

BILL NUMBER: SB 1082 CHAPTERED 09/21/93

CHAPTER **418**

FILED WITH SECRETARY OF STATE SEPTEMBER 21, **1993**
APPROVED BY GOVERNOR SEPTEMBER 20, **1993**
PASSED THE SENATE SEPTEMBER 11, **1993**
PASSED THE ASSEMBLY SEPTEMBER 9, **1993**
AMENDED IN ASSEMBLY SEPTEMBER 7, **1993**
AMENDED IN ASSEMBLY AUGUST 30, **1993**
AMENDED IN ASSEMBLY JULY 16, **1993**
AMENDED IN SENATE JUNE 9, **1993**
AMENDED IN SENATE MAY 20, **1993**
AMENDED IN SENATE MAY 6, **1993**

INTRODUCED BY Senator Calderon

MARCH 5, **1993**

An act to amend Section 15363.6 of the Government Code, and to amend Section 39661 of, to add Section 25204.6 to, to add Chapter 6.11 (commencing with Section 25404) to Division 20 of, and to add Division 37 (commencing with Section 57000) to, the Health and Safety Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

SB 1082, Calderon. Environmental protection: regulations: unified hazardous waste program.

(1) Under existing law, various boards, offices, and departments are established within the California Environmental Protection Agency which is administered by the Secretary for Environmental Protection.

This bill would require, not later than December 31, 1997, the agency, and the offices, boards, and departments within the agency, to institute quality government programs, as defined, in order to achieve specified goals. The secretary would also be required to develop a model quality management program for use by local agencies at their discretion.

The bill would require, on and after December 31, 1998, the California Environmental Protection Agency, and each board, department, and office within the agency, to submit a yearly report to the Governor and Legislature, as part of the budget process, reporting on the extent to which they have attained their performance objectives, and on their continuous quality improvement efforts.

The bill would require those offices, boards, and departments, by December 31, 1995, to implement a fee accountability program that meets specified requirements.

The bill would require a board, department, or office which determines that the amount of a fee that is fixed in statute should be increased to notify the Legislature, but if the amount is not fixed in statute, the board, department, or office would be allowed to increase the fee only if it makes written findings in the record that it has implemented a fee accountability program. The bill would require the agency to

conduct a study regarding the purposes to which revenue derived from fines and penalties is directed.

The bill would require the boards, departments, and offices within the agency, prior to establishing certain chemical risk assessment guidelines or policies or preparing a health evaluation, to convene a public workshop and revise the guidelines, policies, or evaluation, as specified. The bill would require the Director of Environmental Health Hazard Assessment to convene an advisory committee, by June 30, 1994, to conduct a comprehensive review of the policies, methods, and guidelines followed by the boards, departments, and offices within the agency for identifying and assessing chemical toxicity.

The bill would require, commencing January 1, 1994, each board, department, and office within the California Environmental Protection Agency, before adopting any major regulations, as specified, to evaluate whether there is a less costly alternative.

(2) Existing law specifies the responsibilities of the Secretary of Trade and Commerce.

This bill would authorize the Secretary of Trade and Commerce to evaluate the findings and determinations required of any state agency which proposes to adopt regulations and would require the secretary to submit written comments into the record of the agency if the secretary makes a specified determination.

The bill would require the Secretary of Trade and Commerce to advise the Governor and members of the cabinet of the potential impacts of regulations on the state's business, economy, and job base.

(3) The bill would require the Secretary for Environmental Protection, by January 1, 1996, to adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, in accordance with prescribed procedures and requirements, to consolidate the administration of specified statutory requirements for the regulation of hazardous wastes and materials. The bill would prescribe the respective responsibilities of certified unified program agencies, designated as specified. The bill would authorize a city or local agency which meets specified requirements to apply to the secretary to implement the unified program and would require every county, by January 1, 1996, to apply to the secretary to be certified to implement the unified program, thereby imposing a state-mandated local program. The bill would require the approval of the secretary, as prescribed, of an application for certification and would authorize the secretary to disapprove or withdraw certification under specified circumstances.

The bill would require each certified unified program agency to institute a single fee system established by the governing body of the agency at a level sufficient to pay the necessary and reasonable costs incurred by the agency in administering the program. The bill would require the fee to include a surcharge, the amount of which the secretary would be required to determine, to cover the necessary and reasonable costs of state agencies in carrying out the unified program. The bill would require the surcharge to be deposited in the Unified

Program Account, which the bill would create in the General Fund, and would allow the revenues to be expended, upon appropriation by the Legislature, by any state agency for the purposes of implementing the unified program.

(4) The bill would require the Secretary for Environmental Protection, by January 1, 1995, to develop, in accordance with prescribed procedures, a hazardous waste facility regulation and permitting consolidation program providing for specified matters.

The bill would specify related matters.

(5) Existing law requires the State Air Resources Board to prepare a specified report upon receiving certain recommendations from the Office of Environmental Health Hazard Assessment regarding toxic air contaminants which is authorized to serve as the basis for certain regulatory actions regarding a particular substance. The report is required to be reviewed by a specified scientific review panel. If the scientific review panel determines that the health effects report is seriously deficient, the report is required to be returned to the board.

The bill would instead require the panel to return the report to the board if the report is not based upon sound scientific knowledge, methods, or practices.

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

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 15363.6 of the Government Code is amended to read:

15363.6. The secretary shall have the following responsibilities:

(a) Coordinating the various trade, investment, and tourism activities of the California State World Trade Commission and the Department of Commerce to ensure that the resources that the state has invested in these programs are used effectively and efficiently and that they foster the state's reputation as a source of high quality, cost-effective goods and services including tourism destinations.

(b) Coordinating, on behalf of the Governor, the use of the overseas trade offices by any state export program not under the California State World Trade Commission, such as those that are operated by the Department of Food and Agriculture and the California Energy Commission, and by any state agency which may have occasion to need the services of the overseas trade offices in carrying out that agency's official duties and responsibilities.

(c) Reporting to the Governor and the Legislature on an annual basis about the policies, plans, budgeting, and accomplishments of the agency and its programs.

(d) In his or her capacity as a member of the Governor's cabinet, coordinating the development of a state policy on

economic development and trade, and advising the Governor and members of the cabinet of the potential impacts of regulations on the state's business, economy, and job base. The initial policy and implementation strategy shall be included as a part of the secretary's first annual report to the Governor and the Legislature following enactment of this chapter. Each year thereafter, the secretary's annual report shall discuss economic development and trade policies including accomplishments and needed modifications.

(e) Evaluating, at his or her discretion, the findings and determinations required of any state agency which proposes to adopt regulations under Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1, including economic and cost impacts, reporting requirements, and alternatives analyses. The secretary shall, during the written comment period specified pursuant to paragraph (9) of subdivision (a) of Section 11346.5, submit written comments into the record of the agency which proposes to adopt those regulations in those instances when the secretary determines that the contents of the notice of the proposed action or the supporting analysis and initial statement of reasons do not sufficiently support the findings and determinations of the agency. The secretary may, at his or her discretion, comment on other aspects of the proposed action that significantly impact the state's business, industry, economy, or job base, including the cumulative effects of the proposed action that significantly impact the state's business, industry, economy, or job base, including the cumulative impacts of the proposed action considered along with regulatory requirements in place at the federal, state, and local levels.

SEC. 2. Section 25204.6 is added to the Health and Safety Code, to read:

25204.6. (a) On or before January 1, 1995, the Secretary for Environmental Protection shall develop a hazardous waste facility regulation and permitting consolidation program, after holding an appropriate number of public hearings throughout the state. The program shall be developed in close consultation with the director and with the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, and with affected businesses and interested members of the public, including environmental organizations.

(b) The hazardous waste facility regulation and permitting consolidation program shall provide for all of the following:

(1) The grant to either the department or the State Water Resources Control Board and the California regional water quality control boards of sole authority to implement and enforce the requirements of Article 6 (commencing with Section 66264.90) of Chapter 14 of, and Article 6 (commencing with Section 66265.90) of Chapter 15 of, Division 4.5 of Title 22 of the California Code of Regulations and of Article 5 (commencing with Section 2530) of Chapter 15 of Division 3 of Title 23 of the California Code of Regulations.

(2) The development of a process for ensuring, at each facility which conducts offsite hazardous waste treatment, storage, or disposal activities, or which conducts onsite treatment, storage, or disposal activities which are required to receive a permit under the federal act, and which is required

to clean up or abate the effects of a release of a hazardous substance pursuant to Section 13304 of the Water Code, or which is required to take corrective action for a release of hazardous waste or constituents pursuant to Section 25200.10, or both, that sole jurisdiction over the supervision of that action is vested in either the department or the State Water Resources Control Board and the California regional water quality control boards.

(3) The development of a unified hazardous waste facility permit, issued by the department, which incorporates all conditions, limitations, and requirements imposed by the State Water Resources Control Board or the California regional water quality control boards to protect water quality, and incorporate all conditions, limitations, and requirements imposed by the department pursuant to this chapter.

(4) The development of a consolidated enforcement and inspection program designed to ensure effective, efficient, and coordinated enforcement of the laws implemented by the department, the State Water Resources Control Board, and the California regional water quality control boards, as those laws relate to facilities conducting offsite hazardous waste treatment, storage, or disposal activities, and to facilities conducting onsite treatment, storage, and disposal activities which are required to receive a permit under the federal act.

(c) The Secretary for Environmental Protection may immediately implement those aspects of the program which do not require statutory changes. If the Secretary for Environmental Protection determines that statutory changes are needed to fully implement the program, the secretary shall recommend these changes to the Legislature on or before January 1, 1995. It is the intent of the Legislature that the program be fully implemented not later than January 1, 1996.

(d) The Secretary for Environmental Protection shall work in close consultation with the Environmental Protection Agency, and shall implement this section only to the extent that doing so will not result in this state losing its authorization to implement the federal act, or its delegation to implement the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.).

SEC. 3. Chapter 6.11 (commencing with Section 25404) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.11. UNIFIED HAZARDOUS WASTE AND HAZARDOUS MATERIALS MANAGEMENT REGULATORY PROGRAM

25404. (a) For purposes of this chapter, "secretary" means the Secretary for Environmental Protection.

(b) On or before January 1, 1996, 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) The requirements adopted by the department pursuant to Chapter 6.5 (commencing with Section 25100) applicable to hazardous waste generators, hazardous waste generators conducting treatment conditionally authorized pursuant to Section 25200.3, hazardous waste generators conducting treatment exempted pursuant to Section 25201.5, and facilities deemed to hold a permit-by-rule pursuant to the regulations adopted by the department, except for the corrective action and phase I environmental assessment requirements of Sections 25200.10 and 25200.14. A certified unified program agency may enforce the requirements of Sections 25200.10 and 25200.14 pursuant to regulations adopted by the secretary.

(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 requirements of Section 25297.1 related to the abatement of unauthorized releases of hazardous substances from underground storage tanks, and the requirements of any underground storage tank ordinance adopted by a city or county. A certified unified program agency may oversee the abatement of unauthorized releases of hazardous substances from underground storage tanks pursuant to Section 25297.1.

(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 acutely hazardous materials.

(6) The requirements of paragraph (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, and, to the extent determined to be appropriate by the State Fire Marshal, the requirements of paragraph (b) of Section 80.103 of the Uniform Fire Code related to permits for the handling, use, and storage of hazardous materials.

(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.

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 Department of Toxic Substances Control shall have the sole responsibility for the issuances of variances pursuant to Section 25143 and for the determination of whether or not a waste is hazardous or nonhazardous.

(2) Those aspects of the unified program related to the application of statewide standards to particular facilities, including the grant of authorizations, the issuance of permits, the review of reports and plans, and the enforcement of those standards and requirements against particular facilities, shall be the responsibility of the certified unified program agency.

(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 such 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 joint powers 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.

25404.2. (a) The certified unified program agency in each jurisdiction shall do all of the following:

(1) Develop and implement a program which consolidates all permits or other grants of authorization issued pursuant to the provisions specified in subdivision (c) of Section 25404, or pursuant to any local ordinance or regulation relating to the handling of hazardous waste or hazardous materials, into a single permit or grant of authorization.

(2) To the maximum extent feasible within statutory constraints, consolidate, coordinate, and make consistent any local or regional regulations, ordinances, requirements, or guidance documents related to the implementation of the provisions specified in subdivision (c) of Section 25404 or pursuant to any regional or local ordinance or regulation pertaining to hazardous waste or hazardous materials. This paragraph does not affect the authority of a certified unified program agency with regard to the preemption of the certified unified program agency's authority under state law.

(3) Develop and implement a single, unified inspection and enforcement program in order to ensure coordinated, efficient, and effective enforcement of the provisions specified in subdivision (c) of Section 25404, and any local ordinance or regulation pertaining to the handling of hazardous waste or hazardous materials.

(4) Coordinate, to the maximum extent feasible, the single, unified inspection and enforcement program with the inspection and enforcement program of other federal, state, regional, and local agencies which affect facilities regulated by the unified program. This paragraph does not prohibit the unified program agency, or any other agency, from conducting inspections, or from undertaking any other enforcement-related activity, without giving prior notice to the regulated entity, except where the prior notice is otherwise required by law.

(b) Each air quality management district or air pollution control district, each publicly owned treatment works, and each office, board, and department within the California Environmental Protection Agency, shall coordinate, to the maximum extent feasible, those aspects of its inspection and enforcement program which affect facilities regulated by the unified program with the inspection and enforcement programs of each certified unified program agency.

(c) The certified unified program agency may incorporate, as part of the unified program within its jurisdiction, the implementation and enforcement of state laws regulating hazardous waste or hazardous materials, other than those specified in subdivision (c) of Section 25404, if that incorporation will not impair the ability of the certified unified program agency to fully implement the requirements of subdivision (a).

25404.3. (a) The secretary shall, within a reasonable time after submission of an application for certification pursuant to Section 25404.2, 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 certified 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) The secretary shall not certify an applicant agency which proposes to allow other agencies to implement certain elements of the unified program unless the secretary makes all of the following findings:

(1) The applicant agency has adequate authority, and has in place adequate systems, protocols, or 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.

(2) 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).

(3) 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.

(4) 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.

(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) If no local agency has been certified by January 1, 1997, to implement the unified program within a city, either the county in which the city is located, or the joint powers agency into which the county has entered for the purposes of implementing the unified program, shall implement the unified program within that city, if the county or joint powers agency is a certified unified program agency. In such an instance, the secretary shall work cooperatively with the county or joint powers agency and the city to develop the details of the county's unified program implementation efforts in that city.

(2) If no local agency has been certified by January 1, 1997, to implement the unified program within the unincorporated area of a county, the secretary shall determine how the unified program should 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 cooperatively with the county and cities to determine which combination of state and local agencies should implement the unified program, and shall determine which agency should be designated as the certified unified program agency. If the secretary determines that the protection of public health and safety and the environment would be best served by maintaining part or all of the roles, responsibilities, and authority for implementing the programs identified in subdivision (c) of Section 25404 which existed in the city or county as of December 31, **1993**, the secretary may authorize those roles and responsibilities and that authority to continue.

(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).

25404.4. (a) (1) The secretary shall periodically review the ability of each certified unified program agency to carry out the requirements of this chapter. If a certified unified program agency fails to meet its obligations to adequately implement the unified program, the secretary may withdraw the agency's certification, or may enter into a program improvement agreement with the agency to make necessary improvements. An 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 is complied with.

(2) Before withdrawing an 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) 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.

If the secretary finds that this 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.

25404.5. (a) (1) Each certified unified program agency shall institute a single fee system, which shall replace the fees levied pursuant to Section 25205.14 on hazardous waste generators conditionally authorized to conduct treatment pursuant to Section 25200.3, conditionally exempted pursuant to subdivision (a) or (c) of Section 25201.5, and facilities deemed to hold a permit-by-rule pursuant to the regulations adopted by the Department of Toxic Substances Control, and which shall also replace any fees levied by a local agency pursuant to Sections 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 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.

(2) The governing body of the 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 paragraph (4) of subdivision (d) of Section 25404.3.

(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 paragraph (4) 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) 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 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 in supervising the implementation of the unified program in different jurisdictions. The certified unified program agency may itemize the amount of the surcharge on any bill, invoice, or return which 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 within 45 days

after receipt of the revenues pursuant to subdivision (a). 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, to any state agency for the purposes of implementing this chapter.

(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 which the secretary determines are appropriate.

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 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. 5. Section 39661 of the Health and Safety Code is amended to read:

39661. (a) (1) Upon receipt of the evaluation and recommendations prepared pursuant to Section 39660, the state board, in consultation with, and with the participation of, the office, shall prepare a report in a form which may serve as the basis for regulatory action regarding a particular substance pursuant to subdivisions (b) and (c) of Section 39662.

(2) The report shall include and be developed in consideration of the evaluation and recommendations of the office.

(b) The report, together with the scientific data on which the report is based, shall, with the exception of trade secrets, be made available to the public and shall be formally reviewed by the scientific review panel established pursuant to Section 39670. The panel shall review the scientific procedures and

methods used to support the data, the data itself, and the conclusions and assessments on which the report is based. Any person may submit any information for consideration by the panel. which may, at its discretion, receive oral testimony. The panel shall submit its written findings to the state board within 45 days after receiving the report. The panel may, however, petition the state board for an extension of the deadline, which may not exceed 15 working days.

(c) If the scientific review panel determines that the health effects report is not based upon sound scientific knowledge, methods, or practices, the report shall be returned to the state board, and the state board, in consultation with, and with the participation of, the office, shall prepare revisions to the report which shall be resubmitted, within 30 days following receipt of the panel's determination, to the scientific review panel which shall review the report in conformance with subdivision (b) prior to a formal proposal by the state board pursuant to Section 39662.

SEC. 5. Division 37 (commencing with Section 57000) is added to the Health and Safety Code, to read:

DIVISION 37. REGULATION OF ENVIRONMENTAL PROTECTION

57000. (a) For purposes of this division, the following terms have the following meaning:

(1) "Agency" means the California Environmental Protection Agency.

(2) "Secretary" means the Secretary for Environmental Protection.

(b) On or before December 31, 1997, the agency, and the offices, boards, and departments within the agency, shall institute quality government programs to achieve increased levels of environmental protection and the public's satisfaction through improving the quality, efficiency, and cost-effectiveness of the state programs which implement and enforce state and federal environmental protection statutes. These programs shall be designed to increase the level of environmental protection while expediting decision-making and producing cost savings. The secretary shall create an advisory group comprised of state and local government, business, environmental, and consumer representatives experienced in quality management to provide guidance in that effort. The secretary shall develop a model quality management program that local agencies charged with implementing air quality, water quality, toxics, solid waste, and hazardous waste laws and regulations may use at their discretion.

(c) On and after December 31, 1998, the agency, and each board, department, and office within the agency, shall submit a yearly report to the Governor and Legislature, as part of the budget process, reporting on the extent to which they have attained their performance objectives, and on their continuous quality improvement efforts.

(d) Nothing in this section shall be interpreted to abrogate any collective bargaining agreement or interfere with any established employee rights.

(e) For purposes of this section, "quality government program" means all of the following:

(1) A process for obtaining the views of employees, the regulated community, the public, environmental organizations, and governmental officials with regard to the performance, vision, and needs of the agency implementing the quality government program.

(2) A process for developing measurable performance objectives using the views of the persons and organizations specified in paragraph (1).

(3) Processes for continually improving quality and for training agency personnel, using the information obtained from implementing paragraphs (1) and (2).

57001. (a) Except as provided in subdivision (f), each office, board, and department within the agency shall, on or before December 31, 1995, implement a fee accountability program for the fees specified in subdivision (d). That fee accountability program shall be designed to encourage more efficient and cost-effective operation of the programs for which the fees are assessed, and shall be designed to ensure that the amount of each fee is not more than is reasonably necessary to fund the efficient operation of the activities or programs for which the fee is assessed.

(b) Before implementing the fee accountability program required by this section, each board, department, and office within the agency shall conduct a review of the fees identified in subdivision (d) which it assesses. The purpose of this review shall be to determine what changes, if any, should be made to all of the following, in order to implement a fee system which accomplishes the purposes set forth in subdivision (a):

(1) The amount of the fee.

(2) The manner in which the fee is assessed.

(3) The management and workload standards of the program or activity for which the fee is assessed.

(c) The fee accountability program of each board, department, or office within the agency shall include those elements of the requirements of Section 25206 which the secretary determines are appropriate in order to accomplish the purposes set forth in subdivision (a).

(d) This section applies to the following fees:

(1) The fee assessed pursuant to subdivision (d) of Section 13146 of the Food and Agricultural Code to develop data concerning the environmental fate of a pesticide when the registrant fails to provide the required information.

(2) The surface impoundment fees assessed pursuant to Section 25208.3.

(3) The fee assessed pursuant to Section 43203 to recover the costs of the State Air Resources Board in verifying manufacturer compliance on emissions from new vehicles prior to retail sale.

(4) The fee assessed pursuant to Section 44380 to recover the costs of the State Air Resources Board and the Office of Environmental Health Hazard Assessment in implementing and administering the Air Toxics "Hot Spots" Information and Assessment Act of 1987 (Part 6 (commencing with Section 44300) of Division 26).

(5) The fee assessed pursuant to Section 43212 of the Public Resources Code to recover the costs of the California Integrated Waste Management Board when it assumes the responsibilities of

the local enforcement agency.

(6) The fee assessed pursuant to Section 43508 of the Public Resources Code to recover the costs of the California Integrated Waste Management Board in reviewing closure plans.

(7) The water rights permit fees assessed pursuant to Chapter 8 (commencing with Section 1525) of Part 2 of Division 2 of the Water Code.

(8) The fee assessed pursuant to subdivision (c) of Section 13260 of the Water Code for waste discharge requirements, including, but not limited to, requirements for storm water discharges, and the fee assessed pursuant to subdivision (i) of Section 12360 of the Water Code for National Pollution Discharge Elimination System permits.

(9) The costs assessed pursuant to Section 13304 of the Water Code to recover the costs of the State Water Resources Control Board or the California regional water quality control boards in implementing and enforcing cleanup and abatement orders.

(e) If a board, department, or office within the agency determines that the amount of a fee that is fixed in statute should be increased in order to implement a fee accountability system which accomplishes the purposes of subdivision (a), it shall notify the Legislature, and make recommendations concerning appropriate increases in the statutorily fixed fee amount. For fees whose amount is not fixed in statute, the board, department, or office may increase the fee only if it makes written findings in the record that it has implemented a fee accountability program which complies with this section.

(f) The Department of Toxic Substances Control shall be deemed to be in compliance with this section if it complies with Section 25206.

57002. The agency shall conduct a study by surveying state, regional, and local agencies charged with implementing air quality, water quality, toxics, solid waste, and hazardous waste laws and regulations to determine how much revenue is derived from fines and penalties and to what purposes that revenue is directed. The study should include a review of the extent to which those funds are used to support state, regional, and local agency operations.

57003. (a) Before a board, department or office within the agency adopts chemical risk assessment guidelines or policies for evaluating the toxicity of chemicals or prepares a health evaluation of a chemical that will be used in the regulatory process of another board, department, or office, the board, department, or office shall first convene a public workshop at which the guidelines, policies, or health evaluation may be discussed. The public workshop shall be designed to encourage a constructive dialogue between the scientists employed by the board, department, or office that prepared the proposed guidelines or policies or health evaluation and scientists not employed by that board, department, or office and to evaluate the degree to which the proposed guidelines or policies or health evaluation are based on sound scientific methods, knowledge, and practice. Following the workshop, the agency shall revise the guidelines, policies, or health evaluation, as appropriate, and circulate it for public comment for a period of at least 30 days.

(b) In any case where the guidelines, policies, or health

evaluations described in subdivision (a) are proposed, or are being prepared, pursuant to a statutory requirement that specifies a procedure or a time period for carrying out the requirement, the requirements of subdivision (a) do not authorize a delay or a postponement in carrying out the statutory requirement.

57004. (a) On or before June 30, 1994, the Director of Environmental Health Hazard Assessment shall convene an advisory committee consisting of distinguished scientists not employed by the boards, departments, and offices within the agency, to conduct a comprehensive review of the policies, methods, and guidelines followed by the boards, departments, and offices for the identification and assessment of chemical toxicity.

(b) The purpose of this comprehensive review shall be to make recommendations to the Director of Environmental Health Hazard Assessment and the secretary concerning whether or not any changes should be made to ensure that the state's policies, methods, and guidelines for the identification and assessment of chemical toxicity are based upon sound scientific knowledge, methods and practices. This review shall include, but shall not be limited to, an assessment of the appropriateness of any differences between the policies, methods, and procedures employed by the state and those employed by the National Academy of Sciences, the Environmental Protection Agency, and other similar bodies.

57005. (a) Commencing January 1, 1994, each board, department, and office within the agency, before adopting any major regulation, shall evaluate the alternatives to the requirements of the proposed regulation that are submitted to the board, department, or office pursuant to paragraph (2) of subdivision (a) of Section 11346.53 of the Government Code and consider whether there is a less costly alternative or combination of alternatives which would be equally as effective in achieving increments of environmental protection in a manner that ensures full compliance with statutory mandates within the same amount of time as the proposed regulatory requirements.

(b) For purposes of this section, "major regulation" means any regulation that will have an economic impact on the state's business enterprises in an amount exceeding ten million dollars (\$10,000,000), as estimated by the board, department, or office within the agency proposing to adopt the regulation in the assessment required by Section 11346.53 of the Government Code.

(c) On or before December 31, 1994, after consulting with the Secretary of Trade and Commerce, the director or executive officer of each board, department, and office within the agency, and after receiving public comment, the secretary shall adopt guidelines to be followed by the boards, departments, and offices within the agency concerning the methods and procedures to be used in conducting the evaluation required by this section.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the 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. Notwithstanding Section 17580 of the Government Code, unless

otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.