

AMENDED IN SENATE AUGUST 22, 2011

AMENDED IN SENATE JULY 13, 2011

AMENDED IN ASSEMBLY APRIL 12, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 408**

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**Introduced by Assembly Members Wieckowski, Logue, and Miller**

February 14, 2011

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An act to amend Sections 13009.6, 25160.2, 25210.6, 25217, 25217.1, 25217.2, 25217.3, 25217.4, 25404, 25404.2, 25503.5, 25509, and 25509.2 of, *to amend the heading of Article 10.7 (commencing with Section 25217) of Chapter 6.5 of Division 20 of, and to add Section 25217.2.1 to, the Health and Safety Code, and to amend Sections 48701, 48703, and 48705 of the Public Resources Code, relating to hazardous substances the environment, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 408, as amended, Wieckowski. ~~Hazardous—Environment:~~ *hazardous substances and materials: hazardous waste transportation. transportation: paint recycling.*

(1) Existing law provides that the expense of a public agency's emergency response to the release, escape, or burning of hazardous substances is a charge against the person whose negligence caused the incident if the incident necessitated an evacuation beyond the property of origin or results in the spread of hazardous substances or fire beyond the property of origin. Existing law defines "hazardous substance" for purposes of these provisions.

This bill would instead provide that these expenses are a charge against the person whose negligence caused the incident if the incident necessitated an evacuation from the building, structure, property, or public right-of-way where the incident originates, or the incident results in the spread of hazardous substances or fire beyond the building, structure, property, or public right-of-way where the incident originates. The bill would also revise the definition of “hazardous substance” for purposes of these provisions.

(2) Existing law requires any person generating hazardous waste that is transported, or submitted for transportation, for offsite handling, treatment, storage, disposal, or any combination thereof, to complete a manifest and establishes a procedure for a consolidated manifest, to be used by generators and transporters for certain types of hazardous waste. A generator using the consolidated manifesting procedure is required to meet specified requirements, including having an identification number. A violation of the hazardous waste control laws is a crime.

This bill would allow the consolidating manifesting procedure to be used for the receipt, by a transporter, of one shipment of used oil from a generator whose identification number has been suspended, if certain requirements are met. The bill would provide that this exemption would become inoperative on and after January 1, 2014. Since a violation of these requirements would be a crime, the bill would impose a state-mandated local program.

(3) *Existing law defines the term recyclable latex paint and prohibits any person from disposing of latex paint in a specified manner. Existing law allows recyclable latex paint to be accepted at a location if specified requirements are met concerning the management of that paint and exempts a person transporting recyclable latex paint from the manifest and hazardous waste transportation requirements. Existing law also exempts a person recycling recyclable latex paint from hazardous waste facilities permitting requirements.*

*This bill would revise those provisions to allow a location that accepts recyclable latex paint to also accept oil-based paint, as defined, under specified circumstances with regard to the establishment and operation of the location under the architectural paint recovery program administered by the Department of Resources Recycling and Recovery (CalRecycle). The bill would additionally prohibit the disposal of oil-based paint in that specified manner and would impose additional requirements upon the collection of recyclable latex paint. The bill would require a person to recycle, treat, store, or dispose of oil-based*

*paint only at a facility that is authorized by the department pursuant to the applicable hazardous waste facilities permit requirements or at an out-of-state facility authorized by the state where the facility is located. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program by creating new crimes.*

(3)

(4) Existing law requires a business that handles a hazardous material to adopt a business plan for response to the release of hazardous materials, and to annually submit an inventory to the local administering agency if the business handles a specified amount of hazardous materials at any one time during the reporting year.

This bill would additionally require a business to adopt the plan or inventory for specified lesser or greater amounts of various classes of hazardous materials if the hazardous materials meet certain requirements. *The bill would add exemptions for certain oil-filled electrical equipment and mineral oil contained within certain electrical equipment. The bill also would revise the exemption for the on-premise use or storage of propane.* The administering agency would be required to make findings regarding the regulation of certain of these hazardous materials in consultation with the local fire chief. The bill would impose a state-mandated local program by imposing new duties upon administering agencies with regard to business plans.

(5) *Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program. A city or local agency that meets specified requirements is authorized to apply to the secretary to implement the unified program, and every county is required to apply to the secretary to be certified to implement the unified program.*

*This bill would additionally include, in the unified program, persons operating a collection location that has been established under an architectural paint stewardship plan approved by CalRecycle as part of the architectural paint recovery program, thereby imposing a state-mandated local program by imposing new duties upon local agencies.*

~~The~~

(6) *The bill would make conforming changes regarding the California Fire Code to provisions regarding the unified hazardous waste and hazardous materials management regulatory program and the business plan requirements.*

(7) *The California Integrated Waste Management Act of 1989, administered by CalRecycle, establishes an architectural paint recovery program that requires a manufacturer or designated stewardship organization to submit an architectural paint stewardship plan to CalRecycle and to implement the plan, as specified. A manufacturer is required to submit a report to CalRecycle by July 1, 2013, and each year thereafter, describing its paint recovery efforts.*

*This bill would revise the definition of the term “architectural paint” for purposes of the program and would require the annual report to be submitted on or before September 1. The bill would make other technical revisions to the program.*

~~(5)~~

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

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

~~(6)~~

(9) The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: yes.

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

1 SECTION 1. Section 13009.6 of the Health and Safety Code  
 2 is amended to read:  
 3 13009.6. (a) (1) Those expenses of an emergency response  
 4 necessary to protect the public from a real and imminent threat to  
 5 health and safety by a public agency to confine, prevent, or mitigate  
 6 the release, escape, or burning of hazardous substances described  
 7 in subdivision (c) are a charge against any person whose negligence  
 8 causes the incident, if either of the following occurs:  
 9 (A) Evacuation from the building, structure, property, or public  
 10 right-of-way where the incident originates is necessary to prevent  
 11 loss of life or injury.  
 12 (B) The incident results in the spread of hazardous substances  
 13 or fire posing a real and imminent threat to public health and safety  
 14 beyond the building, structure, property, or public right-of-way  
 15 where the incident originates.

1 (2) Expenses reimbursable to a public agency under this section  
2 are a debt of the person liable therefor, and shall be collectible in  
3 the same manner as in the case of an obligation under contract,  
4 express or implied.

5 (3) The charge created against the person by this subdivision is  
6 also a charge against the person's employer if the negligence  
7 causing the incident occurs in the course of the person's  
8 employment.

9 (4) The public agencies participating in an emergency response  
10 meeting the requirements of paragraph (1) of this subdivision may  
11 designate one or more of the participating agencies to bring an  
12 action to recover the expenses incurred by all of the designating  
13 agencies which are reimbursable under this section.

14 (5) An action to recover expenses under this section may be  
15 joined with any civil action for penalties, fines, injunctive, or other  
16 relief brought against the responsible person or employer, or both,  
17 arising out of the same incident.

18 (b) There shall be deducted from any amount otherwise  
19 recoverable under this section, the amount of any reimbursement  
20 for eligible costs received by a public agency pursuant to Chapter  
21 6.8 (commencing with Section 25300) of Division 20. The amount  
22 so reimbursed may be recovered as provided in Section 25360.

23 (c) As used in this section, "hazardous substance" means any  
24 hazardous substance listed in Section 25316 or subdivision (q) of  
25 Section 25501 of this code, or in Section 6382 of the Labor Code.

26 (d) As used in this section, "mitigate" includes actions by a  
27 public agency to monitor or model ambient levels of airborne  
28 hazardous substances for the purpose of determining or assisting  
29 in the determination of whether or not to evacuate areas around  
30 the property where the incident originates, or to determine or assist  
31 in the determination of which areas around the property where the  
32 incident originates should be evacuated.

33 SEC. 2. Section 25160.2 of the Health and Safety Code is  
34 amended to read:

35 25160.2. (a) In lieu of the procedures prescribed by Sections  
36 25160 and 25161, transporters and generators of hazardous waste  
37 meeting the conditions in this section may use the consolidated  
38 manifesting procedure set forth in subdivision (b) to consolidate  
39 shipments of waste streams identified in subdivision (c) collected  
40 from multiple generators onto a single consolidated manifest.

1 (b) The following consolidated manifesting procedure may be  
2 used only for non-RCRA hazardous waste or for RCRA hazardous  
3 waste that is not required to be manifested pursuant to the federal  
4 act or the federal regulations adopted pursuant to the federal act  
5 and transported by a registered hazardous waste transporter, and  
6 used only with the consent of the generator:

7 (1) A separate manifest shall be completed by each vehicle  
8 driver, with respect to each transport vehicle operated by that driver  
9 for each date.

10 (2) The transporter shall complete both the generator's and the  
11 transporter's section of the manifest using the transporter's name,  
12 identification number, terminal address, and telephone number.  
13 The generator's and transporter's sections shall be completed prior  
14 to commencing each day's collections. The driver shall sign and  
15 date the generator's and transporter's sections of the manifest.

16 (3) The transporter shall attach to the front of the manifest  
17 legible receipts for each quantity of hazardous waste that is  
18 received from a generator. The receipts shall be used to determine  
19 the total volume of hazardous waste in the vehicle. After the  
20 hazardous waste is delivered, the receipts shall be affixed to the  
21 transporter's copy of the manifest. The transporter shall leave a  
22 copy of the receipt with the generator of the hazardous waste. The  
23 generator shall retain each receipt for at least three years. This  
24 period of retention is extended automatically during the course of  
25 any unresolved enforcement action regarding the regulated activity  
26 or as requested by the department or a certified unified program  
27 agency.

28 (4) All copies of each receipt shall contain all of the following  
29 information:

30 (A) The name, address, identification number, contact person,  
31 and telephone number of the generator, and the signature of the  
32 generator or the generator's representative.

33 (B) The date of the shipment.

34 (C) The manifest number.

35 (D) The volume or quantity of each waste stream received, its  
36 California and RCRA waste codes, the waste stream type listed in  
37 subdivision (c), and its proper shipping description, including the  
38 hazardous class and United Nations/North America (UN/NA)  
39 identification number, if applicable.

1 (E) The name, address, and identification number of the  
2 authorized facility to which the hazardous waste will be  
3 transported.

4 (F) The transporter's name, address, and identification number.

5 (G) The driver's signature.

6 (H) A statement, signed by the generator, certifying that the  
7 generator has established a program to reduce the volume or  
8 quantity and toxicity of the hazardous waste to the degree, as  
9 determined by the generator, to be economically practicable.

10 (5) The transporter shall enter the total volume or quantity of  
11 each waste stream transported on the manifest at the change of  
12 each date, change of driver, or change of transport vehicle. The  
13 total volume or quantity shall be the cumulative amount of each  
14 waste stream collected from the generators listed on the individual  
15 receipts. In lieu of submitting a copy of each manifest used, a  
16 facility operator may submit an electronic report to the department  
17 meeting the requirements of Section 25160.3.

18 (6) The transporter shall submit the generator copy of the  
19 manifest to the department within 30 days of each shipment.

20 (7) The transporter shall retain a copy of the manifest and all  
21 receipts for each manifest at a location within the state for three  
22 years. This period of retention is extended automatically during  
23 the course of any unresolved enforcement action regarding the  
24 regulated activity or as requested by the department or a certified  
25 unified program agency.

26 (8) The transporter shall submit all copies of the manifest to the  
27 designated facility. A representative of the designated facility that  
28 receives the hazardous waste shall sign and date the manifest,  
29 return two copies to the transporter, retain one copy, and send the  
30 original to the department within 30 days.

31 (9) All other manifesting requirements of Sections 25160 and  
32 25161 shall be complied with unless specifically exempted under  
33 this section. If an out-of-state receiving facility is not required to  
34 submit the signed manifest copy to the department, the consolidated  
35 transporter, acting as generator, shall submit a copy of the manifest  
36 signed by the receiving facility to the department pursuant to  
37 paragraph (3) of subdivision (b) of Section 25160.

38 (10) Except as provided by subdivision (e), each generator using  
39 the consolidated manifesting procedure shall have an identification  
40 number, unless exempted from manifesting requirements by action

1 of Section 25143.13 for generators of photographic waste less than  
2 100 kilograms per calendar month.

3 (c) The consolidated manifesting procedure set forth in  
4 subdivision (b) may be used only for the following waste streams  
5 and in accordance with the conditions specified below for each  
6 waste stream:

7 (1) Used oil and the contents of an oil/water separator, if the  
8 separator is a catch basin, clarifier, or similar collection device  
9 that is used to collect water containing residual amounts of one or  
10 more of the following: used oil, antifreeze, or other substances and  
11 contaminants associated with activities that generate used oil and  
12 antifreeze.

13 (2) The wastes listed in subparagraph (A) may be manifested  
14 under the procedures specified in this section only if all of the  
15 requirements specified in subparagraphs (B) and (C) are satisfied.

16 (A) Wastes eligible for consolidated manifesting:

17 (i) Solids contaminated with used oil.

18 (ii) Brake fluid.

19 (iii) Antifreeze.

20 (iv) Antifreeze sludge.

21 (v) Parts cleaning solvents, including aqueous cleaning solvents.

22 (vi) Hydroxide sludge contaminated solely with metals from a  
23 wastewater treatment process.

24 (vii) "Paint-related" wastes, including paints, thinners, filters,  
25 and sludges.

26 (viii) Spent photographic solutions.

27 (ix) Dry cleaning solvents (including perchloroethylene,  
28 naphtha, and silicone based solvents).

29 (x) Filters, lint, and sludges contaminated with dry cleaning  
30 solvent.

31 (xi) Asbestos and asbestos-containing materials.

32 (xii) Inks from the printing industry.

33 (xiii) Chemicals and laboratory packs collected from K-12  
34 schools.

35 (xiv) Absorbents contaminated with other wastes listed in this  
36 section.

37 (xv) Filters from dispensing pumps for diesel and gasoline fuels.

38 (xvi) Any other waste, as specified in regulations adopted by  
39 the department.

1 (B) The generator does not generate more than 1,000 kilograms  
2 per calendar month of hazardous waste and meets the conditions  
3 of paragraph (1) of subdivision (h) of Section 25123.3. For the  
4 purpose of calculating the 1,000 kilograms per calendar month  
5 limit described in this section, the generator may exclude the  
6 volume of used oil and the contents of the oil/water separator that  
7 is managed pursuant to paragraph (1) of subdivision (c).

8 (C) (i) The generator enters into an agreement with the  
9 transporter in which the transporter agrees that the transporter will  
10 submit a confirmation to the generator that the hazardous waste  
11 was transported to an authorized hazardous waste treatment facility  
12 for appropriate treatment. The agreement may provide that the  
13 hazardous waste will first be transported to a storage or transfer  
14 facility in accordance with the applicable provisions of law.

15 (ii) The treatment requirement specified in clause (i) does not  
16 apply to asbestos, asbestos-containing materials, and chemicals  
17 and laboratory packs collected from K-12 schools, or any other  
18 waste stream for which the department determines there is no  
19 reasonably available treatment methodology or facility. These  
20 wastes shall be transported to an authorized facility.

21 (d) Transporters using the consolidated manifesting procedure  
22 set forth in this section shall submit quarterly reports to the  
23 department 30 days after the end of each quarter. The first quarterly  
24 report shall be submitted on October 31, 2002, covering the July  
25 to September 2002 period, and every three months thereafter.  
26 Except as otherwise specified in paragraph (1), the quarterly report  
27 shall be submitted in an electronic format provided by the  
28 department.

29 The department shall make all of the information in the quarterly  
30 reports submitted pursuant to this subdivision available to the  
31 public, through its usual means of disclosure, except the department  
32 shall not disclose the association between any specific transporter  
33 and specific generator. The list of generators served by a transporter  
34 shall be deemed to be a trade secret and confidential business  
35 information for purposes of Section 25173 and Section 66260.2  
36 of Title 22 of the California Code of Regulations.

37 (1) Transporters that use the consolidated manifesting procedure  
38 for less than 1,000 tons per calendar year may apply to the  
39 department to continue submitting paper format reports.

1 (2) For each transporter's name, terminal address, and  
2 identification number, the quarterly report shall include the  
3 following information for each generator for each consolidated  
4 manifest:

5 (A) The name, address, and identification number, the contact  
6 ~~persons's~~ *person's* name, and the telephone number of each  
7 generator.

8 (B) The date of the shipment.

9 (C) The manifest number.

10 (D) The volume or quantity of each waste stream received, its  
11 California and RCRA waste code, and the wastestream category  
12 listed in subdivision (c).

13 (e) (1) A transporter may accept and include on a consolidated  
14 manifest a maximum of one shipment of used oil from a generator  
15 whose identification number has been suspended for a violation  
16 of Section 25205.16.

17 (2) If a transporter accepts a shipment of used oil pursuant to  
18 paragraph (1), the transporter shall do both of the following:

19 (A) Verify that the generator's identification number was  
20 suspended for a violation of Section 25205.16.

21 (B) Notify the department within 24 hours that it accepted the  
22 shipment from the generator.

23 (3) If a generator offers a shipment of used oil to a transporter  
24 pursuant to paragraph (1), the generator shall do both of the  
25 following:

26 (A) Notify the department within 24 hours that a transporter  
27 accepted a shipment.

28 (B) Comply with Section 25205.16 within 30 days from the  
29 date the transporter accepted the shipment.

30 (4) This subdivision shall become inoperative on and after  
31 January 1, 2014.

32 SEC. 3. Section 25210.6 of the Health and Safety Code is  
33 amended to read:

34 25210.6. (a) On or before December 31, 2005, the department  
35 shall adopt regulations specifying the best management practices  
36 for a person managing perchlorate materials. These practices may  
37 include, but are not limited to, all of the following:

38 (1) Procedures for documenting the amount of perchlorate  
39 materials managed by the facility.

1 (2) Management practices necessary to prevent releases of  
2 perchlorate materials, including, but not limited to, containment  
3 standards, usage, processing and transferring practices, and spill  
4 response procedures.

5 (b) (1) The department shall consult with the State Air  
6 Resources Board, the Office of Environmental Health Hazard  
7 Assessment, the State Water Resources Control Board, the  
8 California Emergency Management Agency, the State Fire  
9 Marshal, and the California certified unified program agencies  
10 forum before adopting regulations pursuant to subdivision (a).

11 (2) The department shall also, before adopting regulations  
12 pursuant to subdivision (a), review existing federal, state, and local  
13 laws governing the management of perchlorate materials to  
14 determine the degree to which uniform and adequate requirements  
15 already exist, so as to avoid any unnecessary duplication of, or  
16 interference with the application of, those existing requirements.

17 (3) In adopting regulations pursuant to subdivision (a), the  
18 department shall ensure that those regulations are at least as  
19 stringent as, and to the extent practical consistent with, the existing  
20 requirements of Chapter 6.95 (commencing with Section 25500)  
21 and the California Fire Code governing the management of  
22 perchlorate materials.

23 (c) The regulations adopted by the department pursuant to this  
24 section shall be adopted as emergency regulations in accordance  
25 with Chapter 3.5 (commencing with Section 11340) of Part 1 of  
26 Division 3 of Title 2 of the Government Code, and for the purposes  
27 of that chapter, including Section 11349.6 of the Government  
28 Code, the adoption of these regulations is an emergency and shall  
29 be considered by the Office of Administrative Law as necessary  
30 for the immediate preservation of the public peace, health and  
31 safety, and general welfare. Notwithstanding Chapter 3.5  
32 (commencing with Section 11340) of Part 1 of Division 3 of Title  
33 2 of the Government Code, including subdivision (e) of Section  
34 11346.1 of the Government Code, any emergency regulations  
35 adopted pursuant to this section shall be filed with, but not be  
36 repealed by, the Office of Administrative Law and shall remain  
37 in effect until revised by the department.

38 (d) The department may implement an outreach effort to educate  
39 persons who manage perchlorate materials concerning the  
40 regulations promulgated pursuant to subdivision (a).

1 SEC. 4. The heading of Article 10.7 (commencing with Section  
2 25217) of Chapter 6.5 of Division 20 of the Health and Safety  
3 Code is amended to read:

4  
5 Article 10.7. Recyclable Latex Paint and Oil-Based Paint  
6

7 SEC. 5. Section 25217 of the Health and Safety Code is  
8 amended to read:

9 25217. For the purposes of this article, “recyclable the following  
10 definitions shall apply:

11 (a) “Conditionally exempt small quantity generator” or  
12 “CESQG” means a business concern that meets the criteria for a  
13 generator specified in Section 261.5 of Title 40 of the Code of  
14 Federal Regulations.

15 (b) “Consolidation location” means a location to which  
16 recyclable latex paint or oil-based paint initially collected at a  
17 collection location is transported.

18 (c) “Oil-based paint” means a paint that contains drying oil,  
19 oil varnish, or oil-modified resin as the basic vehicle ingredient.

20 (d) “Paint” includes both oil-based paint and recyclable latex  
21 paint that is collected in accordance with this article.

22 (e) “Recyclable latex paint” means any water-based latex paint,  
23 still in liquid form, that is transferred for the purposes of being  
24 recycled.

25 SEC. 6. Section 25217.1 of the Health and Safety Code is  
26 amended to read:

27 25217.1. No person shall dispose of, or attempt to dispose of,  
28 liquid latex paint or oil-based paint in the land or into the waters  
29 of the state unless authorized by applicable provisions of law.

30 SEC. 7. Section 25217.2 of the Health and Safety Code is  
31 amended to read:

32 25217.2. (a)—Recyclable latex paint may be accepted at any  
33 location if all of the following conditions are met:

- 34 (†)  
35 (a) The location manages the recyclable latex paint in  
36 accordance with all applicable latex paint product management  
37 procedures specified by federal, state, or local law or regulation  
38 which that include, at a minimum, that the recyclable latex paint  
39 is stored and handled in a manner that minimizes the chance of  
40 exposing the handler and the environment to potentially hazardous

1 constituents that may be in, or have been incidentally added to,  
2 the recyclable latex paint.

3 *(b) The recyclable latex paint is still in liquid form and is in its*  
4 *original packaging or is in a closed container that is clearly*  
5 *labeled.*

6 ~~(2)~~

7 *(c) Any latex paint that is accepted as recyclable by the location*  
8 *and—~~which~~ that is later discovered to be nonrecyclable shall be*  
9 *deemed to be a waste generated at the location where this discovery*  
10 *is made and this latex paint shall be managed as a waste in*  
11 *accordance with this chapter.*

12 ~~(3)~~

13 *(d) The owner or operator of the location has a business plan*  
14 *that meets the requirements of Section 25504, if required by the*  
15 *administrating agency, including, but not limited to, emergency*  
16 *response plans and procedures, as described in subdivision (b) of*  
17 *Section 25504. The plans and procedures shall specifically address*  
18 *recyclable latex paint or meet the department’s emergency response*  
19 *and contingency requirements which are applicable to generators*  
20 *of hazardous waste.*

21 ~~(4)~~

22 *(e) If the recyclable latex paint is not excluded or exempted*  
23 *from regulation under Chapter I (commencing with Section 1.1)*  
24 *of Title 40 of the Code of Federal Regulations, the location meets*  
25 *all applicable federal requirements.*

26 *(f) The recyclable latex paint is stored for no longer than 180*  
27 *days.*

28 *SEC. 8. Section 25217.2.1 is added to the Health and Safety*  
29 *Code, to read:*

30 *25217.2.1. (a) A location that accepts recyclable latex paint*  
31 *pursuant to Section 25217.2 may also accept oil-based paint if all*  
32 *of the additional following conditions are met:*

33 *(1) The collection location is established under an architectural*  
34 *paint stewardship plan approved by the Department of Resources*  
35 *Recycling and Recovery pursuant to the architectural paint*  
36 *recovery program established pursuant to Chapter 5 (commencing*  
37 *with Section 48700) of Part 7 of Division 30 of the Public*  
38 *Resources Code.*

39 *(2) The collection location receives oil-based paint only from*  
40 *either of the following:*

- 1 (A) A person who generates oil-based paint incidental to owning  
 2 or maintaining a place of residence.
- 3 (B) A conditionally exempt small quantity generator.
- 4 (3) The oil-based paint is still in liquid form and is in its original  
 5 packaging or is in a closed container that is clearly labeled.
- 6 (4) The location manages the oil-based paint in accordance  
 7 with the requirements in Section 25217.2.
- 8 (5) The collection location operates pursuant to a contract with  
 9 a manufacturer or paint stewardship organization that has  
 10 submitted an architectural paint stewardship plan that has been  
 11 approved by the Department of Resources Recycling and Recovery  
 12 and the collected paint is managed in accordance with that  
 13 approved architectural paint stewardship plan.
- 14 (6) The oil-based paint is stored for no longer than 180 days.
- 15 (b) Oil-based paint initially collected at a collection location  
 16 shall be deemed to be generated at the consolidation location for  
 17 purposes of this chapter, if all of the following apply:
- 18 (1) The collection location is established under an architectural  
 19 paint stewardship plan in accordance with the requirements of  
 20 paragraph (1) of subdivision (a).
- 21 (2) The oil-based paint is subsequently transported to a  
 22 consolidation location that is operating pursuant to a contract  
 23 with a manufacturer or paint stewardship organization under an  
 24 architectural paint stewardship plan that has been approved by  
 25 the Department of Resources Recycling and Recovery pursuant to  
 26 the architectural paint recovery program established pursuant to  
 27 Chapter 5 (commencing with Section 48700) of Part 7 of Division  
 28 30 of the Public Resources Code.
- 29 (3) The oil-based paint is non-RCRA hazardous waste, or is  
 30 otherwise exempt from, or is not otherwise regulated pursuant to,  
 31 the federal act.
- 32 SEC. 9. Section 25217.3 of the Health and Safety Code is  
 33 amended to read:
- 34 25217.3. (a) Notwithstanding Sections 25160 and 25163, a  
 35 person may transport ~~recyclable latex~~ paint collected in accordance  
 36 with this article without the use of a manifest or obtaining  
 37 registration as a hazardous waste hauler if the transporter complies  
 38 with this article.
- 39 (b) A person transporting ~~recyclable latex~~ paint collected in  
 40 accordance with this article shall use a bill of lading to document

1 the transportation of ~~recyclable latex~~ *the* paint from collection  
2 locations, or any interim locations, to a ~~recycling facility~~  
3 *consolidation site*, whenever the transportation involves a change  
4 in ownership of the ~~recyclable latex~~ paint. A copy of the bill of  
5 lading shall be kept by the originating location, transporter, and  
6 destination of the ~~recyclable latex~~ paint for a period of at least  
7 three years and shall include all of the following information:

8 (1) The name, address, and telephone number of the originating  
9 location, the transporter, and the destination of the ~~recyclable latex~~  
10 paint.

11 (2) The quantity of the ~~recyclable latex~~ paint being transported.

12 (3) The date on which the transporter accepts the ~~recyclable~~  
13 ~~latex~~ paint from the originating location.

14 (4) The signatures of the transporter and a representative of the  
15 originating location.

16 *SEC. 10. Section 25217.4 of the Health and Safety Code is*  
17 *amended to read:*

18 25217.4. (a) A person may recycle recyclable latex paint at a  
19 facility which is not authorized by the department pursuant to the  
20 applicable hazardous waste facilities permit requirements of Article  
21 9 (commencing with Section 25200) if the person complies with  
22 Section 25217.2.

23 (b) *A person shall recycle, treat, store, or dispose of oil-based*  
24 *paint that has been collected pursuant to this article only at a*  
25 *facility that is authorized by the department pursuant to the*  
26 *applicable hazardous waste facilities permit requirements of Article*  
27 *9 (commencing with Section 25200) to recycle, treat, store, or*  
28 *dispose of hazardous waste, or at an out-of-state facility that is*  
29 *authorized to recycle, treat, store, or dispose of oil-based paint in*  
30 *the state where the facility is located.*

31 ~~SEC. 4.~~

32 *SEC. 11. Section 25404 of the Health and Safety Code is*  
33 *amended to read:*

34 25404. (a) For purposes of this chapter, the following terms  
35 shall have the following meanings:

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

39 (B) “Participating Agency” or “PA” means a state or local  
40 agency that has a written agreement with the CUPA pursuant to

1 subdivision (d) of Section 25404.3, and is approved by the  
2 secretary, to implement or enforce one or more of the unified  
3 program elements specified in subdivision (c), in accordance with  
4 Sections 25404.1 and 25404.2.

5 (C) “Unified Program Agency” or “UPA” means the CUPA, or  
6 its participating agencies to the extent each PA has been designated  
7 by the CUPA, pursuant to a written agreement, to implement or  
8 enforce a particular unified program element specified in  
9 subdivision (c). The UPAs have the responsibility and authority  
10 to implement and enforce the requirements listed in subdivision  
11 (c), and the regulations adopted to implement the requirements  
12 listed in subdivision (c), to the extent provided by Chapter 6.5  
13 (commencing with Section 25100), Chapter 6.67 (commencing  
14 with Section 25270), Chapter 6.7 (commencing with Section  
15 25280), Chapter 6.95 (commencing with Section 25500), and  
16 Sections 25404.1 and 25404.2. After a CUPA has been certified  
17 by the secretary, the unified program agencies and the state  
18 agencies carrying out responsibilities under this chapter shall be  
19 the only agencies authorized to enforce the requirements listed in  
20 subdivision (c) within the jurisdiction of the CUPA.

21 (2) “Department” means the Department of Toxic Substances  
22 Control.

23 (3) “Minor violation” means the failure of a person to comply  
24 with a requirement or condition of an applicable law, regulation,  
25 permit, information request, order, variance, or other requirement,  
26 whether procedural or substantive, of the unified program that the  
27 UPA is authorized to implement or enforce pursuant to this chapter,  
28 and that does not otherwise include any of the following:

29 (A) A violation that results in injury to persons or property, or  
30 that presents a significant threat to human health or the  
31 environment.

32 (B) A knowing, willful, or intentional violation.

33 (C) A violation that is a chronic violation, or that is committed  
34 by a recalcitrant violator. In determining whether a violation is  
35 chronic or a violator is recalcitrant, the UPA shall consider whether  
36 there is evidence indicating that the violator has engaged in a  
37 pattern of neglect or disregard with respect to applicable regulatory  
38 requirements.

39 (D) A violation that results in an emergency response from a  
40 public safety agency.

1 (E) A violation that enables the violator to benefit economically  
2 from the noncompliance, either by reduced costs or competitive  
3 advantage.

4 (F) A class I violation as provided in Section 25117.6.

5 (G) A class II violation committed by a chronic or a recalcitrant  
6 violator, as provided in Section 25117.6.

7 (H) A violation that hinders the ability of the UPA to determine  
8 compliance with any other applicable local, state, or federal rule,  
9 regulation, information request, order, variance, permit, or other  
10 requirement.

11 (4) “Secretary” means the Secretary for Environmental  
12 Protection.

13 (5) “Unified program facility” means all contiguous land and  
14 structures, other appurtenances, and improvements on the land  
15 that are subject to the requirements listed in subdivision (c).

16 (6) “Unified program facility permit” means a permit issued  
17 pursuant to this chapter. For the purposes of this chapter, a unified  
18 program facility permit encompasses the permitting requirements  
19 of Section 25284, and permit or authorization requirements under  
20 a local ordinance or regulation relating to the generation or  
21 handling of hazardous waste or hazardous materials, but does not  
22 encompass the permitting requirements of a local ordinance that  
23 incorporates provisions of the California Fire Code or the  
24 California Building Code.

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

38 (c) The unified program shall consolidate the administration of  
39 the following requirements and, to the maximum extent feasible  
40 within statutory constraints, shall ensure the coordination and

1 consistency of any regulations adopted pursuant to those  
2 requirements:

3 (1) (A) Except as provided in subparagraphs (B) and (C), the  
4 requirements of Chapter 6.5 (commencing with Section 25100),  
5 and the regulations adopted by the department pursuant thereto,  
6 that are applicable to all of the following:

7 (i) Hazardous waste generators, persons operating pursuant to  
8 a permit-by-rule, conditional authorization, or conditional  
9 exemption, pursuant to Chapter 6.5 (commencing with Section  
10 25100) or the regulations adopted by the department.

11 (ii) Persons managing perchlorate materials.

12 (iii) Persons subject to Article 10.1 (commencing with Section  
13 25211) of Chapter 6.5.

14 (iv) *Persons operating a collection location that has been*  
15 *established under an architectural paint stewardship plan approved*  
16 *by the Department of Resources Recycling and Recovery pursuant*  
17 *to the architectural paint recovery program established pursuant*  
18 *to Chapter 5 (commencing with Section 48700) of Part 7 of*  
19 *Division 30 of the Public Resources Code.*

20 (B) The unified program shall not include the requirements of  
21 paragraph (3) of subdivision (c) of Section 25200.3, the  
22 requirements of Sections 25200.10 and 25200.14, and the authority  
23 to issue an order under Sections 25187 and 25187.1, with regard  
24 to those portions of a unified program facility that are subject to  
25 one of the following:

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

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

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

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

1 (v) Corrective action required under subsection (u) of Section  
2 6924 of Title 42 of the United States Code or subsection (h) of  
3 Section 6928 of Title 42 of the United States Code.

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

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

14 (2) The requirements of Chapter 6.67 (commencing with Section  
15 25270) concerning aboveground storage tanks.

16 (3) (A) Except as provided in subparagraphs (B) and (C), the  
17 requirements of Chapter 6.7 (commencing with Section 25280)  
18 concerning underground storage tanks and the requirements of any  
19 underground storage tank ordinance adopted by a city or county.

20 (B) The unified program shall not include the responsibilities  
21 assigned to the State Water Resources Control Board pursuant to  
22 Section 25297.1.

23 (C) The unified program shall not include the corrective action  
24 requirements of Sections 25296.10 to 25296.40, inclusive.

25 (4) The requirements of Article 1 (commencing with Section  
26 25500) of Chapter 6.95 concerning hazardous material release  
27 response plans and inventories.

28 (5) The requirements of Article 2 (commencing with Section  
29 25531) of Chapter 6.95, concerning the accidental release  
30 prevention program.

31 (6) The requirements of Sections 2701.5.1 and 2701.5.2 of the  
32 California Fire Code, as adopted by the State Fire Marshal pursuant  
33 to Section 13143.9 concerning hazardous material management  
34 plans and inventories.

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

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

7 (2) (A) No later than January 1, 2010, the secretary shall  
8 establish a statewide information management system capable of  
9 receiving all data collected by the unified program agencies and  
10 reported by regulated businesses pursuant to this subdivision and  
11 Section 25504.1, in a manner that is most cost efficient and  
12 effective for both the regulated businesses and state and local  
13 agencies. The secretary shall prescribe an XML or other compatible  
14 Web-based format for the transfer of data from CUPAs and  
15 regulated businesses and make all nonconfidential data available  
16 on the Internet.

17 (B) The secretary shall establish milestones to measure the  
18 implementation of the statewide information management system  
19 and shall provide periodic status updates to interested parties.

20 (3) (A) (i) Except as provided in subparagraph (B), in addition  
21 to any other funding that becomes available, the secretary shall  
22 increase the oversight surcharge provided for in subdivision (b)  
23 of Section 25404.5 by an amount necessary to meet the  
24 requirements of this subdivision for a period of three years, to  
25 establish the statewide information management system, consistent  
26 with paragraph (2). The increase in the oversight surcharge shall  
27 not exceed twenty-five dollars (\$25) in any one year of the  
28 three-year period. The secretary shall thereafter maintain the  
29 statewide information management system, funded by the  
30 assessment the secretary is authorized to impose pursuant to  
31 Section 25404.5.

32 (ii) No less than 75 percent of the additional funding raised  
33 pursuant to clause (i) shall be provided to CUPAs and PAs through  
34 grant funds or statewide contract services, in the amounts  
35 determined by the secretary to assist these local agencies in meeting  
36 these information management system requirements.

37 (B) A facility that is owned or operated by the federal  
38 government and that is subject to the unified program shall pay  
39 the surcharge required by this paragraph to the extent authorized  
40 by federal law.

1 (C) The secretary, or one or more of the boards, departments,  
2 or offices within the California Environmental Protection Agency,  
3 shall seek available federal funding for purposes of implementing  
4 this subdivision.

5 (4) No later than three years after the statewide information  
6 management system is established, each CUPA, PA, and regulated  
7 business shall report program data electronically. The secretary  
8 shall work with the CUPAs to develop a phased in schedule for  
9 the electronic collection and submittal of information to be included  
10 in the statewide information management system, giving first  
11 priority to information relating to those chemicals determined by  
12 the secretary to be of greatest concern. The secretary, in making  
13 this determination shall consult with the CUPAs, the California  
14 Emergency Management Agency, the State Fire Marshal, and the  
15 boards, departments, and offices within the California  
16 Environmental Protection Agency. The information initially  
17 included in the statewide information management system shall  
18 include, but is not limited to, the hazardous materials inventory  
19 information required to be submitted pursuant to Section 25504.1  
20 for perchlorate materials.

21 (5) The secretary, in collaboration with the CUPAs, shall provide  
22 technical assistance to regulated businesses to comply with the  
23 electronic reporting requirements and may expend funds identified  
24 in clause (i) of subparagraph (A) of paragraph (3) for that purpose.

25 ~~SEC. 5.~~

26 *SEC. 12.* Section 25404.2 of the Health and Safety Code is  
27 amended to read:

28 25404.2. (a) The unified program agencies in each jurisdiction  
29 shall do all of the following:

30 (1) (A) The certified unified program agency shall develop and  
31 implement a procedure for issuing, to a unified program facility,  
32 a unified program facility permit that would replace any permit  
33 required by Section 25284 and any permit or authorization required  
34 under any local ordinance or regulation relating to the generation  
35 or handling of hazardous waste or hazardous materials, but that  
36 would not replace a permit issued pursuant to a local ordinance  
37 that incorporates provisions of the California Fire Code and  
38 California Building Code.

39 (B) The unified program facility permit, and, if applicable, an  
40 authorization to operate pursuant to a permit-by-rule, conditional

1 authorization, or conditional exemption, pursuant to Chapter 6.5  
2 (commencing with Section 25100) or the regulations adopted by  
3 the department, are the only grants of authorization required under  
4 the unified program elements specified in subdivision (c) of Section  
5 25404.

6 (C) The unified program agencies shall enforce the elements of  
7 a unified program facility permit in the same manner as the permits  
8 replaced by the unified program facility permit would be enforced.

9 (D) If a unified program facility is operating pursuant to the  
10 applicable grants of authorization that would otherwise be included  
11 in a unified program facility permit for the activities in which the  
12 facility is engaged, the unified program agencies shall not require  
13 that unified program facility to obtain a unified program facility  
14 permit as a condition of operating pursuant to the unified program  
15 elements specified in subdivision (c) of Section 25404 and any  
16 permit or authorization required under any local ordinance or  
17 regulation relating to the generation or handling of hazardous waste  
18 or hazardous materials.

19 (E) This subparagraph applies to unified program facilities that  
20 have existing, not yet expired, grants of authorization for some,  
21 but not all, of the authorization requirements encompassed in the  
22 unified program facility permit. When issuing a unified program  
23 facility permit to such a unified program facility, the unified  
24 program agency shall incorporate, by reference, into the unified  
25 program facility permit any of the facility's existing, not yet  
26 expired, grants of authorization.

27 (2) To the maximum extent feasible within statutory constraints,  
28 the certified unified program agency, in conjunction with  
29 participating agencies, shall consolidate, coordinate, and make  
30 consistent any local or regional regulations, ordinances,  
31 requirements, or guidance documents related to the implementation  
32 of subdivision (c) of Section 25404 or pursuant to any regional or  
33 local ordinance or regulation pertaining to hazardous waste or  
34 hazardous materials. This paragraph does not affect the authority  
35 of a unified program agency with regard to the preemption of the  
36 unified program agency's authority under state law.

37 (3) The certified unified program agency, in conjunction with  
38 participating agencies, shall develop and implement a single,  
39 unified inspection and enforcement program to ensure coordinated,  
40 efficient, and effective enforcement of subdivision (c) of Section

1 25404, and any local ordinance or regulation pertaining to the  
2 handling of hazardous waste or hazardous materials.

3 (4) The certified unified program agency, in conjunction with  
4 participating agencies, shall coordinate, to the maximum extent  
5 feasible, the single, unified inspection and enforcement program  
6 with the inspection and enforcement program of other federal,  
7 state, regional, and local agencies that affect facilities regulated  
8 by the unified program. This paragraph does not prohibit the  
9 unified program agencies, or any other agency, from conducting  
10 inspections, or from undertaking any other enforcement-related  
11 activity, without giving prior notice to the regulated entity, except  
12 if the prior notice is otherwise required by law.

13 (b) An employee or authorized representative of a unified  
14 program agency or a state agency acting pursuant to this chapter  
15 has the authority specified in Section 25185, with respect to the  
16 premises of a handler, and in Section 25185.5, with respect to real  
17 property that is within 2,000 feet of the premises of a handler,  
18 except that this authority shall include inspections concerning  
19 hazardous material, in addition to hazardous waste.

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

28 (d) The certified unified program agency, in conjunction with  
29 participating agencies, may incorporate, as part of the unified  
30 program within its jurisdiction, the implementation and  
31 enforcement of laws that the unified program agencies are  
32 authorized to implement and enforce, other than those specified  
33 in subdivision (c) of Section 25404, if that incorporation will not  
34 impair the ability of the unified program agencies to fully  
35 implement the requirements of subdivision (a).

36 (e) (1) The withdrawal of an application for a unified program  
37 facility permit after it has been filed with the unified program  
38 agency shall not, unless the unified program agency consents in  
39 writing to the withdrawal, deprive the unified program agencies  
40 of their authority to institute or continue a proceeding against the

1 applicant for the denial of the unified program facility permit upon  
2 any ground provided by law, and this withdrawal shall not affect  
3 the authority of the unified program agencies to institute or  
4 continue a proceeding against the applicant pertaining to any  
5 violation of the requirements specified in subdivision (c) of Section  
6 25404 or of any local ordinance or regulation relating to the  
7 generation or handling of hazardous waste or hazardous materials.

8 (2) The suspension, expiration, or forfeiture by operation of law  
9 of a unified program facility permit, or its suspension, forfeiture,  
10 or cancellation by the unified program agency or by order of a  
11 court, or its surrender or attempted or actual transfer without the  
12 written consent of the unified program agency shall not affect the  
13 authority of the unified program agencies to institute or continue  
14 a disciplinary proceeding against the holder of a unified program  
15 facility permit upon any ground, or otherwise taking an action  
16 against the holder of a unified program facility permit on these  
17 grounds.

18 ~~SEC. 6.~~

19 *SEC. 13.* Section 25503.5 of the Health and Safety Code is  
20 amended to read:

21 25503.5. (a) (1) A business, except as provided in subdivisions  
22 (b), (c), and (d), shall establish and implement a business plan for  
23 emergency response to a release or threatened release of a  
24 hazardous material in accordance with the standards prescribed in  
25 the regulations adopted pursuant to Section 25503, if the business  
26 handles a hazardous material or a mixture containing a hazardous  
27 material that has a quantity at any one time during the reporting  
28 year that is any of the following:

29 (A) Except as provided in subparagraphs (C), (D), or (F), equal  
30 to, or greater than, a total weight of 500 pounds or a total volume  
31 of 55 gallons.

32 (B) Except as provided in subparagraphs (E) or (F), equal to,  
33 or greater than, 200 cubic feet at standard temperature and pressure,  
34 if the substance is compressed gas.

35 (C) The threshold planning quantity, under both of the following  
36 conditions:

37 (i) The hazardous material is an extremely hazardous substance,  
38 as defined in Section 355.61 of Title 40 of the Code of Federal  
39 Regulations.

1 (ii) The threshold planning quantity for that extremely hazardous  
2 substance listed in Appendices A and B of Part 355 (commencing  
3 with Section 355.1) of Subchapter J of Chapter I of Title 40 of the  
4 Code of Federal Regulations is less than 500 pounds.

5 (D) A total weight of 5,000 pounds, if the hazardous material  
6 is a solid or liquid substance that is classified as a hazard for  
7 purposes of Section 5194 of Title 8 of the California Code of  
8 Regulations solely as an irritant or sensitizer, unless the  
9 administering agency finds, and provides notice to the business  
10 handling the product, that the handling of lesser quantities of that  
11 hazardous material requires the submission of a business plan, or  
12 any portion thereof, in response to public health, safety, or  
13 environmental concerns.

14 (E) (i) A total of 1,000 cubic feet, if the hazardous material is  
15 a gas at standard temperature and pressure and is classified as a  
16 hazard for the purposes of Section 5194 of Title 8 of the California  
17 Code of Regulations solely as a compressed gas, unless the  
18 administering agency finds, and provides notice to the business  
19 handling the product, that the handling of lesser quantities of that  
20 hazardous material requires the submission of a business plan, or  
21 any portion thereof, in response to public health, safety, or  
22 environmental concerns.

23 (ii) The hazardous materials subject to this subparagraph include  
24 a gas for which the only health and physical hazards are simple  
25 asphyxiation and the release of pressure.

26 (iii) The hazardous materials subject to this subparagraph do  
27 not include gases in a cryogenic state.

28 (F) If the substance is a radioactive material, it is handled in  
29 quantities for which an emergency plan is required to be adopted  
30 pursuant to Part 30 (commencing with Section 30.1), Part 40  
31 (commencing with Section 40.1), or Part 70 (commencing with  
32 Section 70.1), of Chapter 1 of Title 10 of the Code of Federal  
33 Regulations, or pursuant to any regulations adopted by the state  
34 in accordance with those regulations.

35 (2) In meeting the requirements of this subdivision, a business  
36 may, if it elects to do so, use the format adopted pursuant to Section  
37 25503.4.

38 (3) The administering agency shall make the findings required  
39 by subparagraphs (D) and (E) of paragraph (1) in consultation with  
40 the local fire chief.

1 (b) (1) Oxygen, nitrogen, and nitrous oxide, ordinarily  
2 maintained by a physician, dentist, podiatrist, veterinarian, or  
3 pharmacist, at his or her office or place of business, stored at each  
4 office or place of business in quantities of not more than 1,000  
5 cubic feet of each material at any one time, are exempt from this  
6 section and from Section 25505. The administering agency may  
7 require a one-time inventory of these materials for a fee not to  
8 exceed fifty dollars (\$50) to pay for the costs incurred by the  
9 agency in processing the inventory forms.

10 (2) (A) Lubricating oil is exempt from this section and Sections  
11 25505 and 25509, for a single business facility, if the total volume  
12 of each type of lubricating oil handled at that facility does not  
13 exceed 55 gallons and the total volume of all types of lubricating  
14 oil handled at that facility does not exceed 275 gallons, at any one  
15 time.

16 (B) For purposes of this paragraph, “lubricating oil” means any  
17 oil intended for use in an internal combustion crankcase, or the  
18 transmission, gearbox, differential, or hydraulic system of an  
19 automobile, bus, truck, vessel, airplane, heavy equipment, or other  
20 machinery powered by an internal combustion or electric powered  
21 engine. “Lubricating oil” does not include used oil, as defined in  
22 subdivision (a) of Section 25250.1.

23 (3) *Oil-filled electrical equipment that is not contiguous to an*  
24 *electric facility is exempt from this section and Sections 25505*  
25 *and 25509 if the aggregate capacity is less than 1,320 gallons.*

26 (c) (1) Hazardous material contained solely in a consumer  
27 product for direct distribution to, and use by, the general public is  
28 exempt from the business plan requirements of this article unless  
29 the administering agency has found, and has provided notice to  
30 the business handling the product, that the handling of certain  
31 quantities of the product requires the submission of a business  
32 plan, or any portion thereof, in response to public health, safety,  
33 or environmental concerns.

34 (2) In addition to the authority specified in paragraph (4), the  
35 administering agency may, in exceptional circumstances, following  
36 notice and public hearing, exempt from the inventory provisions  
37 of this article any hazardous substance specified in subdivision (q)  
38 of Section 25501 if the administering agency finds that the  
39 hazardous substance would not pose a present or potential danger  
40 to the environment or to human health and safety if the hazardous

1 substance was released into the environment. The administering  
2 agency shall specify in writing the basis for granting any exemption  
3 under this paragraph. The administering agency shall send a notice  
4 to the agency within five days from the effective date of any  
5 exemption granted pursuant to this paragraph.

6 (3) The administering agency, upon application by a handler,  
7 may exempt the handler, under conditions that the administering  
8 agency determines to be proper, from any portion of the business  
9 plan, upon a written finding that the exemption would not pose a  
10 significant present or potential hazard to human health or safety  
11 or to the environment or affect the ability of the administering  
12 agency and emergency rescue personnel to effectively respond to  
13 the release of a hazardous material, and that there are unusual  
14 circumstances justifying the exemption. The administering agency  
15 shall specify in writing the basis for any exemption under this  
16 paragraph.

17 (4) The administering agency, upon application by a handler,  
18 may exempt a hazardous material from the inventory provisions  
19 of this article upon proof that the material does not pose a  
20 significant present or potential hazard to human health and safety  
21 or to the environment if released into the workplace or  
22 environment. The administering agency shall specify in writing  
23 the basis for any exemption under this paragraph.

24 (5) An administering agency shall exempt a business operating  
25 a farm for purposes of cultivating the soil or raising or harvesting  
26 any agricultural or horticultural commodity from filing the  
27 information in the business plan required by subdivisions (b) and  
28 (c) of Section 25504 if all of the following requirements are met:

29 (A) The handler annually provides the inventory of information  
30 required by Section 25509 to the county agricultural commissioner  
31 before January 1 of each year.

32 (B) Each building in which hazardous materials subject to this  
33 article are stored is posted with signs, in accordance with  
34 regulations that the agency shall adopt, that provide notice of the  
35 storage of any of the following:

- 36 (i) Pesticides.
- 37 (ii) Petroleum fuels and oil.
- 38 (iii) Types of fertilizers.

1 (C) Each county agricultural commissioner forwards the  
2 inventory to the administering agency within 30 days from the  
3 date of receipt of the inventory.

4 (6) The administering agency shall exempt a business operating  
5 an unstaffed remote facility located in an isolated sparsely  
6 populated area from the hazardous materials business plan and  
7 inventory requirements of this article if the facility is not otherwise  
8 subject to the requirements of applicable federal law, and all of  
9 the following requirements are met:

10 (A) The types and quantities of materials onsite are limited to  
11 one or more of the following:

12 (i) Five hundred standard cubic feet of compressed inert gases  
13 (asphyxiation and pressure hazards only).

14 (ii) Five hundred gallons of combustible liquid used as a fuel  
15 source.

16 (iii) Two hundred gallons of corrosive liquids used as  
17 electrolytes in closed containers.

18 (iv) Five hundred gallons of lubricating and hydraulic fluids.

19 (v) One thousand two hundred gallons of flammable gas used  
20 as a fuel source.

21 (vi) *Any quantity of mineral oil contained within electrical*  
22 *equipment, such as transformers, bushings, electrical switches,*  
23 *and voltage regulators, if a spill prevention control and*  
24 *countermeasure plan has been prepared for quantities in excess*  
25 *of 1,320 gallons.*

26 (B) The facility is secured and not accessible to the public.

27 (C) Warning signs are posted and maintained for hazardous  
28 materials pursuant to the California Fire Code.

29 (D) A one-time notification and inventory are provided to the  
30 administering agency along with a processing fee in lieu of the  
31 existing fee. The fee shall not exceed the actual cost of processing  
32 the notification and inventory, including a verification inspection,  
33 if necessary.

34 (E) If the information contained in the initial notification or  
35 inventory changes and the time period of the change is longer than  
36 30 days, the notification or inventory shall be resubmitted within  
37 30 days to the administering agency to reflect the change, along  
38 with a processing fee, in lieu of the existing fee, that does not  
39 exceed the actual cost of processing the amended notification or  
40 inventory, including a verification inspection, if necessary.

1 (F) The administering agency shall forward a copy of the  
2 notification and inventory to those agencies that share responsibility  
3 for emergency response.

4 (G) The administering agency may require an unstaffed remote  
5 facility to submit a hazardous materials business plan and inventory  
6 in accordance with this article if the agency finds that special  
7 circumstances exist such that development and maintenance of the  
8 business plan and inventory are necessary to protect public health  
9 and safety and the environment.

10 (d) On-premise use, storage, or both, of propane in an amount  
11 not to exceed ~~300~~ 500 gallons that is for the sole purpose of heating  
12 ~~the employee working areas within that business is exempt from~~  
13 *cooking, heating the employee work areas, and heating water,*  
14 *within that business, is exempt from this section, unless the*  
15 *administering agency finds, and provides notice to the business*  
16 *handling the propane, that the handling of the on-premise propane*  
17 *requires the submission of a business plan, or any portion thereof,*  
18 *in response to public health, safety, or environmental concerns.*

19 (e) The administering agency shall provide all information  
20 obtained from completed inventory forms, upon request, to  
21 emergency rescue personnel on a 24-hour basis.

22 (f) The administering agency shall adopt procedures to provide  
23 for public input when approving any applications submitted  
24 pursuant to paragraph (3) or (4) of subdivision (c).

25 ~~SEC. 7.~~

26 *SEC. 14.* Section 25509 of the Health and Safety Code is  
27 amended to read:

28 25509. (a) The annual inventory form shall include, but shall  
29 not be limited to, information on all of the following which are  
30 handled in quantities equal to or greater than the quantities  
31 specified in subdivision (a) of Section 25503.5:

32 (1) A listing of the chemical name and common names of every  
33 hazardous substance or chemical product handled by the business.

34 (2) The category of waste, including the general chemical and  
35 mineral composition of the waste listed by probable maximum  
36 and minimum concentrations, of every hazardous waste handled  
37 by the business.

38 (3) A listing of the chemical name and common names of every  
39 other hazardous material or mixture containing a hazardous

1 material handled by the business that is not otherwise listed  
2 pursuant to paragraph (1) or (2).

3 (4) The maximum amount of each hazardous material or mixture  
4 containing a hazardous material disclosed in paragraphs (1), (2),  
5 and (3) that is handled at any one time by the business over the  
6 course of the year.

7 (5) Sufficient information on how and where the hazardous  
8 materials disclosed in paragraphs (1), (2), and (3) are handled by  
9 the business to allow fire, safety, health, and other appropriate  
10 personnel to prepare adequate emergency responses to potential  
11 releases of the hazardous materials.

12 (6) The SIC Code number of the business if applicable.

13 (7) The name and telephone number of the person representing  
14 the business and able to assist emergency personnel in the event  
15 of an emergency involving the business during nonbusiness hours.

16 (b) If the local fire chief requires the business to comply with  
17 the requirements of subdivision (c) of Section 2701.5.2 of the  
18 California Fire Code, as adopted by the State Fire Marshal pursuant  
19 to Section 13143.9, the business shall also file the addendum  
20 required by Section 25503.9 with the administering agency.

21 (c) The administering agency may permit the reporting of the  
22 amount of hazardous material under this section by ranges, rather  
23 than a specific amount, as long as those ranges provide the  
24 information necessary to meet the needs of emergency rescue  
25 personnel, to determine the potential hazard from a release of the  
26 materials, and meets the purposes of this chapter.

27 (d) (1) Except as provided in subdivision (e), the annual  
28 inventory form required by this section shall also include all  
29 inventory information required by Section 11022 of Title 42 of  
30 the United States Code, as that section read on January 1, 1989,  
31 or as it may be subsequently amended.

32 (2) The agency may adopt or amend existing regulations  
33 specifying the inventory information required by this subdivision.

34 (e) If, pursuant to federal law or regulation, as it currently exists  
35 or as it may be amended, there is a determination that the inventory  
36 information required by subdivisions (a) and (c) is substantially  
37 equivalent to the inventory information required under the  
38 Emergency Planning and Community Right-to-Know Act of 1986  
39 (42 U.S.C. Sec. 11001 et seq.), the requirements of subdivision  
40 (d) shall not apply.

1     ~~SEC. 8.~~

2     *SEC. 15.* Section 25509.2 of the Health and Safety Code is  
3 amended to read:

4     25509.2. (a) The Legislature hereby finds and declares all of  
5 the following:

6         (1) Persons attempting to do business in this state are  
7 increasingly experiencing excessive and duplicative regulatory  
8 requirements at different levels of government.

9         (2) To streamline and ease the regulatory burdens of doing  
10 business in this state, compliance with the hazardous materials  
11 release response plans and inventory requirements of this chapter  
12 shall also suffice to meet the requirements of the California Fire  
13 Code with regard to the requirement for a hazardous materials  
14 management plan and hazardous materials inventory statement,  
15 as set forth in Chapter 27 of the California Fire Code and its  
16 appendices.

17         (3) Businesses which are required to comply with this chapter  
18 do so on one form, with one fee and one inspection. The  
19 administering agency shall forward the data collected, within 15  
20 days of receipt and confirmation, with other local agencies in a  
21 format easily interpreted by those agencies with shared  
22 responsibilities for protection of the public health and safety and  
23 the environment.

24         (4) Enforcement of this chapter and the California Fire Code  
25 shall be coordinated.

26         (b) Notwithstanding Section 13143.9, and any standards and  
27 regulations adopted pursuant to that section, a business that files  
28 the annual inventory form in compliance with this article, including  
29 the addendum adopted pursuant to Section 25503.9, as required  
30 by the local fire chief to comply with Section 2701.5.2 of the  
31 California Fire Code, as adopted by the State Fire Marshal pursuant  
32 to Section 13143.9, shall be deemed to have met the requirements  
33 of Section 2701.5.2 of the California Fire Code, as adopted by the  
34 State Fire Marshal pursuant to Section 13143.9.

35         (c) Notwithstanding Section 13143.9, and any standards and  
36 regulations adopted pursuant to that section, a business that  
37 establishes and maintains a business plan for emergency response  
38 to a release or a threatened release of a hazardous material in  
39 accordance with Section 25503.5, shall be deemed to have met the

1 requirements of Section 2701.5.1 of the California Fire Code, as  
2 adopted by the State Fire Marshal pursuant to Section 13143.9.

3 (d) Except for the addendum required by the local fire chief,  
4 the administering agency shall be the sole enforcement agency for  
5 purposes of determining compliance pursuant to subdivisions (b)  
6 and (c).

7 (e) Except as otherwise expressly provided in this section, this  
8 section does not affect or otherwise limit the authority of the local  
9 fire chief to enforce the California Fire Code.

10 *SEC. 16. Section 48701 of the Public Resources Code is*  
11 *amended to read:*

12 48701. For purposes of this chapter, the following terms have  
13 the following meanings:

14 (a) “Architectural paint” means interior and exterior architectural  
15 coatings, sold in containers of five gallons or less for commercial  
16 or homeowner use, but does not include aerosol spray paint or  
17 ~~architectural~~ coatings purchased for industrial or original equipment  
18 manufacturer use.

19 (b) “Consumer” means a purchaser or owner of architectural  
20 paint, including a person, business, corporation, limited partnership,  
21 nonprofit organization, or governmental entity.

22 (c) “Department” means the Department of Resources Recycling  
23 and Recovery.

24 (d) “Distributor” means a person that has a contractual  
25 relationship with one or more manufacturers to market and sell  
26 architectural paint to retailers.

27 (e) “Manufacturer” means a manufacturer of architectural paint.

28 (f) “Postconsumer paint” means architectural paint not used by  
29 the purchaser.

30 (g) “Retailer” means a person that sells architectural paint in  
31 the state to a consumer. A sale includes, but is not limited to,  
32 transactions conducted through sales outlets, catalogs, or the  
33 Internet or any other similar electronic means.

34 (h) “Stewardship organization” means a nonprofit organization  
35 created by the manufacturers to implement the architectural paint  
36 stewardship program described in Section 48703.

37 *SEC. 17. Section 48703 of the Public Resources Code is*  
38 *amended to read:*

1 48703. (a) On or before April 1, 2012, a manufacturer or  
2 designated stewardship organization shall submit an architectural  
3 paint stewardship plan to the department.

4 (b) (1) The plan shall demonstrate sufficient funding for the  
5 architectural paint stewardship program as described in the plan,  
6 including a funding mechanism for securing and dispersing funds  
7 to cover administrative, operational, and capital costs, including  
8 the assessment of charges on architectural paint sold by  
9 manufacturers in this state.

10 (2) The funding mechanism shall provide for an architectural  
11 paint stewardship assessment for each container of architectural  
12 paint sold by manufacturers in this state and the assessment shall  
13 be remitted to the stewardship organization, if applicable.

14 (3) The architectural paint stewardship assessment shall be  
15 added to the cost of all architectural paint sold to California  
16 retailers and distributors, and each California retailer or distributor  
17 shall add the assessment to the purchase price of all architectural  
18 paint sold in the state.

19 (4) The architectural paint stewardship assessment shall be  
20 approved by the department as part of the plan, and shall be  
21 sufficient to recover, but not exceed, the cost of the architectural  
22 paint stewardship program. The plan shall require that any surplus  
23 funds be put back into the program to reduce the costs of the  
24 program, including the assessment amount.

25 (c) The plan shall address the coordination of the architectural  
26 paint stewardship program with existing local household hazardous  
27 waste collection programs as much as this is reasonably feasible  
28 and is mutually agreeable between those programs.

29 (d) The plan shall include goals established by the manufacturer  
30 or stewardship organization to reduce the generation of  
31 postconsumer paint, to promote the reuse of postconsumer paint,  
32 and for the proper end-of-life management of postconsumer paint,  
33 including recovery and recycling of postconsumer paint, as  
34 practical, based on current household hazardous waste program  
35 information. The goals may be revised by the manufacturer or  
36 stewardship organization based on the information collected for  
37 the annual report.

38 (e) The plan shall include consumer, contractor, and retailer  
39 education and outreach efforts to promote the source reduction  
40 and recycling of architectural paint. This information may include,

1 but is not limited to, developing, and updating as necessary,  
 2 educational and other outreach materials aimed at retailers of  
 3 architectural paint. These materials shall be made available to the  
 4 retailers. These materials may include, but are not limited to, one  
 5 or more of the following:

6 (1) Signage that is prominently displayed and easily visible to  
 7 the consumer.

8 (2) Written materials and templates of materials for reproduction  
 9 by retailers to be provided to the consumer at the time of purchase  
 10 or delivery, or both. Written materials shall include information  
 11 on the prohibition of improper disposal of architectural paint.

12 (3) Advertising or other promotional materials, or both, that  
 13 include references to architectural paint recycling opportunities.

14 (f) Any retailer may participate, on a voluntary basis, as a paint  
 15 collection point pursuant to the paint stewardship ~~program~~  
 16 *program, if the retailer's paint collection location meets all of the*  
 17 *conditions in Sections 25217.2 and 25217.2.1 of the Health and*  
 18 *Safety Code.*

19 *SEC. 18. Section 48705 of the Public Resources Code is*  
 20 *amended to read:*

21 48705. (a) On or before ~~July~~ *September* 1, 2013, and each year  
 22 thereafter, a manufacturer of architectural paint sold in this state  
 23 shall, individually or through a representative stewardship  
 24 organization, submit a report to the department describing its  
 25 architectural paint recovery efforts. At a minimum, the report shall  
 26 include all of the following:

27 (1) The total volume of architectural paint sold in this state  
 28 during the preceding ~~calendar~~ *fiscal* year.

29 (2) The total volume of postconsumer architectural paint  
 30 recovered in this state during the preceding ~~calendar~~ *fiscal* year.

31 (3) A description of methods used to collect, transport, and  
 32 process postconsumer architectural paint in this state.

33 (4) The total cost of implementing the architectural paint  
 34 stewardship program.

35 (5) An evaluation of how the architectural paint stewardship  
 36 program's funding mechanism operated.

37 (6) An independent financial audit funded from the paint  
 38 stewardship assessment.

1 (7) Examples of educational materials that were provided to  
2 consumers the first year and any changes to those materials in  
3 subsequent years.

4 (b) The department shall review the annual report required  
5 pursuant to this section and within 90 days of receipt shall adopt  
6 a finding of compliance or noncompliance with this chapter.

7 ~~SEC. 9.~~

8 *SEC. 19.* No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 a local agency or school district has the authority to levy service  
11 charges, fees, or assessments sufficient to pay for the program or  
12 level of service mandated by this act, within the meaning of Section  
13 17556 of the Government Code, or because the costs may be  
14 incurred by a local agency or school district because this act creates  
15 a new crime or infraction, eliminates a crime or infraction, or  
16 changes the penalty for a crime or infraction, within the meaning  
17 of Section 17556 of the Government Code, or changes the  
18 definition of a crime within the meaning of Section 6 of Article  
19 XIII B of the California Constitution.

20 ~~SEC. 10.~~

21 *SEC. 20.* This act is an urgency statute necessary for the  
22 immediate preservation of the public peace, health, or safety within  
23 the meaning of Article IV of the Constitution and shall go into  
24 immediate effect. The facts constituting the necessity are:

25 In order to ensure that the hazardous waste laws and regulations  
26 are fully complied with as soon as possible, and to make other  
27 changes relating to emergency response, the handling of hazardous  
28 materials, ~~and the unified program~~ *the unified program, and the*  
29 *recycling of paint*, thereby protecting the public health and safety  
30 and the environment, it is necessary that this act take effect  
31 immediately.