

Introduced by Senator JacksonFebruary 21, 2014

An act to amend Sections 25404.5, 25501, 25502, 25503, 25504, 25505, 25507, 25507.1, 25507.2, 25508, 25508.1, 25508.2, 25509, 25510, 25510.3, 25511, 25512, and 25515.5 of, and to repeal and add Section 25506 of, the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 1261, as introduced, Jackson. Hazardous materials: business plans.

(1) Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program, including a statewide information management system for purposes of receiving data collected by unified program agencies. A city or local agency that meets specified requirements is authorized to apply to the secretary to implement the unified program and be certified as a certified unified program agency (CUPA), and every county is required to apply to the secretary to be certified to implement the unified program. Existing law also requires each certified unified program agency to institute a single fee system, which is required to include a surcharge on each person regulated by the unified program, the amount of which is determined by the secretary annually, to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities in the unified hazardous waste and hazardous materials management regulatory program.

This bill would require the secretary, on and after January 1, 2015, until January 1, 2018, to increase this surcharge by the amount that the secretary determines necessary to establish an emergency business plan

and inventory system for the purpose of sharing information from the statewide information management system with emergency response personnel for use during emergency incidents, which the secretary and office would be required to develop. The bill would prohibit the increase in the oversight surcharge from exceeding \$15 in any one year over that 3-year period.

(2) Existing law requires the unified program agency to implement and enforce provisions that require a business that handles a hazardous material to establish and implement a business plan, including an inventory of specified information for response to a release or threatened release of a hazardous material. The annual inventory submittal is required to contain information on specified hazardous materials that are handled in quantities equal to or greater than certain quantities or as established by the governing body of the unified program agency by a local ordinance. A violation of the business plan requirements is a misdemeanor.

This bill would instead require the secretary, in coordination with the office, to specify the hazardous materials inventory required to be submitted by handlers, including the data to be collected and submitted for hazardous materials. The bill would revise the information required to be included in the business plan.

(3) Existing law requires a unified program agency to exempt a business operating an unstaffed remote facility located in an isolated sparsely populated area from specified business plan requirements. Existing law allows a unified program agency to require an unstaffed remote facility to submit a hazardous materials business plan and inventory in accordance with requirements if the agency makes specified findings.

This bill would instead require the unified program agency to exempt from specified requirements an unstaffed facility located at least one-half mile from the nearest occupied structure, unless required by a local ordinance. The bill would require the facility to make a one-time business plan submittal that would not be required to include specified elements of the plan and would repeal the authorization for the unified program agency to require an unstaffed remote facility to submit a plan and inventory.

(4) Existing law requires a handler to electronically submit its business plan to the statewide information management system, to renew the plan at least once every 3 years to determine if a revision is needed, and to certify to the unified program agency that the review was made

and that any necessary changes were made to the plan. A handler is also required to annually review the business plan information and resubmit or certify as correct the inventory information in the statewide environmental reporting system.

This bill would instead require the handler to submit the business plan annually to that system, and would instead require a business to at least annually review and verify that the business plan information in the statewide information management system meets specified requirements.

(5) Existing law requires the unified program agency to make the data elements and documents submitted by businesses available to the public in a specified manner.

This bill would instead require the unified program agency to make the information in the statewide information management system available to the public.

(6) Existing law requires the immediate report of any release or threatened release of a hazardous material to the unified program agency, and to the office, in accordance with the regulations adopted by the office.

This bill would require the office to adopt regulations by January 1, 2016, to implement these requirements.

(7) Existing law requires a business that believes that the inventory involves the release of a trade secret, to provide this information to the unified program agency, and notify the unified program agency in writing of that belief on the inventory form. Upon receiving a request for the public release of information that the business has notified the unified program agency is a trade secret, the unified program agency is required to follow a specified procedure.

This bill would instead require a business that believes the inventory involves the release of a trade secret to instead comply with the regulations that the bill would require the office to adopt by January 1, 2016, with regard to the designation of trade secrets.

(8) The bill would impose a state-mandated local program by imposing new duties upon unified program agencies and by creating new crimes with regard to the submission of business plans.

(9) 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.

Vote: majority. 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 25404.5 of the Health and Safety Code
2 is amended to read:
3 25404.5. (a) (1) Each certified unified program agency shall
4 institute a single fee system, which shall replace the fees levied
5 pursuant to Sections 25201.14 and 25205.14, except for
6 transportable treatment units permitted under Section 25200.2,
7 and which shall also replace any fees levied by a local agency
8 pursuant to Sections 25143.10, 25287, 25513, and 25535.5, or any
9 other fee levied by a local agency specifically to fund the
10 implementation of the provisions specified in subdivision (c) of
11 Section 25404. The single fee system shall additionally include
12 the fee established pursuant to Section 25270.6. Notwithstanding
13 Sections 25143.10, 25201.14, 25287, 25513, and 25535.5, a person
14 who complies with the certified unified program agency’s “single
15 fee system” fee shall not be required to pay any fee levied pursuant
16 to those sections, except for transportable treatment units permitted
17 under Section 25200.2.
18 (2) (A) The governing body of the local certified unified
19 program agency shall establish the amount to be paid by each
20 person regulated by the unified program under the single fee system
21 at a level sufficient to pay the necessary and reasonable costs
22 incurred by the certified unified program agency and by any
23 participating agency pursuant to the requirements of subparagraph
24 (E) of paragraph (1) of subdivision (d) of Section 25404.3.
25 (B) The secretary shall establish the amount to be paid when
26 the unified program agency is a state agency.
27 (3) The fee system may also be designed to recover the
28 necessary and reasonable costs incurred by the certified unified
29 program agency, or a participating agency pursuant to the
30 requirements of subparagraph (E) of paragraph (1) of subdivision
31 (d) of Section 25404.3, in administering provisions other than
32 those specified in subdivision (c) of Section 25404, if the
33 implementation and enforcement of those provisions has been
34 incorporated as part of the unified program by the certified unified
35 program agency pursuant to subdivision ~~(b)~~ (d) of Section 25404.2,

1 and if the single fee system replaces any fees levied as of January
2 1, 1994, to fund the implementation of those additional provisions.

3 (4) The amount to be paid by a person regulated by the unified
4 program may be adjusted to account for the differing costs of
5 administering the unified program with respect to that person's
6 regulated activities.

7 (b) (1) (A) Except as provided in subdivision (d), the single
8 fee system instituted by each certified unified program agency
9 shall include an assessment on each person regulated by the unified
10 program of a surcharge, the amount of which shall be determined
11 by the secretary annually, to cover the necessary and reasonable
12 costs of the state agencies in carrying out their responsibilities
13 under this chapter. The secretary may adjust the amount of the
14 surcharge to be collected by different certified unified program
15 agencies to reflect the different costs incurred by the state agencies
16 in supervising the implementation of the unified program in
17 different jurisdictions, and in supervising the implementation of
18 the unified program in those jurisdictions for which the secretary
19 has waived the assessment of the surcharge pursuant to subdivision
20 (d). The certified unified program agency may itemize the amount
21 of the surcharge on any bill, invoice, or return that the agency
22 sends to a person regulated by the unified program. Each certified
23 unified program agency shall transmit all surcharge revenues
24 collected to the secretary on a quarterly basis. The surcharge shall
25 be deposited in the Unified Program Account, which is hereby
26 created in the General Fund and which may be expended, upon
27 appropriation by the Legislature, by state agencies for the purposes
28 of implementing this chapter.

29 (B) *On and after January 1, 2015, until January 1, 2018, the*
30 *secretary shall increase the surcharge imposed pursuant to this*
31 *subdivision by the amount that the secretary determines necessary*
32 *to meet the requirements imposed by subdivision (c) of Section*
33 *25504. The increase in the oversight surcharge shall not exceed*
34 *fifteen dollars (\$15) in any one year over that three-year period*
35 *beginning January 2015. The secretary shall thereafter maintain*
36 *the emergency business plan and inventory system for emergency*
37 *response personnel, using the surcharge the secretary is authorized*
38 *to impose pursuant to this section.*

39 (2) On or before January 10, 2001, the secretary shall report to
40 the Legislature on whether the number of persons subject to

1 regulation by the unified program in any county is insufficient to
2 support the reasonable and necessary cost of operating the unified
3 program using only the revenues from the fee. The secretary's
4 report shall consider whether the surcharge required by subdivision
5 (a) should include an assessment to be used to supplement the
6 funding of unified program agencies that have a limited number
7 of entities regulated under the unified program.

8 (c) Each certified unified program agency and the secretary
9 shall, before the institution of the single fee system and the
10 assessment of the surcharge, implement a fee accountability
11 program designed to encourage more efficient and cost-effective
12 operation of the program for which the single fee and surcharge
13 are assessed. The fee accountability programs shall include those
14 elements of the requirements of the plan adopted pursuant to former
15 Section 25206, as it read on January 1, 1995, that the secretary
16 determines are appropriate.

17 (d) The secretary may waive the requirement for a county to
18 assess a surcharge pursuant to subdivision (b), if both of the
19 following conditions apply:

20 (1) The county meets all of the following conditions:

21 (A) The county submits an application to the secretary for
22 certification on or before January 1, 1996, that incorporates all of
23 the requirements of this chapter, and includes the county's request
24 for a waiver of the surcharge, and contains documentation that
25 demonstrates, to the satisfaction of the secretary, both of the
26 following:

27 (i) That the assessment of the surcharge will impose a significant
28 economic burden on most businesses within the county.

29 (ii) That the combined dollar amount of the surcharge and the
30 single fee system to be assessed by the county pursuant to
31 subdivision (a) exceeds the combined dollar amount of all existing
32 fees that are replaced by the single fee system for most businesses
33 within the county.

34 (B) The application for certification, including the information
35 required by subparagraph (A), is determined by the secretary to
36 be complete, on or before April 30, 1996. The secretary, for good
37 cause, may grant an extension of that deadline of up to 90 days.

38 (C) The county is certified by the secretary on or before
39 December 31, 1996.

1 (D) On or before January 1, 1994, the county completed the
2 consolidation of the administration of the hazardous waste
3 generator program, the hazardous materials release response plans
4 and inventories program, and the underground storage tank
5 program, referenced in paragraphs (1), (3), and (4) of subdivision
6 (c) of Section 25404, into a single program within the county's
7 jurisdiction.

8 (E) The county demonstrates that it will consolidate the
9 administration of all programs specified in subdivision (c) of
10 Section 25404, and that it will also consolidate the administration
11 of at least one additional program that regulates hazardous waste,
12 hazardous substances, or hazardous materials, as specified in
13 subdivision (d) of Section 25404.2, other than the programs
14 specified in subdivision (c) of Section 25404, into a single program
15 to be administered by a single agency in the county's jurisdiction
16 at the time that the county's certification by the secretary becomes
17 effective.

18 (2) The secretary makes all of the following findings:

19 (A) The county meets all of the criteria specified in paragraph
20 (1).

21 (B) The assessment of the surcharge would impose a significant
22 economic burden on most businesses within the county.

23 (C) The combined dollar amount of the surcharge and the single
24 fee system to be assessed by the county pursuant to subdivision
25 (a) would exceed the combined dollar amount of all existing fees
26 that are replaced by the single fee system for most businesses
27 within the county.

28 (D) The waiver of the surcharge for those counties applying for
29 and qualifying for a waiver, and the resulting increase in the
30 surcharge for other counties, would not, when considered
31 cumulatively, impose a significant economic burden on businesses
32 in any other county that does not apply for, or does not meet the
33 criteria for, a waiver of the surcharge.

34 (e) The secretary shall review all of the requests for a waiver
35 of the surcharge made pursuant to subdivision (d) simultaneously,
36 so as to adequately assess the cumulative impact of granting the
37 requested waivers on businesses in those counties that have not
38 applied, or do not qualify, for a waiver, and shall grant or deny all
39 requests for a waiver of the surcharge within 30 days from the date
40 that the secretary certifies all counties applying, and qualifying,

1 for a waiver. If the secretary finds that the grant of a waiver of the
2 surcharge for all counties applying and qualifying for the waiver
3 will impose a significant economic burden on businesses in one
4 or more other counties, the secretary shall take either of the
5 following actions:

6 (1) Deny all of the applications for a waiver of the surcharge.

7 (2) Approve only a portion of the waiver requests for counties
8 meeting the criteria set forth in subdivision (d), to the extent that
9 the approved waivers, when taken as a whole, meet the condition
10 specified in subparagraph (D) of paragraph (2) of subdivision (d).
11 In determining which of the counties' waiver requests to grant,
12 the secretary shall consider all of the following factors:

13 (A) The relative degree to which the assessment of the surcharge
14 will impose a significant economic burden on most businesses
15 within each county applying and qualifying for a waiver.

16 (B) The relative degree to which the combined dollar amount
17 of the surcharge and the single fee system to be assessed, pursuant
18 to subdivision (a), by each county applying and qualifying for a
19 waiver exceeds the combined dollar amount of all existing fees
20 that are replaced by the single fee system for most businesses
21 within the county.

22 (C) The relative extent to which each county applying and
23 qualifying for a waiver has incorporated, or will incorporate, upon
24 certification, additional programs pursuant to subdivision (d) of
25 Section 25404.2, into the unified program within the county's
26 jurisdiction.

27 (f) The secretary may, at any time, terminate a county's waiver
28 of the surcharge granted pursuant to subdivisions (d) and (e) if the
29 secretary determines that the criteria specified in subdivision (d)
30 for the grant of a waiver are no longer met.

31 SEC. 2. Section 25501 of the Health and Safety Code is
32 amended to read:

33 25501. Unless the context indicates otherwise, the following
34 definitions govern the construction of this article:

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

37 (b) "Area plan" means a plan established pursuant to Section
38 25503 by a unified program agency for emergency response to a
39 release or threatened release of a hazardous material within a city
40 or county.

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

2 (1) An employer, self-employed individual, trust, firm, joint
3 stock company, corporation, partnership, ~~or association~~. *limited*
4 *liability partnership or company, or other business entity.*

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

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

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

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

13 (6) *A handler that operates a unified program facility.*

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

17 (e) (1) “Certified unified program agency” or “CUPA” means
18 the agency certified by the secretary to implement the unified
19 program specified in Chapter 6.11 (commencing with Section
20 25404) within a jurisdiction.

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

27 (3) “Unified program agency” or “UPA” means the CUPA, or
28 its participating agencies to the extent each PA has been designated
29 by the CUPA, pursuant to a written agreement, to implement or
30 enforce a particular unified program element specified in
31 paragraphs (4) and (5) of subdivision (c) of Section 25404. For
32 purposes of this article and Article 2 (commencing with Section
33 25531), the UPAs have the responsibility and authority, to the
34 extent provided by this article and Article 2 (commencing with
35 Section 25531) and Sections 25404.1 and 25404.2, to implement
36 and enforce only those requirements of this article and Article 2
37 (commencing with Section 25531) listed in paragraphs (4) and (5)
38 of subdivision (c) of Section 25404.

39 (4) The UPAs also have the responsibility and authority, to the
40 extent provided by this article and Article 2 (commencing with

1 Section 25531) and Sections 25404.1 and 25404.2, to implement
2 and enforce the regulations adopted to implement the requirements
3 of this article and Article 2 (commencing with Section 25531)
4 listed in paragraphs (4) and (5) of subdivision (c) of Section 25404.
5 After a CUPA has been certified by the secretary, the unified
6 program agencies shall be the only local agencies authorized to
7 enforce the requirements of this article and Article 2 (commencing
8 with Section 25531) listed in paragraphs (4) and (5) of subdivision
9 (c) of Section 25404 within the jurisdiction of the CUPA.

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

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

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

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

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

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

24 (j) “Emergency-rescue response personnel” means a public
25 employee, including, but not limited to, a firefighter or emergency
26 rescue personnel, as defined in Section 245.1 of the Penal Code,
27 or personnel of a local emergency medical services (EMS) agency,
28 as designated pursuant to Section 1797.200, ~~or a poison control~~
29 ~~center, as defined by Section 1797.97, who responds to any~~
30 ~~condition caused, in whole or in part, by a hazardous material that~~
31 ~~jeopardizes, or could jeopardize, public health or safety or the~~
32 ~~environment. who are responsible for response, mitigation, or~~
33 ~~recovery activities in a medical disaster, fire, hazardous material~~
34 ~~disaster, or natural disaster where public health, public safety, or~~
35 ~~the environment may be impacted.~~

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

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

39 (B) For purposes of subparagraph (A), “store” does not include
40 the storage of hazardous materials incidental to transportation, as

1 defined in Title 49 of the Code of Federal Regulations, with regard
2 to the inventory requirements of Section 25506.

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

6 (B) For purposes of subparagraph (A), the use or potential use
7 does not include the immediate transfer to or from an approved
8 atmospheric tank or approved portable tank that is regulated as
9 loading or unloading incidental to transportation by Title 49 of the
10 Code of Federal Regulations.

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

13 (m) (1) “Hazardous material” means a material *listed in*
14 *paragraph (2)* that, because of its quantity, concentration, or
15 physical or chemical characteristics, poses a significant present or
16 potential hazard to human health and safety or to the environment
17 if released into the workplace or the environment. ~~“Hazardous~~
18 ~~materials” include, but are not limited to, hazardous substances,~~
19 ~~hazardous waste, and any material that a handler or the unified~~
20 ~~program agency has a reasonable basis for believing that it would~~
21 ~~be injurious to the health and safety of persons or harmful to the~~
22 ~~environment if released into the workplace or the environment.~~

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

25 (2) *Hazardous materials include all of the following:*

26 (1) ~~The~~

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

33 (2)

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

38 (3) ~~Hazardous materials or substances~~

39 (C) *A substance listed in Part 172 (commencing with Section*
40 *172.1) and Part 173 (commencing with Section 173.1) of*

- 1 Subchapter C of Chapter I of Subtitle B of *pursuant to* Title 49 of
- 2 the Code of Federal Regulations.
- 3 ~~(4) The materials in the listings specified in subdivision (b) of~~
- 4 ~~Section 6382 of the Labor Code.~~
- 5 *(D) A substance listed in Section 339 of Title 8 of the California*
- 6 *Code of Regulations.*
- 7 ~~(o) “Hazardous waste” means~~
- 8 *(E) A material listed as a hazardous waste, as defined by*
- 9 ~~Sections 25115 and 25117 and by subdivision (g) of Section 25115,~~
- 10 ~~25117, and 25316.~~
- 11 ~~(p)~~
- 12 *(n) “Office” means the Office of Emergency Services.*
- 13 ~~(q)~~
- 14 *(o) “Release” means any spilling, leaking, pumping, pouring,*
- 15 *emitting, emptying, discharging, injecting, escaping, leaching,*
- 16 *dumping, or disposing into the environment, unless permitted or*
- 17 *authorized by a regulatory agency.*
- 18 ~~(r)~~
- 19 *(p) “Secretary” means the Secretary for Environmental*
- 20 *Protection.*
- 21 ~~(s) “SIC or NAICS Code” means the identification number~~
- 22 ~~assigned by the Standard Industrial Classification Code or the~~
- 23 ~~North American Industry Classification System, as applicable, to~~
- 24 ~~specific types of businesses.~~
- 25 ~~(t)~~
- 26 *(q) “Statewide information management system” means the*
- 27 *statewide information management system established pursuant*
- 28 *to subdivision (e) of Section 25404 that provides for the*
- 29 *combination of state and local information management systems*
- 30 *for the purposes of managing unified program data.*
- 31 ~~(u)~~
- 32 *(r) “Threatened release” means a condition, circumstance, or*
- 33 *incident making it necessary to take immediate action to prevent,*
- 34 *reduce, or mitigate a release with the potential to cause damage*
- 35 *or harm to persons, property, or the environment.*
- 36 ~~(v)~~
- 37 *(s) “Trade secret” means trade secrets as defined in either*
- 38 *subdivision (d) of Section 6254.7 of the Government Code or*
- 39 *Section 1061 of the Evidence Code.*
- 40 ~~(w)~~

1 (t) “Unified program facility” means all contiguous land and
2 structures, other appurtenances, and improvements on the land
3 that are subject to the requirements of paragraphs (4) and (5) of
4 subdivision (c) of Section 25404. *For purposes of this article,*
5 *“facility” has the same meaning as unified program facility.*

6 SEC. 3. Section 25502 of the Health and Safety Code is
7 amended to read:

8 25502. (a) This article and Article 3 (commencing with Section
9 25545), as it pertains to the handling of hazardous material, and
10 Article 2 (commencing with Section 25531), as it pertains to the
11 regulation of stationary sources, shall be implemented by one of
12 the following:

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

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

16 (b) The agency responsible for implementing this article, Article
17 2 (commencing with Section 25531), and Article 3 (commencing
18 with Section 25545) shall ensure full access to, and the availability
19 of, information submitted under this chapter to emergency-~~reseue~~
20 *response* personnel and other appropriate governmental entities
21 within its jurisdiction.

22 SEC. 4. Section 25503 of the Health and Safety Code is
23 amended to read:

24 25503. (a) The office shall adopt, after public hearing and
25 consultation with the Office of the State Fire Marshal and other
26 appropriate public entities, regulations for minimum standards for
27 business plans and area plans. All business plans and area plans
28 shall meet the standards adopted by the office.

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

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

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

39 (3) Take into account the existence of local area and business
40 plans that meet the requirements of this article so as to minimize

1 the duplication of local efforts, consistent with the objectives of
2 this article.

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

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

14 (1) Procedures and protocols for emergency ~~rescue~~ *response*
15 personnel, including the safety and health of those personnel.

16 (2) Preemergency planning.

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

19 (4) Training of appropriate employees.

20 (5) Onsite public safety and information.

21 (6) Required supplies and equipment.

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

24 (8) Incident critique and followup.

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

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

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

39 (e) The inspection and enforcement program established
40 pursuant to paragraphs (2) and (3) of subdivision (a) of Section

1 25404.2, shall include the basic provisions of a plan to conduct
2 onsite inspections of businesses subject to this article by the unified
3 program agency. These inspections shall ensure compliance with
4 this article and shall identify existing safety hazards that could
5 cause or contribute to a release and, where appropriate, enforce
6 any applicable laws and suggest preventative measures designed
7 to minimize the risk of the release of hazardous material into the
8 workplace or environment. The requirements of this paragraph do
9 not alter or affect the immunity provided to a public entity pursuant
10 to Section 818.6 of the Government Code.

11 SEC. 5. Section 25504 of the Health and Safety Code is
12 amended to read:

13 25504. (a) The Legislature hereby finds and declares that
14 persons attempting to do business in this state are increasingly
15 experiencing excessive and duplicative regulatory requirements
16 at different levels of government.

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

24 (c) The unified program agency shall provide access to the
25 information collected in the statewide information management
26 system ~~to those agencies with shared responsibilities for the~~
27 ~~protection of the public health and safety and the environment.~~
28 *emergency response personnel. The secretary and the office, in*
29 *consultation with the State Fire Marshal, shall develop an*
30 *emergency business plan and inventory system to provide this*
31 *information in an electronic format usable by emergency response*
32 *personnel. In addition to any funding that becomes available, the*
33 *secretary shall implement this system using the surcharge imposed*
34 *pursuant to subparagraph (B) of paragraph (1) of subdivision (b)*
35 *of Section 25404.5.*

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

39 (e) (1) Notwithstanding Section 13143.9, and the standards and
40 regulations adopted pursuant to that section, a business that files

1 ~~the annual inventory form in compliance with~~ *inventory of*
2 *information required* by this article and the addendum adopted
3 pursuant to paragraph (4), if required by the local fire chief, shall
4 be deemed to have met the requirements for a Hazardous Materials
5 Inventory Statement, as set forth in the California Fire Code and
6 its appendices.

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

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

18 (4) The office shall, in consultation with the unified program
19 agencies and the State Fire Marshal, adopt by regulation a single
20 comprehensive addendum for hazardous materials reporting for
21 the purposes of complying with subdivisions (b) and (c) of Section
22 13143.9 and subdivision (b) of Section 25506. The unified program
23 agency shall require businesses to annually use that addendum
24 when complying with subdivisions (b) and (c) of Section 13143.9
25 and subdivision (b) of Section 25506. A business shall file the
26 addendum with the unified program agency when required by the
27 local fire chief pursuant to subdivision (b) of Section 13143.9 or
28 subdivision (b) of Section 25506.

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

32 SEC. 6. Section 25505 of the Health and Safety Code is
33 amended to read:

34 25505. (a) A business plan shall contain all of the following
35 information:

36 (1) The inventory of information required by this article and
37 additional information the governing body of the unified program
38 agency finds necessary to protect the health and safety of persons,
39 property, or the environment. Locally required information shall
40 be adopted by local ordinance ~~or required by state law. This~~

1 ~~information~~ and shall be subject to trade secret protection specified
2 in Section 25512. *The unified program agency shall notify the*
3 *secretary within 30 days after those requirements are adopted.*

4 (2) A site map that contains north orientation, loading areas,
5 internal roads, adjacent streets, storm and sewer drains, access and
6 exit points, emergency shutoffs, evacuation staging areas,
7 hazardous material handling and storage areas, and emergency
8 response equipment. Updates to existing maps to meet these
9 requirements shall be completed by January 1, ~~2015~~. 2017.

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

13 (A) Immediate notification *contacts* to the appropriate local
14 emergency ~~rescue~~ *response* personnel and to the unified program
15 agency.

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

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

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

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

39 (c) *The emergency response plans and procedures, the inventory*
40 *of information required by this article, and the site map required*

1 *by this section shall be readily available to personnel of the*
2 *business or the unified program facility with responsibilities for*
3 *emergency response or training pursuant to this section.*

4 SEC. 7. Section 25506 of the Health and Safety Code is
5 repealed.

6 ~~25506. (a) The annual inventory submittal shall contain, but~~
7 ~~shall not be limited to, information on all of the following that are~~
8 ~~handled in quantities equal to or greater than the quantities~~
9 ~~specified in subdivision (a) of Section 25507 or as established by~~
10 ~~the governing body of the unified program agency by a local~~
11 ~~ordinance:~~

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

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

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

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

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

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

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

36 ~~(b) If required by the local fire chief, the business shall also file~~
37 ~~the addendum required by paragraph (4) of subdivision (c) of~~
38 ~~Section 25504.~~

39 ~~(c) (1) Except as provided in subdivision (d), the annual~~
40 ~~inventory information required by this section shall also include~~

1 ~~all inventory information required by Section 11022 of Title 42~~
2 ~~of the United States Code.~~

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

5 ~~(d) If, pursuant to federal law or regulation, as it currently exists~~
6 ~~or as it may be amended, the office determines that the inventory~~
7 ~~information required by subdivisions (a) and (c) is substantially~~
8 ~~equivalent to the inventory information required under the~~
9 ~~Emergency Planning and Community Right-to-Know Act of 1986~~
10 ~~(42 U.S.C. Sec. 11001 et seq.), the requirements of subdivisions~~
11 ~~(a) and (c) shall not apply.~~

12 SEC. 8. Section 25506 is added to the Health and Safety Code,
13 to read:

14 25506. (a) The secretary, in coordination with the office, shall
15 specify the hazardous materials inventory that shall be submitted
16 by handlers and the data to be collected and submitted for
17 hazardous materials in quantities equal to or greater than the
18 quantities specified in Section 25507 or as otherwise established
19 by the governing body of the unified program agency by a local
20 ordinance.

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

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

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

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

37 SEC. 9. Section 25507 of the Health and Safety Code is
38 amended to read:

39 25507. (a) Except as provided in this article, a ~~business facility~~
40 shall establish and implement a business plan for emergency

1 response to a release or threatened release of a hazardous material
2 in accordance with the standards prescribed in the regulations
3 adopted pursuant to Section 25503 if the ~~business facility~~ meets
4 any of the following conditions:

5 (1) (A) The ~~business facility~~ handles a hazardous material or
6 a mixture containing a hazardous material that has a quantity at
7 any one time during the reporting year that is equal to, or greater
8 than, 55 gallons for materials that are liquids, 500 pounds for solids,
9 or 200 cubic feet for compressed gas, *as defined in subdivision (i)*
10 *of Section 25505*. The physical state and quantity present of
11 mixtures shall be determined by the physical state of the mixture
12 as whole, not individual components, at standard temperature and
13 pressure.

14 (B) *For the purpose of this section, for compressed gases, if a*
15 *hazardous material or mixture is determined to exceed threshold*
16 *quantities at standard temperature and pressure, it shall be*
17 *reported in the physical state at which it is stored. If the material*
18 *is an extremely hazardous substance, as defined in Section 355.61*
19 *of Title 40 of the Code of Federal Regulations, all amounts shall*
20 *be reported in pounds.*

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

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

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

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

35 (4) ~~(A) The business facility~~ handles at any one time during
36 the reporting year a total weight of 5,000 pounds for solids or a
37 total volume of 550 gallons for liquids, if the hazardous material
38 is a solid or liquid substance that is classified as a hazard for
39 purposes of Section 5194 of Title 8 of the California Code of
40 Regulations solely as an irritant or ~~sensitizer, unless the unified~~

1 program agency finds, and provides notice to the business handling
2 the product, that the handling of lesser quantities of that hazardous
3 material requires the submission of a business plan, or any portion
4 of a business plan, in response to public health, safety, or
5 environmental concerns. *sensitizer.*

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

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

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

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

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

24 ~~(5) *The facility handles at any one time during the reporting
25 year cryogenic, refrigerated, or compressed gas in a quantity of
26 1,000 cubic feet or more at standard temperature and pressure, if
27 the gas is any of the following:*~~

28 ~~(A) *Classified as a hazard for the purposes of Section 5194 of
29 Title 8 of the California Code of Regulations only for hazards due
30 to simple asphyxiation or the release of pressure.*~~

31 ~~(B) *Oxygen, nitrogen, and nitrous oxide ordinarily maintained
32 by a physician, dentist, podiatrist, veterinarian, pharmacist, or
33 emergency medical service provider at his or her place of business.*~~

34 ~~(C) *Carbon dioxide.*~~

35 ~~(D) *Refrigerant gases other than ammonia in a closed cooling
36 systems used for air-conditioning and refrigeration.*~~

37 ~~(E) *Gases used in closed fire suppression systems.*~~

38 ~~(6) The business facility handles a radioactive material at any
39 one time during the reporting year that is handled in quantities for
40 which an emergency plan is required to be adopted pursuant to~~

1 Part 30 (commencing with Section 30.1), Part 40 (commencing
2 with Section 40.1), or Part 70 (commencing with Section 70.1),
3 of Chapter 1 of Title 10 of the Code of Federal Regulations, or
4 pursuant to any regulations adopted by the state in accordance with
5 those regulations.

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

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

19 ~~(b) Compressed air in cylinders, bottles, and tanks used by fire~~
20 ~~departments and other emergency response organizations for the~~
21 ~~purpose of emergency response and safety are exempt from this~~
22 ~~article.~~

23 (c) (1) Lubricating oil is exempt from this section and Sections
24 25506 and 25508, for a single business facility, if the total volume
25 of each type of lubricating oil handled at that facility does not
26 exceed 55 gallons and the total volume of all types of lubricating
27 oil handled at that facility does not exceed 275 gallons, at any one
28 time.

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

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

1 (d) Both of the following are exempt from this section and
2 Sections 25506 and 25508 if the aggregate storage capacity of oil
3 at the facility is less than 1,320 gallons:

4 (1) Fluid in a hydraulic system.

5 (2) Oil-filled electrical equipment that is not contiguous to an
6 electric facility.

7 (e) Hazardous material contained solely in a consumer product
8 for direct distribution to, and use by, the general public is exempt
9 from the business plan requirements of this article unless the
10 unified program agency has found, and has provided notice to the
11 business handling the product, that the handling of certain
12 quantities of the product requires the submission of a business
13 plan, or any portion thereof, in response to public health, safety,
14 or environmental concerns., found in a retail establishment and
15 intended for sale to, and for the use by, the public, is exempt from
16 the business plan requirements of this article.

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

25 ~~(f)~~

26 (g) In addition to the authority specified in subdivision ~~(h)~~ (i),
27 the governing body of the unified program agency may, in
28 exceptional circumstances, following notice and public hearing,
29 exempt a hazardous ~~substance~~ material specified in subdivision
30 ~~(m)~~ of Section 25501 from Section 25506, if it is found that
31 the hazardous ~~substance~~ material would not pose a present or
32 potential danger to the environment or to human health and safety
33 if the hazardous ~~substance~~ material was released into the
34 environment. The unified program agency shall send a notice to
35 the office and the secretary within 15 days from the effective date
36 of any exemption granted pursuant to this subdivision.

37 ~~(g)~~

38 (h) The unified program agency, upon application by a handler,
39 may exempt the handler, under conditions that the unified program
40 agency determines to be proper, from any portion of the

1 requirements to establish and maintain a business plan, upon a
2 written finding that the exemption would not pose a significant
3 present or potential hazard to human health or safety or to the
4 environment, or affect the ability of the unified program agency
5 and emergency-rescue *response* personnel to effectively respond
6 to the release of a hazardous material, and that there are unusual
7 circumstances justifying the exemption. The unified program
8 agency shall specify in writing the basis for any exemption under
9 this subdivision.

10 (h)

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

18 (i)

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

22 SEC. 10. Section 25507.1 of the Health and Safety Code is
23 amended to read:

24 25507.1. (a) A unified program agency shall exempt a business
25 operating a farm for purposes of cultivating the soil or raising or
26 harvesting any agricultural or horticultural commodity from filing
27 the information in the business plan required by paragraphs (3)
28 and (4) of subdivision (a) of Section 25505 if all of the following
29 requirements are met:

30 (1) The agricultural handler annually submits the *facility*
31 *information and inventory of information* required by Section
32 ~~25505~~ 25506 to the statewide information management system.

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

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

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

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

7 SEC. 11. Section 25507.2 of the Health and Safety Code is
8 amended to read:

9 ~~25507.2. (a) The unified program agency shall exempt a~~
10 ~~business operating an unstaffed remote facility located in an~~
11 ~~isolated sparsely populated area from Sections 25506 and 25507~~
12 *Unless required by a local ordinance, the unified program agency*
13 *shall exempt an unstaffed facility located at least one-half mile*
14 *from the nearest occupied structure from Sections 25508.2 and*
15 *25511, and shall subject the facility to Sections 25505, 25506, and*
16 *25507 only as specified in this section, if the facility is not*
17 *otherwise subject to the requirements of applicable federal law,*
18 *and all of the following requirements are met:*

19 (H)

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

22 (A)

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

25 (B)

26 (2) Five hundred gallons of combustible liquid used as a fuel
27 source.

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

30 (3) *Corrosive liquids, not to exceed 500 pounds of extremely*
31 *hazardous substances, used as electrolytes, and in closed*
32 *containers.*

33 (D)

34 (4) Five hundred gallons of lubricating and hydraulic fluids.

35 (E)

36 (5) One thousand two hundred gallons of ~~flammable~~
37 *hydrocarbon* gas used as a fuel source.

38 (F)

39 (6) Any quantity of mineral oil contained within electrical
40 equipment, such as transformers, bushings, electrical switches,

1 and voltage regulators, if the spill prevention control and
2 countermeasure plan has been prepared for quantities that meet or
3 exceed 1,320 gallons.

4 ~~(2)~~

5 ~~(b) The facility is secured and not accessible to the public.~~

6 ~~(3)~~

7 ~~(c) Warning signs are posted and maintained for hazardous~~
8 ~~materials pursuant to the California Fire Code.~~

9 ~~(4) A one-time notification and inventory are provided to the~~
10 ~~unified program agency along with a processing fee in lieu of the~~
11 ~~existing fee. The fee shall not exceed the actual cost of processing~~
12 ~~the notification and inventory, including a verification inspection,~~
13 ~~if necessary.~~

14 ~~(5) If the information contained in the initial notification or~~
15 ~~inventory changes and the time period of the change is longer than~~
16 ~~30 days, the notification or inventory shall be resubmitted within~~
17 ~~30 days to the unified program agency to reflect the change, along~~
18 ~~with a processing fee, in lieu of the existing fee, that does not~~
19 ~~exceed the actual cost of processing the amended notification or~~
20 ~~inventory, including a verification inspection, if necessary.~~

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

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

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

39 ~~(d) (1) Notwithstanding Sections 25505 and 25507, a one-time~~
40 ~~business plan, except for the emergency response plan and training~~

1 *elements specified in paragraphs (3) and (4) of subdivision (a) of*
2 *Section 25505, is submitted to the statewide information*
3 *management system. This one-time business plan submittal is*
4 *subject to a verification inspection by the unified program agency*
5 *and the unified program agency may assess a fee not to exceed*
6 *the actual costs of processing and for inspection, if an inspection*
7 *is conducted.*

8 (2) *If the information contained in the one-time submittal of the*
9 *business plan changes and the time period of the change is longer*
10 *than 30 days, the business plan shall be resubmitted within 30*
11 *days to the statewide information management system to reflect*
12 *any change in the business plan. A fee not to exceed the actual*
13 *costs of processing and inspection, if conducted, may be assessed*
14 *by the unified program agency.*

15 (e)

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

19 SEC. 12. Section 25508 of the Health and Safety Code is
20 amended to read:

21 25508. (a) (1) A handler shall electronically submit its
22 business plan *annually* to the statewide information management
23 system in accordance with the requirements of this article and
24 certify that the business plan meets the requirements of this article.

25 (2) If, after review, the unified program agency determines that
26 the handler's business plan is deficient in satisfying the
27 requirements of this article or the regulations adopted pursuant to
28 Section 25503, the unified program agency shall notify the handler
29 of those deficiencies. The handler shall electronically submit a
30 corrected business plan within 30 days from the date of the notice.

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

36 (4) For data not adopted in the manner established under the
37 standards adopted pursuant to subdivision (e) of Section 25404,
38 and that is reported using a document format, the use of a reporting
39 method accepted by the statewide information management system
40 shall be considered compliant with the requirement to submit that

1 data. If the reporting option used does not support public records
2 requests from the public, the handler shall provide requested
3 documents to the unified program agency within 10 business days
4 of a request from the unified program agency.

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

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

14 ~~(d) A~~

15 ~~(b) Except as required by paragraph (1) of subdivision (a) of
16 Section 65850.2 of the Government Code, a business required to
17 establish, implement, and electronically submit a business plan
18 pursuant to subdivision (a) shall not be deemed to be in violation
19 of this article until 30 days after the business becomes subject to
20 subdivision (a), unless the unified program agency requests the
21 business to establish, implement, and electronically submit the
22 business plan at an earlier date. (a).~~

23 SEC. 13. Section 25508.1 of the Health and Safety Code is
24 amended to read:

25 25508.1. Within 30 days of any one of the following events,
26 a business subject to this article shall electronically update the
27 information submitted to the statewide information management
28 system:

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

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

33 (c) Change of business address.

34 (d) Change of business ownership.

35 (e) Change of business name.

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

38 (2) For the purposes of this subdivision, "substantial change"
39 means any change in a regulated facility that would inhibit
40 immediate response during an emergency by either site personnel

1 or emergency ~~rescue~~ *response* personnel, or that could inhibit the
2 handler’s ability to comply with Section 25507, change the
3 operational knowledge of the facility, or impede implementation
4 of the business plan.

5 SEC. 14. Section 25508.2 of the Health and Safety Code is
6 amended to read:

7 25508.2. At least once every 12 months, the business owner,
8 operator, or officially designated representative shall review ~~and~~
9 ~~certify that the information in the statewide information~~
10 ~~management system has been verified and is complete, accurate,~~
11 ~~and up to date and that it contains the information required by~~
12 ~~Section 11022 of Title 42 of the United States Code. An annual~~
13 ~~electronic submittal to the statewide information management~~
14 ~~system satisfies this requirement., and verify that the information~~
15 ~~in the business plan submitted pursuant to Section 25508 in the~~
16 ~~statewide information management system is complete, accurate,~~
17 ~~up to date, and in compliance with Section 11022 of Title 42 of~~
18 ~~the United States Code. The annual electronic submittal to the~~
19 ~~statewide information management system required pursuant to~~
20 ~~Section 25508 satisfies this section.~~

21 SEC. 15. Section 25509 of the Health and Safety Code is
22 amended to read:

23 25509. (a) The unified program agency shall ~~update~~ *maintain*
24 its administrative procedures with regard to maintaining records
25 and responding to requests for information in accordance with
26 Subdivision 4 (commencing with Section 15100) of Division 1 of,
27 and Division 3 of, Title 27 of the California Code of Regulations,
28 as those regulations read on January 1, 2014. ~~The~~

29 (b) ~~The~~ unified program agency shall make the ~~data elements~~
30 ~~and documents~~ *information in the statewide information*
31 *management system* submitted pursuant to this article available
32 for public inspection during the regular working hours of the
33 unified program agency, except the ~~data elements and documents~~
34 *information* specifying the precise location where hazardous
35 materials are stored and handled onsite, including any maps
36 required by paragraph (2) of subdivision (a) of Section ~~25505,~~
37 ~~shall not be available for inspection. The unified. 25505.~~

38 (c) ~~The~~ unified program agency shall make the ~~data elements~~
39 ~~and documents~~ *information in the statewide information*
40 *management system* submitted pursuant to this article available to

1 a requesting government agency that is authorized by law to access
2 the information.

3 ~~(b)~~

4 (d) A person who submits inventory information required under
5 Section 25506 with the unified program agency shall be deemed
6 to have filed the inventory form required by Section 11022(a) of
7 Title 42 of the United States Code with the state emergency
8 response commission and *local* emergency planning ~~committee~~
9 *committees* established pursuant to Section 11001 of Title 42 of
10 the United States Code.

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

18 SEC. 16. Section 25510 of the Health and Safety Code is
19 amended to read:

20 25510. (a) Except as provided in subdivision (b), the handler
21 or an employee, authorized representative, agent, or designee of
22 a handler, shall, upon discovery, immediately report any release
23 or threatened release of a hazardous material to the unified program
24 agency, and to the office, in accordance with the regulations
25 adopted pursuant to Section 25503. The handler or an employee,
26 authorized representative, agent, or designee of the handler shall
27 provide all state, city, or county fire or public health or safety
28 personnel and emergency rescue personnel with access to the
29 handler's facilities.

30 (b) Subdivision (a) does not apply to a person engaged in the
31 transportation of a hazardous material on a highway that is subject
32 to, and in compliance with, the requirements of Sections 2453 and
33 23112.5 of the Vehicle Code.

34 (c) *On or before January 1, 2016, the office shall adopt*
35 *regulations to implement this section. In developing these*
36 *regulations, the office shall closely consult with representatives*
37 *from regulated entities, appropriate trade associations, fire service*
38 *organizations, federal, state, and local organizations, including*
39 *unified program agencies, and other interested parties.*

1 (d) *The unified program agency shall maintain one or more*
2 *nonemergency contact numbers for release reports that do not*
3 *require immediate agency response. The unified program agency*
4 *shall promptly communicate changes to this information to*
5 *regulated facilities and to the office.*

6 SEC. 17. Section 25510.3 of the Health and Safety Code is
7 amended to read:

8 25510.3. The emergency ~~rescue~~ *response* personnel, responding
9 to the reported release or threatened release of a hazardous material,
10 or of a regulated substance, as defined in Section 25532, or to any
11 fire or explosion involving a material or substance that involves a
12 release that would be required to be reported pursuant to Section
13 25510, shall immediately advise the superintendent of the school
14 district having jurisdiction, where the location of the release or
15 threatened release is within one-half mile of a school.

16 SEC. 18. Section 25511 of the Health and Safety Code is
17 amended to read:

18 25511. (a) In order to carry out the purposes of this article and
19 Article 2 (commencing with Section 25531), an employee or
20 authorized representative of a unified program agency has the
21 authority specified in Section 25185, with respect to the premises
22 of a handler, and in Section 25185.5, with respect to real property
23 that is within 2,000 feet of the premises of a handler, except that
24 this authority shall include conducting inspections concerning
25 hazardous material, in addition to hazardous waste.

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

1 ~~(e) The unified program agency may designate the county~~
2 ~~agricultural commissioner to conduct the inspection of agricultural~~
3 ~~handlers for purposes of Section 25507.1.~~

4 *(c) Pursuant to a written agreement, the unified program agency*
5 *may designate the county agricultural commissioner to conduct*
6 *the inspection of agricultural handlers for purposes of Section*
7 *25507.1. The agreement shall address the inspection, reporting,*
8 *training, enforcement and cost recovery requirements to conduct*
9 *the inspection of agricultural handlers. If designated, the*
10 *agricultural commissioner shall schedule and conduct inspections*
11 *in accordance with this section.*

12 SEC. 19. Section 25512 of the Health and Safety Code is
13 amended to read:

14 25512. (a) As used in this section, “trade secret” means a trade
15 secret as defined in either subdivision (d) of Section 6254.7 of the
16 Government Code or Section 1061 of the Evidence Code.

17 (b) (1) If a business believes that the inventory required by this
18 article involves the release of a trade secret, the business shall
19 nevertheless provide this information to the unified program
20 agency, and ~~shall notify the unified program agency in writing of~~
21 ~~that belief on the inventory form.~~ *comply with the regulations*
22 *adopted by the office pursuant to this section.*

23 (2) *On or before January 1, 2016, the office, in consultation*
24 *with the secretary, shall adopt regulations for a business to*
25 *designate information as a trade secret.*

26 ~~(2)~~

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

30 (c) (1) Upon the receipt of a request for the release of
31 information to the public that includes information that the business
32 ~~has notified the unified program agency is~~ *designated as* a trade
33 secret pursuant to *the regulations adopted by the office pursuant*
34 *to paragraph*~~(1)~~ (2) of subdivision (b), the unified program agency
35 shall notify the business in writing of the request by certified mail,
36 return receipt requested.

37 (2) The unified program agency shall release the requested
38 information to the public 30 days or more after the date of mailing
39 to the business the notice of the request for information, unless,
40 prior to the expiration of the 30-day period, the business files an

1 action in an appropriate court for a declaratory judgment that the
2 information is subject to protection under subdivision (b) or for
3 an injunction prohibiting disclosure of the information to the public,
4 and promptly notifies the unified program agency of that action.

5 (3) This subdivision does not permit a business to refuse to
6 disclose the information required pursuant to ~~this section~~ *article*
7 ~~to the unified program agency.~~ *statewide information management*
8 *system using the regulations adopted by the office pursuant to*
9 *subdivision (b).*

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

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

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

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

31 (f) An officer or employee of the county or city, or former
32 officer or employee who, by virtue of that employment or official
33 position, has possession of, or has access to, confidential
34 information, and who, knowing that disclosure of the information
35 to the general public is prohibited by this section, knowingly and
36 willfully discloses the information in any manner to a person not
37 entitled to receive it, is guilty of a misdemeanor. A contractor with
38 the county or city and an employee of the contractor, who has been
39 furnished information as authorized by this section, shall be

1 considered an employee of the county or city for purposes of this
2 section.

3 SEC. 20. Section 25515.5 of the Health and Safety Code is
4 amended to read:

5 25515.5. (a) All criminal penalties collected pursuant to this
6 article shall be apportioned in the following manner:

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

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

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

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

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

19 (c) If a reward is paid to a person pursuant to Section ~~25517~~
20 ~~25516~~, the amount of the reward shall be deducted from the amount
21 of the criminal or civil penalty before the amount is apportioned
22 pursuant to subdivisions (a) and (b).

23 SEC. 21. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act or because costs that may be
28 incurred by a local agency or school district will be incurred
29 because this act creates a new crime or infraction, eliminates a
30 crime or infraction, or changes the penalty for a crime or infraction,
31 within the meaning of Section 17556 of the Government Code, or
32 changes the definition of a crime within the meaning of Section 6
33 of Article XIII B of the California Constitution.

34

35 _____

36 **CORRECTIONS:**

37 **Text—Pages 20, 21 and 25.**

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