

Senate Bill No. 32

CHAPTER 764

An act to add Sections 57008, 57009, and 57010 to, and to add Chapter 6.10 (commencing with Section 25401) to Division 20 of, the Health and Safety Code, relating to hazardous materials, and making an appropriation therefor.

[Approved by Governor October 11, 2001. Filed
with Secretary of State October 12, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

SB 32, Escutia. Contaminated property: restoration.

Existing law generally authorizes the Department of Toxic Substances Control and California regional water quality control boards to regulate corrective actions to releases of hazardous materials.

The existing Polanco Redevelopment Act authorizes a redevelopment agency, until January 1, 2004, to take any action that the redevelopment agency determines is necessary, consistent with other state and federal laws, to remedy or remove a release of hazardous substances on, under, or from a project area. Existing law immunizes a redevelopment agency that remedies or removes a hazardous substance release, pursuant to that act, from liability under specified state laws, and additionally immunizes a redevelopment agency that causes another person to undertake and complete that action.

This bill would enact the California Land Environmental Restoration and Reuse Act and would require the legislative body of a city or county that elects to implement the act to adopt an ordinance to implement the act, including designating a local agency to administer the act.

This bill would require the California Environmental Protection Agency to establish guidelines, by April 1, 2002, regarding the selection of an oversight agency and would specify a procedure for the selection of an oversight agency for a property subject to a phase I environmental assessment by representatives of the department and the State Water Resources Control Board.

The bill would authorize a local agency to issue a notice to the owner or operator of a property requiring the owner or operator to provide the local agency with specified information regarding whether a hazardous materials release may be present on the property. If the local agency determines, based on that information, that the property may be affected by a hazardous materials release or the threat of a release, the local agency would be authorized to make a finding that the property is, or



may be, affected by the release or the threat of a release. A local agency would be authorized to issue a notice requiring the owner or operator to conduct a phase I environmental assessment of the property, in response to the release or the threat of a release and to protect human health and the environment, as specified.

The bill would require a local agency to enter into an agreement with the oversight agency prior to, or concurrent with, the oversight agency's review of the phase I environmental assessment which would provide for, among other things, cost reimbursement. The bill would continuously appropriate the funds received by the oversight agency for expenditure for the purposes specified in the agreement, thereby making an appropriation.

If the phase I environmental assessment recommends that a preliminary endangerment assessment be prepared, or if the oversight agency makes a specified finding, the bill would authorize the local agency to require the owner or operator to prepare a preliminary endangerment assessment.

The bill would authorize a local agency or oversight agency to issue a notice to the owner or operator requiring a site investigation and remedial action, if the preliminary endangerment assessment contains a specified finding. The bill would prescribe procedures for the conduct of a site investigation and remedial action by the owner or operator pursuant to a remediation plan approved by the oversight agency. The bill would authorize a local agency to initiate a remedial action, pursuant to an approved remediation plan, if the governing body of the local agency, by resolution, makes one of specified findings, and to initiate a site investigation, under specified conditions.

The bill would require a local agency proposing to carry out a remedial action to provide information to the public and to take specified actions to enable community participation. The bill would make the owner or operator of the property that is the subject of a site investigation or remedial action under the act liable for the costs incurred by the local agency pursuant to the act. The bill would immunize a local agency that undertakes and completes a property investigation and remedial action pursuant to the act and receives a written determination of completion issued by the oversight agency from liability under specified state and local laws with regard to the release identified and addressed in accordance with the approved remediation plan. The bill would require the Director of the Department of Toxic Substances Control or the executive director of the regional water quality control board, as appropriate, to acknowledge in writing the applicability of this immunity and issue that determination.



The bill would require the California Environmental Protection Agency to initiate a scientific peer review of specified screening levels and to complete the process by December 31, 2004. The agency would be required to publish, by March 1, 2004, a list of screening numbers determined for specified contaminants, and to conduct public workshops in establishing and revising those levels.

The bill would require the agency to publish a guidance document that explains how these screening numbers may be used with regard to remediating contaminated properties, facilitating the restoration and revitalization of contaminated property, and making specified decisions.

The bill would require the agency to conduct a study to evaluate the usefulness of pilot screening numbers, as defined, in encouraging the remediation of contaminated property in the study areas of the Los Angeles, Santa Ana, and San Diego regions of the California regional water quality control boards, as specified, and would require the agency to carry out the study from March 1, 2002, until March 1, 2004. The bill would require the agency to evaluate the information developed by the study in establishing and reviewing pilot screening numbers.

The bill would also require the agency, by January 1, 2003, to publish an informational document to assist citizen groups, community-based organizations, interested laypersons, property owners, local government officials, developers, environmental organizations, and environmental consultants to understand the factors that are taken into account, and the procedures that are followed, in making site investigation and remediation decisions under the Carpenter-Presley-Tanner Hazardous Substances Account Act (“State Superfund”) and the Porter-Cologne Water Quality Control Act.

The bill would make a statement of legislative intent regarding the funding to be provided the agency to determine and publish screening numbers and conduct the pilot screening number study, and would require the agency to expend existing funds, appropriated for those purposes, for the scientific peer review of the screening numbers and for publishing the informational document.

Appropriation: yes.

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

SECTION 1. Chapter 6.10 (commencing with Section 25401) is added to Division 20 of the Health and Safety Code, to read:



CHAPTER 6.10. CALIFORNIA LAND ENVIRONMENTAL RESTORATION
AND REUSE ACT

25401. This chapter shall be known, and may be cited as, the California Land Environmental Restoration and Reuse Act.

25401.1. For purposes of this chapter, the following terms have the following meanings:

(a) “Department” means the Department of Toxic Substances Control.

(b) “Hazardous material” means a substance or waste that because of its physical, chemical, or other characteristics may pose a risk of endangering human health or safety or of degrading the environment. “Hazardous material” includes, but is not limited to, all of the following:

(1) A hazardous substance, as defined in Section 25281 or 25316.

(2) A hazardous waste, as defined in Section 25117.

(3) A waste, as defined in Section 13050 of the Water Code or as defined in paragraph (2) of subdivision (b) of Section 101075.

(c) “Local agency” means the local department, office, or other agency of a city or county designated pursuant to subdivision (a) of Section 25401.2.

(d) “Oversight agency” means the department or the regional board, as appropriate, that oversees a site investigation and remedial action pursuant to this chapter.

(e) “Person” means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation, including, but not limited to, a government corporation. “Person” also includes any city, county, city and county, district, commission, or the state, or any department, agency, or political subdivision thereof, any interstate body, and the United States and its agencies and instrumentalities to the extent permitted by law.

(f) “Phase I environmental assessment” means a preliminary assessment of a property to determine whether there has been, or may have been, a release of hazardous material on or near the property, based on reasonably available information about the property and the area in its vicinity. A phase I environmental assessment may include, but is not limited to, a review of public and private records of current and historical land uses, historical aerial photographs of the property and the area in its vicinity, relevant files of federal, state, and local agencies, regulatory correspondence, records of prior releases of hazardous materials and environmental reports, data base searches, visual and other surveys of the property, and interviews with available current and previous owners



and operators of the property. A phase I environmental assessment does not require sampling or testing on or around a property.

(g) “Preliminary endangerment assessment” means an activity that is performed to determine whether current or past hazardous material management practices or waste management practices have resulted in a release or threatened release of hazardous materials that pose a threat to public health or the environment. A preliminary endangerment assessment shall be conducted in a manner that complies with the guidelines published by the department entitled “Preliminary Endangerment Assessment: Guidance Manual,” and that evaluates whether any hazardous material has been discharged, threatens to discharge, or is discharging, to waters of the state. A preliminary endangerment assessment requires sampling and analysis of a property, a preliminary determination of the type and extent of hazardous materials release or threatened release on contamination of the property, and a preliminary evaluation of the risks that hazardous materials contamination of the property may pose to public health or the environment, including waters of the state.

(h) (1) “Property” means real property, as defined in Section 658 of the Civil Code.

(2) “Property” does not include any of the following:

(A) A site listed on the National Priorities List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.) or proposed for, and ranked as, qualifying for this list.

(B) A site on the list maintained by the department pursuant to Section 25356.

(C) An active or former federal military base or property that is or was owned by any department, agency, or instrumentality of the United States.

(D) A property for which a no-further-action determination has been issued by the department or a regional board, under applicable statutes or regulations.

(E) A site that is, or becomes, subject to an enforcement action or order issued by a regional board pursuant to Division 7 (commencing with Section 13000) of the Water Code, or an enforcement action by the department pursuant to Chapter 6.5 (commencing with Section 25100) or Chapter 6.8 (commencing with Section 25300).

(F) A site that is, or becomes, subject to a corrective action requirement, or for which a no-further-action determination has been issued, by a regional board or a local oversight program pursuant to Section 25297.1 or Chapter 6.75 (commencing with Section 25299.10), unless the local agency makes one of the findings described in



subdivision (b) of Section 25401.3 for a hazardous material other than petroleum.

(G) A site that is, or becomes, subject to a corrective action order issued pursuant to Section 25187, or a site that is, or becomes, authorized or permitted pursuant to Chapter 6.5 (commencing with Section 25100) for the treatment, storage, or disposal of hazardous waste.

(H) A site that is, or becomes, subject to a response or cleanup operation under Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code.

(I) A site that is, or becomes, subject to an order for corrective action issued pursuant to a corrective action under Part 5 (commencing with Section 45000) of Division 30 of the Public Resources Code.

(J) A site located within a redevelopment area established pursuant to Division 24 (commencing with Section 33000).

(K) A site that is larger than five acres of contiguous property under the same ownership.

(L) A site that has one or more full-time equivalent employees on an annualized basis, excluding employees who are primarily responsible for maintaining site security.

(M) A site that is owned by any state or local public agency.

(N) A site that is being used for productive agriculture.

(O) A site for which the owner or operator, within 60 days following receipt of a notice from a local agency issued pursuant to Section 25401.3 or 25401.4, enters into a voluntary agreement with an oversight agency to commence and complete a site investigation and remediation of the property under that oversight agency's oversight and jurisdiction.

(P) A site for which the owner or operator, within 60 days following receipt of a notice from a local agency issued pursuant to Section 25401.3 or 25401.4, requests the designation of an administering agency to oversee a site investigation and remedial action at the site pursuant to Chapter 6.65 (commencing with Section 25260).

(Q) Property that is the subject of continuous expansion or improvement, and is owned or operated by an operating industrial or commercial activity.

(R) Residential property with an owner-occupied dwelling.

(S) Property occupied by a family-owned business that has no employees other than members of the family or a business that has no employees other than the owners.

(T) Property that is dedicated to a public use by a public utility, as provided in Section 1007 of the Civil Code.

(U) Property acquired, to be acquired or proposed for use as a schoolsite, prior to its occupancy for a school, if a school district has entered into an enforceable environmental oversight agreement with the



department to conduct a preliminary endangerment assessment or other response action at the property pursuant to Section 17213.1 of the Education Code. The exclusion provided in this subparagraph shall not apply if the school district determines, after entering into that agreement, not to pursue the use of the site as a school, or if the agreement between the department and the school district is terminated or expires.

(i) (1) “Qualified person” means one of the following:

(A) For activities conducted under Section 25401.6, an environmental assessor, as defined in paragraph (2).

(B) For activities conducted under Section 25401.7, an environmental assessor, as defined in paragraph (2), who also has demonstrated expertise in hazardous materials site investigation and cleanup.

(2) “Environmental assessor” means a class II environmental assessor registered by the Office of Environmental Health Hazard Assessment pursuant to Chapter 6.98 (commencing with Section 25570), a professional engineer registered in this state, a geologist registered in this state, a certified engineering geologist registered in this state, or a licensed hazardous substance contractor certified pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. A licensed hazardous substance contractor shall hold the equivalent of a degree from an accredited public or private college or university or from a private postsecondary educational institution approved by the Bureau for Private Postsecondary and Vocational Education with at least 60 units in environmental, biological, chemical, physical, or soil science, engineering geology, or environmental or public health, or a directly related science field. In addition, any person who conducts a phase I environmental assessment shall have at least two years experience in the preparation of those assessments and any person who conducts a preliminary endangerment assessment shall have at least three years experience in conducting those assessments.

(j) “Reasonably foreseeable uses” means land uses that are authorized under the applicable general plan and zoning code, and any additional uses that are identified by the local land use agency as reasonably foreseeable uses for a property at the time the preliminary endangerment assessment for that property is being prepared pursuant to Section 25401.4 or 25401.6.

(k) “Remedial action” means a remedial action, as defined in subdivision (g) of Section 25260.

(l) “Remediation plan” means a proposal to complete a site investigation and a remedial action on a property, a schedule for the conduct of that site investigation and remedial action, the method for the



oversight of those actions, and the state and local laws, ordinances, regulations, and standards that are applicable to those actions, for approval by the oversight agency pursuant to Section 25401.5 or 25401.7.

(m) “Regional board” means a California regional water quality control board.

(n) “Release” has the same meaning as defined in Section 25320, but with respect to a hazardous material.

(o) “Responsible party” means a “responsible party” or “liable person” as defined in subdivision (a) of Section 25323.5, or a person subject to an order pursuant to subdivision (a) of Section 13304 of the Water Code.

(p) “Site investigation” has the same meaning as defined in Section 25260.

(q) “Written determination of completion” means a document issued by the oversight agency that certifies that a remedial action carried out pursuant to this chapter has been satisfactorily completed, in accordance with an approved remediation plan, that applicable remedial action standards and objectives have been achieved, that financial assurance for all operation and maintenance activities, if applicable, has been obtained, and that the property for which the written determination of completion is issued does not pose a significant risk to human health or the environment, does not impact the beneficial uses of waters of the state, and is in a condition that allows it permanently to be used for its reasonably foreseeable uses without any significant risk to human health or any significant potential for future environmental damage. The written determination of completion shall also specifically describe any conditions, restrictions, or limitations imposed on the site, including financial assurance, if applicable, and any land use controls placed on the property. The written determination of completion shall specifically identify the locations where the remediation plan that formed the basis of the determination is kept on file by the oversight agency and the local agency. These files shall be made available to the public upon request.

25401.2. (a) A city or county may elect to implement this chapter. If a city or county elects to implement this chapter, the governing body of the city or county shall adopt an implementing ordinance, which shall be consistent with this chapter and, in addition to including any other matter in the ordinance that the governing body of the city or county deems necessary, shall do all of the following:

(1) Designate a department, office, or other agency of the city or county as the local agency responsible for implementing and enforcing this chapter.



(2) Delineate the geographical areas of the city or county to which this chapter shall apply.

(3) Specify the administrative or civil penalties that apply to a person who does not submit to the local agency a phase I environmental assessment, preliminary endangerment assessment, or site investigation and remediation plan on or before the date that the document is required to be submitted pursuant to this chapter.

(4) Require the local agency to obtain the approval of the governing body of that local agency before it initiates a remedial action pursuant to Section 25401.7.

(5) Authorize the local agency to enter into an agreement with an oversight agency for a property, selected in accordance with this chapter, regarding the oversight agency's activities to review documents, assure implementation, perform other related site investigation and remediation activities, and provide for cost reimbursement.

(b) On or before April 1, 2002, the California Environmental Protection Agency shall establish guidelines for selecting the oversight agency to supervise the site investigation and remedial action of a property subject to this chapter. The guidelines shall do all of the following:

(1) Specify an address at the California Environmental Protection Agency to which the local agency shall send any phase I environmental assessments prepared pursuant to this chapter.

(2) Require that the oversight agency selected pursuant to this chapter to be either the department, the appropriate regional board, or a local agency, pursuant to paragraph (5).

(3) Specify the factors that shall be taken into account, and the criteria that shall be used to, select the oversight agency. The factors and criteria shall conform as closely as is feasible to the factors and criteria set forth in paragraph (1) of, and subparagraphs (A) and (B) of paragraph (2) of, subdivision (c) of Section 25262.

(4) Establish guidelines for transferring oversight responsibility for a property from the selected oversight agency to the agency that was not selected, as information on a property becomes available. The guidelines shall not authorize any transfer that unreasonably delays site investigations of properties and shall not authorize the transfer of a property subject to Section 25401.5 or 25401.7, if the transfer itself will delay the implementation of the schedule established in the remediation plan for the property, unless the local agency agrees to the transfer.

(5) Establish the conditions under which the oversight of a site investigation and remedial action at a property subject to this chapter may be delegated to a local agency and the conditions under which the delegation shall be withdrawn. The guidelines may authorize this



delegation only if the local agency to provide the oversight is qualified, as specified in subparagraph (C) of paragraph (3) of subdivision (a) of Section 25404.1, or the local agency enters into an agreement with the State Water Resources Control Board to implement a local oversight program pursuant to subdivision (b) of Section 25297.1, and the local agency has jurisdiction over the property pursuant to that qualification or agreement. A local agency qualified to be delegated oversight authority pursuant to this paragraph shall only serve as an oversight agency under this chapter for remediation activities solely involving underground storage tanks or a remediation project that is exempt from Division 13 (commencing with Section 21000) of the Public Resources Code, pursuant to Section 21084 of the Public Resources Code. The guidelines shall also include a process for oversight and periodic compliance monitoring of a local agency that is qualified to be delegated oversight authority by an oversight agency.

(c) The establishment of guidelines pursuant to subdivision (b) is not the adoption of regulations for purposes of, and is not subject to, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The California Environmental Protection Agency shall make the guidelines available to any interested person upon request and shall post the guidelines on the agency's Internet Web site maintained by the California Environmental Protection Agency.

(d) On or before the 10th day of each month, representatives from the department and the State Water Resources Control Board shall review all phase I environmental assessments received by the California Environmental Protection Agency and, using the factors and criteria established pursuant to paragraph (3) of subdivision (b), shall jointly select the oversight agency for each property for which a phase I environmental assessment is received. Upon the selection of the oversight agency, the agency shall immediately transmit the phase I environmental assessment for that property to the selected oversight agency, which shall review and make the determination required by subdivision (d) of Section 25401.4 within 30 calendar days of the later of either of the following dates:

- (1) When the agency receives the phase I environmental assessment.
- (2) When the local agency enters into a written agreement with the oversight agency regarding reimbursement of the oversight agency's costs pursuant to paragraph (4) of subdivision (k) of Section 25401.4.

(e) The oversight agency shall ensure this chapter is implemented in compliance with all state and local laws, ordinances, regulations, and standards that are applicable to the site investigation and remedial activities at the property.



25401.3. (a) A local agency that makes one of the findings specified in subdivision (b) may issue a notice to the owner or operator of a property requiring the owner or operator to provide the local agency with information in the possession or control of the owner or operator that, in the judgment of the local agency, may be relevant to determining if a hazardous materials release may be present on the property. This information may include, but is not limited to, any environmental assessment that has been prepared for the property, or any type of information that may be relevant to the preparation of a phase I environmental assessment, a preliminary endangerment assessment, or any other evaluation of environmental condition of the property.

(b) A local agency may issue a notice pursuant to subdivision (a), if the local agency makes one or more of the following findings:

(1) Hazardous materials are, or were, used, handled, stored, treated, transported, or disposed on the property.

(2) Current or former owners or operators of the property are, or were, engaged in activities that are, or were, commonly associated with the use, handling, storage, treatment, transport or disposal of hazardous materials.

(3) Information obtained from current or former owners or operators of the property, from their employees, or from persons in the surrounding community, provides a reasonable basis for believing that hazardous materials are, or were, used, handled, stored, treated, transported, or disposed on the property or that a hazardous materials release may have occurred on the property.

(4) Visual or other physical evidence provides a reasonable basis for believing that a hazardous materials release may have occurred on the property.

(5) There is other reasonable evidence that a hazardous materials release has occurred on the property.

(c) An owner or operator of a property that receives a notice pursuant to subdivision (a) shall provide the local agency with all information required by the notice that is in the possession or control of the owner or operator within 30 calendar days of the date of receipt of the notice.

25401.4. (a) If a local agency determines, based on the information provided pursuant to Section 25401.3, that a property is, or may be affected by, a hazardous materials release, or threat of a release, the local agency shall make a finding that the property is, or may be affected by, the release. In response to the known or suspected release and in order to assure the protection of human health and the environment for the future uses of, and benefit to, the property, the local agency may then issue a notice requiring the owner or operator of a property to conduct a phase I environmental assessment of the property to determine if a



hazardous materials release, or threat of a release, may be present and, if so, whether a preliminary endangerment assessment should be prepared for the site.

(b) An owner or operator that is required to conduct a phase I environmental assessment of a property pursuant to this section shall, within 60 calendar days of the date of receipt of a notice from the local agency requiring a phase I environmental assessment, prepare and deliver this assessment to the local agency. The local agency shall submit the phase I environmental assessment to the California Environmental Protection Agency which shall ensure an oversight agency is selected in a timely manner and shall ensure that the oversight agency reviews the phase I environmental assessment as required by subdivision (d).

(c) A phase I environmental assessment prepared pursuant to this section shall contain one of the following recommendations regarding the need for further environmental investigation of the property:

(1) Further environmental investigation of the property is not required.

(2) A preliminary endangerment assessment should be prepared to determine if one or more hazardous materials releases have occurred on the property and, if so, the type and extent of the releases.

(d) The oversight agency shall review a phase I environmental assessment submitted pursuant to subdivision (b), and shall determine if the phase I environmental assessment is adequate and the recommendation made in the phase I environmental assessment regarding the need for further environmental investigation and remedial action of the property is appropriate and supported by the information provided in the phase I environmental assessment. The oversight agency shall notify the local agency of its determination within 45 calendar days of the date it receives the phase I environmental assessment. If the oversight agency determines that a recommendation under paragraph (1) of subdivision (c) is made because there is no release or threat of a release of a hazardous material, the oversight agency shall issue a determination that no further action is required under this chapter.

(e) If the phase I environmental assessment that is prepared by the owner or operator of a property pursuant to this section recommends that further environmental investigation of the property is not required pursuant to subdivision (c), and if the property owner or operator has not submitted an application to the county or city to develop the property, the local agency shall reimburse the owner or operator for the reasonable costs of preparing the phase I environmental assessment within 90 calendar days of receipt of the phase I environmental assessment by the local agency.



(f) (1) If the owner or operator of a property has been reimbursed for the reasonable costs of preparing a phase I environmental assessment pursuant to subdivision (e) and subsequently submits an application to the county or city to develop the property that relies on that phase I environmental assessment, the owner or operator, or subsequent owner or operator, to the extent that the property has been sold, shall return that reimbursement to the local agency within 90 calendar days from the date of the sale or the effective date of discretionary local approval of the new development, whichever comes first.

(2) For purposes of this subdivision, a discretionary local agency approval means a local agency approval of a project, as defined in Section 21065 of the Public Resources Code.

(g) If the oversight agency determines that the phase I environmental assessment is not adequate or that a recommendation in the assessment is not appropriate, the local agency may require the owner or operator of the property to provide additional information or to prepare a preliminary endangerment assessment for the property.

(h) (1) If the oversight agency does not provide the local agency with the determination required by subdivision (d) within the required period of time, the local agency may find that the phase I environmental assessment is not adequate or that the recommendations made by the assessment are not appropriate. If the local agency makes such a finding, the local agency shall state the reasons for that finding and may require the owner or operator of the property to provide additional information in support of the recommendation.

(2) Paragraph (1) does not authorize a local agency to make a determination that the phase I environmental assessment shows that there is no further action required at the site, or to determine what, if any, further site investigation and remediation may be required, other than to require the owner or operator to provide information or prepare a preliminary endangerment assessment.

(i) The local agency may send the owner or operator of the property a notice requiring that the owner or operator prepare a preliminary endangerment assessment for review by the oversight agency and that the owner or operator deliver the preliminary endangerment assessment to the oversight agency, with a copy to the local agency within 120 calendar days of the date the owner or operator receives the notice, if the local agency determines that either of the following apply:

(1) The phase I environmental assessment recommends that a preliminary endangerment assessment be prepared for the property.

(2) The oversight agency reviewing the phase I environmental assessment determines that a preliminary endangerment assessment should be prepared.



(j) A preliminary endangerment assessment prepared pursuant to this section shall make one of the following findings:

(1) A hazardous materials release or threat of a release is not present on the property and no further action is required.

(2) Although a hazardous materials release is present on the property, the property is in a condition that allows it to be used permanently for its reasonably foreseeable uses without any significant risk to human health or any significant risk to public health, safety, and the environment, including potential for future environmental damage, and is protective of the waters of the state, in accordance with criteria set forth in Section 25356.1.5, in compliance with applicable law, and no further action is otherwise required.

(3) A hazardous materials release is present on the property and a site investigation and remedial action should be carried out by the owner or operator of the property to restore the property to a condition that allows it to be used for its reasonably foreseeable uses without any significant risk to public health, safety, and the environment, including any potential for future environmental damage, and is protective of the waters of the state, in accordance with the criteria set forth in Section 25356.1.5, in compliance with applicable law.

(k) If the oversight agency determines that the preliminary endangerment assessment is not adequate, or that the recommendations made by the assessment are not appropriate, the oversight agency shall state the reasons for that finding and may require the owner or operator of the property to provide additional information in support of the recommendation. If the oversight agency determines that the preliminary endangerment assessment is adequate and that the finding made by the preliminary endangerment assessment is appropriate, all of the following shall apply to the property:

(1) If the assessment makes the finding described in paragraph (1) of subdivision (j), the oversight agency shall issue the owner or operator a written determination that no further action is required, the owner or operator of the property shall be deemed to be in compliance with this chapter, and the local agency shall not require the owner or operator to take any further action pursuant to this chapter.

(2) If the assessment makes the finding described in paragraph (2) of subdivision (j), the oversight agency shall issue one of the following written determinations:

(A) After an owner or operator of the property remediates the property so that no restrictions apply to that property's future uses and the waters of the state are protected in compliance with applicable law, the oversight agency may issue a written determination that no further action is required.



(B) No further action is required on condition that specified future uses of the property are prohibited and the waters of the state are protected in compliance with applicable law. If the oversight agency proposes to make a determination that no further action is required and that determination is conditioned on a prohibition of future uses, the oversight agency shall notify the interested public of the proposed determination by publishing a notice in a newspaper of general circulation in the community and providing a public comment period of at least 30 days. Before making a final determination pursuant to this subparagraph, the oversight agency shall consider the public comments received by the oversight agency. The oversight agency may not issue a conditional determination that no further action is required pursuant to this subparagraph until the owner or operator records an easement, covenant, restriction, or servitude, or combination thereof, describing the future uses of the property that are permitted and those that are prohibited, in the same manner that a land use control is recorded pursuant to subdivision (a) of Section 25398.7. A conditional determination that no further action is required shall be valid only during the time that the uses of the property fully conform to that recorded land use control, easement, covenant, restriction, or servitude, or any combination thereof.

If the oversight agency makes a determination under this subparagraph that requires operation and maintenance activities, as defined in Section 25318.5, the owner shall demonstrate and maintain financial assurance in accordance with Section 25355.2 throughout the period of time necessary to complete all required operation and maintenance activities. The oversight agency shall not issue a determination under this subparagraph until the required financial assurance, if applicable, is obtained.

(3) If the finding is the finding described in paragraph (3) of subdivision (j), the local agency may take action pursuant to Section 25401.5.

(4) Prior to, or concurrent with, the oversight agency's review of the phase I environmental assessment, the local agency shall enter into an agreement with the oversight agency regarding the oversight agency's activities to review the phase I environmental assessment or preliminary endangerment assessment, assure implementation, perform other related site investigation activities, and provide for cost reimbursement pursuant to this chapter. The funds received for cost reimbursement provided by a local agency pursuant to the agreement are continuously appropriated to the oversight agency for expenditure for the purposes specified in the agreement.



25401.5. (a) If the preliminary endangerment assessment prepared for the property pursuant to Section 25401.4 makes the finding described in paragraph (3) of subdivision (j) of Section 25401.4, the local agency or oversight agency may find, and issue a notice to the owner or operator of a property, that a site investigation and remedial action may be necessary.

(b) (1) The owner or operator of a site that receives a notice pursuant to subdivision (a) shall, within 90 calendar days of the date of receipt of the notice, provide the local agency and oversight agency with a remediation plan, which shall include a proposal, in compliance with the applicable law, regulations, and standards, for conducting a site investigation and remedial action, a schedule for completing the site investigation and remedial action, and a proposal for any other remedial action that the owner or operator proposes to take in response to the release or threatened release of hazardous materials at the property. The oversight agency may approve the remediation plan under any of the following procedures:

(A) A voluntary agreement with the oversight agency under Chapter 6.8 (commencing with Section 25300) or under Division 7 (commencing with Section 13000) of the Water Code.

(B) An enforceable agreement with the department to carry out the site investigation and remedial action pursuant to Chapter 6.8 (commencing with Section 25300).

(C) The procedure set forth in Chapter 6.85 (commencing with Section 25396).

(D) The procedure set forth in Chapter 6.65 (commencing with Section 25260).

(E) The procedure set forth in Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code.

(2) The remediation plan proposed by an owner or operator shall be reviewed and, if satisfactory, approved by the oversight agency in compliance with all applicable state and local laws, regulations, ordinances, and standards. Any schedule extending beyond two years for the completion of a site investigation and remediation in the remediation plan shall not be approved unless the local agency and the oversight agency approve the schedule. The schedule or the remediation plan may not be modified by the owner or operator unless the oversight agency, following consultation with the local agency, approves the modification. An oversight agency shall comply with all applicable state and local laws, regulations, ordinances, and standards in reviewing, approving, and assuring implementation of a remediation plan.

(c) The owner or operator shall meet the schedule for carrying out the site investigation and remedial action approved pursuant to paragraph



(2) of subdivision (b). If the owner or operator notifies the local agency pursuant to subdivision (d) that the owner or operator does not intend to carry out the required site investigation and remedial action pursuant to the remediation plan, or if the owner or operator does not comply with the schedule in the remediation plan, the local agency may take a remedial action pursuant to Section 25401.7.

(d) An owner or operator of property that satisfactorily completes a site investigation and remedial action at the site pursuant to an approved remediation plan, and that receives written notice from the oversight agency that no further action with respect to the property is required, shall be deemed in compliance with the requirements of this chapter and the local agency may not require the owner or operator to conduct any further action at the property for the hazardous materials release that is the subject of the remediation plan pursuant to this chapter.

25401.6. (a) If a local agency determines that the owner or operator of a property did not submit a phase I environmental assessment or prepare a preliminary endangerment assessment in accordance with the schedule required by this chapter and the notice issued pursuant to Section 25401.4, the local agency shall provide a notice of noncompliance to the owner or operator.

(b) If the owner or operator does not, as determined by the local agency, comply with the notice of noncompliance within 14 calendar days of the date of receipt of notice, and the local agency determines that a phase I environmental assessment or preliminary endangerment assessment is needed to protect human health and the environment based on the reasonably foreseeable uses of the property, or to protect waters of the state, the local agency may prepare a phase I environmental assessment or the preliminary endangerment assessment required by Section 25401.4, and bill the owner or operator of the property for all reasonable costs involved in preparing the phase I environmental assessment or preliminary endangerment assessment.

(c) If a phase I environmental assessment that is prepared by a local agency pursuant to this section recommends that a preliminary endangerment assessment be prepared pursuant to paragraph (2) of subdivision (c) of Section 25401.4, the owner or operator shall reimburse the local agency for the reasonable costs of preparing the phase I environmental assessment within 90 calendar days of the receipt of that phase I environmental assessment by the owner or operator.

(d) A local agency that prepares a phase I environmental assessment or a preliminary endangerment assessment for a property pursuant to Section 25401.4 may carry out the work itself or may contract with a qualified person to carry out the work. A phase I environmental assessment or a preliminary endangerment assessment prepared by a



local agency or qualified person pursuant to this section shall meet the requirements of Section 25401.4 and shall be submitted to the oversight agency for review and approval. The oversight agency shall determine, in its review, whether the assessment is adequate and whether any recommendations made by the assessment regarding the need for further environmental investigation or a site investigation and remedial action at the property are appropriate and supported by the assessment.

25401.7. (a) (1) A local agency may initiate a remedial action pursuant to this chapter, if the governing body of the local agency, by resolution adopted by a majority vote of the membership of the governing body, approves the action, affirms the finding set forth in paragraph (3) of subdivision (j) of Section 25401.4, and makes one, or both, of the following findings:

(A) The owner or the operator of the property refuses to submit a remediation plan for review and approval by the oversight agency, or refuses to complete a site investigation and remedial action at the property, pursuant to the remediation plan for that property approved by the oversight agency pursuant to this chapter.

(B) The owner or operator of the property does not comply with the schedule for carrying out the site investigation and remedial action approved by the local agency and oversight agency pursuant to paragraph (2) of subdivision (b) of Section 25401.5, and the governing body determines there is no good cause for that noncompliance.

(2) A local agency may initiate a site investigation pursuant to this chapter if the owner or operator notifies the local agency that the owner or operator does not intend to carry out a required site investigation or if the owner or operator does not comply with the schedule in the remediation plan for making a site investigation, as specified in subdivision (c) of Section 25401.5.

(b) (1) Before initiating a remedial action, the local agency shall notify the property owner or operator that the governing body of the local agency has adopted the resolution required by subdivision (a), that the local agency will initiate the remedial action on the site 30 calendar days after the date the owner or operator receives the notice, that the governing body of the local agency has approved the action, and that the owner or operator is strictly liable for the reasonable costs of carrying out the remedial action and shall be billed by the local agency for those costs.

(2) Before initiating a site investigation, the local agency shall notify the property owner or operator that the local agency will initiate the site investigation on the site 30 calendar days after the date the owner or operator receives the notice, and that the owner or operator is strictly liable for the reasonable costs of carrying out the site investigation and shall be billed by the local agency for those costs.



(c) A local agency shall carry out a site investigation and remedial action under this section in compliance with all applicable state and local laws, regulations, ordinances, and standards, and pursuant to a remediation plan approved by the oversight agency. The oversight agency shall review the remediation plan, and if the oversight agency determines that the remediation plan is satisfactory, the oversight agency shall approve the remediation plan and oversee the site investigation and remedial action. The local agency shall enter into a contract with a qualified person to carry out the site investigation and approved remediation activities.

(d) (1) Upon determining that a local agency has satisfactorily completed a site investigation and remedial action under this section, in accordance with all applicable state and local laws, regulations, ordinances, and standards the oversight agency shall issue a written determination of completion to the local agency.

(2) If the remedial action requires operation and maintenance activities, as defined in Section 25318.5, financial assurance shall be demonstrated and maintained in accordance with Section 25355.2 throughout the period of time necessary to complete all required operation and maintenance activities. The oversight agency may not issue a written determination of completion until the required financial assurance, if applicable, is obtained.

(3) If the written determination of completion issued by the oversight agency pursuant to paragraph (1) is conditioned on a remediation plan that causes the property to be suitable for some, but not all, future uses, and that prohibits specified future uses of the property unless and until further remediation or the review and approval of the oversight agency is completed, the local agency shall require the current owner of the property to record a land use control for the benefit of the property that describes those prohibited future uses of the property in the same manner as a land use control is recorded pursuant to subdivision (a) of Section 25398.7. The conditional determination of completion shall not be effective until the owner causes the recordation of the land use control. The oversight agency may not issue a conditional written determination of completion, as provided in this paragraph, until the required land use is recorded and the required financial assurance is obtained.

(4) Any conditional written determination of completion shall be valid only during the time period in which the use of the property conforms to the recorded land use control, and is in compliance with all other conditions. If the use of the property does not conform to the recorded land use control, or fails to comply with any applicable condition, the immunities provided by Section 25402.1 shall no longer apply.



(e) The local agency shall enter into an agreement with the oversight agency regarding the oversight agency's activities to review and provide oversight of a site investigation, a remedial action, and any other action taken in response to a release or a threatened release of a hazardous material, and to provide for reimbursement for administrative and oversight costs incurred by the oversight agency, in conformance with the oversight agency's authority under applicable state laws and regulations, to be reimbursed for these administrative and oversight costs. The agreement shall be executed prior to the oversight agency's review of the site investigation.

(f) Any site investigation, remedial action, engineering, and geological work performed under this section shall be conducted in conformance with any applicable state law, including, but not limited to, Sections 6735 and 7835 of the Business and Professions Code.

25401.8. (a) A local agency proposing to carry out remedial action pursuant to Section 25401.7, shall inform the community of its actions by doing all of the following:

(1) Mailing a fact sheet to the last known name and address of all organizations and individuals who have requested copies of all notices and actions by the local agency, contiguous property owners, all agencies that are members of the site designation committee under Section 25261, property owners or occupants within 500 feet of the affected property's boundary, and all other interested parties.

(2) Publishing a notice at least one time in a newspaper of general circulation in the area of the property, in English and in any other language that is spoken by a significant number of the residents in the area of the property identified pursuant to paragraph (1).

(3) Posting of a notice at the property.

(4) Direct mailing of a notice to the agencies comprising the site designation committee, as set forth in Section 25261.

(b) For a period of no less than 45 days following the date a notice is issued pursuant to subdivision (a), the local agency and the oversight agency shall provide access to any interested person during the regular business hours of the local agency and the oversight agency for the review of all of the following documents, and shall make copies available for the actual and reasonable cost, that have been completed as of the time of the notice:

(1) The phase I environmental assessment.

(2) The preliminary endangerment assessment.

(3) Any site investigation or remedial action documents prepared pursuant to this chapter.

(c) Any interested person may provide written comments to the local agency and oversight agency regarding the adequacy of an assessment



or a site investigation and remedial action for a period of no less than 30 days following the 45-day period specified in subdivision (b). The local agency shall respond, in writing, to the person providing a written comment, shall include any response provided by the oversight agency, and shall incorporate any response into the administrative record of the local agency's determinations with respect to the property. The oversight agency shall consider the public comments and the local agency's response prior to taking further action.

(d) The local agency shall hold a community meeting to gather public comments during the public comment period required by subdivision (c). The local agency shall include a summary of significant public comments made at the meeting and the response of the local agency to those comments in the administrative record of the local agency's determination with respect to the property.

(e) The community participation requirements set forth in this section are in addition to any other applicable public notice and community participation requirement that may apply to a site investigation and remedial action taken pursuant to this chapter, including, but not limited to, those requirements under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), and to any other law applicable to that oversight agency.

(f) Nothing in this chapter limits or otherwise affects the applicability of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) or the public comment and hearing requirements otherwise applicable to that oversight agency in approving a site investigation and remedial plan under applicable law.

25402. (a) (1) If a local agency requires the investigation or remediation of a property pursuant to this chapter, the owner or operator of the property shall be liable for any reasonable and necessary costs incurred by a local agency in taking any action pursuant to Section 25401.6 or 25401.7.

(2) A local agency may recover costs incurred to develop and implement a remediation plan, including the costs of reimbursing the oversight agency, approved pursuant to this chapter to the same extent the oversight agency is authorized to recover those costs.

(3) The scope and standard of liability for cost recovery by a local agency pursuant to this subdivision shall be the scope and standard of liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.) as that act would apply to the oversight agency, except that any reference to a hazardous substance in that act shall be deemed to refer to a hazardous material, as defined in this chapter.



(4) The only defenses available to an owner and operator in any action to recover costs pursuant to this section are the defenses specified in subdivision (b) of Section 25323.5.

(b) An action for recovery of investigation and response costs incurred by a local agency shall commence within three years after completion of the remedial action at the property.

(c) The authority to recover costs provided by this section is in addition to, and is not to be construed as restricting, any other cause of action available to a local agency.

(d) This section applies only to local agencies, and does not affect the authority of the department or a regional board to recover costs under any state or federal statute.

(e) Except for the reimbursement of the oversight agency for its costs in accordance with paragraph (4) of subdivision (k) of Section 25401.4 and subdivision (e) of Section 25401.7, and notwithstanding any other provision of state law or policy, a local agency that undertakes and completes a site investigation and remedial action pursuant to a remediation plan approved by the oversight agency, that requests and receives data regarding environmental conditions on a property, or that otherwise causes an approved remediation plan to be undertaken and completed pursuant to this chapter, is not liable for any costs incurred by a responsible party for that release to investigate or remediate the release or to compensate others for the effects of that release.

(f) A local agency is not liable for the costs of investigating or remediating a release, or for compensating others for the effects of a release or other environmental conditions on the property, solely as a result of requiring an owner or operator to prepare a phase I environmental assessment, a preliminary endangerment assessment, or a site investigation or remediation plan, or requiring an owner or operator to complete a site investigation or remediation plan that has been approved by an oversight agency pursuant to this chapter.

25402.1. (a) (1) Notwithstanding any other provision of law, and except as provided in paragraph (2), a local agency that undertakes and completes a site investigation and remedial action pursuant to this chapter, in accordance with a remediation plan that is reviewed and approved by an oversight agency and that receives a written determination of completion issued by the oversight agency, is not liable, with respect to any hazardous materials release that is identified and addressed in accordance with the remediation plan, under any of the following:

(A) Division 7 (commencing with Section 13000) of the Water Code.



(B) Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), or Chapter 6.8 (commencing with Section 25300).

(C) Any other state or local law providing liability for a remedial action for a release of a hazardous material.

(2) The written determination of completion shall be invalid, and the immunities provided by this section cease to apply if an oversight agency determines that any of the following applies:

(A) Monitoring, testing, or analysis of the property subsequent to the issuance of the written determination of completion indicates that the remedial action standards and objectives were not achieved or are not being maintained.

(B) One or more of the conditions, restrictions, or limitations imposed on the property as part of the remediation or written determination of completion are violated.

(C) Site monitoring or operation and maintenance activities that are required as part of the remedial action or written determination of completion for the property are not adequately funded or are not properly carried out.

(D) A hazardous materials release is discovered at the property that was not the subject of the site investigation and remedial action for which the written determination of completion was issued.

(E) A material change in the facts known to the oversight agency at the time the written determination of completion was issued, or new facts, cause the oversight agency to find that further investigation and remedial action are required in order to prevent a significant risk to human health and safety or to the environment.

(F) A local agency or responsible party induced the oversight agency to issue the written determination of completion by fraudulent, negligent or intentional nondisclosure of information or misrepresentation.

(b) Upon an oversight agency's approval of a remediation plan pursuant to the oversight agency's authority under any applicable state law and this chapter, the director of the department, or the executive director of the regional board, as appropriate, shall acknowledge in writing that, upon proper completion of the site investigation and remedial action in accordance with the approved remediation plan and upon issuance of a written determination of completion by the oversight agency, the immunity provided by subdivision (a) shall apply to the local agency.

(c) Upon satisfactory completion of the site investigation and remedial action in accordance with the approved remediation plan, and upon issuance of a written determination of completion by the oversight agency to the local agency, the immunity provided by subdivision (a)



extends to all of the following, but only for the hazardous materials release specifically identified in the approved remediation plan and not for any subsequent release or any release not specifically identified in the approved remediation plan:

(1) Any employee or agent of the local agency, including an instrumentality of the local agency authorized to exercise some, or all, of the powers of the local agency and any employee or agent of the instrumentality.

(2) Any person who enters into an agreement with a local agency for the development of a property, if the agreement requires the person acquiring the property to remediate a hazardous materials release with respect to that property.

(3) Any person who acquires the property after a person has entered into an agreement with the local agency for development of other uses of the property as described in paragraph (2).

(4) Any person who provided financing to a person specified in paragraph (2) or (3).

(d) (1) Notwithstanding any other provision of law, the immunity provided by this section does not extend to any of the following:

(A) Any person who is a responsible party for the release before entering into an agreement, acquiring property, or providing financing, as specified in subdivision (c).

(B) Any person for any subsequent release of a hazardous material or any release of a hazardous material not specifically identified in the approved remediation plan.

(C) Any contractor who prepares the remediation plan, or conducts the remedial action.

(D) Any person who obtains a remediation plan approval or a written determination of completion under this chapter by fraud, negligent or intentional nondisclosure, or misrepresentation, and any person who knows before the approval or determination is obtained, or before the person enters into an agreement, acquires the property, or provides financing, that the approval or determination was obtained by these means.

(E) Any person, including, but not limited to, the local agency, that engages in gross negligence with respect to the site investigation or remediation of the property.

(2) Notwithstanding any other provision of law, the immunity provided in this section does not apply to, limit, alter, or restrict any of the following:

(A) Any cause of action by a local agency or any other party against the person, firm, or entity responsible for the hazardous materials release that is the subject of the site investigation and remedial action taken by



the local agency or other person immune from liability pursuant to this section.

(B) Any action for personal injury, property damage, or wrongful death.

(e) The immunity provided by this section shall be provided in addition to any other immunity provided by existing law.

25402.3. (a) Nothing in this chapter shall be construed to authorize a local agency to require a property owner or operator to develop or redevelop a property, or to require a property owner or operator to undertake a site investigation or remedial action that differs from what has been required or approved by the oversight agency.

(b) Nothing in this chapter shall be construed as a limitation on a local agency's land use authority.

(c) Notwithstanding Section 25402.1, nothing in this chapter affects the obligation of a school district to obtain the approval of the department regarding a schoolsite subject to Section 17210, 17210.1, 17213, or 17213.1 of the Education Code.

(d) Except as provided in Section 25402.1, this chapter does not affect the authority of the department, the State Water Resources Control Board, the regional boards, the Department of Fish and Game, or the Attorney General to pursue any existing legal, equitable, or administrative remedies pursuant to state or federal law.

SEC. 2. Section 57008 is added to the Health and Safety Code, to read:

57008. (a) For purposes of this section, the following definitions apply:

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

(2) "Contaminant" means all of the following:

(A) A substance listed in Tables II and III of subparagraphs (A) and (B) of paragraph (2) of subdivision (a) of Section 66261.24 of Title 22 of the California Code of Regulations.

(B) The five halogenated hydrocarbon industrial solvents that, in the experience of the State Water Resources Control Board and the Department of Toxic Substances Control are most commonly found as contaminants at sites subject to remediation under the Carpenter-Presley-Tanner Hazardous Substances Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20) and the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

(C) Ten hazardous substances not included under subparagraphs (A) and (B) that, in the experience of the Department of Toxic Substances Control and the State Water Resources Control Board, are most



commonly found as contaminants at sites subject to remediation under the Carpenter-Presley-Tanner Hazardous Substances Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20) and the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

(3) “Screening number” means the concentration of a contaminant published by the agency as an advisory number pursuant to the process established in subdivisions (b) and (c). A screening number is solely an advisory number, and has no regulatory effect, and is published solely as a reference value that may be used by citizen groups, community organizations, property owners, developers, and local government officials to estimate the degree of effort that may be necessary to remediate a contaminated property. A screening number may not be construed as, and may not serve as, a level that can be used to require an agency to determine that no further action is required or a substitute for the cleanup level that is required to be achieved for a contaminant on a contaminated property. The public agency with jurisdiction over the remediation of a contaminated site shall establish the cleanup level for a contaminant pursuant to the requirements and the procedures of the applicable laws and regulations that govern the remediation of that contaminated property and the cleanup level may be higher or lower than a published screening number.

(b) (1) During the same period when the agency is carrying out the pilot study required by Section 57009 and preparing the informational document required by Section 57010, the agency shall initiate a scientific peer review of the screening levels published in Appendix 1 of Volume 2 of the technical report published by the San Francisco Regional Water Quality Control Board entitled “Application of Risk-Based Screening Levels and Decision-Making to Sites with Impacted Soil and Groundwater (Interim Final-August 2000).” The agency shall conduct the scientific peer review process in accordance with Section 57004, and shall limit the review to those substances specified in paragraph (2) of subdivision (a). The agency shall complete the peer review process on or before December 31, 2004.

(2) The agency, in cooperation with the Department of Toxic Substances Control, the State Water Resources Control Board, and the Office of Environmental Health Hazard Assessment, shall publish a list of screening numbers for contaminants listed in paragraph (2) of subdivision (a) for the protection of human health and safety, and shall report on the feasibility of establishing screening numbers to protect water quality and ecological resources. The agency shall determine the screening numbers using the evaluation set forth in Section 25356.1.5 and the results of the peer review, and shall use the most stringent hazard



criterion established pursuant to Subpart E of the National Oil and Hazardous Substances Pollution Contingency Plan (40 C.F.R. 300.400 et seq.), as amended. The agency shall set forth separate screening levels for unrestricted land uses and a restricted, nonresidential use of land. In determining each screening number, the agency shall consider all of the following:

(A) The toxicology of the contaminant, its adverse effects on human health and safety, biota, and its potential for causing environmental damage to natural resources, including, but not limited to, beneficial uses of the water of the state, including sources of drinking water.

(B) Risk assessments that have been prepared for the contaminant by federal or state agencies pursuant to environmental or public health laws, evaluations of the contaminant that have been prepared by epidemiological studies and occupational health programs, and risk assessments or other evaluations of the contaminant that have been prepared by governmental agencies or responsible parties as part of a project to remediate a contaminated property.

(C) Cleanup levels that have been established for the contaminant at sites that have been, or are being, investigated or remediated under Chapter 6.8 (commencing with Section 25300) of Division 20, or cleaned up or abated under Division 7 (commencing with Section 13000) of the Water Code or under any other remediation program administered by a federal or local agency.

(D) Screening numbers that have been published by other agencies in the state, in other states, and by federal agencies.

(E) The results of external scientific peer review of the screening numbers made pursuant to Section 57004.

(c) (1) Before publishing the screening numbers pursuant to subdivision (b), the agency shall conduct two public workshops, one in the northern part of the state and the other in the southern part of the state, to brief interested parties on the scientific and policy bases for the development of the proposed screening numbers and to receive public comments.

(2) Following publication of the screening numbers pursuant to subdivision (b), the agency shall conduct three public workshops in various regions of the state to discuss the screening numbers and to receive public comments. The agency shall select an agency representative who shall serve as the chairperson for the workshops, and the agency shall ensure that ample opportunity is available for public involvement in the workshops. The deputy secretary for external affairs shall actively seek out participation in the workshops by citizen groups, environmental organizations, community-based organizations that restore and redevelop contaminated properties for park, school,



residential, commercial, open-space or other community purposes, property owners, developers, and local government officials.

(d) Following the workshops required by subdivision (c), the agency shall revise the screening numbers as appropriate. The agency shall, from time to time, revise the screening numbers as necessary as experience is gained with their use and shall add screening numbers for contaminants to the list as information concerning remediation problems becomes available.

(e) The agency shall publish a guidance document for distribution to citizen groups, community-based organizations, property owners, developers, and local government officials that explains how screening numbers may be used to make judgments about the degree of effort that may be necessary to remediate contaminated properties, to facilitate the restoration and revitalization of contaminated property, to protect the waters of the state, and to make more efficient and effective decisions in local-level remediation programs.

(f) Nothing in this section affects the authority of the Department of Toxic Substances Control, the State Water Resources Control Board, or a regional water quality control board to take action under any applicable law or regulation regarding a release or threatened release of hazardous materials.

SEC. 3. Section 57009 is added to the Health and Safety Code, to read:

57009. For purposes of this section, the following terms have the following meanings:

(1) “Agency” means the California Environmental Protection Agency.

(2) “Contaminated property” means a property located in the study area that is, or may be, subject to remediation pursuant to Chapter 6.10 (commencing with Section 25401) of Division 20 .

(3) “Pilot screening numbers” means the levels published in Appendix 1 of Volume 2 of the technical report, except that, for purposes of the study required by this section, the levels published in Appendix 1 may be used only as informational screening numbers, as provided in paragraph (3) of subdivision (a) of Section 57008 , and in a manner consistent with the technical report.

(4) “Study area” means the Los Angeles, Santa Ana, and San Diego regions, as established pursuant to Section 13200 of the Water Code.

(5) “Technical report” means the technical report published by the San Francisco Regional Water Quality Control Board entitled “Application of Risk-Based Screening Levels and Decision-Making to Sites with Impacted Soil and Groundwater (Interim Final-August 2000)” and any updates to the technical report.



(b) The agency shall conduct a study to evaluate the usefulness of pilot screening numbers in encouraging remediation at contaminated properties in the study area. The agency shall conduct the study in accordance with the requirements of subdivision (c) and shall develop information that bears on all of the following issues:

(1) The extent to which the pilot screening numbers are an adequate basis for estimating the degree of effort that may be necessary to remediate contaminated properties.

(2) Whether the availability of the pilot screening numbers as information provides an adequate basis for seeking funding from public or private sector sources to evaluate the feasibility of remediating a contaminated property and restoring it to productive use.

(3) The stages in the remediation process for which the pilot screening numbers are of the most use.

(4) The types of information derived from site investigations that are most useful, when combined with the pilot screening numbers, in making decisions concerning the feasibility of remediation of contaminated properties.

(5) Whether the availability of pilot screening numbers as information enables a person interested in the remediation of a contaminated property to determine, within an acceptable range, the relationship between the estimated cost of remediation of the property and the economic and social benefits that may derive from the property if it is restored to any of its reasonably foreseeable uses.

(c) The agency shall carry out the study required by subdivision (b) in the study area over the period commencing on March 1, 2002, until March 1, 2004. On or before June 30, 2004, the agency shall do all of the following:

(1) Prepare a brief document that explains what are screening numbers, what is the relationship of screening numbers to regulatory cleanup levels, and how screening numbers may be used to make judgments concerning the feasibility of restoring a contaminated property to productive use, and the degree of effort that may be required to remediate the property.

(2) Post the explanatory document prepared pursuant to paragraph (1), the technical report, and updates to the technical report, on the Internet Web sites maintained by the Department of Toxic Substances Control and by the California regional water quality control boards that have jurisdiction in the study area.

(3) Identify 25 contaminated properties in the study area that are remediated during the test period of March 1, 2002, until March 1, 2004, to determine the effects of the availability of the pilot screening numbers as information on the course of remediation and revitalization of



contaminated properties and on assisting persons involved with the remediation to make meaningful decisions concerning the feasibility and effectiveness of remediation activities and assess whether the pilot screening numbers were more or less stringent than the required cleanup levels.

(d) The agency may not include in the pilot study more than 25 remediated contaminated properties in the study area.

(e) The study required by this section does not create any legal or regulatory authorization to use the pilot screening numbers. The pilot screening numbers are only available as information.

(f) The agency shall evaluate the information developed by the study required by this section, use the information as appropriate to carry out the requirements of Section 57008 , and, to the extent the information is timely, provide the information and the evaluation to the contractor preparing the study required by Section 57010.

(g) The agency shall post the information developed by the study required by this section and the information required under paragraph (2) of subdivision (c) on its Internet Web site.

(h) Nothing in this section affects the authority of the Department of Toxic Substances Control, the State Water Resources Control Board, or a regional water quality control board to take action under any applicable law or regulation regarding a release or threatened release of hazardous materials.

SEC. 4. Section 57010 is added to the Health and Safety Code, to read:

57010. (a) On or before January 1, 2003, the California Environmental Protection Agency shall publish an informational document to assist citizen groups, community-based organizations, interested laypersons, property owners, local government officials, developers, environmental organizations, and environmental consultants to understand the factors that are taken into account, and the procedures that are followed, in making site investigation and remediation decisions under the Carpenter-Presley-Tanner Hazardous Substances Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20) and under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

(b) The agency shall make the informational document required by this section available to any person who requests it at no charge and shall also post the public information manual on the agency's Internet Web site. The agency shall update both the printed informational document and the Web site at appropriate intervals as new legislation or revised policies affect the administration of the Carpenter-Presley-Tanner



Hazardous Substances Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20) and the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

SEC. 5. It is the intent of the Legislature that funds be appropriated to the California Environmental Protection Agency in the annual Budget Act or in another measure to implement paragraph (2) of subdivision (b) and subdivisions (c) to (e), inclusive, of Section 57008 of, and Section 57009 of, the Health and Safety Code. The agency shall expend existing peer review funds appropriated to review hazardous substance exposure levels to complete the peer review process set forth in paragraph (1) of subdivision (b) of Section 57008 and to make the results of the peer review public, and shall expend existing funds appropriated for public informational purposes to implement Section 57010. After the agency, or any board, office, or department within the agency, has expended the funds authorized by this section, the agency, or any board, office, or department within the agency, is not required to take any further action to implement Sections 57008 and 57009 of the Health and Safety Code, until the Legislature appropriates funds in the annual Budget Act or in another measure for those purposes.

