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**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 6. Underground Storage Tank Cleanup Fund [25299.50 - 25299.63]** (*Article 6 added by Stats. 1989, Ch. 1442, Sec. 5.*)

**25299.50.** (a) The Underground Storage Tank Cleanup Fund is hereby created in the State Treasury. The money in the fund may be expended by the board, upon appropriation by the Legislature, for purposes of this chapter. From time to time, the board may modify existing accounts or create accounts in the fund or other funds administered by the board, which the board determines are appropriate or necessary for proper administration of this chapter.

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

- (1) Money appropriated by the Legislature for deposit in the fund.
- (2) The fees, interest, and penalties collected pursuant to Article 5 (commencing with Section 25299.40).
- (3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money deposited in the fund.
- (4) Any money recovered by the fund pursuant to Section 25299.70.
- (5) Any civil or criminal penalties collected by the board or regional board pursuant to Section 25299.76, 25299.78, 25299.80, or 25299.80.5.
- (6) Money recovered as compensation for expenditures associated with investigations or enforcement actions pursuant to subdivision (j) or (n) of Section 25299.51.
- (7) Money recovered to correct a previously overpaid expenditure issued pursuant to this chapter.

(c) Notwithstanding subdivision (a), any funds appropriated by the Legislature in the annual Budget Act for payment of a claim for the costs of a corrective action in response to an unauthorized release, that are encumbered for expenditure for a corrective action pursuant to a letter of credit issued by the board pursuant to subdivision (e) of Section 25299.57, but are subsequently not expended for that corrective action claim, may be reallocated by the board for payment of other claims for corrective action pursuant to Section 25299.57.

(Amended by Stats. 2014, Ch. 547, Sec. 5. (SB 445) Effective September 25, 2014. Inoperative January 1, 2036, pursuant to Section 25299.81.)

**25299.50.2.** (a) The Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund is hereby established in the State Treasury.

(b) (1) Except as provided in paragraph (2), the sum of ten million dollars (\$10,000,000) is hereby transferred, for each of the 2008–09, 2009–10, and 2010–11 fiscal years, from the Underground Storage Tank Cleanup Fund to the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund.

(2) Available federal moneys may be deposited in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund. The amount transferred pursuant to paragraph (1) in a fiscal year shall be reduced by the amount of federal moneys deposited in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund in that fiscal year.

(c) The board may expend the moneys in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund, upon appropriation by the Legislature, for the costs of response actions to remediate the harm caused by petroleum contamination at a site that meets all of the following conditions:

(1) The petroleum contamination is the principal source of contamination at the site.

(2) The source of the petroleum contamination is, or was, an underground storage tank.

(3) A financially responsible party has not been identified to pay for remediation at the site.

(4) If the expenditure includes federal moneys deposited in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund, the expenditure at the site is consistent with all applicable requirements for expenditure of the federal moneys.

(d) Any funds in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund that are not expended in the 2009–10, 2010–11, or 2011–12 fiscal years shall remain in the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund until they are encumbered.

(e) Notwithstanding Section 16304.1 of the Government Code, a disbursement in liquidation of an encumbrance may be made before or during the four years following the last day the appropriation is available for encumbrance.

(f) (1) If the board determines that an applicant who filed a grant application on or before December 31, 2014, is eligible for a grant pursuant to this section, the board shall not issue more than one million five hundred thousand dollars (\$1,500,000) in grants from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund for the occurrence for which the applicant applied.

(2) If the board determines that an applicant who filed a grant application after December 31, 2014, is eligible for a grant pursuant to this section, the board may not issue more than one million dollars (\$1,000,000) in grants from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund for the occurrence for which the applicant applied.

(3) The board shall include the amount of any grants awarded by the board from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Subaccount pursuant to former Section 25299.50.2, as that section read on December 31, 2007, toward the total amount available per occurrence for grants awarded from the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund pursuant to this section.

*(Amended by Stats. 2014, Ch. 547, Sec. 6. (SB 445) Effective September 25, 2014. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.50.3.** (a) For purposes of this section, “school district” has the same meaning as set forth in Section 80 of the Education Code, and includes a county office of education.

(b) The School District Account is hereby created in the fund, for expenditure by the board to pay a claim filed by a district that is a school district and has a priority based on paragraph (2), (3), or (4) of subdivision (b) of Section 25299.52. Notwithstanding Section 25299.52, in the 2009–10, 2010–11, and 2011–12 fiscal years, the board shall pay a claim filed by a district that is a school district and has a priority based on paragraph (4) of subdivision (b) of Section 25299.52 only from funds appropriated from the School District Account.

(c) (1) The sum of ten million dollars (\$10,000,000) per year shall be transferred, in the 2009–10, 2010–11, and 2011–12 fiscal years, from the fund to the School District Account, for expenditure, upon appropriation by the Legislature, for the payment of claims filed by a district that is a school district with a priority based on paragraph (2), (3), or (4) of subdivision (b) of Section 25299.52. The ten million dollars (\$10,000,000) shall be transferred to the School District Account before allocating the remaining available funds to each priority ranking in paragraphs (1), (2), (3), and (4) of subdivision (b) of Section 25299.52.

(2) The board shall consult with the Department of Toxic Substances Control in allocating the funds transferred to the School District Account.

(3) The board shall pay claims from a school district with a priority based on paragraph (4) of subdivision (b) of Section 25299.52 from the School District Account in the order of the date of the filing of the claim application to the fund. In each of the fiscal years identified in subdivision (b), if the board estimates that money will be available in the School District Account after the board has allocated funding for all submitted claims from school districts with a priority based on paragraph (4) of subdivision (b) of Section 25299.52, School District Account funds may be used to fund school district claims with a priority based on paragraph (2) or (3) of subdivision (b) of Section 25299.52.

(d) (1) Funds in the School District Account that are not expended in a fiscal year shall remain in the School District Account. Funds remaining in the School District Account on January 1, 2036, shall be transferred to the fund.

(2) Notwithstanding Section 16304.1 of the Government Code, the board shall encumber the funds appropriated pursuant to this section within three years of the appropriation and the board may make a disbursement in liquidation of an encumbrance before or during the three years following the last day the appropriation is available for encumbrance.

(e) The board shall include in its annual report information on the expenditure of the funds transferred to the School District Account, as well as the amount of all claims filed by districts that are school districts and the amount of reimbursements made to districts that are school districts from the fund, and shall, in consultation with the Department of Toxic Substances Control, estimate the amount of funds needed to reimburse anticipated future claims by districts that are school districts. The board shall provide a copy of this report to the State Allocation Board and the State Department of Education.

(f) This section does not affect the priority of a district that is a school district and has a priority based on paragraph (2) or (3) of subdivision (b) of Section 25299.52.

(g) The board shall waive the requirements of paragraph (4) of subdivision (d) of Section 25299.57 for a claim that is reimbursed from the School District Account pursuant to this section if the superintendent of the school district receiving the reimbursement certifies to the board that petroleum was not delivered on or after January 1, 2003, to the tank that is the subject of the claim or that the tank was removed before January 1, 2003.

(h) This section shall remain in effect only until January 1, 2036, and as of that date is repealed.

*(Amended by Stats. 2023, Ch. 561, Sec. 4. (AB 1115) Effective January 1, 2024. Repealed as of January 1, 2036, by its own provisions. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.50.5.** Upon the repeal of Section 25299.50.3, all moneys in the School District Account and all moneys due that account shall revert to, and accrue to the benefit of, the Underground Storage Tank Cleanup Fund in the State Treasury.

*(Added by Stats. 2008, Ch. 644, Sec. 3. Effective January 1, 2009. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.50.6.** (a) The Site Cleanup Subaccount is hereby established in the State Treasury. Moneys shall be deposited in the subaccount pursuant to subdivision (m) of Section 25299.51.

(b) The board may expend the funds in the Site Cleanup Subaccount, upon appropriation by the Legislature, for the following purposes:

(1) To pay for reasonable and necessary expenditures that the board, the department, a regional board, a local agency, or a water replenishment district incurs to investigate the source of surface or groundwater contamination.

(2) (A) To pay for reasonable and necessary expenditures to remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination incurred by any of the following:

(i) The board.

(ii) The department.

(iii) A regional board.

(iv) A local agency.

(v) A water replenishment district, under the direction of the board, a regional board, a local agency, or another appropriate regulatory agency with authority over surface or groundwater cleanup oversight.

(B) The board shall consider the following factors when approving expenditures for specific locations:

(i) The degree to which human health, safety, and the environment are threatened by contamination at the location.

(ii) Whether the location is located in a small or financially disadvantaged community.

(iii) The cost and potential environmental benefit of the investigation or cleanup.

(iv) Whether there are other potential sources of funding for the investigation or cleanup.

(v) Any other information the board identifies as necessary for consideration.

(3) To issue grants pursuant to this section for the reasonable and necessary costs of actions to remediate the harm or threat of harm to human health, safety, and the environment caused by existing or threatened surface or groundwater contamination at a location if both of the following conditions are met:

(A) The board, the department, a regional board, local agency, unified program agency, or a local officer requires the responsible parties to undertake or contract for investigation or cleanup pursuant to an oral or written order, directive, notification, or approval issued pursuant to Section 25187, 25187.1, 25296.10, 78870, 79055, or 101480, or any section of the Water Code. The board may waive this requirement if the board finds that it is infeasible for an order to be issued before initiation of remediation.

(B) No responsible party has sufficient financial resources to pay for the required response actions.

(4) For payments to the Attorney General by the board pursuant to subdivision (g).

(c) At least annually, the board shall review grant applications and adopt a list of applicants to be awarded grants pursuant to paragraph (3) of subdivision (b). In addition to the conditions specified in paragraph (3) of subdivision (b), the board shall consider all of the following factors when awarding grants:

(1) The degree to which human health, safety, and the environment are threatened by surface water or groundwater contamination at the location.

(2) Whether the location is located in a small or financially disadvantaged community.

(3) The cost and potential environmental benefit of the investigation or cleanup.

(4) Whether there are other potential sources of funding for the investigation or cleanup.

(5) Any other information the board identifies as necessary for consideration.

(d) (1) The board shall specify the information that shall be included in a grant application, consistent with this section, including, but not limited to, a provision requiring the applicant to make a sworn verification of the information in the application to the best of the applicant's knowledge.

(2) The board may adopt procedures to implement this section.

(3) The board shall post any procedures or information requirements adopted pursuant to this section on its internet website.

(e) (1) The recipient of grant moneys shall expend those funds only for the reasonable costs necessary to protect human health, safety, and the environment, incurred on or after September 25, 2014.

(2) The board shall not issue a grant for any costs for which the applicant has been, or will be, paid by another source.

(3) The board may terminate a grant and may bar the applicant from receiving any future grants from the Site Cleanup Subaccount if the board finds that the applicant has made a misrepresentation or false claim.

(f) (1) Any funds in the Site Cleanup Subaccount that are not expended in a fiscal year shall remain in the subaccount until they are encumbered.

(2) Notwithstanding Section 16304.1 of the Government Code, the board shall encumber the funds appropriated pursuant to this section within three years of the appropriation and the board may make a disbursement in liquidation of an encumbrance before or during the three years following the last day the appropriation is available for encumbrance.

(3) Notwithstanding Section 16475 of the Government Code, any interest earned upon the money in the Site Cleanup Subaccount shall be deposited in the Site Cleanup Subaccount.

(g) The Attorney General may recover the actual, reasonable costs of investigation or cleanup undertaken pursuant to this section in a civil action, upon request from the board, from any responsible party. All money recovered by the Attorney General pursuant to this section shall be deposited in the Site Cleanup Subaccount.

(h) For purposes of this section, the following definitions apply:

(1) "Local officer" has the meaning provided for in Section 101480.

(2) "Unified program agency" has the meaning provided for in Section 25404.

(3) "Water replenishment district" has the meaning provided for in Section 60012 of the Water Code.

*(Amended by Stats. 2022, Ch. 258, Sec. 77. (AB 2327) Effective January 1, 2023. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.50.7.** (a) The Expedited Claim Account is hereby created in the fund for expenditure by the board to pay claims that have been selected to participate in the pilot project established by this section.

(b) The sum of one hundred million dollars (\$100,000,000) shall be transferred in the 2015–16 fiscal year from the fund to the Expedited Claim Account for expenditure, upon appropriation by the Legislature, for the payment of claims pursuant to this section.

Claims shall be paid from the Expedited Claim Account until moneys in the account are exhausted.

(c) Funds in the Expedited Claim Account that are not expended in a fiscal year shall remain in the Expedited Claim Account. Funds remaining in the Expedited Claim Account on January 1, 2036, shall be transferred to the fund.

(d) The board shall, with stakeholder input, establish the Expedited Claim Pilot Project to reduce the overall cost for site cleanup and the time to reach closure by increasing coordination with the responsible party, consultant, regulator, and the fund, and by using multiyear budgets.

(1) The board shall, with stakeholder input, investigate potential methods for reducing the overall cost for site cleanup and the time to reach closure including, but not limited to, establishment of multiyear funding for claims, increased collaboration between fund staff, regulatory staff, and claimants and their contractors, establishment of project milestones and cost estimates, and establishment of reimbursement submission schedules.

(2) The board shall solicit fund claims from all priority rankings for participation in the pilot project to implement potential improvement methods. The board shall select a limited number of claims to participate in the pilot project.

(3) The board shall develop criteria for the selection of claims to participate in the pilot project and, at a minimum, shall consider the threat to human health, safety, or the environment caused by contamination at the site that is the subject of the claim, the priority ranking assigned to the claim pursuant to Section 25299.52, and the progress of cleanup at the site that is the subject of the claim.

(4) The development of criteria and procedures pursuant to this subdivision shall not be considered as regulations subject to, and shall be exempt from, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) The board shall include in its annual report information on the expenditure of funds transferred to the Expedited Claim Account, as well as the amount of all claims filed by claimants participating in the Expedited Claim Pilot Project and the amount of reimbursements made to claimants in the pilot project.

(f) On or before January 1, 2018, the board shall prepare a report analyzing the effectiveness and efficiency of the Expedited Claim Pilot Project in expediting the funding of claims and completion of site cleanups. The board, in consultation with stakeholders, shall work to develop metrics to forecast long-term demand on the fund and shall include this information in the report. This report shall be posted on the board's internet website, and updated periodically.

(g) This section shall remain in effect only until January 1, 2036, and as of that date is repealed.

*(Amended by Stats. 2023, Ch. 561, Sec. 5. (AB 1115) Effective January 1, 2024. Repealed as of January 1, 2026, by its own provisions. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.51.** The board may expend the moneys in the fund for all of the following purposes:

(a) In addition to the purposes specified in subdivisions (c), (d), and (e), for the costs of implementing this chapter and for implementing Section 25296.10 for a tank that is subject to this chapter.

(b) To pay for the administrative costs of the California Department of Tax and Fee Administration in collecting the fee imposed by Article 5 (commencing with Section 25299.40).

(c) To pay for the reasonable and necessary costs of corrective action pursuant to Section 25299.36, up to one million dollars (\$1,000,000) per occurrence. The Legislature may appropriate the money in the fund for expenditure by the board, without regard to fiscal year, for prompt action in response to any unauthorized release.

(d) To pay for the costs of an agreement for the abatement of, and oversight of the abatement of, an unauthorized release of hazardous substances from underground storage tanks by a local agency, as authorized by Section 25297.1 or by any other law, except that, for the purpose of expenditure of these funds, only underground storage tanks shall be the subject of the agreement.

(e) To pay for the costs of cleanup and oversight of unauthorized releases at abandoned tank sites. The board shall not expend more than 25 percent of the total amount of money collected and deposited in the fund annually for purposes of this subdivision and subdivision (h).

(f) To pay claims pursuant to Section 25299.57.

(g) To pay, upon order of the Controller, for refunds pursuant to Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code.

(h) To pay for the reasonable and necessary costs of corrective action pursuant to subdivision (f) of Section 25296.10, in response to an unauthorized release from an underground storage tank subject to this chapter.

(i) To pay claims pursuant to Section 25299.58.

(j) To pay for expenditures by the board associated with discovering violations of, and enforcing, or assisting in the enforcement of, the requirements of Chapter 6.7 (commencing with Section 25280) with regard to petroleum underground storage tanks.

(k) For transfer to the Petroleum Underground Storage Tank Financing Account, for purposes of Chapter 6.76 (commencing with Section 25299.100).

(l) Upon repeal of Chapter 6.76 (commencing with Section 25299.100), to pay for expenditures authorized by subdivision (b) of Section 25299.117 as that section reads as of December 31, 2035, immediately preceding its repeal.

(m) For transfer to the Site Cleanup Subaccount to pay for expenditures by the board pursuant to Section 25299.50.6, including costs for regulatory oversight of sites funded pursuant to that section.

(n) To pay for reasonable and necessary expenditures by the board associated with discovering violations of and enforcing, or assisting in the enforcement of, the requirements of this chapter, including actions relating to the submission of false information to the fund.

(o) (1) For transfer to the School District Account to pay for expenditures by the board pursuant to Section 25299.50.3 or for transfer pursuant to subdivision (k) or (m).

(2) This subdivision shall apply only to the moneys collected pursuant to paragraph (2) of subdivision (g) of Section 25299.43.

*(Amended by Stats. 2023, Ch. 561, Sec. 6. (AB 1115) Effective January 1, 2024. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.51.2.** (a) On or before December 31, 2019, and at least once every five years thereafter, the board shall commission an independent program audit and a fiscal audit of the fund by an independent auditor.

(b) Within 90 days of the completion of the independent program audit or fiscal audit of the fund, the board shall post the results of the program audit or fiscal audit on the board's Internet Web site.

(c) The audit shall include a review of projected expenses and revenue for the five years subsequent to the date of the audit and shall include proposals for the appropriate amount of the fee under Section 25299.43 for that five-year period. When establishing and analyzing those proposals, the auditor may consult with appropriate agencies, including the board, the State Energy Resources Conservation and Development Commission, the State Board of Equalization, and any other entity that may provide information or analysis pertinent to implementing this subdivision.

*(Amended by Stats. 2014, Ch. 547, Sec. 13. (SB 445) Effective September 25, 2014. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.51.3.** (a) The board shall conduct a study to determine the cost-effectiveness and the feasibility of issuing bonds to satisfy the obligations against the fund existing on the effective date of this section. The proceeds from the bonds would be used to expedite the payment of active claims and those claims on the priority list awaiting reimbursement. At a minimum, the study shall include participants from the board, the Department of Finance, the Treasurer's office, the California Infrastructure and Economic Development Bank, and fund stakeholders, including claimant and industry representatives.

(b) The board shall, on or before March 1, 2018, post a report of the study conducted pursuant to this section on the board's Internet Web site.

*(Added by Stats. 2014, Ch. 547, Sec. 14. (SB 445) Effective September 25, 2014. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.51.4.** (a) On or before June 1, 2016, the board shall conduct an analysis of whether the ranking criteria for the payment of claims pursuant to Sections 25299.57 and 25299.58, with regard to owners and operators of tanks that are small businesses, as specified in subparagraph (A) of paragraph (2) of subdivision (b) of Section 25299.52, should be revised to better achieve the goal of ranking claims based on the claimant's ability to pay for cleanup. The board shall consider, but is not limited to consideration of, all of the following factors in its analysis:

(1) Whether single location revenues or other factors should be considered rather than aggregate affiliate income.

(2) Whether gallons of fuel throughput should be considered rather than aggregate affiliate income.

(3) Whether other factors should be considered to ensure equitable qualification under subparagraph (A) of paragraph (2) of subdivision (b) of Section 25299.52.

(b) The board shall consult with stakeholders of the Underground Storage Tank Cleanup Fund, including claimant and industry representatives, when preparing the analysis required by this section.

(c) The board shall coordinate with the State Board of Equalization and the State Energy Resources Conservation and Development Commission to obtain data collected by these agencies that would be relevant to the conduct of the analysis required by this section.

(d) Within 90 days after completing the analysis required by this section, the board shall post the results on the board's Internet Web site.

*(Added by Stats. 2014, Ch. 547, Sec. 15. (SB 445) Effective September 25, 2014. Inoperative January 1, 2036, pursuant to Section 25299.81.)*



25299.52. (a) The board shall adopt a priority ranking list at least annually for awarding claims pursuant to Section 25299.57 or 25299.58. Any owner or operator eligible for payment of a claim pursuant to Section 25299.54 shall file an application with the board within a reasonable period, to be determined by the board, prior to adoption of the priority ranking list.

(b) Except as provided in subdivision (c), in awarding claims pursuant to Section 25299.57 or 25299.58, the board shall pay claims in accordance with the following order of priority:

(1) Owners of tanks who are eligible to file a claim pursuant to subdivision (e) of Section 25299.54.

(2) Owners and operators of tanks that are either of the following:

(A) An owner or operator of a tank that is a small business, by meeting the requirements of subdivision (d) of Section 14837 of the Government Code. An owner or operator that meets that definition of small business, but who is domiciled or has its principal office outside of the state, shall be classified in this category if the owner or operator otherwise meets the requirements of subdivision (d) of Section 14837 of the Government Code with regard to the number of employees and the total annual revenues received.

(B) An owner or operator that is a city, county, district, or nonprofit organization that receives total annual revenues of not more than seven million dollars (\$7,000,000). In determining the amount of a nonprofit organization's annual revenues, the board shall calculate only those revenues directly attributable to the particular site at which the tank or tanks for which the claim is submitted are located.

(3) Owners or operators of tanks that are either of the following:

(A) The owner or operator owns and operates a business that employs fewer than 500 full-time and part-time employees, is independently owned and operated, and is not dominant in its field of operation.

(B) The owner or operator is a city, county, district, or nonprofit organization that employs fewer than 500 full-time and part-time employees. In determining the number of employees employed by a nonprofit organization, the board shall calculate only those employees employed at the particular site at which a tank for which the claim is being submitted is located.

(4) All other tank owners and operators.

(c) (1) In any year in which the board is not otherwise authorized to award at least 15 percent of the total amount of funds committed for that year to tank owners or operators in those categories set forth in paragraph (3) or (4) of subdivision (b) due to the priority ranking list award limitations set forth in subdivision (b), the board shall allocate between 14 and 16 percent of the total amount of funds committed for that year to each category that is not otherwise entitled to at least that level of committed funding for that year.

(2) If the total amount of claims outstanding in one or more of the priority categories specified in paragraph (3) or (4) of subdivision (b) is less than 15 percent of the total amount annually appropriated from the fund for the purpose of awarding claims, the board shall reserve for making claims in that category only the amount that is necessary to satisfy the outstanding claims in that category.

(d) The board shall give priority to a claim that is filed before September 24, 1993, by a city, county, or district that is eligible for payment pursuant to Section 25299.54 in the following manner:

(1) The board shall determine whether the priority category specified for a city, county, or district pursuant to subparagraph (B) of paragraph (2), or pursuant to subparagraph (B) of paragraph (3), of subdivision (b) requires that the priority ranking of the claim be changed.

(2) If the priority ranking of the claim is changed and the claim is placed into either the priority category specified in subparagraph (B) of paragraph (2), or specified in subparagraph (B) of paragraph (3), of subdivision (b), the board shall pay all other claims that were assigned to that priority category prior to January 1, 2000, before paying the claim of the city, county, or district.

(e) The board may, to carry out the intent specified in paragraph (1) of subdivision (b) of Section 25299.10 and to expedite the processing and awarding of claims pursuant to Sections 25299.57 and 25299.58, implement the contracting procedures required by Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, as may be necessary, to alleviate the claims processing and award backlog. If, at the conclusion of any fiscal year, 25 percent or more of the funds appropriated annually for awards to claimants during that year have not actually been obligated by the board, the board shall, at its next regularly scheduled meeting, determine, in a public hearing, whether, given the circumstances of the awards backlog, it is appropriate to implement those contracting procedures for some, or all, of the claims filed with the board.

(f) For purposes of this section, the following definitions shall apply:

(1) "Nonprofit organization" means a nonprofit public benefit organization incorporated pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code.

(2) "Annual revenue," with respect to public entities, means the total annual general purpose revenues, excluding all restricted revenues over which the governing agency has no discretion, as reported in the Annual Report of Financial Transactions submitted to the Controller, for the latest fiscal year ending prior to the date the fund application was filed.

(3) "Annual revenue," with respect to nonprofit organizations, means the total annual revenues, as shown in an annual fiscal report filed with the Registry of Charities and Fundraisers of state and federal tax records, based on the latest fiscal year ending prior to the date the fund application was filed.

(4) "General purpose revenues," as used in paragraph (2), means revenues consisting of all of the following: secured and unsecured revenues; less than countywide funds, secured and unsecured; prior year secured and unsecured penalties and delinquent taxes; sales and use taxes; transportation taxes (nontransit); property transfer taxes; transient lodging taxes; timber yield taxes; aircraft taxes; franchise taxes; fines, forfeitures, and penalties; revenues from use of money and property; motor vehicle in-lieu taxes; trailer coach in-lieu taxes; homeowner property tax relief; open-space tax relief; and cigarette taxes.

*(Amended by Stats. 2023, Ch. 478, Sec. 56. (AB 1756) Effective January 1, 2024. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.53.** (a) A regional board or a local agency taking, or contracting for, corrective action pursuant to subdivision (f) of Section 25296.10 in response to an unauthorized release from an underground storage tank subject to this chapter shall, before commencing the corrective action, take both of the following actions:

(1) The regional board or local agency shall notify the board of the planned corrective action. If an owner, operator, or other responsible party is taking the corrective action in accordance with Section 25296.10, the regional board or local agency shall not initiate a corrective action pursuant to this chapter or Chapter 6.7 (commencing with Section 25280).

(2) If an owner, operator, or other responsible party is not taking or has not taken the action specified in paragraph (1), the regional board or local agency shall submit the estimated cost of the corrective action to the board, which shall approve or disapprove the reasonableness of the cost estimate. The regional board or local agency shall obtain approval of the corrective action and the cost estimate before taking, or contracting for, any corrective action.

(b) If the board approves the request of the regional board or local agency made pursuant to paragraph (2) of subdivision (a), the board shall, after making the determination specified in subdivision (c), pay for the costs of corrective action performed by a regional board, local agency, or qualified contractor.

(c) The board shall not make any payment pursuant to subdivision (b) unless the board determines that the owner, operator, or other responsible party of the tank has failed or refused to comply with a final order for corrective action issued pursuant to Section 25296.10 with respect to the unauthorized release of petroleum from the tank.

(d) Upon making any payment to a regional board or local agency pursuant to subdivision (b), the board shall recover the amount of payment pursuant to Section 25299.70.

*(Amended by Stats. 2002, Ch. 999, Sec. 45. Effective January 1, 2003. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.54.** (a) Except as provided in subdivisions (b), (c), (d), (e), (g), and (h), an owner or operator, required to perform corrective action pursuant to Section 25296.10, or an owner or operator who, as of January 1, 1988, is required to perform corrective action, who has initiated this action in accordance with Division 7 (commencing with Section 13000) of the Water Code, who is undertaking corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code, or Chapter 6.7 (commencing with Section 25280), may apply to the board for satisfaction of a claim filed pursuant to this article.

(b) A person who has failed to comply with Article 3 (commencing with Section 25299.30) is ineligible to file a claim pursuant to this section.

(c) An owner or operator of an underground storage tank containing petroleum is ineligible to file a claim pursuant to this section if the person meets both of the following conditions:

(1) The person knew, before January 1, 1988, of the unauthorized release of petroleum which is the subject of the claim.

(2) The person did not initiate, on or before June 30, 1988, any corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code concerning the release, or the person did not, on or before June 30, 1988, initiate corrective action in accordance with Chapter 6.7 (commencing with Section 25280) or the person did not initiate action on or before June 30,



1988, to come into compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code concerning the release.

(d) An owner or operator who violates Section 25296.10 or a corrective action order, directive, notification, or approval order issued pursuant to this chapter, Chapter 6.7 (commencing with Section 25280) of this code, or Division 7 (commencing with Section 13000) of the Water Code, is liable for a corrective action cost that results from the owner's or operator's violation and is ineligible to file a claim pursuant to this section.

(e) Notwithstanding this chapter, a person who owns a tank located underground that is used to store petroleum may apply to the board for satisfaction of a claim, and the board may pay the claim pursuant to Section 25299.57 without making the finding specified in paragraph (3) of subdivision (d) of Section 25299.57 if all of the following apply:

(1) The tank meets one of the following requirements:

(A) The tank is located at the residence of a person on property used exclusively for residential purposes at the time of discovery of the unauthorized release of petroleum.

(B) The tank owner demonstrates that the tank is located on property that, on and after January 1, 1985, is not used for agricultural purposes, the tank is of a type specified in subparagraph (B) of paragraph (1) of subdivision (y) of Section 25281, and the petroleum in the tank is used solely for the purposes specified in subparagraph (B) of paragraph (1) of subdivision (y) of Section 25281 on and after January 1, 1985.

(2) The tank is not a tank described in subparagraph (A) of paragraph (1) of subdivision (y) of Section 25281 and the tank is not used on or after January 1, 1985, for the purposes specified in that subparagraph.

(3) The claimant has complied with Section 25299.31 and the permit requirements of Chapter 6.7 (commencing with Section 25280), or the claimant is not subject to the requirements of those provisions.

(f) Whenever the board has authorized the prepayment of a claim pursuant to Section 25299.57, and the amount of money available in the fund is insufficient to pay the claim, the owner or operator shall remain obligated to undertake the corrective action in accordance with Section 25296.10.

(g) The board shall not reimburse a claimant for any eligible costs for which the claimant has been, or will be, compensated by another person. This subdivision does not affect reimbursement of a claimant from the fund under either of the following circumstances:

(1) The claimant has a written contract, other than an insurance contract, with another person that requires the claimant to reimburse the person for payments the person has provided the claimant pending receipt of reimbursement from the fund.

(2) An insurer has made payments on behalf of the claimant pursuant to an insurance contract and either of the following applies:

(A) The insurance contract explicitly coordinates insurance benefits with the fund and requires the claimant to do both of the following:

(i) Maintain the claimant's eligibility for reimbursement of costs pursuant to this chapter by complying with all applicable eligibility requirements.

(ii) Reimburse the insurer for costs paid by the insurer pending reimbursement of those costs by the fund.

(B) The claimant received a letter of commitment prior to June 30, 1999, for the occurrence and the claimant is required to reimburse the insurer for any costs paid by the insurer pending reimbursement of those costs by the fund.

(h) (1) Except as provided in paragraph (2), a person who purchases or otherwise acquires real property on which an underground storage tank or tank specified in subdivision (e) is situated shall not be reimbursed by the board for a cost attributable to an occurrence that commenced prior to the acquisition of the real property if both of the following conditions apply:

(A) The purchaser or acquirer knew, or in the exercise of reasonable diligence would have discovered, that an underground storage tank or tank specified in subdivision (e) was located on the real property being acquired.

(B) A person who owned the site or owned or operated an underground storage tank or tank specified in subdivision (e) at the site during or after the occurrence and prior to acquisition by the purchaser or acquirer would not have been eligible for reimbursement from the fund.

(2) Notwithstanding paragraph (1), if the claim is filed on or after January 1, 2003, the board may reimburse the eligible costs claimed by a person who purchases or otherwise acquires real property on which an underground storage tank or tank specified in subdivision (e) is situated, if all of the following conditions apply:

(A) The claimant is the owner or operator of the underground storage tank or tank specified in subdivision (e) that had an occurrence that commenced prior to the owner's acquisition of the real property.

(B) The claimant satisfies all eligibility requirements, other than those specified in paragraph (1).

(C) The claimant is not an affiliate of a person whose act or omission caused or would cause ineligibility for the fund.

(3) If the board reimburses a claim pursuant to paragraph (2), a person specified in subparagraph (B) of paragraph (1), other than a person who is ineligible for reimbursement from the fund solely because the property was acquired from another person who was ineligible for reimbursement from the fund, shall be liable for the amount paid from the fund. The Attorney General, upon request of the board, shall bring a civil action to recover the liability imposed under this paragraph. All money recovered by the Attorney General under this paragraph shall be deposited in the fund.

(4) The liability established pursuant to paragraph (3) does not limit or supersede liability under any other provision of state or federal law, including common law.

(5) For purposes of this subdivision, the following definitions shall apply:

(A) "Affiliate" means a person who has one or more of the following relationships with another person:

- (i) Familial relationship.
- (ii) Fiduciary relationship.
- (iii) A relationship of direct or indirect control or shared interests.

(B) Affiliates include, but are not limited to, any of the following:

- (i) Parent corporation and subsidiary.
- (ii) Subsidiaries that are owned by the same parent corporation.
- (iii) Business entities involved in a reorganization, as defined in Section 181 of the Corporations Code.
- (iv) Corporate officer and corporation.
- (v) Shareholder that owns a controlling block of voting stock and the corporation.
- (vi) Partner and the partnership.
- (vii) Member and a limited liability company.
- (viii) Franchiser and franchisee.
- (ix) Settlor, trustee, and beneficiary of a trust.
- (x) Debtor and bankruptcy trustee or debtor-in-possession.
- (xi) Principal and agent.

(C) "Familial relationship" means relationships between family members, including, and limited to, a spouse, child, stepchild, parent, grandparent, grandchild, brother, sister, stepbrother, stepsister, stepmother, stepfather, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, and, if related by blood, uncle, aunt, niece, or nephew.

(D) "Purchases or otherwise acquires real property" means the acquisition of fee title ownership or the acquisition of the lessee's interest in a ground lease of real property on which one or more underground storage tanks are located if the lease has an initial original term, including unilateral extension or renewal rights, of not less than 35 years.

(i) The Legislature finds and declares that the changes made to subparagraph (A) of paragraph (1) of subdivision (e) by Chapter 1290 of the Statutes of 1992 are declaratory of existing law.

(j) The Legislature finds and declares that the amendment of subdivisions (a) and (g) by Chapter 328 of the Statutes of 1999 is declaratory of existing law.

*(Amended by Stats. 2016, Ch. 50, Sec. 54. (SB 1005) Effective January 1, 2017. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.55.** The board shall prescribe appropriate forms and procedures for claims filed pursuant to Section 25299.54 that shall include, at a minimum, all of the following:

- (a) A provision requiring the claimant to make a sworn verification of the claim to the best of the claimant's knowledge.
- (b) A full description, supported by appropriate evidence from government agencies, of the unauthorized release of petroleum into the environment from an underground storage tank claimed to be the subject of the third-party judgment specified in Section 25299.58 or the corrective action performed pursuant to Section 25296.10.
- (c) Certification by the claimant of all costs that have been, or will be, incurred in undertaking corrective action after January 1, 1988.
- (Amended by Stats. 2002, Ch. 999, Sec. 47. Effective January 1, 2003. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.56.** (a) The board shall determine an applicant's eligibility for a claim for corrective action costs or third-party compensation costs pursuant to Section 25299.57 or 25299.58 and notify the applicant of that determination within 60 days from the date of the receipt of the fund application. The board may classify the claimant's application pursuant to Section 25299.52 after that 60-day period. If the board sends an applicant a determination of eligibility pursuant to this subdivision, the board shall not revoke that determination of eligibility, unless the application contained fraudulent information or a misrepresentation. However, the board may suspend making a reimbursement for a claim until the claimant corrects any deficiencies that are the basis for the suspension. Reinstatement of reimbursement shall occur when funds are available and that reinstatement shall be made ahead of any new letters of commitment issued as of the date of reinstatement.

(b) A claimant may request review of any determination of eligibility or disapproval of reimbursement. The review shall be conducted and a decision rendered within 30 days from the date of receipt of the request.

(c) A claimant may file a petition for review, in writing, with the board with regard to any determination or disapproval that is unresolved to the satisfaction of the claimant upon expiration of the 30-day period specified in subdivision (b) and the board shall take final action on the petition within 90 days of the board's receipt of a complete petition for review, except that if the board initiates an adjudicative proceeding on the petition, the board shall take final action within 270 days of the board's receipt of a complete petition for review.

(d) Final action on a petition taken by the board is a final agency action for the purposes of judicial review of a board decision.

(e) A claimant may, not later than 30 days from the date of final action by the board pursuant to subdivision (c), file with the superior court a petition for writ of mandate for review of the decision. If the claimant does not file a petition for writ of mandate within the time provided by this subdivision, a board decision shall not be subject to review by the court. Section 1094.5 of the Code of Civil Procedure shall govern the proceeding for a petition filed pursuant to this subdivision. For purposes of subdivision (c) of Section 1094.5 of the Code of Civil Procedure, the court shall uphold the decision if the decision is based upon substantial evidence in light of the whole record.

(f) Except as specified in subdivision (g), the procedures in Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, and in Section 11513 of, the Government Code apply to any adjudicative proceedings conducted by the board pursuant to this article.

(g) (1) Notwithstanding subdivision (f), Sections 801, 802, 803, 804, and 805 of the Evidence Code apply to any adjudicative proceeding conducted by the board pursuant to this article.

(2) This section is not a limitation on the authority of the board to authorize the use of the procedure provided in Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

*(Amended by Stats. 2014, Ch. 544, Sec. 11. (SB 1458) Effective January 1, 2015. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.57.** (a) (1) If the board makes the determination specified in subdivision (d) for a claim filed on or before December 31, 2014, the board may only pay for the costs of a corrective action that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million five hundred thousand dollars (\$1,500,000) for each occurrence.

(2) If the board makes the determination specified in subdivision (d) for a claim filed on or after January 1, 2015, the board may only pay for the costs of a corrective action that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million dollars (\$1,000,000) for each occurrence.

(3) In the case of an owner or operator who, as of January 1, 1988, was required to perform corrective action, who initiated that corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), and who is undertaking the corrective action in compliance with waste discharge requirements or other orders issued pursuant to Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280), the owner or operator may apply to the board for satisfaction of a claim filed pursuant to this article.

(4) The board shall notify claimants applying for satisfaction of claims from the fund of eligibility for reimbursement in a prompt and timely manner and that a letter of credit or commitment that will obligate funds for reimbursement shall follow the notice of eligibility as soon thereafter as possible.

(b) (1) For claims eligible for reimbursement pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the actual cost of corrective action to the board, which shall either approve or disapprove the costs incurred as reasonable and necessary. At least 15 days before the board proposes to disapprove the reimbursement of corrective action costs that have been incurred on the grounds that the costs were unreasonable or unnecessary, the board shall issue a notice advising the claimant and the lead agency of the proposed disallowance, to allow review and comment.

(2) The board shall not reject any actual costs of corrective action in a claim solely on the basis that the invoices submitted fail to sufficiently detail the actual costs incurred, if all of the following apply:

(A) Auxiliary documentation is provided that documents to the board's satisfaction that the invoice is for necessary corrective action work.

(B) The costs of corrective action work in the claim are reasonably commensurate with similar corrective action work performed during the same time period covered by the invoice for which reimbursement is sought.

(C) The invoices include a brief description of the work performed, the date that the work was performed, the vendor, and the amount.

(c) (1) For claims eligible for prepayment pursuant to subdivision (c) of Section 25299.55, the claimant shall submit the estimated cost of the corrective action to the board, which shall approve or disapprove the reasonableness of the cost estimate.

(2) If the claim is for reimbursement of costs incurred pursuant to a performance-based contract, Article 6.5 (commencing with Section 25299.64) shall apply to that claim.

(d) Except as provided in subdivision (j), a claim specified in subdivision (a) may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, under the federal act, or under Section 6973 of Title 42 of the United States Code, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code.

(3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B), (C), and (F), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later. For the purpose of this subparagraph, a claimant shall demonstrate compliance with the permit requirements of Chapter 6.7 (commencing with Section 25280) by submitting copies of the required permits. If copies of the required permits are unavailable, the claimant may certify that the claimant obtained the required permits but no longer has copies of them and provide any other documentation tending to show that the claimant obtained the required permits, including, but not limited to, approved permit applications, records of payment of permit fees, and inspection reports. In determining whether a claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280), the board shall consider all available documentation, including any documentation available from the applicable local agency regarding the claimant's compliance with the permit requirements of Chapter 6.7 (commencing with Section 25280).

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board shall waive the provisions of subparagraphs (A) and (B) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complies with either subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) of this chapter and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(D) (i) A claimant exempted pursuant to subparagraph (C) and who has complied, on or before December 22, 1998, either with subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections, shall obtain a level of financial responsibility twice as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but not less than ten thousand dollars (\$10,000). All other claimants exempted pursuant to subparagraph (C) shall obtain a level of financial responsibility that is four times as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but not less than twenty thousand dollars (\$20,000).

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to the causing of any contamination. That demonstration may be made through a certification issued by the permitting agency based on a site evaluation and tank tests at the time of permit application or in any other manner acceptable to the board.

(E) All claimants who file a claim before January 1, 2008, and who are not eligible for a waiver of the permit requirements pursuant to applicable statutes or regulations in effect on the date of the filing of the claim may resubmit a new claim pursuant to subparagraph (C) on or after January 1, 2008. The board shall rank all claims resubmitted pursuant to subparagraph (C) lower than all claims filed before January 1, 2008, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(F) The board shall waive the provisions of subparagraph (A) as a condition for payment from the fund for a claimant who filed a claim on or after January 1, 2008, and before July 1, 2009, but is not eligible for a waiver of the permit requirement pursuant to the regulations adopted by the board in effect on the date of the filing of the claim, and who did not obtain or apply for a permit required by subdivision (a) of Section 25284, if the board finds all of the following:

(i) The claim is filed pursuant to paragraph (2) of subdivision (h) of Section 25299.54 and the claim otherwise satisfies the eligibility requirements of that paragraph.

(ii) The claimant became the owner or de facto owner of an underground storage tank prior to December 22, 1998.

(iii) The claimant did not, and does not, operate the underground storage tank.

(iv) Within three years after becoming the owner or de facto owner of the underground storage tank but not after December 22, 1998, the claimant caused the underground storage tank to be removed and closed in accordance with applicable law, and commenced no later than December 22, 1998, to perform corrective action pursuant to Section 25296.10 of this code or pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(G) The board shall rank all claims submitted pursuant to subparagraph (F) in their respective priority classes specified in subdivision (b) of Section 25299.52 in the order in which the claims are received by the board, but subsequent to any claim filed on a previous date in each of those priority classes.

(H) For purposes of clauses (ii) and (iv) of subparagraph (F), "de facto owner of an underground storage tank" means a person who purchases or otherwise acquires real property, as defined in subparagraph (D) of paragraph (5) of subdivision (h) of Section 25299.54, and has actual possession of, and control over, an underground storage tank that has been abandoned by its previous owner.

(5) The board has approved either the costs incurred for the corrective action pursuant to subdivision (b) or the estimated costs for corrective action pursuant to subdivision (c).

(6) (A) The claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code, for the underground storage tank that is the subject of the claim.

(B) The board may accept a claimant's statement certifying to the best of the claimant's knowledge that payment was made to the State Board of Equalization to demonstrate satisfaction of the requirements of subparagraph (A) if both of the following apply:

(1) Records maintained by the State Board of Equalization show that fees and, if applicable, interest and penalties, have been paid by the claimant for the period corresponding to the claimant's ownership or operation of the tank that is the subject of the claim.

(2) The State Board of Equalization and the claimant are not able to document that the payments received by the State Board of Equalization were or were not specifically related to the tank that is the subject of the claim.

(e) The board shall provide the claimant, whose cost estimate has been approved, a letter of commitment authorizing payment of the costs from the fund.

(f) The claimant may submit a request for partial payment to cover the costs of corrective action performed in stages, as approved by the board.

(g) (1) A claimant who submits a claim for payment to the board shall submit multiple bids for prospective costs as prescribed in regulations adopted by the board pursuant to Section 25299.77.

(2) A claimant who submits a claim to the board for the payment of professional engineering and geologic work shall submit multiple proposals and fee estimates, as required by the regulations adopted by the board pursuant to Section 25299.77. The claimant's selection of the provider of these services is not required to be based on the lowest estimated fee, if the fee estimate conforms with the range of acceptable costs established by the board.

(3) A claimant who submits a claim for payment to the board for remediation construction contracting work shall submit multiple bids, as required in the regulations adopted by the board pursuant to Section 25299.77.

(4) Paragraphs (1), (2), and (3) do not apply to a tank owned or operated by a public agency if the prospective costs are for private professional services within the meaning of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code and those services are procured in accordance with the requirements of that chapter.

(h) The board shall provide, upon the request of a claimant, assistance to the claimant in the selection of contractors retained by the claimant to conduct reimbursable work related to corrective actions. The board shall develop a summary of expected costs for common corrective actions. This summary of expected costs may be used by claimants as a guide in the selection and supervision of consultants and contractors.

(i) (1) To the extent funding is available, the board shall pay, within 60 days from the date of receipt of an invoice of expenditures, all costs specified in the work plan developed pursuant to Section 25296.10, and all costs that are otherwise necessary to comply with an order issued by a local, state, or federal agency.

(2) If corrective action costs, third-party compensation costs, or regulatory technical assistance costs submitted by a claimant are approved for reimbursement by the board but funding is not available for payment to the claimant at the time of approval, the board shall reimburse carrying costs incurred by the claimant after November 7, 2008, but before June 30, 2010, subject to all of the following limitations:

(A) The reimbursement for carrying costs shall not exceed the carrying costs actually incurred by the claimant from the date the corrective action costs, third-party compensation costs, or regulatory technical assistance costs are approved for payment by the board until the date that a check for the reimbursement request is issued by the Controller.

(B) The reimbursement for carrying costs shall not exceed an amount equivalent to a maximum annual percentage rate of 7 percent as applied to the amount approved for reimbursement and for the period calculated pursuant to subparagraph (A).

(C) The board shall not reimburse carrying costs that amount to less than one hundred dollars (\$100) per reimbursement request.

(D) The board shall not reimburse carrying costs that exceed 9 percent of the total amount of costs approved for the reimbursement to which the carrying costs apply.

(E) A claimant may submit a request for reimbursement of carrying costs after receipt of fund reimbursement for the corrective action costs, third-party compensation costs, or regulatory technical assistance costs to which the carrying costs apply. Additional carrying costs associated with a reimbursement request for carrying costs submitted pursuant to this paragraph are not eligible for payment.

(F) This paragraph does not apply to tank owners or operators that are not described in paragraph (1), (2), or (3) of subdivision (b) of Section 25299.52.

(3) For the purposes of paragraph (2), "carrying cost" means the interest expense incurred by a claimant to acquire money to pay costs approved for reimbursement by the board but for which reimbursement is delayed because funds are unavailable.



(j) (1) The board shall pay a claim of not more than five thousand dollars (\$5,000) per occurrence for regulatory technical assistance to an owner or operator who is otherwise eligible for reimbursement under this chapter, except that reasonable and necessary regulatory technical assistance costs associated with the electronic submission of documents to the fund using an electronic data system approved by the board shall not be subject to this limit.

(2) For the purposes of this subdivision, regulatory technical assistance is limited to assistance from a person, other than the claimant, in the preparation and submission of a claim to the fund. Regulatory technical assistance does not include assistance in connection with proceedings under Section 25296.40, 25299.39.2, or 25299.56 or any action in court.

(k) (1) Notwithstanding any other provision of this section, the board shall pay a claim pursuant to paragraph (2) or (3) for the costs of corrective action to a person who owns property on which is located a release from a petroleum underground storage tank that has been removed, if the site has been the subject of a completed corrective action, and for which additional corrective action is required because of additionally discovered contamination from the previous release.

(2) (A) The board shall pay a claim pursuant to this paragraph if the person who carried out the earlier and completed corrective action was eligible for, and applied for, reimbursement pursuant to subdivision (b).

(B) Reimbursement for additional corrective action shall be available only to the extent that the amount of reimbursement for the earlier corrective action did not exceed the amount of reimbursement authorized by subdivision (a).

(C) Reimbursement to a claimant on a reopened site pursuant to this paragraph shall occur when funds are available, and the reimbursement commitment shall be made ahead of any new letters of commitment to be issued, as of the date of the reopening of the claim, if funding has occurred on the original claim.

(D) If funding has not occurred on the original claim, funding shall occur at the time it would have occurred under the original claim.

(3) (A) The board may reimburse a claim pursuant to this paragraph if all of the following conditions are satisfied:

(i) The person who carried out the earlier and completed corrective action did not apply for reimbursement pursuant to subdivision (b).

(ii) The person who owns the property is required to perform corrective action because of additionally discovered contamination.

(iii) The person who owns the property is the owner or operator of an underground storage tank located on the property at the time of application to the fund.

(iv) The person who owns the property is in compliance with the requirements to pay the fee pursuant to Article 5 (commencing with Section 25299.40).

(v) The person who owns the property is in compliance with the requirements to obtain a permit pursuant to Chapter 6.7 (commencing with Section 25280).

(B) The board shall assign the person submitting a claim pursuant to this paragraph a priority ranking consistent with the categories described in Section 25299.52.

(C) The board shall limit reimbursement for a claim pursuant to this paragraph to the amounts described in Section 25299.59 and for the incurred corrective action costs that are necessary and reasonable.

(4) For purposes of this subdivision, a corrective action is completed when the local agency or regional board with jurisdiction over the site or the board issues a closure letter pursuant to subdivision (g) of Section 25296.10.

(l) (1) Except as provided in subdivision (m), claims for reimbursement of corrective action costs that are received by the board more than 365 days after the date of issuance of a closure letter issued pursuant to subdivision (g) of Section 25296.10 or after the issuance or activation of a letter of commitment, whichever occurs later, shall not be reimbursed unless either of the following applies:

(A) Claims for corrective action costs are submitted to the board pursuant to subdivision (k).

(B) The board finds that submission within the time period specified in this paragraph was beyond the claimant's reasonable control, ongoing work is required for closure that will result in submission of claims beyond that time period, or that under the circumstances of the particular case, it would be unreasonable or inequitable to impose the time period specified in this paragraph.

(2) This section does not limit or abrogate the rights of a claimant in disputing reimbursement determinations or suspension of claims.

(3) For cases that have been issued a closure letter pursuant to subdivision (g) of Section 25296.10 prior to January 1, 2012, the board shall notify claimants of the 365-day filing deadline specified in paragraph (1) on or before March 31, 2012, or upon issuance of a letter of commitment, whichever occurs later.

(m) (1) The board shall not reimburse a claim for reimbursement of a corrective action cost that is received by the board more than two years after the date the cost was incurred or more than two years after the date of the issuance or activation of a letter of commitment, whichever occurs later, except under one or both of the following conditions:

(A) The board may reimburse a claim for a cost incurred before January 1, 2015, by a claimant that has an active letter of commitment on January 1, 2015, that was received by the board on or before December 31, 2015, or within two years of the date the cost was incurred, whichever occurs later.

(B) The executive director finds that submission within the time period specified in this subdivision was beyond the claimant's reasonable control or that, under the circumstances of the particular case, it would be unreasonable or inequitable to impose the time period specified in this subdivision.

(2) For the purposes of this subdivision, a cost is incurred on the date that the task to be paid for is completed.

*(Amended by Stats. 2023, Ch. 561, Sec. 7. (AB 1115) Effective January 1, 2024. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.58.** (a) Except as provided in subdivision (d), if the board makes the determination specified in subdivision (b), the board may reimburse only those costs that are related to the compensation of third parties for bodily injury and property damages and that exceed the level of financial responsibility required to be obtained pursuant to Section 25299.32, but not more than one million dollars (\$1,000,000) for each occurrence.

(b) A claim may be paid if the board makes all of the following findings:

(1) There has been an unauthorized release of petroleum into the environment from an underground storage tank.

(2) The claimant has been ordered to pay a settlement or final judgment for third-party bodily injury or property damage arising from operating an underground storage tank.

(3) The claimant has complied with Section 25299.31.

(4) (A) Except as provided in subparagraphs (B) and (C), the claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280). A claimant shall obtain a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim when the claimant becomes subject to subdivision (a) of Section 25284 or when the applicable local agency begins issuing permits pursuant to subdivision (a) of Section 25284, whichever occurs later. For the purpose of this subparagraph, a claimant shall demonstrate compliance with the permit requirements of Chapter 6.7 (commencing with Section 25280) by submitting copies of the required permits. If copies of the required permits are unavailable, the claimant may certify that the claimant obtained the required permits but no longer has copies of them and provide any other documentation tending to show that the claimant obtained the required permits, including, but not limited to, approved permit applications, records of payment of permit fees, and inspection reports. In determining whether a claimant has complied with the permit requirements of Chapter 6.7 (commencing with Section 25280), the board shall consider all available documentation, including any documentation available from the applicable local agency regarding the claimant's compliance with the permit requirements of Chapter 6.7 (commencing with Section 25280).

(B) A claimant who acquires real property on which an underground storage tank is situated and, despite the exercise of reasonable diligence, was unaware of the existence of the underground storage tank when the real property was acquired, has obtained a permit required by subdivision (a) of Section 25284 for the underground storage tank that is the subject of the claim within a reasonable period, not to exceed one year, from when the claimant should have become aware of the existence of the underground storage tank, or when the applicable local agency began issuing permits pursuant to Section 25284, whichever occurs later.

(C) All claimants who file their claim on or after January 1, 2008, and who do not obtain a permit required by subdivision (a) of Section 25284 in accordance with subparagraph (A) or (B) may seek a waiver of the requirement to obtain a permit. The board shall waive the provisions of subparagraphs (A) and (B) as a condition for payment from the fund if the board finds all of the following:

(i) The claimant was unaware of the permit requirement, and upon becoming aware of the permit requirement, the claimant complies with subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections within a reasonable period, not to exceed one year, from when the claimant became aware of the permit requirement.

(ii) Prior to submittal of the application to the fund, the claimant has complied with Section 25299.31 and has obtained and paid for all permits currently required by this paragraph.

(iii) Prior to submittal of the application to the fund, the claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) of this chapter and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(D) (i) A claimant who is exempted pursuant to subparagraph (C) and who has complied, on or before December 22, 1998, with subdivision (a) of Section 25284 or Section 25298 and the regulations adopted to implement those sections, shall obtain a level of financial responsibility in an amount twice as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than ten thousand dollars (\$10,000). All other claimants exempted pursuant to subparagraph (C) shall obtain a level of financial responsibility that is four times as great as the amount that the claimant is otherwise required to obtain pursuant to subdivision (a) of Section 25299.32, but in no event less than twenty thousand dollars (\$20,000).

(ii) The board may waive the requirements of clause (i) if the claimant can demonstrate that the conditions specified in clauses (i) to (iii), inclusive, of subparagraph (C) were satisfied prior to any contamination having been caused. The demonstration may be made through a certification issued by the permitting agency based on a site evaluation and tank tests at the time of permit application or in any other manner as may be acceptable to the board.

(E) All claimants who file a claim before January 1, 2008, and who are not eligible for a waiver of the permit requirements pursuant to applicable statutes or regulations in effect on the date of the filing of the claim may resubmit a new claim pursuant to subparagraph (C) on or after January 1, 2008. The board shall rank all claims resubmitted pursuant to subparagraph (C) lower than all claims filed before January 1, 2008, within their respective priority classes specified in subdivision (b) of Section 25299.52.

(5) The claimant is required to undertake or contract for corrective action pursuant to Section 25296.10, under the federal act, or under Section 6973 of Title 42 of the United States Code, or, as of January 1, 1988, the claimant has initiated corrective action in accordance with Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.7 (commencing with Section 25280).

(6) (A) The claimant has paid all fees, interest, and penalties imposed pursuant to Article 5 (commencing with Section 25299.40) of this chapter and Part 26 (commencing with Section 50101) of Division 2 of the Revenue and Taxation Code for the underground storage tank that is the subject of the claim.

(B) The board may accept a claimant's statement certifying to the best of the claimant's knowledge that payment was made to the State Board of Equalization to demonstrate satisfaction of the requirements of subparagraph (A) if both of the following apply:

(1) Records maintained by the State Board of Equalization show that fees and, if applicable, interest and penalties, have been paid by the claimant for the period corresponding to the claimant's ownership or operation of the tank that is the subject of the claim.

(2) The State Board of Equalization and the claimant are not able to document that the payments received by the State Board of Equalization were or were not specifically related to the tank that is the subject of the claim.

(c) A claimant may be reimbursed by the fund for compensation of third parties for only the following:

(1) Medical expenses.

(2) Actual lost wages or business income.

(3) Actual expenses for remedial action to remedy the effects of damage to the property of the third party caused by the unauthorized release of petroleum from an underground storage tank.

(4) The fair market value of the property rendered permanently unsuitable for use by the unauthorized release of petroleum from an underground storage tank.

(d) The board shall pay a claim submitted by a person eligible to submit a claim pursuant to subdivision (e) of Section 25299.54 for the costs related to the compensation of third parties for bodily injury and property damages that exceed the level of financial

responsibility required to be obtained pursuant to paragraph (2) of subdivision (a) of Section 25299.32, but not more than one million dollars (\$1,000,000) for each occurrence.

*(Amended by Stats. 2023, Ch. 561, Sec. 8. (AB 1115) Effective January 1, 2024. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.59.** (a) If the board has paid out of the fund for any costs of corrective action, the board shall not pay any other claim out of the fund for the same costs.

(b) (1) Notwithstanding Sections 25299.57 and 25299.58, for a claim filed on or before December 31, 2014, the board shall not reimburse or authorize prepayment of any claim in an aggregate amount exceeding one million five hundred thousand dollars (\$1,500,000), less the minimum level of financial responsibility specified in Section 25299.32, for a claim arising from the same event or occurrence. If a claim 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).

(2) If a claim is filed on or after January 1, 2015, the board shall not reimburse or authorize prepayment of the claim in an aggregate amount exceeding one million dollars (\$1,000,000), less the minimum level of financial responsibility specified in Section 25299.32, for a claim arising from the same event or occurrence.

(c) The board may conduct an audit of any corrective action claim honored pursuant to this chapter. The claimant shall reimburse the state for any costs disallowed in the audit. A claimant shall preserve, and make available, upon request of the board or the board's designee, all records pertaining to the corrective action claim for a period of three years after the final payment is made to the claimant.

*(Amended by Stats. 2014, Ch. 547, Sec. 18. (SB 445) Effective September 25, 2014. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.60.** (a) The board shall not pay any claims against or presented to the fund pursuant to this article if the claim exceeds the total money in the fund at any one time. The board shall pay these claims only when additional money is collected, appropriated, or otherwise added to the fund. If the total claims outstanding at any time exceed the current balance of the fund, the board shall pay these claims in full to the extent authorized pursuant to this article.

(b) Any claim filed against the fund pursuant to this article may be paid only out of the fund. This chapter does not authorize the payment by the state of any additional amount with respect to any claim out of any source other than the fund.

(c) (1) Except as provided in paragraph (2), notwithstanding this article, the board shall not pay out any claims pursuant to this article to a claimant if the total amount paid to the claimant is greater than 5 percent of the total amount annually appropriated by the Legislature from the fund for purposes of paying claims pursuant to this article. For purposes of determining the total amount paid to a claimant for purposes of this section, the board shall include any payments made to any person or entity which has a relationship with the claimant specified in subsection (b) of Section 267 of Title 26 of the United States Code.

(2) The board may exempt a claim from the requirements of paragraph (1) if the board determines all of the following:

(A) The exemption would provide for an equitable and timely use of available fund moneys.

(B) The exemption would help to ensure an efficient petroleum underground storage tank cleanup program that adequately protects public health and safety and the environment.

(C) All claims subject to the exemption are awarded in accordance with the priority rankings established pursuant to Section 25299.52.

*(Amended by Stats. 1993, Ch. 432, Sec. 8. Effective September 24, 1993. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.61.** The board shall not pay any claims against or presented to the fund pursuant to this article if the claims are in connection with an unauthorized release of petroleum into the environment from an underground storage tank resulting from the gross negligence or the intentional or reckless acts of the claimant.

*(Added by Stats. 1990, Ch. 1366, Sec. 26. Effective September 27, 1990. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.62.** If funding is available, all reimbursement requests that are approved shall be forwarded to the Controller within 10 days from the date of approval, for payment by the Controller. If a reimbursement request is approved but not forwarded to the Controller because funding is unavailable at the time of approval, the claimant may seek reimbursement for carrying costs actually incurred for the approved amount pursuant to paragraph (2) of subdivision (i) of Section 25299.57.

*(Amended by Stats. 2009, Ch. 649, Sec. 5. (AB 1188) Effective November 5, 2009. Inoperative January 1, 2036, pursuant to Section 25299.81.)*

**25299.63.** This article does not require any person to pursue a claim against the board pursuant to this article before seeking any other remedy. This section does not affect the requirement for exhaustion of administrative remedies before obtaining judicial review of any action of the board on a claim or petition for closure of a tank case.

*(Added by Stats. 1999, Ch. 328, Sec. 21. Effective January 1, 2000. Inoperative January 1, 2036, pursuant to Section 25299.81.)*