Assembly Bill No. 2872

CHAPTER 144

An act to amend Section 7715 of the Fish and Game Code, to add and repeal Part 3 (commencing with Section 1101) of Division 1 of the Food and Agricultural Code, to amend Sections 25404, 25404.1, 25404.3, 25404.4, 25404.5, and 25404.6 of, to add Sections 901 and 39619.6 to, to add Article 8.5 (commencing with Section 25395.20) to Chapter 6.8 of Division 20 of, and to add and repeal Section 25299.50.1 of, the Health and Safety Code, and to add Sections 13177.5 and 13177.6 to the Water Code, relating to resources and environmental protection, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 19, 2000. Filed with Secretary of State July 19, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2872, Shelley. Resources and environmental protection: biomass facility grant program: cancer risk assessment guidelines: underground storage tanks: hazardous material loan program: fire safety: CUPA's: health conditions in portable classrooms: fish monitoring.

(1) Existing law provides for a Rice Straw Demonstration Project, which is administered by the State Air Resources Board for the purpose of developing demonstration projects for new rice straw technologies in the rice straw growing regions of California.

This bill would enact the Central Valley Agricultural Biomass-to-Energy Incentive Grant Program, which would permit air districts, as defined, to apply to the Trade and Commerce Agency to receive grants to provide incentives to facilities that convert qualified agricultural biomass, as defined, to fuel. The bill would require the agency to establish a multiagency review panel to assist in the grant eligibility determinations, and would require that panel to provide a report to the Legislature on the results and effectiveness of the program.

(2) Existing law establishes various cancer research, screening, and treatment programs.

This bill would require the Office of Environmental Health Hazard Assessment to evaluate and update cancer risk assessment guidelines with respect to the fetus, infants, and children. It would, in accordance with a prescribed timeline, require that office to take specific actions in this regard.

The bill would also require the Children's Environmental Health Center established in the Office of the Secretary of Environmental

Protection to report to the Legislature and the Governor on the implementation of these provisions.

(3) Under the existing Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989, every owner of an underground storage tank is required to pay a storage fee for each gallon of petroleum placed in the tank. The fees are required to be deposited in the Underground Storage Tank Cleanup Fund. The money in the fund may be expended by the State Water Resources Control Board, upon appropriation by the Legislature, for various purposes, including the payment of claims, pursuant to a specified order of priority, to aid owners and operators of petroleum underground storage tanks who take corrective action to clean up unauthorized releases from those tanks.

This bill would create the Fire Safety Subaccount in the fund, and would authorize the board to expend the money in the subaccount to pay a claim filed by a fire safety agency, as defined, that is subject to a specified order of priority. The bill would transfer $5,000,000 from the fund to the subaccount, and would appropriate that amount to the board for expenditure for claims filed before January 1, 2000, by such a fire safety agency. The bill would repeal the provisions establishing the subaccount on January 1, 2006, and would require any money remaining in the subaccount on that date to be transferred to the fund.

(4) The existing Carpenter-Presley-Tanner Hazardous Substance Account Act imposes liability for hazardous substance removal or remedial actions, and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for removal or remedial action under the act. The act authorizes the department to expend the funds in the Toxic Substances Control Account in the General Fund, upon appropriation by the Legislature, to pay for, among other things, removal and remedial actions related to the release of hazardous substances.

This bill would transfer $85,000,000 from a prescribed item of the Budget Act of 2000 to the Cleanup Loans and Environmental Assistance to Neighborhoods Account established by the bill, and would appropriate $500,000 from that account to the Department of Toxic Substances Control for program development related to the redevelopment of contaminated properties known as brownfields for the 2000–01 fiscal year.

(5) Existing law requires the Secretary for Environmental Protection to adopt implementing regulations and 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. Each

certified unified program agency (CUPA) is required to institute a single fee system to fund the implementation of the unified fee system. Existing law requires the secretary to take specified actions if no local agency has been certified by January 1, 1997, to implement the unified program within the unincorporated area of a county, including determining which agency should be designated as the certified unified program agency.

This bill would require the secretary to establish an electronic geographic information management system capable of receiving certain data collected by the unified program agencies and to make all nonconfidential data available on the Internet.

The bill would authorize any state agency, including, but not limited to, the State Department of Health Services, acting as a participating agency, to contract with a unified program agency to implement or enforce the unified program.

The bill would instead require the secretary, if no local agency has been certified in a county by January 1, 2000, to determine the methods by which the unified program shall be implemented and to select any combination of specified implementation methods. The bill would require the secretary to adopt, by regulation, performance standards to guide the secretary in evaluating unified program agencies, including evaluation fee accountability and enforcement activities.

The bill would require the secretary to establish the amount of the fee to be paid when the unified program agency is a state agency. The bill would require the secretary to submit a report to the Legislature, by January 10, 2001, regarding the sufficiency of the fee to support the reasonable and necessary cost of operating the unified program. The bill would impose a state-mandated local program by imposing new duties upon counties with regard to the implementation of the unified program.

(6) Existing law provides for the State Air Resources Board in state government and assigns the state board various duties concerning air resources.

This bill would require the state board and the State Department of Health Services, in consultation with the State Department of Education, the Department of General Services, and the Office of Environmental Health Hazard Assessment to conduct a comprehensive study and review of the environmental health conditions in portable classrooms. The report would be required to address specified issues, be completed by June 30, 2002, and be provided to appropriate policy committees of the Legislature.

(7) Existing law requires the State Water Resources Control Board to prepare and complete on or before January 1, 2000, an inventory of existing water quality monitoring activities within state coastal watersheds, bays, estuaries, and coastal waters.

This bill would require the board to develop a comprehensive coastal water resources monitoring and assessment for fish and shellfish.

(8) Existing law authorizes the Director of Fish and Game to order the closure of any waters or otherwise restrict the taking under a commercial fishing license in state waters of certain species of fish if the State Director of Health Services determines that the species or subspecies of fish is likely to pose a human health risk from high levels of toxic substances.

This bill would instead authorize the Director of Fish and Game to order this closure if the Director of Environmental Health Hazard Assessment, in consultation with the State Director of Health Services, makes this determination.

(9) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(10) This bill would also declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Section 7715 of the Fish and Game Code is amended to read:

7715. (a) If the Director of Environmental Health Hazard Assessment, in consultation with the State Director of Health Services, determines, based on thorough and adequate scientific evidence, that any species or subspecies of fish is likely to pose a human health risk from high levels of toxic substances, the Director of Fish and Game may order the closure of any waters or otherwise restrict the taking under a commercial fishing license in state waters of that species. Any such closure or restriction order shall be adopted by emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any closure or restriction pursuant to subdivision (a) shall become inoperative when the Director of Environmental Health Hazard Assessment, in consultation with the State Director of Health Services, determines that a health risk no longer exists. Upon making

such a determination, the Director of Environmental Health Hazard Assessment shall notify the Director of Fish and Game and shall request that those waters be reopened for commercial fishing.

SEC. 1.5. Part 3 (commencing with Section 1101) is added to Division 1 of the Food and Agricultural Code, to read:

PART 3. CENTRAL VALLEY AGRICULTURAL BIOMASS-TO-ENERGY INCENTIVE GRANT PROGRAM

1101. This part shall be known, and may be cited, as the Central Valley Agricultural Biomass-to-Energy Incentive Grant Program.

1102. The Legislature finds and declares all of the following:

(a) California agriculture produces substantial quantities of residual materials from farming practices, including orchard and vineyard pruning and removals. These residual materials are disposed of primarily by open field burning, resulting in air emissions that would be substantially reduced if the residual materials instead were converted into energy at a biomass-to-energy facility.

(b) California's longstanding energy policy encourages a diversity of electrical power generation sources, including biomass-to-energy and renewables. Existing biomass-to-energy powerplants provide an important alternative use for agricultural residue materials as well as electrical power for the people of California.

(c) California seeks to improve environmental quality and sustain our natural resources, in part through various strategies and programs that reduce agricultural, rangeland, and forest burning, and programs that foster higher value uses for materials that otherwise would be managed as wastes. Air districts currently administer air quality permit and emission requirement provisions, under state law, for various types of project facilities, including those using agricultural residue products as biomass fuel to produce electrical energy.

(d) Additional incentives are necessary to reduce open field burning of agricultural residual materials that degrade air quality, to produce electrical power from a renewable source, and to foster and sustain the biomass industry, including collection, hauling, and processing infrastructure, and, therefore, the Legislature establishes the Central Valley Agricultural Biomass-to-Energy Incentive Grant Program.

(e) The Legislature further finds and declares that providing the grants set forth under this program is in the public interest, serves a public purpose, and that providing incentives to facilities will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(f) It is also the intent of the Legislature to provide funding of thirty million dollars ($30,000,000) over the three-year duration of the grant program.

1103. For the purposes of this part, the following definitions apply:

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

(b) ''Air district'' means an air pollution control district or an air quality management district established or continued in existence pursuant to Part 3 (commencing with Section 40000) of the Health and Safety Code.

(c) ''Central Valley'' means the Sacramento Valley Basin and the San Joaquin Valley Basin, as designated by the State Air Resources Board pursuant to Section 39606 of the Health and Safety Code.

(d) ''Facility'' means any California site that as of July 1, 2000, converted, and continues to convert, qualified agricultural biomass from the Central Valley to energy and the conversion results in lower oxides of nitrogen (NO_x) emissions than would otherwise be produced if burned in the open field during the ozone season in the Central Valley, as determined by the air district.

(e) ''Grant'' means an award of funds by the agency to an air district that shall, in turn, grant incentive payments to a facility after deducting the air district's administrative fee as provided in Section 1104.

(f) ''Incentive payment'' means a payment by an air district to facilities for qualified agricultural biomass to be received and converted into energy after July 1, 2000. This payment shall be in the amount of ten dollars ($10) for each ton of qualified agricultural biomass received for conversion to energy.

(g) ''Qualified agricultural biomass'' means agricultural residues, excluding urban and forest wood products, that include either of the following:

(1) Field and seed crop residues, including, but not limited to, straws from rice and wheat.

(2) Fruit and nut crop residues, including, but not limited to, orchard and vineyard pruning and removals.

1104. (a) An air district may apply to the agency to receive one or more grants to provide an incentive payment to one or more facilities located within its jurisdiction. The air district shall complete a separate application for each participating facility that shall consist of all of the following information:

(1) The name, address, contact person, and any other information necessary for the agency to communicate with the air district.

(2) The name, address, contact person, and any other information necessary for the agency to identify the facility.

(3) A resolution adopted by the air district containing both of the following findings:

(A) That the facility listed in the application meets the program definition of facility.

(B) That the annual estimated amount requested by the facility is based upon ten dollars ($10) per ton for the quantity of qualified

agricultural biomass that facility projects it will receive for conversion to energy during that fiscal year. The projection shall be based upon the capacity of the facility, the tonnage historically converted by the facility, and the tonnage of qualified agricultural biomass available within 50 miles of the facility.

(4) A summary report of the amount of actual biomass emissions of the facility, based on annual source tests, and the amount of emission reductions estimated to be acquired under the application. The estimated emission reductions for NO_x shall be expressed as net pounds per ton.

(5) The capacity of the facility.

(6) The tonnage of biomass converted into energy by the facility for the five years prior to the date of the application.

(7) An estimate of the tonnage of qualified agricultural biomass existing within 50 miles of the facility.

(b) The agency shall schedule one or more application deadlines for awarding one-year grants to air districts. Procedures, forms, and guidelines established for the program, including the application process, are exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The agency may request additional information from an air district solely to clarify information contained in the application or to correct clerical errors contained in the application.

(c) An air district receiving a grant from the agency pursuant to this part may receive 5 percent of the grant award for administering the biomass-to-energy production incentive payment and for performing related recordkeeping activities.

(d) The agency shall review all applications received by the deadline to determine that they are complete and eligible. All complete and eligible applications shall be reviewed by the review panel established pursuant to Section 1105. The review panel shall determine whether the findings by the air districts required by paragraph (3) of subdivision (a) are reasonable. If the panel determines that the findings are not reasonable, it may either determine the application to be ineligible, if it determines that the facility is not eligible under that part, or reduce the amount of funding requested, if it determines that estimated tonnage is inaccurate. The determination of the review panel shall be nonappealable.

(e) The agency shall tally the aggregate amount requested from all complete and eligible applications received by the application deadline following review, and possible modification by the review panel. If the amount exceeds the funds available for that application deadline, the amount awarded for each application shall be a percentage of the total funds available. To determine the percentage, the numerator shall be the grant funds requested by the air district after any modifications by the review panel, and the denominator

shall be the aggregate amount requested from all complete and eligible applications after any modifications by the review panel. The agency shall enter into a grant agreement or grant agreements with each air district receiving a grant or grants.

(f) Facilities receiving incentive payments pursuant to this part are not eligible to receive emission reduction credits. Generators or suppliers of qualified agricultural biomass may not receive emission reduction credits for any qualified agricultural biomass for which a facility has received an incentive payment.

(g) On and after January 1, 2002, any energy produced by a facility that receives an incentive payment is not eligible for any other production subsidy, rebate, buydown, or any incentive funded through electricity surcharges.

1105. The agency shall establish a multiagency review panel. The panel shall consist of representatives from any or all of the following entities: the Department of Food and Agriculture, the Resources Agency, the California Environmental Protection Agency, the State Air Resources Board, the State Energy Resources Conservation and Development Commission, the California Integrated Waste Management Board, and any other state agency deemed appropriate by the agency.

1106. Following the award of a grant, the agency shall enter into a grant agreement with the air district. The agency may advance grant funds to the air district. No additional amount shall be provided to an air district until the air district documents that the facility is converting the requisite tons of qualified agricultural biomass to energy. The documentation shall consist of the existing reporting and recordkeeping system, as set forth in subdivisions (b) and (c) of Section 41605.5 of the Health and Safety Code.

1107. The multiagency review panel established pursuant to Section 1105 shall provide a report to the Legislature on the results and effectiveness of the Central Valley Agricultural Biomass-to-Energy Incentive Program by January 1, 2003.

1108. This part shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

SEC. 2. Section 901 is added to the Health and Safety Code, to read:

901. (a) As used in this section:

(1) ''Center'' means the Children's Environmental Health Center established pursuant to Section 900.

(2) ''Office'' means the Office of Environmental Health Hazard Assessment.

(b) On or before June 30, 2001, the office shall review cancer risk assessment guidelines for use by the office and the other entities within the California Environmental Protection Agency to establish cancer potency values or numerical health guidance values that

adequately address carcinogenic exposures to the fetus, infants, and children.

(c) The evaluation and update required by subdivision (b) shall include a review of existing state and federal cancer risk guidelines, as well as new information on carcinogenesis, and shall consider the extent to which those guidelines address risks from exposures occurring early in life.

(d) The evaluation and update required by subdivision (b) shall also include, but not be limited to, all of the following:

(1) The development of criteria for identifying carcinogens likely to have a greater impact if exposures occur early in life.

(2) The assessment of methodologies used in existing guidelines to address early-in-life exposures.

(3) The construction of a data base of animal studies to evaluate increases in risks from short-term early-in-life exposures.

(e) On or before June 30, 2004, the office shall finalize and publish children's cancer guidelines that shall be protective of children's health. These guidelines shall be revised and updated as needed by the office.

(f) (1) On or before December 31, 2002, the office shall publish a guidance document, for use by the Department of Toxic Substances Control and other state and local environmental and public health agencies, to assess exposures and health risks at existing and proposed schoolsites. The guidance document shall include, but not be limited to, all of the following:

(A) Appropriate child-specific routes of exposure unique to the school environment, in addition to those in existing exposure assessment models.

(B) Appropriate available child-specific numerical health effects guidance values, and plans for the development of additional child-specific numerical health effects guidance values.

(C) The identification of uncertainties in the risk assessment guidance, and those actions that should be taken to address those uncertainties.

(2) The office shall consult with the Department of Toxic Substances Control and the State Department of Education in the preparation of the guidance document required by paragraph (1) in order to ensure that it provides the information necessary for these two agencies to meet the requirements of Sections 17210.1 and 17213.1 of the Education Code.

(g) On or before January 1, 2002, the office, in consultation with the appropriate entities within the California Environmental Protection Agency, shall identify those chemical contaminants commonly found at schoolsites and determined by the office to be of greatest concern based on criteria that identify child-specific exposures and child-specific physiological sensitivities. On or before December 31, 2002, and annually thereafter, the office shall publish

and make available to the public and to other state and local environmental and public health agencies and school districts, numerical health guidance values for five of those chemical contaminants identified pursuant to this subdivision until the contaminants identified have been exhausted.

(h) On and after January 1, 2002, and biannually thereafter, the center shall report to the Legislature and the Governor on the implementation of this section as part of the report required by subdivision (d) of Section 900. The report shall include, but not be limited to, information on revisions or modifications made by the office and other entities within the California Environmental Protection Agency to cancer potency values and other numerical health guidance values in order to be protective of children's health. The report shall also describe the use of the revised health guidance values in the programs and activities of the office and the other boards and departments within the California Environmental Protection Agency.

(i) Nothing in this section shall relieve any entity within the California Environmental Protection Agency of complying with Chapter 3.5 (commencing with Section 11340) of Part 2 of Division 3 Title 2 of the Government Code, to the extent that chapter is applicable to the entity on or before the effective date of this section, as added during the 2000 portion of the 1999–2000 Regular Session, or Section 57004 of the Health and Safety Code.

SEC. 3. Section 25299.50.1 is added to the Health and Safety Code, to read:

25299.50.1. (a) For purposes of this section, ''fire safety agency'' means a city fire department, county fire department, city and county fire department, fire protection district, a joint powers authority formed for the purpose of providing fire protection services, or any other local agency that normally provides fire protection services.

(b) The Fire Safety Subaccount is hereby created in the Underground Storage Tank Cleanup Fund, for expenditure by the board to pay a claim described in paragraph (4) of subdivision (b) of Section 25299.52 that was filed before January 1, 2000, by a fire safety agency. Except as provided in subdivision (d), the board shall pay such a claim filed by a fire safety agency only from funds appropriated from the Fire Safety Subaccount.

(c) The sum of five million dollars ($5,000,000) of the moneys in the fund derived from the sources described in paragraphs (1) to (4), inclusive, of subdivision (b) of Section 25299.50 is hereby transferred from the fund to the Fire Safety Subaccount, and appropriated therefrom to the board, for expenditure pursuant to this section for a claim filed by a fire safety agency specified in subdivision (b).

(d) The unpaid amount of any claim filed by a fire safety agency specified in subdivision (b), for which a closure letter has not been

issued pursuant to subdivision (h) of Section 25299.37 on or before January 1, 2006, shall not be payable from the Fire Safety Subaccount but shall revert to the priority ranking for claims specified in Section 25299.52.

(e) The payment of claims pursuant to this section shall not affect the board's payment of claims filed pursuant to paragraph (1), (2), or (3) of subdivision (b) of Section 25299.52.

(f) Any funds remaining in the Fire Safety Subaccount on January 1, 2006, shall be transferred to the fund.

(g) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 4. Article 8.5 (commencing with Section 25395.20) is added to Division 20 of the Health and Safety Code, to read:

Article 8.5. Cleanup Loans and Environmental Assistance to Neighborhoods

25395.20. The Cleanup Loans and Environmental Assistance to Neighborhoods Account is hereby established in the General Fund.

SEC. 5. Section 25404 of the Health and Safety Code is amended to read:

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

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

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

(C) ''Unified Program Agency'' or ''UPA'' means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in subdivision (c). The UPAs have the responsibility and authority to implement and enforce the requirements listed in subdivision (c), and the regulations adopted to implement the requirements listed in subdivision (c), to the extent provided by Chapter 6.5 (commencing with Section 25100), Chapter 6.67 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 and 25404.2. After a CUPA has been certified by the secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce

the requirements listed in subdivision (c) within the jurisdiction of the CUPA.

(2) ''Department'' means the Department of Toxic Substances Control.

(3) ''Secretary'' means the Secretary for Environmental Protection.

(4) ''Unified program facility'' means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements listed in subdivision (c) of Section 25404.

(5) ''Unified program facility permit'' means a permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and any permit or authorization requirements under any local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but does not encompass the permitting requirements of a local ordinance that incorporates provisions of the Uniform Fire Code or the Uniform Building Code.

(b) The secretary shall adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, which shall be known as the unified program, after holding an appropriate number of public hearings throughout the state. The unified program shall be developed in close consultation with the director, the Director of the Office of Emergency Services, the State Fire Marshal, the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, the local health officers, local fire services, and other appropriate officers of interested local agencies, and affected businesses and interested members of the public, including environmental organizations.

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

(1) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to hazardous waste generators, and persons operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption, pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department.

(B) The unified program shall not include the requirements of paragraph (3) of subdivision (c) of Section 25200.3, the requirements of Sections 25200.10 and 25200.14, and the authority to issue an order

under Sections 25187 and 25187.1, with regard to those portions of a unified program facility that are subject to one of the following:

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

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

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

(iv) A cleanup and abatement order issued by a California regional water quality control board pursuant to Section 13304 of the Water Code, to the extent that the cleanup and abatement order addresses the requirements of the applicable section or sections listed in this subparagraph.

(v) Corrective action required under subsection (u) of Section 6924 of Title 42 of the United States Code or subsection (h) of Section 6928 of Title 42 of the United States Code.

(vi) An environmental assessment pursuant to Section 25200.14 or a corrective action pursuant to Section 25200.10 or paragraph (3) of subdivision (c) of Section 25200.3, that is being overseen by the department.

(C) The unified program shall not include the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to persons operating transportable treatment units, except that any required notice regarding transportable treatment units shall also be provided to the CUPAs.

(2) The requirement of subdivision (c) of Section 25270.5 for owners and operators of aboveground storage tanks to prepare a spill prevention control and countermeasure plan.

(3) The requirements of Chapter 6.7 (commencing with Section 25280) concerning underground storage tanks, except for the responsibilities assigned to the State Water Resources Control Board pursuant to Section 25297.1, and the requirements of any underground storage tank ordinance adopted by a city or county.

(4) The requirements of Article 1 (commencing with Section 25501) of Chapter 6.95 concerning hazardous material release response plans and inventories.

(5) The requirements of Article 2 (commencing with Section 25531) of Chapter 6.95, concerning the accidental release prevention program.

(6) The requirements of subdivisions (b) and (c) of Section 80.103 of the Uniform Fire Code, as adopted by the State Fire Marshal pursuant to Section 13143.9 of the Health and Safety Code, concerning hazardous material management plans and inventories.

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

(e) (1) The secretary shall establish standards applicable to CUPAs, participating agencies, state agencies, and businesses specifying the data to be collected and submitted by unified program agencies in administering the programs listed in subdivision (c) of Section 25404. Those standards shall incorporate any standard developed under Section 25503.3.

(2) The secretary shall establish an electronic geographic information management system capable of receiving all data collected by the unified program agencies pursuant to paragraph (1). The secretary shall make all nonconfidential data available on the Internet.

SEC. 6. Section 25404.1 of the Health and Safety Code is amended to read:

25404.1. (a) (1) All aspects of the unified program related to the adoption and interpretation of statewide standards and requirements shall be the responsibility of the state agency which is charged with that responsibility under existing law. For underground storage tanks, that agency shall be the State Water Resources Control Board. The California regional water quality control boards shall have responsibility for the issuance of variances pursuant to subdivision (b) of Section 25299.4. The Department of Toxic Substances Control shall have the sole responsibility for the issuances of variances from the requirements of Chapter 6.5 (commencing with Section 25100) and the regulations adopted pursuant thereto, for the determination of whether or not a waste is hazardous or nonhazardous, for the determination of whether or not a person is eligible to be deemed to be operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department, and for the suspension and revocation of permits-by-rule, conditional authorizations, and conditional exemptions.

(2) Except as provided in paragraphs (1) and (3), those aspects of the unified program related to the application of statewide standards to particular facilities, including the issuance of unified program facility permits, the review of reports and plans, environmental assessment, compliance and correction, and the enforcement of those standards and requirements against particular facilities, shall be the responsibility of the unified program agencies.

(3) (A) Except in those jurisdictions for which the UPA has been determined by the department, in accordance with regulations adopted pursuant to subparagraph (C), to be qualified to implement the environmental assessment and removal and remediation

corrective action aspects of the unified program, the department shall have sole responsibility and authority under the unified program for all of the following:

(i) Implementing and enforcing the requirements of paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25200.10 and 25200.14, and the regulations adopted by the department to implement those sections. As a pilot program in up to 10 counties, pending the adoption and implementation of regulations pursuant to subparagraph (C), the department may delegate to the CUPA, through a delegation agreement, responsibility and authority for implementing and enforcing the requirements of Section 25200.14.

(ii) The issuance of orders under Section 25187 requiring removal or remedial action.

(iii) The issuance of orders under Section 25187.1.

(B) Notwithstanding subparagraph (A), a UPA may issue an order under Section 25187 specifying a schedule for compliance or correction and imposing an administrative penalty for any violation of the requirements of Chapter 6.5 (commencing with Section 25100) listed in paragraph (1) of subdivision (c) of Section 25404, or the requirements of any permit, rule, regulation, standard or requirement issued or adopted pursuant to the requirements of Chapter 6.5 (commencing with Section 25100) listed in paragraph (1) of subdivision (c) of Section 25404, if one of the following applies:

(i) The order does not require removal or remedial action.

(ii) The only removal or remedial actions required by the order are those actions determined to be necessary to address an imminent and substantial endangerment based upon a finding by the UPA pursuant to subdivision (f) of Section 25187.

(C) The department shall adopt emergency regulations specifying the criteria and procedures for implementing paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25200.10 and 25200.14, including criteria and procedures for determining whether or not a unified program agency is qualified to implement the environmental assessment and removal and remediation corrective action portions of the unified program under paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25187, 25187.1, 25200.10, and 25200.14. The criteria for determining whether a unified program agency is qualified shall, at a minimum, include consideration of the following factors:

(i) Adequacy of the technical expertise possessed by the unified program agency.

(ii) Adequacy of staff resources.

(iii) Adequacy of budget resources and funding mechanisms.

(iv) Training requirements.

(v) Past performance in implementing and enforcing requirements related to environmental assessments, and removal and remediation corrective actions.

(vi) Recordkeeping and accounting systems.

(D) The regulations adopted by the department pursuant to subparagraph (C) shall include provisions to ensure coordinated and consistent application of paragraph (3) of subdivision (c) of Section 25200.3 and Sections 25187, 25187.1, 25200.10, and 25200.14, when both the department and the unified program agency are, or will be, implementing and enforcing the requirements of one or more of these sections at the same facility.

(E) For purposes of subparagraph (D), ''facility'' means the entire site that is under the control of the owner or operator.

(F) If the department is designated as a unified program agency, the department is deemed qualified to implement all of the following:

(i) The environmental assessment, removal and remedial action, and corrective action aspects of the unified program.

(ii) Paragraph (3) of subdivision (c) of Section 25300.3, Sections 25200.10, 25200.14, 25187, and 25287.1, and the regulations adopted by the department to implement those provisions.

(b) (1) On or before January 1, 1996, each county shall apply to the secretary to be certified as a unified program agency to implement the unified program within the unincorporated area of the county and within each city in the county, in which area or city, as of January 1, 1996, the city or other local agency has not applied to be the certified unified program agency.

(2) (A) Any city or other local agency which, as of December 31, 1995, has been designated as an administering agency pursuant to Section 25502, or which has assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, may apply to the secretary to become the certified unified program agency to implement the unified program within the jurisdictional boundaries of the city or local agency.

(B) A city or other local agency which, as of December 31, 1995, has not been designated as an administering agency pursuant to Section 25502, or which has not assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, may apply to the secretary to become the certified unified program agency within the jurisdictional boundaries of the city or local agency if it enters into an agreement with the county to become the certified unified program agency within those boundaries. A county shall not refuse to enter into an agreement unless it specifies in writing its reasons for failing to enter into the agreement. However, if the city does not enter into the agreement with the county, within 30 days of receiving a county's reasons for failing to enter into agreement, a city may request that the secretary allow it to apply to be a certified unified program agency and the secretary may, in his or her discretion, approve the request.

(3) A city, county, or other local agency may propose, in its application for certification to the secretary, to allow other public agencies to implement certain elements of the unified program, but the secretary shall accept that proposal only if the secretary makes the findings specified in subdivision (d) of Section 25404.3.

(4) If a city or other local agency which, as of December 31, 1995, has been designated as an administering agency pursuant to Section 25502, or has assumed responsibility for the implementation of Chapter 6.7 (commencing with Section 25280) pursuant to Section 25283, requests that the county propose in its application for certification to the secretary that the city or local agency implement, within the jurisdictional boundaries of the city or local agency, those elements of the unified program which, as of December 31, 1995, the city or local agency has authority to administer, the county shall grant that request. If such an agency is subsequently removed or withdraws from the unified program, the agency shall not act as an administering agency under Section 25502 or act as a local agency pursuant to Chapter 6.7 (commencing with Section 25280), except as provided in subdivision (c) of Section 25283.

SEC. 7. Section 25404.3 of the Health and Safety Code is amended to read:

25404.3. (a) The secretary shall, within a reasonable time after submission of a complete application for certification pursuant to Section 25404.2, and regulations adopted pursuant to that section, but not to exceed 180 days, review the application, and, after holding a public hearing, determine if the application should be approved. Before disapproving an application for certification, the secretary shall submit to the applicant agency a notification of the secretary's intent to disapprove the application, in which the secretary shall specify the reasons why the applicant agency does not have the capability or the resources to fully implement and enforce the unified program in a manner that is consistent with the regulations implementing the unified program adopted by the secretary pursuant to this chapter. The secretary shall provide the applicant agency with a reasonable time to respond to the reasons specified in the notification and to correct deficiencies in its application. The applicant agency may request a second public hearing, at which the secretary shall hear the applicant agency's response to the reasons specified in the notification.

(b) In determining whether an applicant agency should be certified, the secretary, after receiving comments from the director, the Director of the Office of Emergency Services, the State Fire Marshal, and the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, shall consider at least all of the following factors:

(1) Adequacy of the technical expertise possessed by each unified program agency which will be implementing each element of the unified program, including, but not limited to, whether the agency responsible for implementing and enforcing the requirements of Chapter 6.5 (commencing with Section 25100) satisfies the requirements of Section 66272.44 of Title 22 of the California Code of Regulations.

(2) Adequacy of staff resources.

(3) Adequacy of budget resources and funding mechanisms.

(4) Training requirements.

(5) Past performance in implementing and enforcing requirements related to the handling of hazardous materials and hazardous waste.

(6) Recordkeeping and cost accounting systems.

(7) Compliance with the criteria in Section 66272.10 of Title 22 of the California Code of Regulations, except for the requirement of paragraph (2) of subdivision (b) of that section related to countywide jurisdiction.

(c) (1) In making the determination of whether or not to certify a particular applicant agency as a certified unified program agency, the secretary shall consider the applications of every other applicant agency applying to be a certified unified program agency within the same county, in order to determine the impact of each certification decision on the county. If the secretary identifies that there may be adverse impacts on the county if any particular agency in a county is certified, the secretary shall work cooperatively with each affected agency to address the secretary's concerns.

(2) The secretary shall not certify an agency to be a certified unified program agency unless the secretary finds both of the following:

(A) The unified program will be implemented in a coordinated and consistent manner throughout the entire county in which the applicant agency is located.

(B) The administration of the unified program throughout the entire county in which the applicant agency is located will be less fragmented between jurisdictions, as compared to before January 1, 1994, with regard to the administration of the provisions specified in subdivision (c) of Section 25404.

(d) (1) The secretary shall not certify an applicant agency which proposes to allow participating agencies to implement certain elements of the unified program unless the secretary makes all of the following findings:

(A) The applicant agency has adequate authority, and has in place adequate systems, protocols, and agreements, to ensure that the actions of the other agencies proposed to implement certain elements of the unified program are fully coordinated and consistent with each other and with those of the applicant agency, and to ensure

full compliance with the regulations implementing the unified program adopted by the secretary pursuant to this chapter.

(B) An agreement between the applicant and other agencies proposed to implement any elements of the unified program contains procedures for removing any agencies proposed and engaged to implement any element of the unified program. The procedures in the agreement shall include, at a minimum, provisions for providing notice, stating causes, taking public comment, making appeals, and resolving disputes.

(C) The other agencies proposed to implement certain elements of the unified program have the capability and resources to implement those elements, taking into account the factors designated in subdivision (b).

(D) If any of the other agencies proposed to implement certain elements of the unified program are not directly responsible to the same governing body as the applicant agency, the applicant agency maintains an agreement with any agency which ensures that the requirements of Section 25404.2 will be fully implemented.

(E) If the applicant agency proposes that any agency other than itself will be responsible for implementing aspects of the single fee system imposed pursuant to Section 25404.5, the applicant agency maintains an agreement with that agency which ensures that the fee system is implemented in a fully consistent and coordinated manner, and which ensures that each participating agency receives the amount which it determines to constitute its necessary and reasonable costs of implementing the element or elements of the unified program which it is responsible for implementing.

(2) After the secretary has certified an applicant agency pursuant to this subdivision, that agency shall obtain the approval of the secretary before removing and replacing a participating agency that is implementing an element of the unified program.

(3) Any state agency, including, but not limited to, the State Department of Health Services, acting as a participating agency, may contract with a unified program agency to implement or enforce the unified program.

(e) Until a city's or county's application for certification to implement the unified program is acted upon by the secretary, the roles, responsibilities, and authority for implementing the programs identified in subdivision (c) of Section 25404 which existed in that city or county pursuant to statutory authorization as of December 31, 1993, shall remain in effect.

(f) (1) Except as provided in subparagraph (C) of paragraph (2), if no local agency has been certified by January 1, 1997, to implement the unified program within a city, the secretary shall designate either the county in which the city is located or another agency pursuant to subparagraph (A) of paragraph (2) as the unified program agency.

(2) (A) Except as provided in subparagraph (C), if no local agency has been certified by January 1, 2001, to implement the unified program within the unincorporated or an incorporated area of a county, the secretary shall determine how the unified program shall be implemented in the unincorporated area of the county, and in any city in which there is no agency certified to implement the unified program. In such an instance, the secretary shall work in consultation with the county and cities to determine which state or local agency or combination of state and local agencies should implement the unified program, and shall determine which state or local agency shall be designated as the certified unified program agency.

(B) The secretary shall determine the method by which the unified program shall be implemented throughout the county and may select any combination of the following implementation methods:

(i) The certification of a state or local agency as a certified unified program agency.

(ii) The certification of an agency from another county as the certified unified program agency.

(iii) The certification of a joint powers agency as the certified unified program agency.

(C) Notwithstanding paragraph (1) and subparagraphs (A) and (B), if the cities of Sunnyvale, Anaheim, and Santa Ana prevail in litigation filed in 1997 against the secretary, and, to the extent the secretary determines that these three cities meet the requirements for certification, the secretary may certify these cities as certified unified program agencies.

(g) (1) If a certified unified program agency wishes to withdraw from its obligations to implement the unified program and is a city or a joint powers agency implementing the unified program within a city, the agency may withdraw after providing 180 days' notice to the secretary and to the county within which the city is located, or to the joint powers agency with which the county has an agreement to implement the unified program.

(2) Whenever a certified unified program agency withdraws from its obligations to implement the unified program, or the secretary withdraws an agency's certification pursuant to Section 25404.4, the successor certified unified program agency shall be determined in accordance with subdivision (f).

SEC. 8. Section 25404.4 of the Health and Safety Code is amended to read:

25404.4. (a) (1) The secretary shall periodically review the ability of each certified unified program agency to carry out this chapter. In conducting this review, the secretary shall review both the elements of each CUPA's enforcement program and the efficacy of the program in ensuring compliance with the unified program's

requirements. If a certified unified program agency fails to meet its obligations to adequately implement the unified program, the secretary may withdraw the certified unified program agency's certification, or may enter into a program improvement agreement with the certified unified program agency to make the necessary improvements. A certified unified program agency with which the secretary has entered into a program improvement agreement may continue to implement the unified program while the program improvement agreement is in effect and the certified unified program agency is in compliance with the agreement. If the secretary finds that a CUPA has not met the enforcement performance standards adopted pursuant to Section 25404.6 and the secretary enters into a program improvement agreement with the CUPA, the agreement shall make the improvement of enforcement the highest priority.

(2) Before withdrawing a certified unified program agency's certification, the secretary shall submit to the certified unified program agency a notification of the secretary's intent to withdraw certification, in which the secretary shall specify the reasons why the certified unified program agency has failed to meet its obligations to adequately implement the unified program. The secretary shall provide the certified unified program agency with a reasonable time to respond to the reasons specified in the notification and to correct the deficiencies specified in the notification. The certified unified program agency may request a public hearing, at which the secretary shall hear the agency's response to the reasons specified in the notification.

(b) (1) If the secretary finds that a certified unified program agency has failed to adequately enforce the requirements of the unified program with respect to a particular facility, the secretary may direct the appropriate state agency to take any necessary actions and to issue necessary orders to the facility.

(2) If the secretary finds that the failure to adequately enforce the requirements of the unified program may result in an imminent and substantial endangerment to the environment or to the public health and safety, the secretary shall direct the appropriate state agency to take any necessary actions and to issue the necessary orders to the facility.

(3) This chapter does not prevent any appropriate state agency from issuing an order or taking any other action pursuant to state law.

SEC. 9. Section 25404.5 of the Health and Safety Code is amended to read:

25404.5. (a) (1) Each certified unified program agency shall institute a single fee system, which shall replace the fees levied pursuant to Sections 25201.14 and 25205.14, except for transportable treatment units permitted under Section 25200.2, and which shall also replace any fees levied by a local agency pursuant to Sections

25143.10, 25287, 25513, and 25535.2, or any other fee levied by a local agency specifically to fund the implementation of the provisions specified in subdivision (c) of Section 25404. Notwithstanding Sections 25143.10, 25201.14, 25205.14, 25287, 25513, and 25535.2, a person who complies with the certified unified program agency's ''single fee system'' fee shall not be required to pay any fee levied pursuant to those sections, except for transportable treatment units permitted under Section 25200.2.

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

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

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

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

(b) (1) Except as provided in subdivision (d), the single fee system instituted by each certified unified program agency shall include an assessment on each person regulated by the unified program of a surcharge, the amount of which shall be determined by the secretary annually, to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities under this chapter. The secretary may adjust the amount of the surcharge to be collected by different certified unified program agencies to reflect the different costs incurred by the state agencies in supervising the implementation of the unified program in different jurisdictions, and in supervising the implementation of the unified program in those jurisdictions for which the secretary has waived the assessment of the surcharge pursuant to subdivision (d). The certified unified program agency may itemize the amount of the surcharge on any bill, invoice, or return that the agency sends to a person regulated by the unified

program. Each certified unified program agency shall transmit all surcharge revenues collected to the secretary on a quarterly basis. The surcharge shall be deposited in the Unified Program Account, which is hereby created in the General Fund and which may be expended, upon appropriation by the Legislature, by state agencies for the purposes of implementing this chapter.

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

(c) Each certified unified program agency and the secretary shall, before the institution of the single fee system and the assessment of the surcharge, implement a fee accountability program designed to encourage more efficient and cost-effective operation of the program for which the single fee and surcharge are assessed. The fee accountability programs shall include those elements of the requirements of the plan adopted pursuant to Section 25206 that the secretary determines are appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Approve only a portion of the waiver requests for counties meeting the criteria set forth in subdivision (d), to the extent that the approved waivers, when taken as a whole, meet the condition specified in subparagraph (D) of paragraph (2) of subdivision (d).

In determining which of the counties' waiver requests to grant, the secretary shall consider all of the following factors:

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

(B) The relative degree to which the combined dollar amount of the surcharge and the single fee system to be assessed, pursuant to subdivision (a), by each county applying and qualifying for a waiver exceeds the combined dollar amount of all existing fees that are replaced by the single fee system for most businesses within the county.

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

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

SEC. 10. Section 25404.6 of the Health and Safety Code is amended to read:

25404.6. (a) The secretary may immediately implement those aspects of the unified program which do not require statutory changes. If the secretary determines that statutory changes are needed to fully implement the program, the secretary shall recommend those changes to the Legislature on or before March 1, 1995, so that the changes, if approved by the Legislature, can be implemented as part of the program by January 1, 1996.

(b) The secretary shall work in close consultation with the Environmental Protection Agency, and shall implement this chapter only to the extent that doing so will not result in this state losing its authorization or delegation to implement the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the Federal Water Pollution Control Act, (33 U.S.C. Sec. 1251 et seq.), the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Sec. 11001 et seq.), and any other applicable federal laws.

(c) The secretary shall adopt regulations necessary for the orderly administration and implementation of the unified program. The regulations shall include, but are not limited to, performance standards to guide the secretary in evaluating unified program agencies including evaluation of fee accountability and enforcement activities. The secretary shall adopt those regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations is an

emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare.

SEC. 11. Section 39619.6 is added to the Health and Safety Code, to read:

39619.6. By June 30, 2002, the state board and the State Department of Health Services, in consultation with the State Department of Education, the Department of General Services, and the Office of Environmental Health Hazard Assessment, shall conduct a comprehensive study and review of the environmental health conditions in portable classrooms, as defined in subdivision (k) of Section 17070.15 of the Education Code.

(b) The state board and the department shall jointly coordinate the study, oversee data analysis and quality assurance, coordinate stakeholder participation, and prepare recommendations. The state board shall develop and oversee the contract for field work, air monitoring and data analysis, and obtain equipment for the study. The department shall oversee the assessment of ventilation systems and practices and the evaluation of microbiological contaminants, and may provide laboratory analyses as needed.

(c) By August 31, 2000, the state board shall release a request for proposals for the field portion of the study. Field work shall begin not later than July, 2001. The final report shall be completed on or before June 30, 2002, and shall be provided to the appropriate policy committees of the Legislature. The study of portable classrooms shall include all of the following:

(1) Review of design and construction specifications, including those for ventilation systems.

(2) Review of school maintenance practices, including the actual operation or nonoperation of ventilation systems.

(3) Assessment of indoor air quality.

(4) Assessment of potential toxic contamination, including molds and other biological contaminants.

(d) The final report shall summarize the results of the study and review, and shall include recommendations to remedy and prevent unhealthful conditions found in portable classrooms, including the need for all of the following:

(1) Modified design and construction standards, including ventilation specifications.

(2) Emission limits for building materials and classroom furnishings.

(3) Other mitigation actions to ensure the protection of children's health.

SEC. 12. Section 13177.5 is added to the Water Code, to read:

13177.5. (a) The state board, in consultation with the Office of Environmental Health Hazard Assessment, shall develop a comprehensive coastal monitoring and assessment program for sport

fish and shellfish, to be known as the Coastal Fish Contamination Program. The program shall identify and monitor chemical contamination in coastal fish and shellfish and assess the health risks of consumption of sport fish and shellfish caught by consumers.

(b) The state board shall consult with the Department of Fish and Game, the Office of Environmental Health Hazard Assessment, and regional water quality control boards with jurisdiction over territory along the coast, to determine chemicals, sampling locations, and the species to be collected under the program. The program developed by the state board shall include all of the following:

(1) Screening studies to identify coastal fishing areas where fish species have the potential for accumulating chemicals that pose significant health risks to human consumers of sport fish and shellfish.

(2) The assessment of at least 60 screening study monitoring sites and 120 samples in the first five years of the program and an assessment of additional screening study sites as time and resources permit.

(3) Comprehensive monitoring and assessment of fishing areas determined through screening studies to have a potential for significant human health risk and a reassessment of these areas every five years.

(c) Based on existing fish contamination data, the state board shall designate a minimum of 40 sites as fixed sampling locations for the ongoing monitoring effort.

(d) The state board shall contract with the Office of Environmental Health Hazard Assessment to prepare comprehensive health risk assessments for sport fish and shellfish monitored in the program. The assessments shall be based on the data collected by the program and information on fish consumption and food preparation. The Office of Environmental Health Hazard Assessment, within 18 months of the completion of a comprehensive study for each area by the state board, shall submit to the board a draft health risk assessment report for that area. Those health risk assessments shall be updated following the reassessment of areas by the board.

(e) The Office of Environmental Health Hazard Assessment shall issue health advisories when the office determines that consuming certain fish or shellfish presents a significant health risk. The advisories shall contain information for the public, and particularly the population at risk, concerning health risks from the consumption of the fish or shellfish. The office shall notify the appropriate county health officers, the State Department of Health Services, and the Department of Fish and Game, prior to the issuance of a health advisory. The notification shall provide sufficient information for the purpose of posting signage. The office shall urge county health officers to conspicuously post health warnings in areas where contaminated fish or shellfish may be caught including piers,

commercial passenger fishing vessels, and shore areas where fishing occurs. The Department of Fish and Game shall publish the office's health warnings in its Sport Fishing Regulations Booklet.

SEC. 12.5. Section 13177.6 is added to the Water Code, to read:

13177.6. To the extent funding is appropriated for this purpose, the state board, in consultation with the Department of Fish and Game and Office of Environmental Health Hazard Assessment, shall perform a monitoring study to reassess the geographic boundaries of the commercial fish closure off the Palos Verdes Shelf. The reassessment shall include collection and analysis of white croaker caught on the Palos Verdes Shelf, within three miles south of the Shelf, and within San Pedro Bay. Based on the results of the reassessment, the Department of Fish and Game, with guidance from the Office of the Environmental Health Hazard Assessment, shall redelineate, if necessary, the commercial fish closure area to protect the health of consumers of commercially caught white croaker. The sample collection and analysis shall be conducted within 18 months of the enactment of this section and the reassessment of the health risk shall be conducted within 18 months of the completion of the analysis of the samples.

SEC. 13. (a) Of the amount appropriated by Item 3960-011-0001 of Section 2.00 of the Budget Act of 2000 to establish an urban cleanup program to clean up and redevelop contaminated properties, known as brownfields, the sum of eighty-five million dollars ($85,000,000) is hereby transferred to the Cleanup Loans and Environmental Assistance to Neighborhoods Account.

(b) Five hundred thousand dollars ($500,000) is hereby appropriated from the Cleanup Loans and Environmental Assistance to Neighborhoods Account to the Department of Toxic Substances Control for program development related to the redevelopment of contaminated properties known as ''brownfields'' during the 2000–01 fiscal year.

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

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of 2000 at the earliest possible time, it is necessary that this act take effect immediately.

O