



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites	
------	------------------	----------------	--------------	-----------------	------------------	--------------	--

Code: Section:

[Up^](#) [Add To My Favorites](#)

HEALTH AND SAFETY CODE - HSC

DIVISION 20. MISCELLANEOUS HEALTH AND SAFETY PROVISIONS [24000 - 27007] (*Division 20 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 6.75. Petroleum Underground Storage Tank Cleanup [25299.10 - 25299.97] (*Chapter 6.75 added by Stats. 1989, Ch. 1442, Sec. 5.*)

ARTICLE 11. Commingled Plume Account [25299.90 - 25299.96] (*Heading of Article 11 amended by Stats. 1997, Ch. 17, Sec. 70.*)

25299.90. The Legislature hereby finds and declares all of the following:

- (a) Commingled plumes of petroleum contaminated groundwater involve serious water quality impacts.
- (b) Unauthorized releases from underground storage tanks are a major source of commingled plumes of petroleum contaminated groundwater.
- (c) Unless corrective action is performed in a coordinated manner, remedial action of commingled plumes may be ineffective.
- (d) Disagreement over shared liability among parties responsible for underground storage tank leaks which contributed to commingled plumes may result in substantial expenditures for legal costs and the expense of necessary cleanup.
- (e) Reimbursing claimants jointly will result in more efficient cleanups, lower total corrective action costs, and reduced legal costs for commingled plumes.

(*Added by Stats. 1996, Ch. 611, Sec. 18. Effective January 1, 1997. Inoperative January 1, 2036, pursuant to Section 25299.81.*)

25299.91. As used in this article, the following terms have the following meaning:

- (a) "Commingled plume" means the condition that exists when groundwater contaminated with petroleum from two or more discrete unauthorized releases have mixed or encroached upon one another to the extent that the corrective action performed on one plume will necessarily affect the other. A commingled plume does not include either of the following:

- (1) Contaminated groundwater plumes resulting from unauthorized releases or discharges from a single site.
- (2) Soil contamination, unless it can be demonstrated that the contaminated soil is an immediate threat to groundwater.

- (b) "Contributing site" means a site on which an unauthorized release or discharge of waste has occurred or is occurring and has impacted or threatens to impact groundwater.

(*Added by Stats. 1996, Ch. 611, Sec. 18. Effective January 1, 1997. Inoperative January 1, 2036, pursuant to Section 25299.81.*)

25299.92. A sum not to exceed ten million dollars (\$10,000,000) from Item 3940-001-0439 of Section 2.00 of the Budget Act of 1996 (Ch. 162, Stats. 1996) shall be available for expenditure for the 1996–97 fiscal year for the purposes of this article. In subsequent fiscal years, it is the intent of the Legislature that an appropriation be made in the annual Budget Act to carry out this article.

(*Amended by Stats. 1997, Ch. 17, Sec. 71. Effective January 1, 1998. Inoperative January 1, 2036, pursuant to Section 25299.81.*)

25299.93. (a) A joint claim may be submitted for reimbursement of corrective action costs for a commingled plume if all of the following conditions are met:

- (1) Each person named in the joint claim is an owner, operator, or other responsible party ordered to perform corrective action or remedial action pursuant to this chapter, Chapter 6.7 (commencing with Section 25280), or Division 7 (commencing with Section 13000) of the Water Code.

(2) After performing a soil and water investigation in accordance with Article 11 (commencing with Section 2720) of Chapter 16 of Division 3 of Title 23 of the California Code of Regulations, the joint claimants demonstrate to the satisfaction of the local or regulatory agency and the board that a commingled plume exists and that every identified unauthorized release or discharge has contributed substantially to the commingled plume.

(3) At least 85 percent of the commingled plume is comprised of petroleum contamination resulting from an unauthorized release from a tank whose owner or operator is eligible for payment of a claim pursuant to Section 25299.54.

(4) At least two contributing sites involve an unauthorized release.

(5) The joint claimants have coordinated corrective action as soon as practicable.

(6) The joint claimants agree to seek preapproval of corrective action costs in accordance with subdivision (c) of Section 25299.57.

(7) The joint claimants have entered into a written agreement that provides for a coordinated corrective action plan. The written agreement shall require the joint claimants to do the following:

(A) Appoint one of the joint claimants to represent the joint claimants for purposes of interacting with the local or regulatory agency and the board.

(B) Permit the joint claimants reasonable access to contributing sites as necessary to perform corrective action.

(C) Identify any corrective action costs incurred at contributing sites and assess if any of those costs may be eligible for reimbursement under this chapter.

(D) Estimate responsibility among the joint claimants and provide a formula or method for apportioning costs that are not eligible for reimbursement under this chapter or which exceed the limitations prescribed in Section 25299.94.

(E) Identify all money or other compensation received by any joint claimant which is related to contamination at any contributing site or the commingled groundwater plume.

(b) A joint claim may be submitted for reimbursement of third parties as provided in Section 25299.58 subject to both of the following conditions:

(1) The conditions set forth in subdivision (a) are satisfied.

(2) An owner or operator named in the joint claim is liable for a third-party compensation claim.

(Added by Stats. 1996, Ch. 611, Sec. 18. Effective January 1, 1997. Inoperative January 1, 2036, pursuant to Section 25299.81.)

25299.94. (a) (1) The board may pay the cost of corrective actions and third-party compensation claims that are submitted as part of a joint claim filed on or before December 31, 2014, and that exceed the amount specified in subdivision (b), but do not exceed an amount equal to one million five hundred thousand dollars (\$1,500,000) per occurrence, for which an owner or operator named in the joint claim is eligible for reimbursement under this chapter.

(2) If a claim from a contributing site exceeds one million dollars (\$1,000,000) for an occurrence, the board may only reimburse costs submitted pursuant to Section 25299.57 for those costs in excess of one million dollars (\$1,000,000).

(3) If a joint claim is filed on or after January 1, 2015, the board may pay the cost of corrective actions and third-party compensation claims that are submitted as part of a joint claim and that exceed the amount specified in subdivision (b), but do not exceed an amount equal to one million dollars (\$1,000,000) per occurrence, for which an owner or operator named in the joint claim is eligible for reimbursement under this chapter.

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

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

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

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

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

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

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

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

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

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

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

(Amended by Stats. 2014, Ch. 547, Sec. 27. (SB 445) Effective September 25, 2014. Inoperative January 1, 2036, pursuant to Section 25299.81.)

25299.95. (a) An owner or operator named in a joint claim filed under this article may not file or maintain a claim under Article 6 (commencing with Section 25299.50) for the same occurrence.

(b) When a joint claim under this article has been approved, the board shall remove any claims filed under Article 6 (commencing with Section 25299.50) by an owner or operator named in the approved claim.

(c) If an owner or operator withdraws from a claim filed under this article, the owner or operator may submit or resubmit a claim pursuant to Article 6 (commencing with Section 25299.50).

(d) Any claims filed pursuant to subdivision (c) shall be assigned to a priority class pursuant to Section 25299.52 and ranked in accordance with the procedures contained in regulations adopted by the board pursuant to Section 25299.77.

(e) This section does not apply to a claim filed for a separate occurrence at a contributing site or a claim authorized pursuant to paragraph (2) of subdivision (f) of Section 25299.94.

(Added by Stats. 1996, Ch. 611, Sec. 18. Effective January 1, 1997. Inoperative January 1, 2036, pursuant to Section 25299.81.)

25299.96. The priority for payment of a joint claim submitted under this article shall be based on the date on which the board receives a complete application. For purposes of this section, an application shall not be considered complete until the applicable local agency or other regulatory agency confirms the existence of a commingled plume and the joint claimant submits an agreement which complies with paragraph (7) of subdivision (a) of Section 25299.93.

(Added by Stats. 1996, Ch. 611, Sec. 18. Effective January 1, 1997. Inoperative January 1, 2036, pursuant to Section 25299.81.)