in the area.

5 (c) Among the causes for environmental damage resulting from
6 aboveground tanks are leaks and spills from tanks due to advanced
7 age, defects in design or installation, human error, and equipment
8 failure.

9 (d) While there exists a statewide program for determining the
10 amount and type of hazardous substances being stored in
11 underground tanks, there does not exist a similar program to
12 commence to address the problems posed by aboveground tanks.

13 (e) The ability to reduce the incidence and damage from
14 hazardous spills and leaks depends upon preventive steps taken
15 by industry and monitoring agencies. ~~The federal government,~~
16 ~~which has traditionally monitored aboveground tank installations,~~
17 ~~is presently experiencing a severe budget and personnel shortage~~
18 ~~devoted to the function of inspecting aboveground tanks.~~

19 (f) The health of California's people, wildlife, fish, and
20 vegetation depend upon a clean environment.

21 (g) It is necessary to protect the state's people and natural
22 resources by ~~establishing~~ *maintaining* a program of inspecting
23 aboveground petroleum storage tanks *that pose a serious threat*
24 *to the environment.*

25 *SEC. 2. Section 25270.2 of the Health and Safety Code is*
26 *amended to read:*

27 25270.2. For purposes of this chapter, the following definitions
28 apply:

29 (a) "Aboveground storage tank" or "storage tank" means a
30 tank that has the capacity to store 55 gallons or more of petroleum
31 and that is substantially or totally above the surface of the ground.

32 "Aboveground storage tank" does not include any of the following:

33 (1) A pressure vessel or boiler that is subject to Part 6
34 (commencing with Section 7620) of Division 5 of the Labor Code.

35 (2) A tank containing hazardous waste, as defined in subdivision
36 (g) of Section 25316, if the Department of Toxic Substances Control
37 has issued the person owning or operating the tank a hazardous
38 waste facilities permit for the storage tank.

39 (3) An aboveground oil production tank that is subject to Section
40 3106 of the Public Resources Code.

1 (4) Oil-filled electrical equipment, including, but not limited to,
2 transformers, circuit breakers, or capacitors, if the oil-filled
3 electrical equipment meets either of the following conditions:

4 (A) The equipment contains less than 10,000 gallons of dielectric
5 fluid.

6 (B) The equipment contains 10,000 gallons or more of dielectric
7 fluid with PCB levels less than 50 parts per million, appropriate
8 containment or diversionary structures or equipment are employed
9 to prevent discharged oil from reaching a navigable water course,
10 and the electrical equipment is visually inspected in accordance
11 with the usual routine maintenance procedures of the owner or
12 operator.

13 (5) A tank regulated as an underground storage tank under
14 Chapter 6.7 (commencing with Section 25280) and Chapter 16
15 (commencing with Section 2610) of Division 3 of Title 23 of the
16 California Code of Regulations.

17 (6) Any transportation-related tank facility, subject to the
18 authority and control of the United States Department of
19 Transportation, as defined in the Memorandum of Understanding
20 between the Secretary of Transportation and the Administrator of
21 the United States Environmental Protection Agency, dated
22 November 24, 1971, set forth in Appendix A to Part 112
23 (commencing with Section 112.1) of Subchapter D of Chapter I of
24 Title 40 of the Code of Federal Regulations.

25 ~~(a)~~

26 (b) “Board” means the State Water Resources Control Board.

27 ~~(b)~~

28 (c) (1) “Certified Unified Program Agency” or “CUPA” means
29 the agency certified by the Secretary for Environmental Protection
30 to implement the unified program specified in Chapter 6.11
31 (commencing with Section 25404) within a jurisdiction.

32 (2) “Participating Agency” or “PA” means an agency ~~which~~
33 that has a written agreement with the CUPA pursuant to
34 subdivision (d) of Section 25404.3, and is approved by the
35 secretary, to *implement and* enforce the unified program element
36 specified in paragraph (2) of subdivision (c) of Section 25404, in
37 accordance with Sections 25404.1 and 25404.2.

38 (3) (A) “Unified Program Agency” or “UPA” means the CUPA,
39 or its participating agencies to the extent *that* each PA has been
40 designated by the CUPA, pursuant to a written agreement, to

1 *implement and* enforce the unified program element specified in
2 paragraph (2) of subdivision (c) of Section 25404. ~~For purposes~~
3 ~~of this chapter, the UPAs have the responsibility and authority, to~~
4 ~~the extent provided by this chapter and Sections 25404.1 and~~
5 ~~25404.2, to enforce only those requirements of this chapter listed~~
6 ~~in paragraph (2) of subdivision (c) of Section 25404.~~ The UPAs
7 also have the responsibility and authority, to the extent provided
8 by this chapter and Sections 25404.1 and 25404.2, to implement
9 and enforce the regulations adopted to implement the requirements
10 of this chapter listed in paragraph (2) of subdivision (c) of Section
11 25404. After.

12 (B) ~~After a CUPA has been certified by the secretary, the unified~~
13 ~~program agencies~~ *agency* shall be the only ~~local agencies~~ *agency*
14 authorized to enforce the requirements of this chapter listed in
15 paragraph (2) of subdivision (c) of Section 25404 within the
16 jurisdiction of the CUPA. ~~This section.~~

17 (C) ~~This paragraph~~ shall not be construed to limit the authority
18 or responsibility granted to the board and the regional boards by
19 this chapter to implement and enforce this chapter and the
20 regulations adopted pursuant thereto.

21 (e) ~~“Fund” means the Environmental Protection Trust Fund~~
22 ~~established pursuant to Section 25270.11.~~

23 (d) “Operator” means the person responsible for the overall
24 operation of a tank facility.

25 (e) “Owner” means the person who owns the tank facility or
26 part of the tank facility.

27 (f) “Person” means an individual, trust, firm, joint stock
28 company, corporation, including a government corporation,
29 partnership, limited liability company, or association. “Person”
30 also includes any city, county, district, the University of California,
31 the California State University, the state, any department or agency
32 thereof, and the United States, to the extent authorized by federal
33 law.

34 (g) “Petroleum” means crude oil, or any fraction thereof, which
35 is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds
36 per square inch absolute pressure.

37 (h) “Regional board” means a California regional water quality
38 control board.

1 (i) “Release” means any spilling, leaking, pumping, pouring,
2 emitting, emptying, discharging, escaping, leaching, or disposing
3 into the environment.

4 (j) “Secretary” means the Secretary for Environmental
5 Protection.

6 (j)

7 (k) “Storage” or “store” means the containment, handling, or
8 treatment of petroleum, for any period of time, including on a
9 temporary basis.

10 ~~(k) “Storage tank” means any aboveground tank or container~~
11 ~~used for the storage of petroleum. “Storage tank” does not include~~
12 ~~any of the following:~~

13 ~~(1) A pressure vessel or boiler which is subject to Part 6~~
14 ~~(commencing with Section 7620) of Division 5 of the Labor Code.~~

15 ~~(2) A storage tank containing hazardous waste, as defined in~~
16 ~~subdivision (g) of Section 25316, if the person owning or operating~~
17 ~~the storage tank has been issued a hazardous waste facilities permit~~
18 ~~for the storage tank by the department.~~

19 ~~(3) An aboveground oil production tank which is subject to~~
20 ~~Section 3106 of the Public Resources Code.~~

21 ~~(4) Oil-filled electrical equipment, including, but not limited~~
22 ~~to, transformers, circuit breakers, or capacitors, if the oil-filled~~
23 ~~electrical equipment meets either of the following conditions:~~

24 ~~(A) The equipment contains less than 10,000 gallons of dielectric~~
25 ~~fluid.~~

26 ~~(B) The equipment contains 10,000 gallons or more of dielectric~~
27 ~~fluid with PCB levels less than 50 parts per million, appropriate~~
28 ~~containment or diversionary structures or equipment are employed~~
29 ~~to prevent discharged oil from reaching a navigable water course,~~
30 ~~and the electrical equipment is visually inspected in accordance~~
31 ~~with the usual routine maintenance procedures of the owner or~~
32 ~~operator.~~

33 ~~(l) “Storage capacity” means the aggregate capacity of all~~
34 ~~aboveground tanks at a tank facility.~~

35 ~~(t)~~

36 (m) “Tank facility” means any one, or combination of,
37 aboveground storage tanks, including any piping ~~which that~~ is
38 integral to the tank, ~~which that~~ contains petroleum and ~~which that~~
39 is used by a single business entity at a single location or site. For
40 purposes of this chapter, a pipe is integrally related to an

1 aboveground storage tank if the pipe is connected to the tank and
2 meets any of the following:

- 3 (1) The pipe is within the dike or containment area.
- 4 (2) The pipe is between the containment area and the first flange
5 or valve outside the containment area.
- 6 (3) The pipe is connected to the first flange or valve on the
7 exterior of the tank, if state or federal law does not require a
8 containment area.

9 *SEC. 3. Section 25270.3 of the Health and Safety Code is*
10 *amended to read:*

11 25270.3. (a) ~~Except as provided in subdivision (b), a A tank~~
12 ~~facility is subject to this chapter if either of the following conditions~~
13 ~~apply:~~

14 (1) ~~The the tank facility is subject to the oil pollution prevention~~
15 ~~regulations specified in Part 112 (commencing with Section 112.1)~~
16 ~~of Subchapter D of Chapter I of Title 40 of the Code of Federal~~
17 ~~Regulations:~~

18 (2) ~~(A)The or the tank facility has a storage capacity of 10,000~~
19 ~~1,320 gallons or more of petroleum.~~

20 (B) ~~Notwithstanding subparagraph (A), a tank facility located~~
21 ~~on a farm, nursery, logging site, or construction site is not subject~~
22 ~~to the requirements of subdivision (c) of Section 25270.5 if no~~
23 ~~storage tank at the location exceeds 20,000 gallons and the~~
24 ~~cumulative storage capacity of the tank facility does not exceed~~
25 ~~100,000 gallons.~~

26 (b) ~~This chapter does not apply to any tank facility, or portion~~
27 ~~of a tank facility, subject to Section 3106 of the Public Resources~~
28 ~~Code.~~

29 *SEC. 4. Section 25270.4 of the Health and Safety Code is*
30 *repealed.*

31 25270.4. (a) ~~Except as provided in subdivision (b), the board~~
32 ~~and the regional board shall administer this chapter with regard to~~
33 ~~a tank facility, or a portion of a tank facility, which is subject to~~
34 ~~Part 112 (commencing with Section 112.1) of Subchapter D of~~
35 ~~Chapter I of Title 40 of the Code of Federal Regulations, except~~
36 ~~for that portion of a tank facility associated with the production of~~
37 ~~oil, which shall be supervised by the Division of Oil and Gas of~~
38 ~~the Department of Conservation pursuant to Section 3106 of the~~
39 ~~Public Resources Code.~~

1 ~~(b) (1) If there is a certified unified program agency in a~~
2 ~~jurisdiction, the unified program agency shall enforce the~~
3 ~~requirements of subdivision (c) of Section 25270.5, pursuant to~~
4 ~~the provisions of Sections 25404.1 and 25404.2.~~

5 ~~(2) On and after January 1, 1997, if there is no CUPA, the~~
6 ~~requirements of subdivision (c) of Section 25270.5 shall be~~
7 ~~enforced by the agency authorized pursuant to subdivision (f) of~~
8 ~~Section 25404.3.~~

9 *SEC. 5. Section 25270.4 is added to the Health and Safety*
10 *Code, to read:*

11 *25270.4. This chapter shall be implemented by the Unified*
12 *Program Agency. If there is no UPA, the agency authorized*
13 *pursuant to subdivision (f) of Section 25404.3 shall be deemed to*
14 *be the UPA for purposes of this chapter and shall implement this*
15 *chapter.*

16 *SEC. 6. Section 25270.4.5 is added to the Health and Safety*
17 *Code, to read:*

18 *25270.4.5. (a) Except as provided in subdivision (b), each*
19 *owner or operator of a storage tank at a tank facility subject to*
20 *this chapter shall prepare a spill prevention control and*
21 *countermeasure plan prepared in accordance with Part 112*
22 *(commencing with Section 112.1) of Subchapter D of Chapter I of*
23 *Title 40 of the Code of Federal Regulations. Each owner or*
24 *operator specified in this subdivision shall conduct periodic*
25 *inspections of the storage tank to assure compliance with Section*
26 *112 (commencing with Section 112.1) of Subchapter D of Chapter*
27 *I of Title 40 of the Code of Federal Regulations. In implementing*
28 *the spill prevention control and countermeasure plan, each owner*
29 *or operator specified in this subdivision shall fully comply with*
30 *the latest version of the regulations contained in Part 112*
31 *(commencing with Section 112.1) of Subchapter D of Chapter I of*
32 *Title 40 of the Code of Federal Regulations.*

33 *(b) A tank facility located on a farm, nursery, logging site, or*
34 *construction site is not subject to subdivision (a) if no storage tank*
35 *at the location exceeds 20,000 gallons and the cumulative storage*
36 *capacity of the tank facility does not exceed 100,000 gallons. The*
37 *owner or operator of a tank facility exempt pursuant to this*
38 *subdivision shall take the following actions:*

39 *(1) Conduct a daily visual inspection of any storage tank storing*
40 *petroleum.*

1 (2) Allow the UPA to conduct a periodic inspection of the tank
2 facility.

3 (3) Install a secondary means of containment for the entire
4 contents of the largest storage tank at the tank facility, plus
5 sufficient space for precipitation, if the UPA determines this
6 installation is necessary for the protection of the waters of the
7 state.

8 SEC. 7. Section 25270.5 of the Health and Safety Code is
9 repealed.

10 ~~25270.5. (a) By January 1, 1991, the board shall adopt a~~
11 ~~schedule for the inspection of tank facilities subject to this chapter.~~
12 ~~In adopting this schedule, the board shall give special attention to~~
13 ~~those tank facilities which are near navigable waters, potable water~~
14 ~~supplies, or sensitive ecosystems, such as wetlands and marshes.~~

15 ~~(b) Each regional board shall conduct periodic inspections of~~
16 ~~either each storage tank or a representative sampling of the storage~~
17 ~~tanks at each tank facility in accordance with the schedule~~
18 ~~determined by the board pursuant to subdivision (a) for compliance~~
19 ~~with the spill prevention and countermeasure plan.~~

20 ~~(c) Except as provided in subparagraph (B) of paragraph (2)~~
21 ~~of subdivision (a) of Section 25270.3, each owner or operator of~~
22 ~~a storage tank at a tank facility subject to this chapter shall prepare~~
23 ~~a spill prevention control and countermeasure plan prepared in~~
24 ~~accordance with the guidelines contained in Part 112 of Title 40~~
25 ~~of the Code of Federal Regulations. In meeting the requirement~~
26 ~~to prepare a spill prevention control and countermeasure plan, the~~
27 ~~owner or operator may, if he or she elects to do so, use the format~~
28 ~~adopted pursuant to Section 25503.4. Each owner or operator~~
29 ~~specified in this subdivision shall conduct periodic inspections of~~
30 ~~the storage tanks to assure compliance with Section 112.7 of Title~~
31 ~~40 of the Code of Federal Regulations. In implementing the spill~~
32 ~~prevention control and countermeasure plan, each owner or~~
33 ~~operator specified in this subdivision shall fully comply with the~~
34 ~~latest version of the regulations contained in Part 112 of Title 40~~
35 ~~of the Code of Federal Regulations.~~

36 ~~(d) The owner or operator of a tank facility specified in~~
37 ~~subparagraph (B) of paragraph (2) of subdivision (a) of Section~~
38 ~~25270.3 shall take all of the following actions:~~

39 ~~(1) Conduct daily visual inspections of any tank storing~~
40 ~~petroleum.~~

1 ~~(2) Allow the regional board to conduct periodic inspections~~
2 ~~of the tank facility.~~

3 ~~(3) Install a secondary means of containment for the entire~~
4 ~~contents of the largest tank at the tank facility, plus sufficient space~~
5 ~~for precipitation, if the regional board determines this installation~~
6 ~~is necessary for the protection of the waters of the state.~~

7 *SEC. 8. Section 25270.5 is added to the Health and Safety*
8 *Code, to read:*

9 *25270.5. (a) Except as provided in subdivision (b), at least*
10 *once every three years, the UPA shall inspect each storage tank*
11 *or a representative sampling of the storage tanks at each tank*
12 *facility that has a storage capacity of 10,000 gallons or more of*
13 *petroleum. The purpose of the inspection shall be to determine*
14 *whether the owner or operator is in compliance with the spill*
15 *prevention control and countermeasure plan requirements of this*
16 *chapter.*

17 *(b) The UPA may develop an alternative inspection and*
18 *compliance plan, subject to approval by the secretary.*

19 *(c) An inspection conducted pursuant to this section does not*
20 *require the oversight of a professional engineer.*

21 *SEC. 9. Section 25270.6 of the Health and Safety Code is*
22 *amended to read:*

23 *25270.6. (a) On or before ~~July 1, 1990~~ January 1, 2009, and*
24 *on or before ~~July 1~~ of every two years January 1 annually*
25 *thereafter, each owner or operator of a tank facility subject to this*
26 *chapter shall file with the ~~board~~ UPA a ~~storage statement which~~*
27 *tank facility statement that shall identify the name and address of*
28 *the tank facility, a contact person for the tank facility, the total*
29 *storage capacity of the tank facility, and the location, size, age,*
30 *and contents of each storage tank that exceeds 10,000 gallons in*
31 *capacity and ~~which~~ that holds a substance containing at least 5*
32 *percent of petroleum. A copy of a statement submitted previously*
33 *pursuant to this section may be submitted in lieu of a new ~~storage~~*
34 *tank facility statement if no new or used storage tanks have been*
35 *added to the facility or if no significant modifications have been*
36 *made. For purposes of this section, a significant modification*
37 *includes, but is not limited to, altering existing storage tanks or*
38 *changing spill prevention or containment methods.*

1 ~~(b) Each storage statement submitted pursuant to subdivision~~
2 ~~(a) shall be accompanied by a fee in accordance with the following~~
3 ~~schedule:~~

4		
5	— Total Tank Facility	
6	— Storage Capacity	— Per Facility Fee
7	Less than 10,000 gallons	\$ 100
8	10,000–100,000 gallons	200
9	100,001–1,000,000 gallons	400
10	1,000,001–10,000,000 gallons	1,600
11	10,000,001–100,000,000 gallons	8,000
12	100,000,001 or more gallons	30,000

13
14 ~~(b) On or before January 1, 2010, and on or before January 1~~
15 ~~of each year thereafter, each owner or operator of a tank facility~~
16 ~~who is required to submit a tank facility statement pursuant to~~
17 ~~subdivision (a) shall pay a fee to the UPA. The governing body of~~
18 ~~the UPA shall establish a fee, as part of the single fee system~~
19 ~~implemented pursuant to Section 25404.5, at a level sufficient to~~
20 ~~pay the necessary and reasonable costs incurred by the UPA in~~
21 ~~administering this chapter, including but not limited to, inspections,~~
22 ~~enforcement, and administrative costs. The UPA may provide for~~
23 ~~a waiver of these fees when a state or local government agency~~
24 ~~submits a tank facility statement.~~

25 ~~(e) The fees collected pursuant to this section shall be deposited~~
26 ~~in the fund until the total sum in the fund equals seven million five~~
27 ~~hundred thousand dollars (\$7,500,000) in any one year.~~

28 ~~If fees in excess of seven million five hundred thousand dollars~~
29 ~~(\$7,500,000) are collected by the board, a pro rata share of the~~
30 ~~excess shall be returned to the owners or operators who paid the~~
31 ~~fee, or at the option of the owner or operator, credited to their~~
32 ~~account for a subsequent year. Expenses recovered pursuant to~~
33 ~~Section 25270.9, and penalties collected pursuant to Section~~
34 ~~25270.12, shall not be available for return or credit to owners or~~
35 ~~operators pursuant to this subdivision. The board shall annually~~
36 ~~revise the sum of seven million five hundred thousand dollars~~
37 ~~(\$7,500,000) to reflect the change in the cost of living in the state.~~

38 ~~SEC. 10. Section 25270.7 of the Health and Safety Code is~~
39 ~~repealed.~~

1 ~~25270.7. (a) Except as provided in subdivision (c), the owner~~
2 ~~or operator of a tank facility which meets the requirements of~~
3 ~~subdivision (b) or (c) shall establish and maintain a monitoring~~
4 ~~program pursuant to subdivision (b) or (c), as applicable, which~~
5 ~~shall be approved by the regional board, to detect releases to the~~
6 ~~soil and water, including both groundwater and surface water. The~~
7 ~~owner or operator shall establish the required monitoring program~~
8 ~~in accordance with the requirements and a schedule prescribed by~~
9 ~~the regional board. However, if the regional board requires a~~
10 ~~monitoring program, the program shall be implemented as soon~~
11 ~~as feasible, but not later than 360 days from the date of notification~~
12 ~~by the regional board that a monitoring program is required. The~~
13 ~~owner or operator subject to this section shall designate a schedule~~
14 ~~for monitoring and the sample locations, which shall be approved~~
15 ~~by the regional board. The owner or operator shall make the~~
16 ~~monitoring results available to the regional board and the~~
17 ~~Department of Fish and Game.~~

18 ~~(b) Each owner or operator of a tank facility subject to this~~
19 ~~chapter which, because of the tank location, tank size,~~
20 ~~characteristics of the petroleum being stored or the spill~~
21 ~~containment system, has the potential to impact surface waters or~~
22 ~~sensitive ecosystems, as determined by the regional board, shall~~
23 ~~do either of the following:~~

24 ~~(1) Install and maintain a system, approved by the regional~~
25 ~~board, to detect releases into surface waters or sensitive ecosystems.~~

26 ~~(2) If any discharge from a tank facility flows, or would~~
27 ~~reasonably be expected to flow, to surface waters or a sensitive~~
28 ~~ecosystem, allow a drainage valve to be opened and remain open~~
29 ~~only during the presence of an individual who visually observes~~
30 ~~the discharge.~~

31 ~~(c) Each owner or operator of a tank facility subject to this~~
32 ~~chapter which, because of the tank facility location, tank size, or~~
33 ~~characteristics of the petroleum being stored (16 degrees API or~~
34 ~~lighter), has the potential to impact the beneficial uses of the~~
35 ~~groundwater, as determined by the regional board, and which is~~
36 ~~not required to have a groundwater monitoring program at the tank~~
37 ~~facility pursuant to any other federal, state, or local law, shall do~~
38 ~~any of the following:~~

1 ~~(1) Install a tank facility groundwater monitoring system which~~
 2 ~~will detect releases of petroleum into the groundwater, as approved~~
 3 ~~by the regional board.~~

4 ~~(2) Install and maintain a tank foundation design which will~~
 5 ~~provide for early detection of releases of petroleum before reaching~~
 6 ~~the groundwater, as approved by the regional board.~~

7 ~~(3) Implement a tank water bottom monitoring system and~~
 8 ~~maintain a schedule which includes a log or other record which~~
 9 ~~will identify or indicate releases of petroleum before reaching the~~
 10 ~~groundwater, as approved by the regional board.~~

11 ~~(4) Use other methods which will detect releases of petroleum~~
 12 ~~into or before reaching the groundwater, as approved by the~~
 13 ~~regional board.~~

14 ~~(d) Tank owners or operators shall report all positive findings~~
 15 ~~from the detection systems required by subdivision (c) to the~~
 16 ~~appropriate regional board within 72 hours after learning of the~~
 17 ~~finding.~~

18 ~~(e) This section does not apply to any tank whose exterior~~
 19 ~~surface, including connecting piping, and the floor directly beneath~~
 20 ~~the tank, can be monitored by direct viewing.~~

21 ~~SEC. 11. Section 25270.8 of the Health and Safety Code is~~
 22 ~~amended to read:~~

23 ~~25270.8. Each owner or operator of a tank facility shall~~
 24 ~~immediately, upon discovery, notify the Office of Emergency~~
 25 ~~Services and the UPA using the appropriate 24-hour emergency~~
 26 ~~number or the 911 number, as established by the UPA, or by the~~
 27 ~~governing body of the UPA, of the occurrence of a spill or other~~
 28 ~~release of one barrel (42 gallons) or more of petroleum which that~~
 29 ~~is required to be reported pursuant to subdivision (a) of Section~~
 30 ~~13272 of the Water Code. The owner or operator shall notify the~~
 31 ~~local responding agency or the 911 emergency system when the~~
 32 ~~operator determines that emergency response assistance is required.~~

33 ~~SEC. 12. Section 25270.9 of the Health and Safety Code is~~
 34 ~~repealed.~~

35 ~~25270.9. The board, the regional board, and the Department~~
 36 ~~of Fish and Game may use funds appropriated pursuant to Section~~
 37 ~~25270.11 to oversee the cleanup or abatement efforts, or to cause~~
 38 ~~cleanup or abatement efforts, in the event of a release from a~~
 39 ~~storage tank at a tank facility.~~

1 The reasonable expenses of the board, the regional board, and
2 the Department of Fish and Game incurred in overseeing or
3 contracting for cleanup or abatement efforts which result from a
4 leak or spill at a tank facility are a charge against the owner or
5 operator of the tank facility. Expenses reimbursable to a public
6 agency under this section are a debt of the tank facility owner or
7 operator, and shall be collectible in the same manner as in the case
8 of an obligation under contract, express or implied. The expenses
9 recovered pursuant to this section shall be deposited in the fund.

10 *SEC. 13. Section 25270.9 is added to the Health and Safety*
11 *Code, to read:*

12 *25270.9. (a) The board, the regional board, and the UPA shall*
13 *oversee cleanup or abatement efforts, or cause cleanup or*
14 *abatement efforts, of a release from a storage tank at a tank facility.*
15 *The UPA may refer the oversight or cleanup of a release from a*
16 *storage tank at a tank facility to a regional board for action, if*
17 *appropriate, pursuant to Division 7 (commencing with Section*
18 *13000) of the Water Code.*

19 *(b) The reasonable expenses of the board, the regional board,*
20 *and the UPA incurred in overseeing, or contracting for, a cleanup*
21 *or abatement that results from a release at a tank facility is a*
22 *charge against the owner or operator of the tank facility. Expenses*
23 *reimbursed to a public agency under this section are a debt of the*
24 *tank facility owner or operator, and shall be collected in the same*
25 *manner as in the case of an express or implied obligation under*
26 *contract.*

27 *(c) Notwithstanding Article 3 (commencing with Section 13440)*
28 *of Division 7 of the Water Code, the expenses recovered by the*
29 *board or a regional board pursuant to this section shall be*
30 *deposited in the State Water Pollution Cleanup and Abatement*
31 *Account and may be expended by the board in accordance with*
32 *Section 13441 of the Water Code.*

33 *(d) The expenses recovered by the UPA pursuant to this section*
34 *shall be deposited in an account maintained by the UPA for the*
35 *purposes of carrying out this chapter.*

36 *SEC. 14. Section 25270.10 of the Health and Safety Code is*
37 *repealed.*

38 ~~25270.10. (a) The board and the regional board shall~~
39 ~~periodically submit to the University of California, and publish in~~
40 ~~the State Contracts Register, a list or description of those areas of~~

1 research needed by the state and private industry to better assess
2 soil and water contamination by leaking storage tanks.

3 (b) The board may award grants on a competitive bid basis, to
4 qualified persons to conduct research in areas determined pursuant
5 to subdivision (a).

6 *SEC. 15. Section 25270.11 of the Health and Safety Code is*
7 *repealed.*

8 25270.11. (a) There is hereby established in the State Treasury
9 the Environmental Protection Trust Fund. The money in the fund
10 is available for expenditure by the board, upon appropriation by
11 the Legislature, for the following purposes:

12 (1) Inspections of tank facilities.

13 (2) Training of inspectors of tank facilities.

14 (3) Oversight of, or causing, the cleanup or abatement of a
15 release pursuant to Section 25270.9, including transfer to the
16 regional board, or the Department of Fish and Game for this
17 purpose.

18 (4) Awarding of research grants pursuant to Section 25270.10.

19 (5) To reimburse local and state agencies for reasonable costs
20 incurred in responding to, overseeing the cleanup or abatement of,
21 or causing cleanup or abatement efforts of, an accident or disaster
22 involving an aboveground storage tank spill or release. Any local
23 or state agency, except the board, which receives from the fund
24 full reimbursement for these costs shall transfer to the board its
25 right to recover costs from the owner or operator of the affected
26 tank facility.

27 (6) To provide for the long-term rehabilitation and maintenance
28 of affected wetlands and other natural resources affected by storage
29 tank releases. The owner, manager, or custodian of adversely
30 affected wetlands or other natural resources adversely affected by
31 an aboveground storage tank spill or release may submit a claim
32 for consideration by the board for funding to provide long-term
33 rehabilitation and maintenance of those wetlands or other natural
34 resources.

35 (7) To administer this chapter.

36 (b) All of the following shall be deposited in the fund:

37 (1) Fees collected pursuant to Section 25270.6.

38 (2) Expenses recovered pursuant to Section 25270.9.

39 (3) Penalties collected pursuant to Section 25270.12.

1 ~~(4) Amounts transferred pursuant to Section 3 of the act adding~~
2 ~~this chapter.~~

3 ~~(e) The money in the fund shall be expended only for spills or~~
4 ~~releases which occur on or after January 1, 1990, except that the~~
5 ~~portion of the money in the fund derived from Section 3 of the act~~
6 ~~which enacted this section, which is collected and due the state,~~
7 ~~may be expended in connection with expenses incurred as a result~~
8 ~~of any spill of crude oil exceeding 20,000 gallons which occurred~~
9 ~~in April, 1988, from one or more facilities located in the County~~
10 ~~of Contra Costa or surrounding counties. Any reimbursement for~~
11 ~~costs associated with the spill, for which penalties were collected~~
12 ~~and appropriated under Section 3 of that act, shall not exceed the~~
13 ~~total penalty collected and transferred to the fund pursuant to~~
14 ~~Section 3 of that act.~~

15 ~~(d) If a state or local agency obtains full funding for abatement~~
16 ~~or cleanup of a spill or release from a source other than the fund~~
17 ~~for a purpose authorized by this chapter, that agency is not eligible~~
18 ~~to receive money from the fund pursuant to this section. Otherwise,~~
19 ~~nothing in this bill is intended to nullify any other existing~~
20 ~~provision of law.~~

21 *SEC. 16. Section 25270.11 is added to the Health and Safety*
22 *Code, to read:*

23 *25270.11. All money remaining in the Environmental*
24 *Protection Trust Fund as of January 1, 2008, is hereby*
25 *appropriated for expenditure in the following manner:*

26 *(a) A portion of the funds, in an amount determined by the*
27 *secretary in consultation with the UPAs, to a training account*
28 *established and maintained by the secretary, to be used for*
29 *purposes of training UPA personnel in the requirements of this*
30 *chapter.*

31 *(b) All remaining funds in the Environmental Protection Trust*
32 *Fund, shall be allocated to the UPAs, in accordance with a formula*
33 *and process determined by the secretary in consultation with the*
34 *UPAs. The UPAs shall expend those funds for the purpose of*
35 *implementing this chapter.*

36 *SEC. 17. Section 25270.12 of the Health and Safety Code is*
37 *amended to read:*

38 *25270.12. (a) Any owner or operator of a tank facility who*
39 *fails to file a ~~storage report~~ tank facility statement pursuant to*
40 *subdivision (a) of Section 25270.6, to submit the fee required by*

1 subdivision (b) of Section 25270.6, ~~to establish the monitoring~~
2 ~~system required by Section 25270.7,~~ to report spills as required
3 ~~by subdivision (c) of Section 25270.7 or by Section 25270.8,~~ or
4 otherwise to comply with the requirements of this chapter, is
5 subject to a civil penalty of not more than five thousand dollars
6 (\$5,000) for each day on which the violation continues. If the
7 owner or operator commits a second or subsequent violation, a
8 civil penalty of not more than ten thousand dollars (\$10,000) for
9 each day on which the violation continues may be imposed.

10 (b) The civil penalties provided by this section may be assessed
11 and recovered in a civil action brought by the board, the regional
12 board, *city attorney, district attorney,* or the Attorney General.

13 (1) *Fifty percent of all penalties assessed and recovered in a*
14 *civil action brought on behalf of a UPA shall be deposited into a*
15 *unified program account established by the UPA for the purpose*
16 *of carrying out the functions of the unified program and 50 percent*
17 *shall be paid to the office of the city attorney, district attorney, or*
18 *Attorney General, whoever brought that action.*

19 (2) *All penalties assessed and recovered in a civil action brought*
20 *by or for the board or a regional board pursuant to this section*
21 *shall be deposited in the State Water Pollution Cleanup and*
22 *Abatement Account for expenditure by the board in accordance*
23 *with Section 13441 of the Water Code.*

24 (c) The board, the regional board, *city attorney, district attorney,*
25 or the Attorney General may seek to enjoin, in any court of
26 competent jurisdiction, any person believed to be in violation of
27 this chapter.

28 (d) ~~The penalties collected pursuant to this chapter shall be~~
29 ~~deposited in the fund.~~

30 ~~(e) The penalties specified in this section are in addition to any~~
31 ~~other penalties provided by law.~~

32 *SEC. 18. Section 25270.13 of the Health and Safety Code is*
33 *amended to read:*

34 25270.13. (a) This chapter does not preempt local storage tank
35 ordinances, in effect as of August 16, 1989, ~~which~~ *that* meet or
36 exceed the standards prescribed by this chapter.

37 (b) *This chapter does not preempt the authority granted to the*
38 *board and the regional boards under the Porter Cologne Water*
39 *Quality Control Act (Division 7 (commencing with Section 13000)*
40 *of the Water Code).*

1 *SEC. 19. Section 25404 of the Health and Safety Code is*
2 *amended to read:*

3 25404. (a) For purposes of this chapter, the following terms
4 shall have the following meanings:

5 (1) (A) “Certified Unified Program Agency” or “CUPA” means
6 the agency certified by the secretary to implement the unified
7 program specified in this chapter within a jurisdiction.

8 (B) “Participating Agency” or “PA” means a state or local
9 agency that has a written agreement with the CUPA pursuant to
10 subdivision (d) of Section 25404.3, and is approved by the
11 secretary, to implement or enforce one or more of the unified
12 program elements specified in subdivision (c), in accordance with
13 Sections 25404.1 and 25404.2.

14 (C) “Unified Program Agency” or “UPA” means the CUPA, or
15 its participating agencies to the extent each PA has been designated
16 by the CUPA, pursuant to a written agreement, to implement or
17 enforce a particular unified program element specified in
18 subdivision (c). The UPAs have the responsibility and authority
19 to implement and enforce the requirements listed in subdivision
20 (c), and the regulations adopted to implement the requirements
21 listed in subdivision (c), to the extent provided by Chapter 6.5
22 (commencing with Section 25100), Chapter 6.67 (commencing
23 with Section 25270), Chapter 6.7 (commencing with Section
24 25280), Chapter 6.95 (commencing with Section 25500), and
25 Sections 25404.1 and 25404.2. After a CUPA has been certified
26 by the secretary, the unified program agencies and the state
27 agencies carrying out responsibilities under this chapter shall be
28 the only agencies authorized to enforce the requirements listed in
29 subdivision (c) within the jurisdiction of the CUPA.

30 (2) “Department” means the Department of Toxic Substances
31 Control.

32 (3) “Minor violation” means the failure of a person to comply
33 with any requirement or condition of any applicable law,
34 regulation, permit, information request, order, variance, or other
35 requirement, whether procedural or substantive, of the unified
36 program that the UPA is authorized to implement or enforce
37 pursuant to this chapter, and that does not otherwise include any
38 of the following:

- 1 (A) A violation that results in injury to persons or property, or
- 2 that presents a significant threat to human health or the
- 3 environment.
- 4 (B) A knowing, willful, or intentional violation.
- 5 (C) A violation that is a chronic violation, or that is committed
- 6 by a recalcitrant violator. In determining whether a violation is
- 7 chronic or a violator is recalcitrant, the UPA shall consider whether
- 8 there is evidence indicating that the violator has engaged in a
- 9 pattern of neglect or disregard with respect to applicable regulatory
- 10 requirements.
- 11 (D) A violation that results in an emergency response from a
- 12 public safety agency.
- 13 (E) A violation that enables the violator to benefit economically
- 14 from the noncompliance, either by reduced costs or competitive
- 15 advantage.
- 16 (F) A class I violation as provided in Section 25117.6.
- 17 (G) A class II violation committed by a chronic or a recalcitrant
- 18 violator, as provided in Section 25117.6.
- 19 (H) A violation that hinders the ability of the UPA to determine
- 20 compliance with any other applicable local, state, or federal rule,
- 21 regulation, information request, order, variance, permit, or other
- 22 requirement.
- 23 (4) “Secretary” means the Secretary for Environmental
- 24 Protection.
- 25 (5) “Unified program facility” means all contiguous land and
- 26 structures, other appurtenances, and improvements on the land
- 27 that are subject to the requirements listed in subdivision (c).
- 28 (6) “Unified program facility permit” means a permit issued
- 29 pursuant to this chapter. For the purposes of this chapter, a unified
- 30 program facility permit encompasses the permitting requirements
- 31 of Section 25284, and any permit or authorization requirements
- 32 under any local ordinance or regulation relating to the generation
- 33 or handling of hazardous waste or hazardous materials, but does
- 34 not encompass the permitting requirements of a local ordinance
- 35 that incorporates provisions of the Uniform Fire Code or the
- 36 Uniform Building Code.
- 37 (b) The secretary shall adopt implementing regulations and
- 38 implement a unified hazardous waste and hazardous materials
- 39 management regulatory program, which shall be known as the
- 40 unified program, after holding an appropriate number of public

1 hearings throughout the state. The unified program shall be
2 developed in close consultation with the director, the Director of
3 the Office of Emergency Services, the State Fire Marshal, the
4 executive officers and chairpersons of the State Water Resources
5 Control Board and the California regional water quality control
6 boards, the local health officers, local fire services, and other
7 appropriate officers of interested local agencies, and affected
8 businesses and interested members of the public, including
9 environmental organizations.

10 (c) The unified program shall consolidate the administration of
11 the following requirements, and shall, to the maximum extent
12 feasible within statutory constraints, ensure the coordination and
13 consistency of any regulations adopted pursuant to those
14 requirements:

15 (1) (A) Except as provided in subparagraphs (B) and (C), the
16 requirements of Chapter 6.5 (commencing with Section 25100),
17 and the regulations adopted by the department pursuant thereto,
18 are applicable to all of the following:

19 (i) Hazardous waste generators, persons operating pursuant to
20 a permit-by-rule, conditional authorization, or conditional
21 exemption, pursuant to Chapter 6.5 (commencing with Section
22 25100) or the regulations adopted by the department.

23 (ii) Persons managing perchlorate materials.

24 (iii) Persons subject to Article 10.1 (commencing with Section
25 25211) of Chapter 6.5.

26 (B) The unified program shall not include the requirements of
27 paragraph (3) of subdivision (c) of Section 25200.3, the
28 requirements of Sections 25200.10 and 25200.14, and the authority
29 to issue an order under Sections 25187 and 25187.1, with regard
30 to those portions of a unified program facility that are subject to
31 one of the following:

32 (i) A corrective action order issued by the department pursuant
33 to Section 25187.

34 (ii) An order issued by the department pursuant to Chapter 6.8
35 (commencing with Section 25300) or Chapter 6.85 (commencing
36 with Section 25396).

37 (iii) A remedial action plan approved pursuant to Chapter 6.8
38 (commencing with Section 25300) or Chapter 6.85 (commencing
39 with Section 25396).

- 1 (iv) A cleanup and abatement order issued by a California
 2 regional water quality control board pursuant to Section 13304 of
 3 the Water Code, to the extent that the cleanup and abatement order
 4 addresses the requirements of the applicable section or sections
 5 listed in this subparagraph.
- 6 (v) Corrective action required under subsection (u) of Section
 7 6924 of Title 42 of the United States Code or subsection (h) of
 8 Section 6928 of Title 42 of the United States Code.
- 9 (vi) An environmental assessment pursuant to Section 25200.14
 10 or a corrective action pursuant to Section 25200.10 or paragraph
 11 (3) of subdivision (c) of Section 25200.3, that is being overseen
 12 by the department.
- 13 (C) The unified program shall not include the requirements of
 14 Chapter 6.5 (commencing with Section 25100), and the regulations
 15 adopted by the department pursuant thereto, applicable to persons
 16 operating transportable treatment units, except that any required
 17 notice regarding transportable treatment units shall also be provided
 18 to the CUPAs.
- 19 ~~(2) The requirement of subdivision (c) of Section 25270.5 for~~
 20 ~~owners and operators of aboveground storage tanks to prepare a~~
 21 ~~spill prevention control and countermeasure plan.~~
- 22 *(2) The requirements of Chapter 6.67 (commencing with Section*
 23 *25270) concerning aboveground storage tanks.*
- 24 (3) (A) Except as provided in subparagraphs (B) and (C), the
 25 requirements of Chapter 6.7 (commencing with Section 25280)
 26 concerning underground storage tanks and the requirements of any
 27 underground storage tank ordinance adopted by a city or county.
- 28 (B) The unified program may not include the responsibilities
 29 assigned to the State Water Resources Control Board pursuant to
 30 Section 25297.1.
- 31 (C) The unified program may not include the corrective action
 32 requirements of Sections 25296.10 to 25296.40, inclusive.
- 33 (4) The requirements of Article 1 (commencing with Section
 34 25500) of Chapter 6.95 concerning hazardous material release
 35 response plans and inventories.
- 36 (5) The requirements of Article 2 (commencing with Section
 37 25531) of Chapter 6.95, concerning the accidental release
 38 prevention program.
- 39 (6) The requirements of subdivisions (b) and (c) of Section
 40 80.103 of the Uniform Fire Code, as adopted by the State Fire

1 Marshal pursuant to Section 13143.9 concerning hazardous material
2 management plans and inventories.

3 (d) To the maximum extent feasible within statutory constraints,
4 the secretary shall consolidate, coordinate, and make consistent
5 these requirements of the unified program with other requirements
6 imposed by other federal, state, regional, or local agencies upon
7 facilities regulated by the unified program.

8 (e) (1) The secretary shall establish standards applicable to
9 CUPAs, participating agencies, state agencies, and businesses
10 specifying the data to be collected and submitted by unified
11 program agencies in administering the programs listed in
12 subdivision (c). Those standards shall incorporate any standard
13 developed under Section 25503.3.

14 (2) The secretary shall establish an electronic geographic
15 information management system capable of receiving all data
16 collected by the unified program agencies pursuant to this
17 subdivision and Section 25504.1. The secretary shall make all
18 nonconfidential data available on the Internet.

19 (3) (A) As funding becomes available, the secretary shall
20 establish, consistent with paragraph (2), and thereafter maintain,
21 a statewide database.

22 (B) The secretary, or one or more of the boards, departments,
23 or offices within the California Environmental Protection Agency,
24 shall seek available federal funding for purposes of implementing
25 this subdivision.

26 (4) Once the statewide database is established, the secretary
27 shall work with the CUPAs to develop a phased-in schedule for
28 the electronic collection and submittal of information to be included
29 in the statewide database, giving first priority to information
30 relating to those chemicals determined by the secretary to be of
31 greatest concern. The secretary, in making this determination shall
32 consult with the CUPAs, the Office of Emergency Services, the
33 State Fire Marshal, and the boards, departments, and offices within
34 the California Environmental Protection Agency. The information
35 initially included in the statewide database shall include, but is not
36 limited to, the hazardous materials inventory information required
37 to be submitted pursuant to Section 25504.1 for perchlorate
38 materials.

39 *SEC. 20. Section 25404.5 of the Health and Safety Code is*
40 *amended to read:*

1 25404.5. (a) (1) Each certified unified program agency shall
 2 institute a single fee system, which shall replace the fees levied
 3 pursuant to Sections 25201.14 and 25205.14, except for
 4 transportable treatment units permitted under Section 25200.2,
 5 and which shall also replace any fees levied by a local agency
 6 pursuant to Sections 25143.10, 25270.6, 25287, 25513, and
 7 ~~25535.2~~ 25535.5, or any other fee levied by a local agency
 8 specifically to fund the implementation of the provisions specified
 9 in subdivision (c) of Section 25404. Notwithstanding Sections
 10 25143.10, 25270.6, 25201.14, 25205.14, 25287, 25513, and
 11 ~~25535.2~~ 25535.5, a person who complies with the certified unified
 12 program agency’s “single fee system” fee shall not be required to
 13 pay any fee levied pursuant to those sections, except for
 14 transportable treatment units permitted under Section 25200.2.

15 (2) (A) The governing body of the local certified unified
 16 program agency shall establish the amount to be paid by each
 17 person regulated by the unified program under the single fee system
 18 at a level sufficient to pay the necessary and reasonable costs
 19 incurred by the certified unified program agency and by any
 20 participating agency pursuant to the requirements of subparagraph
 21 (E) of paragraph (1) of subdivision (d) of Section 25404.3.

22 (B) The secretary shall establish the amount to be paid when
 23 the unified program agency is a state agency.

24 (3) The fee system may also be designed to recover the
 25 necessary and reasonable costs incurred by the certified unified
 26 program agency, or a participating agency pursuant to the
 27 requirements of subparagraph (E) of paragraph (1) of subdivision
 28 (d) of Section 25404.3, in administering provisions other than
 29 those specified in subdivision (c) of Section 25404, if the
 30 implementation and enforcement of those provisions has been
 31 incorporated as part of the unified program by the certified unified
 32 program agency pursuant to subdivision (b) of Section 25404.2,
 33 and if the single fee system replaces any fees levied as of January
 34 1, 1994, to fund the implementation of those additional provisions.

35 (4) The amount to be paid by a person regulated by the unified
 36 program may be adjusted to account for the differing costs of
 37 administering the unified program with respect to that person’s
 38 regulated activities.

39 (b) (1) Except as provided in subdivision (d), the single fee
 40 system instituted by each certified unified program agency shall

1 include an assessment on each person regulated by the unified
2 program of a surcharge, the amount of which shall be determined
3 by the secretary annually, to cover the necessary and reasonable
4 costs of the state agencies in carrying out their responsibilities
5 under this chapter. The secretary may adjust the amount of the
6 surcharge to be collected by different certified unified program
7 agencies to reflect the different costs incurred by the state agencies
8 in supervising the implementation of the unified program in
9 different jurisdictions, and in supervising the implementation of
10 the unified program in those jurisdictions for which the secretary
11 has waived the assessment of the surcharge pursuant to subdivision
12 (d). The certified unified program agency may itemize the amount
13 of the surcharge on any bill, invoice, or return that the agency
14 sends to a person regulated by the unified program. Each certified
15 unified program agency shall transmit all surcharge revenues
16 collected to the secretary on a quarterly basis. The surcharge shall
17 be deposited in the Unified Program Account, which is hereby
18 created in the General Fund and which may be expended, upon
19 appropriation by the Legislature, by state agencies for the purposes
20 of implementing this chapter.

21 (2) On or before January 10, 2001, the secretary shall report to
22 the Legislature on whether the number of persons subject to
23 regulation by the unified program in any county is insufficient to
24 support the reasonable and necessary cost of operating the unified
25 program using only the revenues from the fee. The secretary's
26 report shall consider whether the surcharge required by subdivision
27 (a) should include an assessment to be used to supplement the
28 funding of unified program agencies that have a limited number
29 of entities regulated under the unified program.

30 (c) Each certified unified program agency and the secretary
31 shall, before the institution of the single fee system and the
32 assessment of the surcharge, implement a fee accountability
33 program designed to encourage more efficient and cost-effective
34 operation of the program for which the single fee and surcharge
35 are assessed. The fee accountability programs shall include those
36 elements of the requirements of the plan adopted pursuant to *former*
37 Section 25206, *as it read on January 1, 1995*, that the secretary
38 determines are appropriate.

1 (d) The secretary may waive the requirement for a county to
2 assess a surcharge pursuant to subdivision (b), if both of the
3 following conditions apply:

4 (1) The county meets all of the following conditions:

5 (A) The county submits an application to the secretary for
6 certification on or before January 1, 1996, that incorporates all of
7 the requirements of this chapter, and includes the county's request
8 for a waiver of the surcharge, and contains documentation that
9 demonstrates, to the satisfaction of the secretary, both of the
10 following:

11 (i) That the assessment of the surcharge will impose a significant
12 economic burden on most businesses within the county.

13 (ii) That the combined dollar amount of the surcharge and the
14 single fee system to be assessed by the county pursuant to
15 subdivision (a) exceeds the combined dollar amount of all existing
16 fees that are replaced by the single fee system for most businesses
17 within the county.

18 (B) The application for certification, including the information
19 required by subparagraph (A), is determined by the secretary to
20 be complete, on or before April 30, 1996. The secretary, for good
21 cause, may grant an extension of that deadline of up to 90 days.

22 (C) The county is certified by the secretary on or before
23 December 31, 1996.

24 (D) On or before January 1, 1994, the county completed the
25 consolidation of the administration of the hazardous waste
26 generator program, the hazardous materials release response plans
27 and inventories program, and the underground storage tank
28 program, referenced in paragraphs (1), (3), and (4) of subdivision
29 (c) of Section 25404, into a single program within the county's
30 jurisdiction.

31 (E) The county demonstrates that it will consolidate the
32 administration of all programs specified in subdivision (c) of
33 Section 25404, and that it will also consolidate the administration
34 of at least one additional program that regulates hazardous waste,
35 hazardous substances, or hazardous materials, as specified in
36 subdivision (d) of Section 25404.2, other than the programs
37 specified in subdivision (c) of Section 25404, into a single program
38 to be administered by a single agency in the county's jurisdiction
39 at the time that the county's certification by the secretary becomes
40 effective.

1 (2) The secretary makes all of the following findings:

2 (A) The county meets all of the criteria specified in paragraph
3 (1).

4 (B) The assessment of the surcharge would impose a significant
5 economic burden on most businesses within the county.

6 (C) The combined dollar amount of the surcharge and the single
7 fee system to be assessed by the county pursuant to subdivision
8 (a) would exceed the combined dollar amount of all existing fees
9 that are replaced by the single fee system for most businesses
10 within the county.

11 (D) The waiver of the surcharge for those counties applying for
12 and qualifying for a waiver, and the resulting increase in the
13 surcharge for other counties, would not, when considered
14 cumulatively, impose a significant economic burden on businesses
15 in any other county that does not apply for, or does not meet the
16 criteria for, a waiver of the surcharge.

17 (e) The secretary shall review all of the requests for a waiver
18 of the surcharge made pursuant to subdivision (d) simultaneously,
19 so as to adequately assess the cumulative impact of granting the
20 requested waivers on businesses in those counties that have not
21 applied, or do not qualify, for a waiver, and shall grant or deny all
22 requests for a waiver of the surcharge within 30 days from the date
23 that the secretary certifies all counties applying, and qualifying,
24 for a waiver. If the secretary finds that the grant of a waiver of the
25 surcharge for all counties applying and qualifying for the waiver
26 will impose a significant economic burden on businesses in one
27 or more other counties, the secretary shall take either of the
28 following actions:

29 (1) Deny all of the applications for a waiver of the surcharge.

30 (2) Approve only a portion of the waiver requests for counties
31 meeting the criteria set forth in subdivision (d), to the extent that
32 the approved waivers, when taken as a whole, meet the condition
33 specified in subparagraph (D) of paragraph (2) of subdivision (d).
34 In determining which of the counties' waiver requests to grant,
35 the secretary shall consider all of the following factors:

36 (A) The relative degree to which the assessment of the surcharge
37 will impose a significant economic burden on most businesses
38 within each county applying and qualifying for a waiver.

39 (B) The relative degree to which the combined dollar amount
40 of the surcharge and the single fee system to be assessed, pursuant

1 to subdivision (a), by each county applying and qualifying for a
 2 waiver exceeds the combined dollar amount of all existing fees
 3 that are replaced by the single fee system for most businesses
 4 within the county.

5 (C) The relative extent to which each county applying and
 6 qualifying for a waiver has incorporated, or will incorporate, upon
 7 certification, additional programs pursuant to subdivision (d) of
 8 Section 25404.2, into the unified program within the county’s
 9 jurisdiction.

10 (f) The secretary may, at any time, terminate a county’s waiver
 11 of the surcharge granted pursuant to subdivisions (d) and (e) if the
 12 secretary determines that the criteria specified in subdivision (d)
 13 for the grant of a waiver are no longer met.

14 *SEC. 21. No reimbursement is required by this act pursuant*
 15 *to Section 6 of Article XIII B of the California Constitution because*
 16 *a local agency or school district has the authority to levy service*
 17 *charges, fees, or assessments sufficient to pay for the program or*
 18 *level of service mandated by this act, within the meaning of Section*
 19 *17556 of the Government Code.*

20 ~~SECTION 1. The Legislature finds and declares all of the~~
 21 ~~following:~~

22 ~~(a) There are 27 oil platforms off the California coast in federal~~
 23 ~~waters up to 1,200 feet deep.~~

24 ~~(b) Federal contracts typically provide that when oil extraction~~
 25 ~~from an oil platform becomes uneconomical, the oil wells must~~
 26 ~~be capped and the oil platform completely removed at the expense~~
 27 ~~of the owner or operator of the oil platform.~~

28 ~~(c) Removal of these large steel platforms is very complex and~~
 29 ~~very expensive.~~

30 ~~(d) Removal of an oil platform involves the destruction of much~~
 31 ~~of the sea life that has attached to the platform.~~

32 ~~(e) It is appropriate for the state to consider alternatives to~~
 33 ~~complete removal if requested by an owner or operator of an~~
 34 ~~offshore oil platform.~~

35 ~~SEC. 2. Article 4.5 (commencing with Section 6880) is added~~
 36 ~~to Chapter 3 of Part 2 of Division 6 of the Public Resources Code,~~
 37 ~~to read:~~

1 Article 4.5. Decommissioning of Offshore Oil Platforms

2
3 6880. For the purposes of this article, the following definitions
4 apply:

5 (a) ~~“Alternative” means an alternative to complete removal of~~
6 ~~an offshore oil platform.~~

7 (b) ~~“Commission” means the State Lands Commission.~~

8 (c) ~~“Fund” means the Ocean Resources Fund.~~

9 (d) ~~“Owner” or “operator” means the owner or operator of an~~
10 ~~offshore oil platform.~~

11 (e) ~~“Platform” means an offshore oil platform.~~

12 6881. ~~(a) It is the policy of the state that a platform be~~
13 ~~completely removed after oil extraction has become uneconomical,~~
14 ~~unless the commission has approved an alternative as provided in~~
15 ~~this article.~~

16 (b) ~~The owner or operator may request, in writing, that the~~
17 ~~commission approve an alternative to complete removal of a~~
18 ~~platform. The application may be for one or more alternatives. An~~
19 ~~alternative proposing to leave the platform in place shall include~~
20 ~~removal of the top of the platform so that it is not visible from land~~
21 ~~and does not interfere with surface craft. The application shall~~
22 ~~include estimates of the cost of completely removing the platform,~~
23 ~~the cost of the alternatives, and the cost savings by allowing an~~
24 ~~alternative.~~

25 (c) ~~Upon receipt of a request pursuant to subdivision (b), the~~
26 ~~commission shall estimate the state’s cost of determining~~
27 ~~advantages and disadvantages of completely removing the platform~~
28 ~~and the alternatives, submitted in the application. The determination~~
29 ~~shall include financial considerations. The commission shall~~
30 ~~provide to the owner or operator the estimate of the state’s cost to~~
31 ~~make the determination.~~

32 (d) ~~Upon commitment by the owner or operator to pay the state’s~~
33 ~~cost, the commission shall initiate the process to determine, in~~
34 ~~cooperation with the owner or operator, the Department of Fish~~
35 ~~and Game, any affected counties, regulatory agencies, and~~
36 ~~interested persons, whether an alternative submitted in the~~
37 ~~application is preferred.~~

38 6882. ~~(a) The commission shall hold one or more public~~
39 ~~hearings on the advantages and disadvantages of completely~~

1 removing the platform and the alternatives submitted in the
2 application, including financial considerations:

3 (b) If the commission determines that an alternative may be
4 advantageous, the commission shall comply with the California
5 Environmental Quality Act (Division 13 (commencing with Section
6 21000)) and, subsequently, may select an alternative, provided the
7 Department of Fish and Game determines that the alternative, as
8 compared to complete removal, would be a benefit to marine biota:

9 (c) For an alternative proposing to leave the platform in place,
10 the commission shall determine how much of the top of the
11 platform shall be removed, subject to the requirements that the top
12 of the platform not be visible from land and that the platform not
13 interfere with surface craft reasonably expected to use the waters
14 in which the platform is located:

15 (d) If the commission selects an alternative, the commission
16 and the owner or operator may enter into an agreement to allow
17 the implementation of the alternative. The agreement shall include
18 all of the following provisions:

19 (1) The owner or operator shall pay to the commission the cost
20 savings, less any payment by the owner or operator pursuant to
21 subdivision (d) of Section 6881. The commission shall deposit
22 that net sum into the fund.

23 (2) The owner or operator shall cap any oil well and shall
24 continue to be responsible and liable for any oil leak.

25 (3) The owner or operator shall continue to be responsible and
26 liable for any toxic materials that resulted from oil operations.

27 (4) Upon completion of the alternative, the ownership of the
28 platform shall be transferred to the Department of Fish and Game
29 pursuant to Article 2 (commencing with Section 6420) of Chapter
30 5 of Part 1 of Division 6 of the Fish and Game Code.

31 (5) The owner or operator shall apply for, and receive, all
32 required permits issued by any governmental agency, including,
33 but not limited to, a permit issued by the United States Army Corps
34 of Engineers.

35 (e) An alternative shall not be used or counted as mitigation for
36 any environmental impacts or natural resource damages.

37 6883. (a) A request under this article may be withdrawn at
38 any time, subject to the payment of costs incurred by the state in
39 accordance with subdivision (d) of Section 6881.

1 ~~(b) Nothing in this article is intended, and shall not be construed,~~
2 ~~to limit or affect the authority or duties of any state or local agency,~~
3 ~~including, but not limited to, the California Coastal Commission.~~

4 ~~6884. (a) An alternative transferred to the Department of Fish~~
5 ~~and Game shall be maintained in a manner consistent with~~
6 ~~navigational safety and all applicable state, federal, and~~
7 ~~international laws.~~

8 ~~(b) An alternative transferred to the Department of Fish and~~
9 ~~Game shall be a marine no-take zone, where sport and commercial~~
10 ~~fishing are prohibited for one-quarter mile from the platform,~~
11 ~~unless the Department of Fish and Game, pursuant to the Marine~~
12 ~~Life Protection Act (Chapter 10.5 (commencing with Section 2850)~~
13 ~~of Division 3 of the Fish and Game Code), authorizes marine take.~~

14 ~~6885. The Ocean Resources Fund is hereby created in the State~~
15 ~~Treasury to receive payments from an owner or operator pursuant~~
16 ~~to this article. Upon appropriation by the Legislature, moneys in~~
17 ~~the fund shall be expended only for the purposes of this article.~~