

Senate Bill No. 483

Passed the Senate September 12, 2013

Secretary of the Senate

Passed the Assembly September 6, 2013

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 13143.9, 25532, 25535.2, 25536, 25536.5, and 25540 of, and to repeal and add Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of, the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 483, Jackson. Hazardous materials: business and area plans.

(1) Existing law requires the Secretary for Environmental Protection to adopt regulations and implement a unified hazardous waste and hazardous materials management regulatory program. Existing law establishes the respective responsibilities of unified program agencies, designated to implement that unified program locally and requires the secretary to establish a statewide information management system for purposes of receiving data collected by unified program agencies.

Existing law establishes the responsibility of a local administering agency authorized to implement and enforce provisions that require (a) the administering agency to establish area plans for emergency response to a release or threatened release of a hazardous material and (b) a business that handles a hazardous material to establish and implement a business plan for such a response. Existing law authorizes a unified program agency to implement and enforce these provisions as an administering agency, as specified.

Existing law specifies the contents of the business plan required of the hazardous materials handler and requires the plan to be submitted to the administering agency. Existing law requires the administering agency to submit to the Office of Emergency Services, the area plan, a plan to conduct onsite inspection, and a plan to institute a data management system. A violation of the business plan requirements is a misdemeanor.

This bill would revise and recast the area and business plan requirements and, among other things, would require instead that a unified program agency enforce these requirements. The bill would instead require the inspection program that is part of the unified program to include the onsite inspections of businesses

and would delete the requirement to institute a data management system. The bill would require the unified program agency to provide to agencies that have certain shared responsibilities access to information collected in the statewide information management system and would require handlers to submit certain information to that system, as specified. The bill would require a business owner, operator, or officially designated representative to annually review and certify that the information in the statewide information database has been verified and is complete, accurate, and up to date.

This bill would also delete obsolete provisions and make general conforming changes.

This bill would impose a state-mandated local program by creating new crimes with regard to the submission of business plans and by imposing new duties upon local agencies with regard to implementing those requirements.

(2) Existing law imposes certain requirements on stationary sources handling regulated substances, as defined, including, among other things, the preparation and implementation of a risk management plan. A violation of these requirements is a misdemeanor. Existing law requires the administering agency, upon a determination that a risk management plan is complete, to publish in a daily local newspaper a notice of availability of the risk management plan for public review.

This bill would extend the requirements to prepare and implement a risk management plan imposed on those stationary sources to apply to a person, as defined. Because this bill would expand the scope of a crime to include a person, this bill would impose a state-mandated local program. The bill would authorize the administering agency to place the notice on the administering agency's Internet Web site in lieu of publication in a daily local newspaper.

(3) The bill would make legislative findings and declarations that the business and area plan provisions specified above conform to the changes in the law made by the Governor's Reorganization Plan No. 2, effective July 1, 2013, as proposed by AB 1317.

(4) This bill would incorporate amendments to Section 13143.9 of the Health and Safety Code proposed by AB 1317, to be operative only if AB 1317 and this bill are both chaptered and

become effective on or before January 1, 2014, and this bill is chaptered last.

(5) 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.

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

SECTION 1. Section 13143.9 of the Health and Safety Code is amended to read:

13143.9. (a) The State Fire Marshal shall, in carrying out Section 13143, prepare, adopt, and submit building standards and other fire and life safety regulations for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 establishing minimum requirements for the storage, handling, and use of hazardous materials, as defined, in the California Fire Code. The State Fire Marshal shall seek the advice of the Office of Emergency Services in establishing these requirements. This section does not prohibit a city, county, or district from adopting an ordinance, resolution, or regulation imposing stricter or more stringent requirements than a standard adopted pursuant to this section.

(b) A business that files the annual inventory form in compliance with Chapter 6.95 (commencing with Section 25500) of Division 20, including the addendum adopted pursuant to paragraph (4) of subdivision (e) of Section 25504, shall be deemed to have met the requirements of the California Fire Code regarding hazardous materials inventory statements, as adopted by the State Fire Marshal pursuant to this section.

(c) A business that is not required to file a hazardous materials inventory form pursuant to Section 25506 but that is required by the local fire chief to comply with the California Fire Code regarding hazardous materials inventory statements, as adopted by the State Fire Marshal pursuant to this section, shall, notwithstanding Chapter 6.95 (commencing with Section 25500) of Division 20, file the inventory form adopted pursuant to Section 25506 and the addendum adopted pursuant to paragraph (4) of

subdivision (e) of Section 25504 with the local fire chief for purposes of complying with this requirement, if determined to be necessary by the fire chief.

SEC. 1.5. Section 13143.9 of the Health and Safety Code is amended to read:

13143.9. (a) The State Fire Marshal shall, in carrying out Section 13143, prepare, adopt, and submit building standards and other fire and life safety regulations for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 establishing minimum requirements for the storage, handling, and use of hazardous materials, as defined, in the California Fire Code. The State Fire Marshal shall seek the advice of the Office of Emergency Services in establishing these requirements. This section does not prohibit a city, county, or district from adopting an ordinance, resolution, or regulation imposing stricter or more stringent requirements than a standard adopted pursuant to this section.

(b) A business that files the annual inventory form in compliance with Chapter 6.95 (commencing with Section 25500) of Division 20, including the addendum adopted pursuant to paragraph (4) of subdivision (e) of Section 25504, shall be deemed to have met the requirements of the California Fire Code regarding hazardous materials inventory statements, as adopted by the State Fire Marshal pursuant to this section.

(c) A business that is not required to file a hazardous materials inventory form pursuant to Section 25506 but that is required by the local fire chief to comply with the California Fire Code regarding hazardous materials inventory statements, as adopted by the State Fire Marshal pursuant to this section, shall, notwithstanding Chapter 6.95 (commencing with Section 25500) of Division 20, file the inventory form adopted pursuant to Section 25506 and the addendum adopted pursuant to paragraph (4) of subdivision (e) of Section 25504 with the local fire chief for purposes of complying with this requirement, if determined to be necessary by the fire chief.

SEC. 2. Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code is repealed.

SEC. 3. Article 1 (commencing with Section 25500) is added to Chapter 6.95 of Division 20 of the Health and Safety Code, to read:

Article 1. Business and Area Plans

25500. (a) The Legislature declares that, in order to protect the public health and safety and the environment, it is necessary to establish business and area plans relating to the handling and release or threatened release of hazardous materials. The establishment of a statewide environmental reporting system for these plans is a statewide requirement. Basic information on the location, type, quantity, and health risks of hazardous materials handled, used, stored, or disposed of in the state, which could be accidentally released into the environment, is required to be submitted to firefighters, health officials, planners, public safety officers, health care providers, regulatory agencies, and other interested persons. The information provided by business and area plans is necessary in order to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of hazardous materials into the workplace and environment.

(b) The Legislature further finds and declares that this article and Article 2 (commencing with Section 25531) do not occupy the whole area of regulating the inventorying of hazardous materials and the preparation of hazardous materials response plans by businesses, and the Legislature does not intend to preempt any local actions, ordinances, or regulations that impose additional or more stringent requirements on businesses that handle hazardous materials. Thus, in enacting this article and Article 2 (commencing with Section 25531), it is not the intent of the Legislature to preempt or otherwise nullify any other statute or local ordinance containing the same or greater standards and protections.

25501. Unless the context indicates otherwise, the following definitions govern the construction of this article:

(a) “Agricultural handler” means a business operating a farm that is subject to the exemption specified in Section 25507.1.

(b) “Area plan” means a plan established pursuant to Section 25503 by a unified program agency for emergency response to a release or threatened release of a hazardous material within a city or county.

(c) “Business” means all of the following:

(1) An employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, or association.

(2) A business organized for profit and a nonprofit business.

(3) The federal government, to the extent authorized by law.

(4) An agency, department, office, board, commission, or bureau of state government, including, but not limited to, the campuses of the California Community Colleges, the California State University, and the University of California.

(5) An agency, department, office, board, commission, or bureau of a city, county, or district.

(d) “Business plan” means a separate plan for each facility, site, or branch of a business that meets the requirements of Section 25505.

(e) (1) “Certified unified program agency” or “CUPA” means the agency certified by the secretary to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.

(2) “Participating agency” or “PA” means an agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in paragraphs (4) and (5) of subdivision (c) of Section 25404, in accordance with Sections 25404.1 and 25404.2.

(3) “Unified program agency” or “UPA” means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes of this article and Article 2 (commencing with Section 25531), the UPAs have the responsibility and authority, to the extent provided by this article and Article 2 (commencing with Section 25531) and Sections 25404.1 and 25404.2, to implement and enforce only those requirements of this article and Article 2 (commencing with Section 25531) listed in paragraphs (4) and (5) of subdivision (c) of Section 25404.

(4) The UPAs also have the responsibility and authority, to the extent provided by this article and Article 2 (commencing with Section 25531) and Sections 25404.1 and 25404.2, to implement and enforce the regulations adopted to implement the requirements of this article and Article 2 (commencing with Section 25531) listed in paragraphs (4) and (5) of subdivision (c) of Section 25404. After a CUPA has been certified by the secretary, the unified

program agencies shall be the only local agencies authorized to enforce the requirements of this article and Article 2 (commencing with Section 25531) listed in paragraphs (4) and (5) of subdivision (c) of Section 25404 within the jurisdiction of the CUPA.

(f) “City” includes any city and county.

(g) “Chemical name” means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

(h) “Common name” means any designation or identification, such as a code name, code number, trade name, or brand name, used to identify a substance by other than its chemical name.

(i) “Compressed gas” means a material, or mixture of materials, that meets either of the following:

(1) The definition of compressed gas or cryogenic fluid found in the California Fire Code.

(2) Compressed gas that is regulated pursuant to Part 1 (commencing with Section 6300) of Division 5 of the Labor Code.

(j) “Emergency rescue personnel” means a public employee, including, but not limited to, a firefighter or emergency rescue personnel, as defined in Section 245.1 of the Penal Code, or personnel of a local emergency medical services (EMS) agency, as designated pursuant to Section 1797.200, or a poison control center, as defined by Section 1797.97, who responds to any condition caused, in whole or in part, by a hazardous material that jeopardizes, or could jeopardize, public health or safety or the environment.

(k) “Handle” means all of the following:

(1) (A) To use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.

(B) For purposes of subparagraph (A), “store” does not include the storage of hazardous materials incidental to transportation, as defined in Title 49 of the Code of Federal Regulations, with regard to the inventory requirements of Section 25506.

(2) (A) The use or potential for use of a quantity of hazardous material by the connection of a marine vessel, tank vehicle, tank car, or container to a system or process for any purpose.

(B) For purposes of subparagraph (A), the use or potential use does not include the immediate transfer to or from an approved atmospheric tank or approved portable tank that is regulated as

loading or unloading incidental to transportation by Title 49 of the Code of Federal Regulations.

(l) “Handler” means a business that handles a hazardous material.

(m) “Hazardous material” means a material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. “Hazardous materials” include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the unified program agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment.

(n) “Hazardous substance” means any substance or chemical product for which one of the following applies:

(1) The manufacturer or producer is required to prepare a material safety data sheet (MSDS) for the substance or product pursuant to the Hazardous Substances Information and Training Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or regulation.

(2) The substance is listed as a radioactive material in Appendix B of Chapter 1 (commencing with Section 10.1) of Title 10 of the Code of Federal Regulations, maintained and updated by the Nuclear Regulatory Commission.

(3) Hazardous materials or substances listed in Part 172 (commencing with Section 172.1) and Part 173 (commencing with Section 173.1) of Subchapter C of Chapter I of Subtitle B of Title 49 of the Code of Federal Regulations.

(4) The materials in the listings specified in subdivision (b) of Section 6382 of the Labor Code.

(o) “Hazardous waste” means hazardous waste, as defined by Sections 25115 and 25117 and by subdivision (g) of Section 25316.

(p) “Office” means the Office of Emergency Services.

(q) “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency.

(r) “Secretary” means the Secretary for Environmental Protection.

(s) “SIC or NAICS Code” means the identification number assigned by the Standard Industrial Classification Code or the North American Industry Classification System, as applicable, to specific types of businesses.

(t) “Statewide information management system” means the statewide information management system established pursuant to subdivision (e) of Section 25404 that provides for the combination of state and local information management systems for the purposes of managing unified program data.

(u) “Threatened release” means a condition, circumstance, or incident making it necessary to take immediate action to prevent, reduce, or mitigate a release with the potential to cause damage or harm to persons, property, or the environment.

(v) “Trade secret” means trade secrets as defined in either subdivision (d) of Section 6254.7 of the Government Code or Section 1061 of the Evidence Code.

(w) “Unified program facility” means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements of paragraphs (4) and (5) of subdivision (c) of Section 25404.

25502. (a) This article and Article 3 (commencing with Section 25545), as it pertains to the handling of hazardous material, and Article 2 (commencing with Section 25531), as it pertains to the regulation of stationary sources, shall be implemented by one of the following:

(1) If there is a CUPA, the unified program agency.

(2) If there is no CUPA, the agency authorized pursuant to subdivision (f) of Section 25404.3.

(b) The agency responsible for implementing this article, Article 2 (commencing with Section 25531), and Article 3 (commencing with Section 25545) shall ensure full access to, and the availability of, information submitted under this chapter to emergency rescue personnel and other appropriate governmental entities within its jurisdiction.

25503. (a) The office shall adopt, after public hearing and consultation with the Office of the State Fire Marshal and other appropriate public entities, regulations for minimum standards for

business plans and area plans. All business plans and area plans shall meet the standards adopted by the office.

(b) The standards for business plans in the regulations adopted pursuant to subdivision (a) shall do all of the following:

(1) Set forth minimum requirements of adequacy, and not preclude the imposition of additional or more stringent requirements by local government.

(2) Take into consideration and adjust for the size and nature of the business, the proximity of the business to residential areas and other populations, and the nature of the damage potential of its hazardous materials in establishing standards for paragraphs (3) and (4) of subdivision (a) of Section 25505.

(3) Take into account the existence of local area and business plans that meet the requirements of this article so as to minimize the duplication of local efforts, consistent with the objectives of this article.

(4) Define what releases and threatened releases are required to be reported pursuant to Section 25510. The office shall consider the existing federal reporting requirements in determining a definition of reporting releases pursuant to Section 25510.

(c) A unified program agency shall, in consultation with local emergency response agencies, establish an area plan for emergency response to a release or threatened release of a hazardous material within its jurisdiction. An area plan is not a statute, ordinance, or regulation for purposes of Section 669 of the Evidence Code. The standards for area plans in the regulations adopted pursuant to subdivision (a) shall provide for all of the following:

(1) Procedures and protocols for emergency rescue personnel, including the safety and health of those personnel.

(2) Preemergency planning.

(3) Notification and coordination of onsite activities with state, local, and federal agencies, responsible parties, and special districts.

(4) Training of appropriate employees.

(5) Onsite public safety and information.

(6) Required supplies and equipment.

(7) Access to emergency response contractors and hazardous waste disposal sites.

(8) Incident critique and followup.

(9) Requirements for notification to the office of reports made pursuant to Section 25510.

(d) (1) The unified program agency shall submit to the office for its review a copy of the proposed area plan within 180 days after adoption of regulations by the office. The office shall notify the unified program agency as to whether the area plan is adequate and meets the area plan standards. The unified program agency shall submit a corrected area plan within 45 days of this notice.

(2) The unified program agency shall certify to the office every three years that it has conducted a complete review of its area plan and has made any necessary revisions. If a unified program agency makes a substantial change to its area plan, it shall forward the changes to the office within 14 days after the changes have been made.

(e) The inspection and enforcement program established pursuant to paragraphs (2) and (3) of subdivision (a) of Section 25404.2, shall include the basic provisions of a plan to conduct onsite inspections of businesses subject to this article by the unified program agency. These inspections shall ensure compliance with this article and shall identify existing safety hazards that could cause or contribute to a release and, where appropriate, enforce any applicable laws and suggest preventative measures designed to minimize the risk of the release of hazardous material into the workplace or environment. The requirements of this paragraph do not alter or affect the immunity provided to a public entity pursuant to Section 818.6 of the Government Code.

25504. (a) The Legislature hereby finds and declares that persons attempting to do business in this state are increasingly experiencing excessive and duplicative regulatory requirements at different levels of government.

(b) To streamline and ease the regulatory burdens of doing business in this state, compliance with Section 25505 shall also suffice to meet the requirements for a Hazardous Materials Management Plan and the Hazardous Materials Inventory Statement as set forth in the California Fire Code and its appendices, to the extent that the information in the California Fire Code is contained in Section 25505.

(c) The unified program agency shall provide access to the information collected in the statewide information management system to those agencies with shared responsibilities for the protection of the public health and safety and the environment.

(d) The enforcement of this article by unified program agencies and the California Fire Code by those agencies required to enforce the provisions of that code shall be coordinated.

(e) (1) Notwithstanding Section 13143.9, and the standards and regulations adopted pursuant to that section, a business that files the annual inventory form in compliance with this article and the addendum adopted pursuant to paragraph (4), if required by the local fire chief, shall be deemed to have met the requirements for a Hazardous Materials Inventory Statement, as set forth in the California Fire Code and its appendices.

(2) Notwithstanding Section 13143.9, and the standards and regulations adopted pursuant to that section, a business that establishes and maintains a business plan for emergency response to a release or a threatened release of a hazardous material in accordance with Section 25505, shall be deemed to have met the requirements for a Hazardous Materials Management Plan, as set forth in the California Fire Code and its appendices.

(3) Except for the addendum required by the local fire chief pursuant to paragraph (4), the unified program agency shall be the sole enforcement agency for purposes of determining compliance pursuant to paragraphs (1) and (2).

(4) The office shall, in consultation with the unified program agencies and the State Fire Marshal, adopt by regulation a single comprehensive addendum for hazardous materials reporting for the purposes of complying with subdivisions (b) and (c) of Section 13143.9 and subdivision (b) of Section 25506. The unified program agency shall require businesses to annually use that addendum when complying with subdivisions (b) and (c) of Section 13143.9 and subdivision (b) of Section 25506. A business shall file the addendum with the unified program agency when required by the local fire chief pursuant to subdivision (b) of Section 13143.9 or subdivision (b) of Section 25506.

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

25505. (a) A business plan shall contain all of the following information:

(1) The inventory of information required by this article and additional information the governing body of the unified program agency finds necessary to protect the health and safety of persons,

property, or the environment. Locally required information shall be adopted by local ordinance or required by state law. This information shall be subject to trade secret protection specified in Section 25512.

(2) A site map that contains north orientation, loading areas, internal roads, adjacent streets, storm and sewer drains, access and exit points, emergency shutoffs, evacuation staging areas, hazardous material handling and storage areas, and emergency response equipment. Updates to existing maps to meet these requirements shall be completed by January 1, 2015.

(3) Emergency response plans and procedures in the event of a reportable release or threatened release of a hazardous material, including, but not limited to, all of the following:

(A) Immediate notification to the appropriate local emergency rescue personnel and to the unified program agency.

(B) Procedures for the mitigation of a release or threatened release to minimize any potential harm or damage to persons, property, or the environment.

(C) Evacuation plans and procedures, including immediate notice, for the business site.

(4) Training for all new employees and annual training, including refresher courses, for all employees in safety procedures in the event of a release or threatened release of a hazardous material, including, but not limited to, familiarity with the plans and procedures specified in paragraph (3). These training programs may take into consideration the position of each employee. This training shall be documented electronically or by hard copy and shall be made available for a minimum of three years.

(b) A business required to file a pipeline operations contingency plan in accordance with the California Pipeline Safety Act of 1981 (Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of the Government Code) and the regulations of the Department of Transportation, found in Part 195 (commencing with Section 195.1) of Subchapter D of Chapter I of Subtitle B of Title 49 of the Code of Federal Regulations, may file a copy of those plans with the unified program agency instead of filing an emergency response plan specified in paragraph (3) of subdivision (a).

25505.1. A business that is required to establish and implement a business plan pursuant to Section 25507 and is located on leased

or rented real property shall notify, in writing, the owner of the property that the business is subject to Section 25507 and has complied with its provisions, and shall provide a copy of the business plan to the owner or the owner's agent within five working days after receiving a request for a copy from the owner or the owner's agent.

25506. (a) The annual inventory submittal shall contain, but shall not be limited to, information on all of the following that are handled in quantities equal to or greater than the quantities specified in subdivision (a) of Section 25507 or as established by the governing body of the unified program agency by a local ordinance:

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

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

(3) A listing of the chemical name and common names of every other hazardous material or mixture containing a hazardous material handled by the business that is not otherwise listed pursuant to paragraph (1) or (2).

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

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

(6) The SIC or NAICS Code for the business, to the extent that applicable codes exist that represent that business.

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

(b) If required by the local fire chief, the business shall also file the addendum required by paragraph (4) of subdivision (e) of Section 25504.

(c) (1) Except as provided in subdivision (d), the annual inventory information required by this section shall also include all inventory information required by Section 11022 of Title 42 of the United States Code.

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

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

25507. (a) Except as provided in this article, a business shall establish and implement a business plan for emergency response to a release or threatened release of a hazardous material in accordance with the standards prescribed in the regulations adopted pursuant to Section 25503 if the business meets any of the following conditions:

(1) The business handles a hazardous material or a mixture containing a hazardous material that has a quantity at any one time during the reporting year that is equal to, or greater than, 55 gallons for materials that are liquids, 500 pounds for solids, or 200 cubic feet for compressed gas. The physical state and quantity present of mixtures shall be determined by the physical state of the mixture as whole, not individual components, at standard temperature and pressure.

(2) The business is required to submit chemical inventory information pursuant to Section 11022 of Title 42 of the United States Code.

(3) The business handles at any one time during the reporting year an amount of a hazardous material that is equal to, or greater than the threshold planning quantity, under both of the following conditions:

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

(B) The threshold planning quantity for that extremely hazardous substance listed in Appendices A and B of Part 355 (commencing

with Section 355.1) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations is less than 500 pounds.

(4) (A) The business handles at any one time during the reporting year a total weight of 5,000 pounds for solids or a total volume of 550 gallons for liquids, if the hazardous material is a solid or liquid substance that is classified as a hazard for purposes of Section 5194 of Title 8 of the California Code of Regulations solely as an irritant or sensitizer, unless the unified program agency finds, and provides notice to the business handling the product, that the handling of lesser quantities of that hazardous material requires the submission of a business plan, or any portion of a business plan, in response to public health, safety, or environmental concerns.

(B) The unified program agency shall make the findings required by subparagraph (A) in consultation with the local fire chief.

(5) (A) The business handles at any one time during the reporting year a total of 1,000 cubic feet, if the hazardous material is a compressed gas and is classified as a hazard for the purposes of Section 5194 of Title 8 of the California Code of Regulations solely as a compressed gas, unless the unified program agency finds, and provides notice to the business handling the product, that the handling of lesser quantities of that hazardous material requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(B) The unified program agency shall make the findings required by subparagraph (A) in consultation with the local fire chief.

(C) The hazardous materials subject to subparagraph (A) include a gas for which the only health and physical hazards are simple asphyxiation and the release of pressure.

(D) The hazardous materials subject to subparagraph (A) do not include gases in a cryogenic state.

(6) The business handles a radioactive material at any one time during the reporting year that is handled in quantities for which an emergency plan is required to be adopted pursuant to Part 30 (commencing with Section 30.1), Part 40 (commencing with Section 40.1), or Part 70 (commencing with Section 70.1), of Chapter 1 of Title 10 of the Code of Federal Regulations, or pursuant to any regulations adopted by the state in accordance with those regulations.

(7) The business handles perchlorate material, as defined in subdivision (c) of Section 25210.5, in a quantity at any one time during the reporting year that is equal to, or greater than, the thresholds listed in paragraph (1).

(b) Oxygen, nitrogen, and nitrous oxide, ordinarily maintained by a physician, dentist, podiatrist, veterinarian, or pharmacist, at his or her office or place of business, stored at each office or place of business in quantities of not more than 1,000 cubic feet of each material at any one time, are exempt from this section and from Section 25506. The unified program agency may require a one-time inventory of these materials for a fee not to exceed fifty dollars (\$50) to pay for the costs incurred by the agency in processing the inventory forms.

(c) (1) Lubricating oil is exempt from this section and Sections 25506 and 25508, for a single business facility, if the total volume of each type of lubricating oil handled at that facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at that facility does not exceed 275 gallons, at any one time.

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

(d) Oil-filled electrical equipment that is not contiguous to an electric facility is exempt from this section and Sections 25506 and 25508 if the aggregate capacity is less than 1,320 gallons.

(e) Hazardous material contained solely in a consumer product for direct distribution to, and use by, the general public is exempt from the business plan requirements of this article unless the unified program agency has found, and has provided notice to the business handling the product, that the handling of certain quantities of the product requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.

(f) In addition to the authority specified in subdivision (h), the governing body of the unified program agency may, in exceptional circumstances, following notice and public hearing, exempt a

hazardous substance specified in subdivision (o) of Section 25501 from Section 25506, if it is found that the hazardous substance would not pose a present or potential danger to the environment or to human health and safety if the hazardous substance was released into the environment. The unified program agency shall send a notice to the office and the secretary within 15 days from the effective date of any exemption granted pursuant to this subdivision.

(g) The unified program agency, upon application by a handler, may exempt the handler, under conditions that the unified program agency determines to be proper, from any portion of the requirements to establish and maintain a business plan, upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment, or affect the ability of the unified program agency and emergency rescue personnel to effectively respond to the release of a hazardous material, and that there are unusual circumstances justifying the exemption. The unified program agency shall specify in writing the basis for any exemption under this subdivision.

(h) The unified program agency, upon application by a handler, may exempt a hazardous material from the inventory provisions of this article upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment. The unified program agency shall specify in writing the basis for any exemption under this subdivision.

(i) The unified program agency shall adopt procedures to provide for public input when approving applications submitted pursuant to subdivisions (g) and (h).

25507.1. (a) A unified program agency shall exempt a business operating a farm for purposes of cultivating the soil or raising or harvesting any agricultural or horticultural commodity from filing the information in the business plan required by paragraphs (3) and (4) of subdivision (a) of Section 25505 if all of the following requirements are met:

(1) The agricultural handler annually submits the inventory of information required by Section 25505 to the statewide information management system.

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

- (A) Pesticides.
- (B) Petroleum fuels and oil.
- (C) Types of fertilizers.

(3) The agricultural handler provides the training programs specified in paragraph (4) of subdivision (a) of Section 25505.

(b) The unified program agency may designate the county agricultural commissioner to conduct the inspections of agricultural handlers. The agricultural commissioner shall schedule and conduct inspections in accordance with Section 25511.

25507.2. (a) The unified program agency shall exempt a business operating an unstaffed remote facility located in an isolated sparsely populated area from Sections 25506 and 25507 if the facility is not otherwise subject to the requirements of applicable federal law, and all of the following requirements are met:

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

(A) One thousand standard cubic feet of compressed inert gases (asphyxiation and pressure hazards only).

(B) Five hundred gallons of combustible liquid used as a fuel source.

(C) Two hundred gallons of corrosive liquids used as electrolytes in closed containers.

(D) Five hundred gallons of lubricating and hydraulic fluids.

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

(F) Any quantity of mineral oil contained within electrical equipment, such as transformers, bushings, electrical switches, and voltage regulators, if the spill prevention control and countermeasure plan has been prepared for quantities that meet or exceed 1,320 gallons.

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

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

(4) A one-time notification and inventory are provided to the unified program agency along with a processing fee in lieu of the

existing fee. The fee shall not exceed the actual cost of processing the notification and inventory, including a verification inspection, if necessary.

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

(6) The unified program agency shall forward a copy of the notification and inventory to those agencies that share responsibility for emergency response.

(7) The unified program agency may require an unstaffed remote facility to submit a hazardous materials business plan and inventory in accordance with this article if the agency finds that special circumstances exist so that development and maintenance of the business plan and inventory are necessary to protect the public health and safety and the environment.

(b) On-premises use, storage, or both, of propane in an amount not to exceed 500 gallons that is for the sole purpose of cooking, heating the employee work areas, and heating water, within that business, is exempt from Section 25507, unless the uniform program agency finds, and provides notice to the business handling the propane, that the handling of the on-premise propane requires the submission of a business plan, or any portion of a business plan, in response to public health, safety, or environmental concerns.

(c) The unified program agency shall provide all information obtained from completed inventory forms, upon request, to emergency rescue personnel on a 24-hour basis.

25508. (a) (1) A handler shall electronically submit its business plan to the statewide information management system in accordance with the requirements of this article and certify that the business plan meets the requirements of this article.

(2) If, after review, the unified program agency determines that the handler's business plan is deficient in satisfying the requirements of this article or the regulations adopted pursuant to Section 25503, the unified program agency shall notify the handler

of those deficiencies. The handler shall electronically submit a corrected business plan within 30 days from the date of the notice.

(3) If a handler fails, after reasonable notice, to electronically submit a business plan in compliance with this article, the unified program agency shall take appropriate action to enforce this article, including the imposition of civil and criminal penalties as specified in this article.

(4) For data not adopted in the manner established under the standards adopted pursuant to subdivision (e) of Section 25404, and that is reported using a document format, the use of a reporting method accepted by the statewide information management system shall be considered compliant with the requirement to submit that data. If the reporting option used does not support public records requests from the public, the handler shall provide requested documents to the unified program agency within 10 business days of a request from the unified program agency.

(b) A handler shall review the business plan submitted pursuant to subdivision (a) at least once every three years to determine if a revision is needed and shall certify to the unified program agency that the review was made and that any necessary changes were made to the plan.

(c) Unless exempted from the business plan requirements under this article, a handler shall annually review the business plan information and resubmit or certify as correct the inventory information in the statewide environmental reporting system.

(d) A business required to establish, implement, and electronically submit a business plan pursuant to subdivision (a) shall not be deemed to be in violation of this article until 30 days after the business becomes subject to subdivision (a), unless the unified program agency requests the business to establish, implement, and electronically submit the business plan at an earlier date.

25508.1. Within 30 days of any one of the following events, a business subject to this article shall electronically update the information submitted to the statewide information management system:

(a) A 100 percent or more increase in the quantity of a previously disclosed material.

(b) Any handling of a previously undisclosed hazardous material subject to the inventory requirements of this article.

- (c) Change of business address.
- (d) Change of business ownership.
- (e) Change of business name.

(f) (1) A substantial change in the handler’s operations occurs that requires modification to any portion of the business plan.

(2) For the purposes of this subdivision, “substantial change” means any change in a regulated facility that would inhibit immediate response during an emergency by either site personnel or emergency rescue personnel, or that could inhibit the handler’s ability to comply with Section 25507, change the operational knowledge of the facility, or impede implementation of the business plan.

25508.2. At least once every 12 months, the business owner, operator, or officially designated representative shall review and certify that the information in the statewide information management system has been verified and is complete, accurate, and up to date and that it contains the information required by Section 11022 of Title 42 of the United States Code. An annual electronic submittal to the statewide information management system satisfies this requirement.

25509. (a) The unified program agency shall update its administrative procedures with regard to maintaining records and responding to requests for information in accordance with Subdivision 4 (commencing with Section 15100) of Division 1 of, and Division 3 of, Title 27 of the California Code of Regulations, as those regulations read on January 1, 2014. The unified program agency shall make the data elements and documents submitted pursuant to this article available for public inspection during the regular working hours of the unified program agency, except the data elements and documents specifying the precise location where hazardous materials are stored and handled onsite, including any maps required by paragraph (2) of subdivision (a) of Section 25505, shall not be available for inspection. The unified program agency shall make the data elements and documents submitted pursuant to this article available to a requesting government agency that is authorized by law to access the information.

(b) A person who submits inventory information required under Section 25506 with the unified program agency shall be deemed to have filed the inventory form required by Section 11022(a) of Title 42 of the United States Code with the state emergency

response commission and emergency planning committee established pursuant to Section 11001 of Title 42 of the United States Code.

(c) The unified program agency shall, upon request, transmit the information collected pursuant to this chapter to the Chemical Emergency Planning and Response Commission, established by the Governor as the state emergency response commission pursuant to Section 11001(a) of Title 42 of the United States Code, and to the local emergency planning committee established pursuant to Section 11001(c) of Title 42 of the United States Code.

25510. (a) Except as provided in subdivision (b), the handler or an employee, authorized representative, agent, or designee of a handler, shall, upon discovery, immediately report any release or threatened release of a hazardous material to the unified program agency, and to the office, in accordance with the regulations adopted pursuant to Section 25503. The handler or an employee, authorized representative, agent, or designee of the handler shall provide all state, city, or county fire or public health or safety personnel and emergency rescue personnel with access to the handler's facilities.

(b) Subdivision (a) does not apply to a person engaged in the transportation of a hazardous material on a highway that is subject to, and in compliance with, the requirements of Sections 2453 and 23112.5 of the Vehicle Code.

25510.1. (a) A business required to submit a followup emergency notice pursuant to Section 11004(c) of Title 42 of the United States Code shall submit the notice on a form approved by the office.

(b) The office may adopt guidelines for the use of the forms required by subdivision (a).

25510.2. In order to carry out the purposes of this chapter, a unified program agency may train for, and respond to, the release, or threatened release, of a hazardous material.

25510.3. The emergency rescue personnel, responding to the reported release or threatened release of a hazardous material, or of a regulated substance, as defined in Section 25532, or to any fire or explosion involving a material or substance that involves a release that would be required to be reported pursuant to Section 25510, shall immediately advise the superintendent of the school

district having jurisdiction, where the location of the release or threatened release is within one-half mile of a school.

25511. (a) In order to carry out the purposes of this article and Article 2 (commencing with Section 25531), an employee or authorized representative of a unified program agency has the authority specified in Section 25185, with respect to the premises of a handler, and in Section 25185.5, with respect to real property that is within 2,000 feet of the premises of a handler, except that this authority shall include conducting inspections concerning hazardous material, in addition to hazardous waste.

(b) In addition to the requirements of Section 25537, the unified program agency shall conduct inspections of every business subject to this article at least once every three years to determine if the business is in compliance with this article. The unified program agency shall give priority, when conducting these inspections, to inspecting facilities that are required to prepare a risk management plan pursuant to Article 2 (commencing with Section 25531). In establishing a schedule for conducting inspections pursuant to this section, the unified program agency may adopt and use an index of the volatility, toxicity, and quantity of regulated substances and hazardous materials. A unified program agency shall attempt to schedule the inspections conducted pursuant to this section and Section 25537, when applicable, during the same time period.

(c) The unified program agency may designate the county agricultural commissioner to conduct the inspection of agricultural handlers for purposes of Section 25507.1.

25512. (a) As used in this section, “trade secret” means a trade secret as defined in either subdivision (d) of Section 6254.7 of the Government Code or Section 1061 of the Evidence Code.

(b) (1) If a business believes that the inventory required by this article involves the release of a trade secret, the business shall nevertheless provide this information to the unified program agency, and shall notify the unified program agency in writing of that belief on the inventory form.

(2) Subject to subdivisions (d) and (e), the unified program agency shall protect from disclosure any information designated as a trade secret by the business pursuant to paragraph (1).

(c) (1) Upon the receipt of a request for the release of information to the public that includes information that the business has notified the unified program agency is a trade secret pursuant

to paragraph (1) of subdivision (b), the unified program agency shall notify the business in writing of the request by certified mail, return receipt requested.

(2) The unified program agency shall release the requested information to the public 30 days or more after the date of mailing to the business the notice of the request for information, unless, prior to the expiration of the 30-day period, the business files an action in an appropriate court for a declaratory judgment that the information is subject to protection under subdivision (b) or for an injunction prohibiting disclosure of the information to the public, and promptly notifies the unified program agency of that action.

(3) This subdivision does not permit a business to refuse to disclose the information required pursuant to this section to the unified program agency.

(d) Except as provided in subdivision (c), any information that has been designated as a trade secret by a business is confidential information for purposes of this section and shall not be disclosed to anyone except the following:

(1) An officer or employee of the county, city, state, or the United States, in connection with the official duties of that officer or employee under any law for the protection of health, or contractors with the county, city, or state and their employees if, in the opinion of the unified program agency, disclosure is necessary and required for the satisfactory performance of a contract, for performance of work, or to protect the health and safety of the employees of the contractor.

(2) A physician if the physician certifies in writing to the unified program agency that the information is necessary to the medical treatment of the physician's patient.

(e) A physician who, by virtue of having obtained possession of, or access to, confidential information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and willfully discloses the information in any manner to a person not entitled to receive it, is guilty of a misdemeanor.

(f) An officer or employee of the county or city, or former officer or employee who, by virtue of that employment or official position, has possession of, or has access to, confidential information, and who, knowing that disclosure of the information to the general public is prohibited by this section, knowingly and

willfully discloses the information in any manner to a person not entitled to receive it, is guilty of a misdemeanor. A contractor with the county or city and an employee of the contractor, who has been furnished information as authorized by this section, shall be considered an employee of the county or city for purposes of this section.

25512.1. Notwithstanding Section 25512, information certified by appropriate officials of the United States as necessary to be kept secret for national defense purposes shall be accorded the full protections against disclosure as specified by those officials or in accordance with the laws of the United States.

25513. Each administering county or city may, upon a majority vote of the governing body, adopt a schedule of fees to be collected from each business required to submit a business plan pursuant to this article that is within its jurisdiction. The governing body may provide for the waiver of fees when a business, as defined in paragraph (3), (4), or (5) of subdivision (c) of Section 25501, submits a business plan. The fee shall be set in an amount sufficient to pay only those costs incurred by the unified program agency in carrying out this article. In determining the fee schedule, the unified program agency shall consider the volume and degree of hazard potential of the hazardous materials handled by the businesses subject to this article.

25514. Notwithstanding any other law, a public entity shall not be held liable for any injury or damages resulting from an inadequate or negligent review of a business plan conducted pursuant to Section 25508.

25514.1. (a) The submission of any information required under this article does not affect any other liability or responsibility of a business with regard to safeguarding the health and safety of an employee or any other person.

(b) Compliance with this article shall not be deemed to be compliance with the duty of care required of any business for purposes of any judicial or administrative proceeding conducted pursuant to any other provision of law.

25515. (a) A business that violates Sections 25504 to 25508.2, inclusive, or Section 25511, shall be civilly liable to the unified program agency in an amount of not more than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency,

including a fire, the business shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

(b) A business that knowingly violates Sections 25504 to 25508.2, inclusive, or Section 25510.1, after reasonable notice of the violation shall be civilly liable to the unified program agency in an amount not to exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

25515.1. A person that knowingly violates Sections 25504 to 25508.2, inclusive, or Section 25510.1, after reasonable notice of the violation, is, upon conviction, guilty of a misdemeanor. This section does not preempt any other applicable criminal or civil penalties.

25515.2. (a) Notwithstanding Section 25515, a business that violates this article is liable to a unified program agency for an administrative penalty not greater than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire or health or medical problem requiring toxicological, health, or medical consultation, the business shall also be assessed the full cost of the county, city, fire district, local EMS agency designated pursuant to Section 1797.200, or poison control center as defined by Section 1797.97, emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

(b) Notwithstanding Section 25515, a business that knowingly violates this article after reasonable notice of the violation is liable for an administrative penalty, not greater than five thousand dollars (\$5,000) for each day in which the violation occurs.

(c) When a unified program agency issues an enforcement order or assesses an administrative penalty, or both, for a violation of this article, the unified program agency shall utilize the administrative enforcement procedures, including the hearing procedures, specified in Sections 25404.1.1 and 25404.1.2.

25515.3. (a) A person or business that violates Section 25510 shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000) for each day of violation, by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment. If the conviction is for a violation committed after a first conviction under this section, the person shall be punished by a fine of not less than two thousand dollars

(\$2,000) or more than fifty thousand dollars (\$50,000) per day of violation, by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 20, or 24 months or in a county jail for not more than one year, or by both the fine and imprisonment. Furthermore, if the violation results in, or significantly contributes to, an emergency, including a fire, to which the county or city is required to respond, the person shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

(b) Notwithstanding subdivision (a), a person who knowingly fails to report, pursuant to Section 25510, an oil spill occurring in waters of the state, other than marine waters, shall, upon conviction, be punished by a fine of not more than fifty thousand dollars (\$50,000), by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(c) Notwithstanding subdivision (a), a person who knowingly makes a false or misleading report on an oil spill occurring in waters of the state, other than marine waters, shall, upon conviction, be punished by a fine of not more than fifty thousand dollars (\$50,000), by imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(d) This section does not preclude prosecution or sentencing under other provisions of law.

25515.4. A person who willfully prevents, interferes with, or attempts to impede the enforcement of this article by any authorized representative of a unified program agency is, upon conviction, guilty of a misdemeanor.

25515.5. (a) All criminal penalties collected pursuant to this article shall be apportioned in the following manner:

(1) Fifty percent shall be paid to the office of the city attorney, district attorney, or Attorney General, whichever office brought the action.

(2) Fifty percent shall be paid to the agency which is responsible for the investigation of the action.

(b) All civil penalties collected pursuant to this chapter shall be apportioned in the following manner:

(1) Fifty percent shall be paid to the office of the city attorney, district attorney, or Attorney General, whichever office brought the action.

(2) Fifty percent shall be paid to the agency responsible for the investigation of the action.

(c) If a reward is paid to a person pursuant to Section 25517, the amount of the reward shall be deducted from the amount of the criminal or civil penalty before the amount is apportioned pursuant to subdivisions (a) and (b).

25515.6. (a) If the unified program agency determines that a business has engaged in, is engaged in, or is about to engage in acts or practices that constitute or will constitute a violation of this article or a regulation or order adopted or issued pursuant to this article, and when requested by the unified program agency, the city attorney of the city or the district attorney of the county in which those acts or practices have occurred, are occurring, or will occur shall apply to the superior court for an order enjoining the acts or practices for an order directing compliance, and, upon a showing that the person or business has engaged in, is engaged in, or is about to engage in the acts or practices, a permanent or temporary injunction, restraining order, or other appropriate order may be granted.

(b) This section does not prohibit a city attorney or district attorney from seeking the same relief upon the city attorney's or district attorney's own motion.

25515.7. Every civil action brought under this article or Article 2 (commencing with Section 25531) shall be brought by the city attorney, district attorney, or Attorney General in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

25515.8. (a) In a civil action brought pursuant to this article or Article 2 (commencing with Section 25531) in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding any of the following:

(1) Irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued.

(2) The remedy at law is inadequate.

(b) The court shall issue a temporary restraining order, preliminary injunction, or permanent injunction in a civil action brought pursuant to this article or Article 2 (commencing with

Section 25531) without the allegations and without the proof specified in subdivision (a).

25516. (a) A person who provides information that materially contributes to the imposition of a civil penalty, whether by settlement or court order, under Section 25515 or 25515.2, as determined by the city attorney, district attorney, or the Attorney General filing the action, shall be paid a reward by the unified program agency or the state equal to 10 percent of the amount of the civil penalty collected. The reward shall be paid from the amount of the civil penalty collected. No reward paid pursuant to this subdivision shall exceed five thousand dollars (\$5,000).

(b) A person who provides information that materially contributes to the conviction of a person or business under Section 25515.1 or 25515.3, as determined by the city attorney, district attorney, or the Attorney General filing the action, shall be paid a reward by the unified program agency or the state equal to 10 percent of the amount of the fine collected. The reward shall be paid from the amount of the fine collected. No reward paid pursuant to this subdivision shall exceed five thousand dollars (\$5,000).

(c) An informant shall not be eligible for a reward for a violation known to the unified program agency, unless the information materially contributes to the imposition of criminal or civil penalties for a violation specified in this section.

(d) If there is more than one informant for a single violation, the person making the first notification received by the office which brought the action shall be eligible for the reward, except that, if the notifications are postmarked on the same day or telephoned notifications are received on the same day, the reward shall be divided equally among those informants.

(e) Public officers and employees of the United States, the State of California, or counties and cities in this state are not eligible for the reward pursuant to subdivision (a) or (b), unless the providing of the information does not relate in any manner to their responsibilities as public officers or employees.

(f) An informant who is an employee of a business and who provides information that the business has violated this chapter is not eligible for a reward if the employee intentionally or negligently caused the violation or if the employee's primary and regular responsibilities included investigating the violation, unless the business knowingly caused the violation.

(g) The unified program agency or the state shall pay rewards under this section pursuant to the following procedures:

(1) An application shall be signed by the informant and presented to the unified program agency or the state within 60 days after a final judgment has been entered or the period for an appeal of a judgment has expired.

(2) The determination by the district attorney, city attorney, or Attorney General as to whether the information provided by the applicant materially contributed to the imposition of a judgment under Section 25515.1 or 25515.3 shall be final.

(3) The unified program agency or the state shall notify the applicant in writing of its decision to grant or deny a reward within a reasonable time period following the filing of an application.

(4) Approved reward claims shall be paid by the unified program agency or the state within 30 days of the collection and deposit of the penalties specified in subdivisions (a) and (b).

(h) The names of reward applicants or informants shall not be disclosed by the unified program agency or the state unless the names are otherwise publicly disclosed as part of a judicial proceeding.

(i) Notwithstanding any other provision of this section, rewards paid by the state shall only be paid after appropriation by the Legislature.

25517. The office may develop materials, including guidelines and informational pamphlets, to assist businesses to fulfill their obligations under this article.

25518. This article shall be construed liberally so as to accomplish the intent of the Legislature in protecting the public health, safety, and the environment.

25519. If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to that end the provisions of this article are severable.

SEC. 4. Section 25532 of the Health and Safety Code is amended to read:

25532. Unless the context indicates otherwise, the following definitions govern the construction of this article:

(a) “Accidental release” means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(b) “Administering agency” means a unified program agency as defined in Section 25501.

(c) “Covered process” means a process that has a regulated substance present in more than a threshold quantity.

(d) “Modified stationary source” means an addition or change to a stationary source that qualifies as a “major change,” as defined in Subpart A (commencing with Section 68.1) of Part 68 of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations. “Modified stationary source” does not include an increase in production up to the source’s existing operational capacity or an increase in production level, up to the production levels authorized in a permit granted pursuant to Section 42300.

(e) “Office” or “agency” means the Office of Emergency Services.

(f) “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, the state or any department, agency or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

(g) “Process” means any activity involving a regulated substance, including any use, storage, manufacturing, handling, or onsite movement of the regulated substance or any combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located so that a regulated substance could be involved in a potential release, shall be considered a single process.

(h) “Qualified person” means a person who is qualified to attest, at a minimum, to the completeness of an RMP.

(i) “Regulated substance” means any substance that is either of the following:

(1) A regulated substance listed in Section 68.130 of Title 40 of the Code of Federal Regulations pursuant to paragraph (3) of subsection (r) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(r)(3)).

(2) (A) An extremely hazardous substance listed in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations that is any of the following:

- (i) A gas at standard temperature and pressure.
- (ii) A liquid with a vapor pressure at standard temperature and pressure equal to or greater than 10 millimeters mercury.
- (iii) A solid that is one of the following:
 - (I) In solution or in molten form.
 - (II) In powder form with a particle size less than 100 microns.
 - (III) Reactive with a National Fire Protection Association rating of 2, 3, or 4.
- (iv) A substance that the office determines may pose a regulated substances accident risk pursuant to subclause (II) of clause (i) of subparagraph (B) or pursuant to Section 25543.3.

(B) (i) On or before June 30, 1997, the office shall, in consultation with the Office of Environmental Health Hazard Assessment, determine which of the extremely hazardous substances listed in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations do either of the following:

(I) Meet one or more of the criteria specified in clauses (i), (ii), or (iii) of subparagraph (A).

(II) May pose a regulated substances accident risk, in consideration of the factors specified in subdivision (g) of Section 25543.1, and, therefore, should remain on the list of regulated substances until completion of the review conducted pursuant to subdivision (a) of Section 25543.3.

(ii) The office shall adopt, by regulation, a list of the extremely hazardous substances identified pursuant to clause (i). Extremely hazardous substances placed on the list are regulated substances for the purposes of this article. Until the list is adopted, the administering agency shall determine which extremely hazardous substances should remain on the list of regulated substances pursuant to the standards specified in clause (i).

(j) “Regulated substances accident risk” means a potential for the accidental release of a regulated substance into the environment that could produce a significant likelihood that persons exposed may suffer acute health effects resulting in significant injury or death.

(k) “RMP” means the risk management plan required under Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and by this article.

(l) “State threshold quantity” means the quantity of a regulated substance described in subparagraph (A) of paragraph (2) of subdivision (g), as adopted by the office pursuant to Section 25543.1 or 25543.3. Until the office adopts a state threshold quantity for a regulated substance, the state threshold quantity shall be the threshold planning quantity for the regulated substance specified in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.

(m) “Stationary source” means any stationary source, as defined in Section 68.3 of Title 40 of the Code of Federal Regulations.

(n) “Threshold quantity” means the quantity of a regulated substance that is determined to be present at a stationary source in the manner specified in Section 68.115 of Title 40 of the Code of Federal Regulations and that is the lesser of either of the following:

(1) The threshold quantity for the regulated substance specified in Section 68.130 of Title 40 of the Code of Federal Regulations.

(2) The state threshold quantity.

SEC. 5. Section 25535.2 of the Health and Safety Code is amended to read:

25535.2. Within 15 days after the administering agency determines that an RMP is complete, the unified program agency shall make the RMP available to the public for review and comment for a period of at least 45 days. A notice briefly describing and stating that the RMP is available for public review at a certain location shall be placed in a daily local newspaper or placed on an administering agency’s Internet Web site, and mailed to interested persons and organizations. The administering agency shall review the RMP, and any comments received, following the regulations adopted pursuant to subdivision (a) of Section 25534.05.

SEC. 6. Section 25536 of the Health and Safety Code is amended to read:

25536. (a) A person or a stationary source with one or more covered processes shall comply with the requirements of this article

no later than the latest date specified in Subpart A (commencing with Section 68.1) of Part 68 of Subchapter C of Chapter 7 of Title 40 of the Code of Federal Regulations.

(b) If the administering agency makes a determination pursuant to Section 25534 that a person or stationary source is required to prepare and submit an RMP, the person or stationary source shall submit the RMP in accordance with a schedule established by the administering agency after consultation with the stationary source. The administering agency shall not require an RMP to be submitted earlier than 12 months or later than three years after the owner or operator has received a notice of that determination from the administering agency.

SEC. 7. Section 25536.5 of the Health and Safety Code is amended to read:

25536.5. (a) A person or a stationary source that was required to prepare, submit, and implement a risk management and prevention program pursuant to this article as it read on December 31, 1996, and which is required to prepare and submit an RMP pursuant to this article, shall continue to implement the risk management and prevention program until the business has submitted an RMP as specified in this article.

(b) A person or a stationary source that was required to prepare, submit, and implement a risk management and prevention program pursuant to this article as it read on December 31, 1996, and which is not required to prepare an RMP pursuant to this article is required to comply only with those requirements of this chapter that apply to the business.

(c) A person or a stationary source that was not required to prepare, submit, and implement a risk management and prevention program pursuant to this article as it read on December 31, 1996, but which is required to prepare and submit an RMP pursuant to this article, shall submit and implement an RMP not later than the deadlines specified in Subpart A (commencing with Section 68.1) of Part 68 of Subchapter C of Chapter 7 of Title 40 of the Code of Federal Regulations.

SEC. 8. Section 25540 of the Health and Safety Code is amended to read:

25540. (a) Any person or stationary source that violates this article shall be civilly or administratively liable to the unified program agency in an amount of not more than two thousand

dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

(b) Any person or stationary source that knowingly violates this article after reasonable notice of the violation shall be civilly or administratively liable to the unified program agency in an amount not to exceed twenty-five thousand dollars (\$25,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the person or stationary source shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of any hazardous materials.

(c) When a unified program agency issues an enforcement order or assesses an administrative penalty, or both, for a violation of this article, the unified program agency shall utilize the administrative enforcement procedures, including the hearing procedures, specified in Sections 25404.1.1 and 25404.1.2.

SEC. 9. The Legislature finds and declares that the provisions of Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code, as added by Section 3 of this act, conform to the changes in the law proposed by Assembly Bill 1317 and made by the Governor's Reorganization Plan No. 2, that was effective July 3, 2012, and operative July 1, 2013.

SEC. 10. Section 1.5 of this bill incorporates amendments to Section 13143.9 of the Health and Safety Code proposed by this bill and Assembly Bill 1317. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 13143.9 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 1317, in which case Section 13143.9 of the Health and Safety Code, as amended by Assembly Bill 1317, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2013

Governor