

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 21, 2014

**SENATE BILL**

**No. 1261**

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**Introduced by Senator Jackson**

February 21, 2014

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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 amended, 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 the Office of Emergency Services 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~~

~~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, *Office of Emergency Services*, 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)~~

~~(2) 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)

(3) 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)

(4) 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)

(5) 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 California Environmental~~

Protection Agency to adopt by January 1, 2016, with regard to the designation of trade secrets:

(8)

(6) 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)

(7) 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~~

1 participating agency pursuant to the requirements of subparagraph  
2 (E) of paragraph (1) of subdivision (d) of Section 25404.3.

3 (B) The secretary shall establish the amount to be paid when  
4 the unified program agency is a state agency.

5 (3) The fee system may also be designed to recover the  
6 necessary and reasonable costs incurred by the certified unified  
7 program agency, or a participating agency pursuant to the  
8 requirements of subparagraph (E) of paragraph (1) of subdivision  
9 (d) of Section 25404.3, in administering provisions other than  
10 those specified in subdivision (c) of Section 25404, if the  
11 implementation and enforcement of those provisions has been  
12 incorporated as part of the unified program by the certified unified  
13 program agency pursuant to subdivision (d) of Section 25404.2,  
14 and if the single fee system replaces any fees levied as of January  
15 1, 1994, to fund the implementation of those additional provisions.

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

20 (b) (1) (A) Except as provided in subdivision (d), the single  
21 fee system instituted by each certified unified program agency  
22 shall include an assessment on each person regulated by the unified  
23 program of a surcharge, the amount of which shall be determined  
24 by the secretary annually, to cover the necessary and reasonable  
25 costs of the state agencies in carrying out their responsibilities  
26 under this chapter. The secretary may adjust the amount of the  
27 surcharge to be collected by different certified unified program  
28 agencies to reflect the different costs incurred by the state agencies  
29 in supervising the implementation of the unified program in  
30 different jurisdictions, and in supervising the implementation of  
31 the unified program in those jurisdictions for which the secretary  
32 has waived the assessment of the surcharge pursuant to subdivision  
33 (d). The certified unified program agency may itemize the amount  
34 of the surcharge on any bill, invoice, or return that the agency  
35 sends to a person regulated by the unified program. Each certified  
36 unified program agency shall transmit all surcharge revenues  
37 collected to the secretary on a quarterly basis. The surcharge shall  
38 be deposited in the Unified Program Account, which is hereby  
39 created in the General Fund and which may be expended, upon

1 appropriation by the Legislature, by state agencies for the purposes  
2 of implementing this chapter.

3 ~~(B) On and after January 1, 2015, until January 1, 2018, the~~  
4 ~~secretary shall increase the surcharge imposed pursuant to this~~  
5 ~~subdivision by the amount that the secretary determines necessary~~  
6 ~~to meet the requirements imposed by subdivision (c) of Section~~  
7 ~~25504. The increase in the oversight surcharge shall not exceed~~  
8 ~~fifteen dollars (\$15) in any one year over that three-year period~~  
9 ~~beginning January 2015. The secretary shall thereafter maintain~~  
10 ~~the emergency business plan and inventory system for emergency~~  
11 ~~response personnel, using the surcharge the secretary is authorized~~  
12 ~~to impose pursuant to this section.~~

13 ~~(2) On or before January 10, 2001, the secretary shall report to~~  
14 ~~the Legislature on whether the number of persons subject to~~  
15 ~~regulation by the unified program in any county is insufficient to~~  
16 ~~support the reasonable and necessary cost of operating the unified~~  
17 ~~program using only the revenues from the fee. The secretary's~~  
18 ~~report shall consider whether the surcharge required by subdivision~~  
19 ~~(a) should include an assessment to be used to supplement the~~  
20 ~~funding of unified program agencies that have a limited number~~  
21 ~~of entities regulated under the unified program.~~

22 ~~(e) Each certified unified program agency and the secretary~~  
23 ~~shall, before the institution of the single fee system and the~~  
24 ~~assessment of the surcharge, implement a fee accountability~~  
25 ~~program designed to encourage more efficient and cost-effective~~  
26 ~~operation of the program for which the single fee and surcharge~~  
27 ~~are assessed. The fee accountability programs shall include those~~  
28 ~~elements of the requirements of the plan adopted pursuant to former~~  
29 ~~Section 25206, as it read on January 1, 1995, that the secretary~~  
30 ~~determines are appropriate.~~

31 ~~(d) The secretary may waive the requirement for a county to~~  
32 ~~assess a surcharge pursuant to subdivision (b), if both of the~~  
33 ~~following conditions apply:~~

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

35 ~~(A) The county submits an application to the secretary for~~  
36 ~~certification on or before January 1, 1996, that incorporates all of~~  
37 ~~the requirements of this chapter, and includes the county's request~~  
38 ~~for a waiver of the surcharge, and contains documentation that~~  
39 ~~demonstrates, to the satisfaction of the secretary, both of the~~  
40 ~~following:~~

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

3 (ii) ~~That the combined dollar amount of the surcharge and the~~  
4 ~~single fee system to be assessed by the county pursuant to~~  
5 ~~subdivision (a) exceeds the combined dollar amount of all existing~~  
6 ~~fees that are replaced by the single fee system for most businesses~~  
7 ~~within the county.~~

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

12 (C) ~~The county is certified by the secretary on or before~~  
13 ~~December 31, 1996.~~

14 (D) ~~On or before January 1, 1994, the county completed the~~  
15 ~~consolidation of the administration of the hazardous waste~~  
16 ~~generator program, the hazardous materials release response plans~~  
17 ~~and inventories program, and the underground storage tank~~  
18 ~~program, referenced in paragraphs (1), (3), and (4) of subdivision~~  
19 ~~(c) of Section 25404, into a single program within the county's~~  
20 ~~jurisdiction.~~

21 (E) ~~The county demonstrates that it will consolidate the~~  
22 ~~administration of all programs specified in subdivision (c) of~~  
23 ~~Section 25404, and that it will also consolidate the administration~~  
24 ~~of at least one additional program that regulates hazardous waste,~~  
25 ~~hazardous substances, or hazardous materials, as specified in~~  
26 ~~subdivision (d) of Section 25404.2, other than the programs~~  
27 ~~specified in subdivision (c) of Section 25404, into a single program~~  
28 ~~to be administered by a single agency in the county's jurisdiction~~  
29 ~~at the time that the county's certification by the secretary becomes~~  
30 ~~effective.~~

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

32 (A) ~~The county meets all of the criteria specified in paragraph~~  
33 ~~(1).~~

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

36 (C) ~~The combined dollar amount of the surcharge and the single~~  
37 ~~fee system to be assessed by the county pursuant to subdivision~~  
38 ~~(a) would exceed the combined dollar amount of all existing fees~~  
39 ~~that are replaced by the single fee system for most businesses~~  
40 ~~within the county.~~

1     ~~(D) The waiver of the surcharge for those counties applying for~~  
2     ~~and qualifying for a waiver, and the resulting increase in the~~  
3     ~~surcharge for other counties, would not, when considered~~  
4     ~~cumulatively, impose a significant economic burden on businesses~~  
5     ~~in any other county that does not apply for, or does not meet the~~  
6     ~~criteria for, a waiver of the surcharge.~~

7     ~~(e) The secretary shall review all of the requests for a waiver~~  
8     ~~of the surcharge made pursuant to subdivision (d) simultaneously,~~  
9     ~~so as to adequately assess the cumulative impact of granting the~~  
10    ~~requested waivers on businesses in those counties that have not~~  
11    ~~applied, or do not qualify, for a waiver, and shall grant or deny all~~  
12    ~~requests for a waiver of the surcharge within 30 days from the date~~  
13    ~~that the secretary certifies all counties applying, and qualifying,~~  
14    ~~for a waiver. If the secretary finds that the grant of a waiver of the~~  
15    ~~surcharge for all counties applying and qualifying for the waiver~~  
16    ~~will impose a significant economic burden on businesses in one~~  
17    ~~or more other counties, the secretary shall take either of the~~  
18    ~~following actions:~~

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

20    ~~(2) Approve only a portion of the waiver requests for counties~~  
21    ~~meeting the criteria set forth in subdivision (d), to the extent that~~  
22    ~~the approved waivers, when taken as a whole, meet the condition~~  
23    ~~specified in subparagraph (D) of paragraph (2) of subdivision (d).~~  
24    ~~In determining which of the counties' waiver requests to grant,~~  
25    ~~the secretary shall consider all of the following factors:~~

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

29    ~~(B) The relative degree to which the combined dollar amount~~  
30    ~~of the surcharge and the single fee system to be assessed, pursuant~~  
31    ~~to subdivision (a), by each county applying and qualifying for a~~  
32    ~~waiver exceeds the combined dollar amount of all existing fees~~  
33    ~~that are replaced by the single fee system for most businesses~~  
34    ~~within the county.~~

35    ~~(C) The relative extent to which each county applying and~~  
36    ~~qualifying for a waiver has incorporated, or will incorporate, upon~~  
37    ~~certification, additional programs pursuant to subdivision (d) of~~  
38    ~~Section 25404.2, into the unified program within the county's~~  
39    ~~jurisdiction.~~

1 ~~(f) The secretary may, at any time, terminate a county’s waiver~~  
2 ~~of the surcharge granted pursuant to subdivisions (d) and (e) if the~~  
3 ~~secretary determines that the criteria specified in subdivision (d)~~  
4 ~~for the grant of a waiver are no longer met.~~

5 ~~SEC. 2.~~

6 *SECTION 1.* Section 25501 of the Health and Safety Code is  
7 amended to read:

8 25501. Unless the context indicates otherwise, the following  
9 definitions govern the construction of this article:

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

12 (b) “Area plan” means a plan established pursuant to Section  
13 25503 by a unified program agency for emergency response to a  
14 release or threatened release of a hazardous material within a city  
15 or county.

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

17 (1) An employer, self-employed individual, trust, firm, joint  
18 stock company, corporation, partnership, limited liability  
19 partnership or company, or other business entity.

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

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

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

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

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

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

32 (e) (1) “Certified unified program agency” or “CUPA” means  
33 the agency certified by the secretary to implement the unified  
34 program specified in Chapter 6.11 (commencing with Section  
35 25404) within a jurisdiction.

36 (2) “Participating agency” or “PA” means an agency that has a  
37 written agreement with the CUPA pursuant to subdivision (d) of  
38 Section 25404.3, and is approved by the secretary, to implement  
39 or enforce one or more of the unified program elements specified

1 in paragraphs (4) and (5) of subdivision (c) of Section 25404, in  
2 accordance with Sections 25404.1 and 25404.2.

3 (3) “Unified program agency” or “UPA” means the CUPA, or  
4 its participating agencies to the extent each PA has been designated  
5 by the CUPA, pursuant to a written agreement, to implement or  
6 enforce a particular unified program element specified in  
7 paragraphs (4) and (5) of subdivision (c) of Section 25404. For  
8 purposes of this article and Article 2 (commencing with Section  
9 25531), the UPAs have the responsibility and authority, to the  
10 extent provided by this article and Article 2 (commencing with  
11 Section 25531) and Sections 25404.1 and 25404.2, to implement  
12 and enforce only those requirements of this article and Article 2  
13 (commencing with Section 25531) listed in paragraphs (4) and (5)  
14 of subdivision (c) of Section 25404.

15 (4) The UPAs also have the responsibility and authority, to the  
16 extent provided by this article and Article 2 (commencing with  
17 Section 25531) and Sections 25404.1 and 25404.2, to implement  
18 and enforce the regulations adopted to implement the requirements  
19 of this article and Article 2 (commencing with Section 25531)  
20 listed in paragraphs (4) and (5) of subdivision (c) of Section 25404.  
21 After a CUPA has been certified by the secretary, the unified  
22 program agencies shall be the only local agencies authorized to  
23 enforce the requirements of this article and Article 2 (commencing  
24 with Section 25531) listed in paragraphs (4) and (5) of subdivision  
25 (c) of Section 25404 within the jurisdiction of the CUPA.

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

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

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

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

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

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

1 (j) “Emergency response personnel” means a public employee,  
2 including, but not limited to, a firefighter or emergency rescue  
3 personnel, as defined in Section 245.1 of the Penal Code, or  
4 personnel of a local emergency medical services (EMS) agency,  
5 as designated pursuant to Section 1797.200, who is responsible  
6 for response, mitigation, or recovery activities in a medical disaster,  
7 fire, hazardous material disaster, or natural disaster where public  
8 health, public safety, or the environment may be impacted.

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

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

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

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

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

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

26 (m) (1) “Hazardous material” means a material listed in  
27 paragraph (2) that, because of its quantity, concentration, or  
28 physical or chemical characteristics, poses a significant present or  
29 potential hazard to human health and safety or to the environment  
30 if released into the workplace or the environment.

31 (2) Hazardous materials include all of the following:

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

38 (B) The substance is listed as a radioactive material in Appendix  
39 B of Chapter 1 (commencing with Section 10.1) of Title 10 of the

1 Code of Federal Regulations, maintained and updated by the  
2 Nuclear Regulatory Commission.

3 (C) A substance listed pursuant to Title 49 of the Code of  
4 Federal Regulations.

5 (D) A substance listed in Section 339 of Title 8 of the California  
6 Code of Regulations.

7 (E) A material listed as a hazardous waste, as defined by  
8 Sections 25115, 25117, and 25316.

9 (n) “Office” means the Office of Emergency Services.

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

14 (p) “Secretary” means the Secretary for Environmental  
15 Protection.

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

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

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

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

33 ~~SEC. 3.~~

34 *SEC. 2.* Section 25502 of the Health and Safety Code is  
35 amended to read:

36 25502. (a) This article and Article 3 (commencing with Section  
37 25545), as it pertains to the handling of hazardous material, and  
38 Article 2 (commencing with Section 25531), as it pertains to the  
39 regulation of stationary sources, shall be implemented by one of  
40 the following:

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

4 (b) The agency responsible for implementing this article, Article  
5 2 (commencing with Section 25531), and Article 3 (commencing  
6 with Section 25545) shall ensure full access to, and the availability  
7 of, information submitted under this chapter to emergency response  
8 personnel and other appropriate governmental entities within its  
9 jurisdiction.

10 ~~SEC. 4.~~

11 *SEC. 3.* Section 25503 of the Health and Safety Code is  
12 amended to read:

13 25503. (a) The office shall adopt, after public hearing and  
14 consultation with the Office of the State Fire Marshal and other  
15 appropriate public entities, regulations for minimum standards for  
16 business plans and area plans. All business plans and area plans  
17 shall meet the standards adopted by the office.

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

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

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

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

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

36 (c) A unified program agency shall, in consultation with local  
37 emergency response agencies, establish an area plan for emergency  
38 response to a release or threatened release of a hazardous material  
39 within its jurisdiction. An area plan is not a statute, ordinance, or  
40 regulation for purposes of Section 669 of the Evidence Code. The

1 standards for area plans in the regulations adopted pursuant to  
2 subdivision (a) shall provide for all of the following:

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

5 (2) Preemergency planning.

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

8 (4) Training of appropriate employees.

9 (5) Onsite public safety and information.

10 (6) Required supplies and equipment.

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

13 (8) Incident critique and followup.

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

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

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

28 (e) The inspection and enforcement program established  
29 pursuant to paragraphs (2) and (3) of subdivision (a) of Section  
30 25404.2, shall include the basic provisions of a plan to conduct  
31 onsite inspections of businesses subject to this article by the unified  
32 program agency. These inspections shall ensure compliance with  
33 this article and shall identify existing safety hazards that could  
34 cause or contribute to a release and, where appropriate, enforce  
35 any applicable laws and suggest preventative measures designed  
36 to minimize the risk of the release of hazardous material into the  
37 workplace or environment. The requirements of this paragraph do  
38 not alter or affect the immunity provided to a public entity pursuant  
39 to Section 818.6 of the Government Code.

1 ~~SEC. 5.~~

2 *SEC. 4.* Section 25504 of the Health and Safety Code is  
3 amended to read:

4 25504. (a) The Legislature hereby finds and declares that  
5 persons attempting to do business in this state are increasingly  
6 experiencing excessive and duplicative regulatory requirements  
7 at different levels of government.

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

15 (c) The unified program agency shall provide access to the  
16 information collected in the statewide information management  
17 system to emergency response personnel. ~~The secretary and the~~  
18 ~~office, in consultation with the State Fire Marshal, shall develop~~  
19 ~~an emergency business plan and inventory system to provide this~~  
20 ~~information in an electronic format usable by emergency response~~  
21 ~~personnel. In addition to any funding that becomes available, the~~  
22 ~~secretary shall implement this system using the surcharge imposed~~  
23 ~~pursuant to subparagraph (B) of paragraph (1) of subdivision (b)~~  
24 ~~of Section 25404.5.~~

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

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

35 (2) Notwithstanding Section 13143.9, and the standards and  
36 regulations adopted pursuant to that section, a business that  
37 establishes and maintains a business plan for emergency response  
38 to a release or a threatened release of a hazardous material in  
39 accordance with Section 25505, shall be deemed to have met the

1 requirements for a Hazardous Materials Management Plan, as set  
2 forth in the California Fire Code and its appendices.

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

7 (4) The office shall, in consultation with the unified program  
8 agencies and the State Fire Marshal, adopt by regulation a single  
9 comprehensive addendum for hazardous materials reporting for  
10 the purposes of complying with subdivisions (b) and (c) of Section  
11 13143.9 and subdivision (b) of Section 25506. The unified program  
12 agency shall require businesses to annually use that addendum  
13 when complying with subdivisions (b) and (c) of Section 13143.9  
14 and subdivision (b) of Section 25506. A business shall file the  
15 addendum with the unified program agency when required by the  
16 local fire chief pursuant to subdivision (b) of Section 13143.9 or  
17 subdivision (b) of Section 25506.

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

21 ~~SEC. 6.~~

22 *SEC. 5.* Section 25505 of the Health and Safety Code is  
23 amended to read:

24 25505. (a) A business plan shall contain all of the following  
25 information:

26 (1) The inventory of information required by this article and  
27 additional information the governing body of the unified program  
28 agency finds necessary to protect the health and safety of persons,  
29 property, or the environment. Locally required information shall  
30 be adopted by local ordinance and shall be subject to trade secret  
31 protection specified in Section 25512. The unified program agency  
32 shall notify the secretary within 30 days after those requirements  
33 are adopted.

34 (2) A site map that contains north orientation, loading areas,  
35 internal roads, adjacent streets, storm and sewer drains, access and  
36 exit points, emergency shutoffs, evacuation staging areas,  
37 hazardous material handling and storage areas, and emergency  
38 response equipment. Updates to existing maps to meet these  
39 requirements shall be completed by January 1, 2017.

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

4 (A) Immediate notification contacts to the appropriate local  
5 emergency response personnel and to the unified program agency.

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

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

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

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

29 (c) The emergency response plans and procedures, the inventory  
30 of information required by this article, and the site map required  
31 by this section shall be readily available to personnel of the  
32 business or the unified program facility with responsibilities for  
33 emergency response or training pursuant to this section.

34 ~~SEC. 7.~~

35 *SEC. 6.* Section 25506 of the Health and Safety Code is  
36 repealed.

37 ~~SEC. 8.~~

38 *SEC. 7.* Section 25506 is added to the Health and Safety Code,  
39 to read:

1 25506. (a) The secretary, in coordination with the office, shall  
2 specify the hazardous materials inventory that shall be submitted  
3 by handlers and the data to be collected and submitted for  
4 hazardous materials in quantities equal to or greater than the  
5 quantities specified in Section 25507 or as otherwise established  
6 by the governing body of the unified program agency by a local  
7 ordinance.

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

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

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

17 (d) If, pursuant to federal law or regulation, as it currently exists  
18 or as it may be amended, the office determines that the inventory  
19 information required by subdivisions (a) and (c) is substantially  
20 equivalent to the inventory information required under the  
21 Emergency Planning and Community Right-to-Know Act of 1986  
22 (42 U.S.C. Sec. 11001 et seq.), the requirements of subdivisions  
23 (a) and (c) shall not apply.

24 ~~SEC. 9.~~

25 *SEC. 8.* Section 25507 of the Health and Safety Code is  
26 amended to read:

27 25507. (a) Except as provided in this article, a facility shall  
28 establish and implement a business plan for emergency response  
29 to a release or threatened release of a hazardous material in  
30 accordance with the standards prescribed in the regulations adopted  
31 pursuant to Section 25503 if the facility meets any of the following  
32 conditions:

33 (1) (A) The facility handles a hazardous material or a mixture  
34 containing a hazardous material that has a quantity at any one time  
35 during the reporting year that is equal to, or greater than, 55 gallons  
36 for materials that are liquids, 500 pounds for solids, or 200 cubic  
37 feet for compressed gas, as defined in subdivision (i) of Section  
38 25505. The physical state and quantity present of mixtures shall  
39 be determined by the physical state of the mixture as whole, not  
40 individual components, at standard temperature and pressure.

1 (B) For the purpose of this section, for compressed gases, if a  
2 hazardous material or mixture is determined to exceed threshold  
3 quantities at standard temperature and pressure, it shall be reported  
4 in the physical state at which it is stored. If the material is an  
5 extremely hazardous substance, as defined in Section 355.61 of  
6 Title 40 of the Code of Federal Regulations, all amounts shall be  
7 reported in pounds.

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

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

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

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

22 (4) The facility handles at any one time during the reporting  
23 year a total weight of 5,000 pounds for solids or a total volume of  
24 550 gallons for liquids, if the hazardous material is a solid or liquid  
25 substance that is classified as a hazard for purposes of Section  
26 5194 of Title 8 of the California Code of Regulations solely as an  
27 irritant or sensitizer.

28 (5) The facility handles at any one time during the reporting  
29 year cryogenic, refrigerated, or compressed gas in a quantity of  
30 1,000 cubic feet or more at standard temperature and pressure, if  
31 the gas is any of the following:

32 (A) Classified as a hazard for the purposes of Section 5194 of  
33 Title 8 of the California Code of Regulations only for hazards due  
34 to simple asphyxiation or the release of pressure.

35 (B) Oxygen, nitrogen, and nitrous oxide ordinarily maintained  
36 by a physician, dentist, podiatrist, veterinarian, pharmacist, or  
37 emergency medical service provider at his or her place of business.

38 (C) Carbon dioxide.

39 (D) Refrigerant gases other than ammonia in a closed cooling  
40 system used for air-conditioning and refrigeration.

1 (E) Gases used in closed fire suppression systems.

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

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

14 (b) Compressed air in cylinders, bottles, and tanks used by fire  
15 departments and other emergency response organizations for the  
16 purpose of emergency response and safety are exempt from this  
17 article.

18 (c) (1) Lubricating oil is exempt from this section and Sections  
19 25506 and 25508, for a single business facility, if the total volume  
20 of each type of lubricating oil handled at that facility does not  
21 exceed 55 gallons and the total volume of all types of lubricating  
22 oil handled at that facility does not exceed 275 gallons, at any one  
23 time.

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

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

34 (1) Fluid in a hydraulic system.

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

37 (e) Hazardous material contained solely in a consumer product,  
38 found in a retail establishment and intended for sale to, and for the  
39 use by, the public, is exempt from the business plan requirements  
40 of this article.

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

9 (g) In addition to the authority specified in subdivision (i), the  
10 governing body of the unified program agency may, in exceptional  
11 circumstances, following notice and public hearing, exempt a  
12 hazardous material specified in subdivision (m) of Section 25501  
13 from Section 25506, if it is found that the hazardous material would  
14 not pose a present or potential danger to the environment or to  
15 human health and safety if the hazardous material was released  
16 into the environment. The unified program agency shall send a  
17 notice to the office and the secretary within 15 days from the  
18 effective date of any exemption granted pursuant to this  
19 subdivision.

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

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

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

4 ~~SEC. 10.~~

5 *SEC. 9.* Section 25507.1 of the Health and Safety Code is  
6 amended to read:

7 25507.1. (a) A unified program agency shall exempt a business  
8 operating a farm for purposes of cultivating the soil or raising or  
9 harvesting any agricultural or horticultural commodity from filing  
10 the information in the business plan required by paragraphs (3)  
11 and (4) of subdivision (a) of Section 25505 if all of the following  
12 requirements are met:

13 (1) The agricultural handler annually submits the facility  
14 information and inventory required by Section 25506 to the  
15 statewide information management system.

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

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

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

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

29 ~~SEC. 11.~~

30 *SEC. 10.* Section 25507.2 of the Health and Safety Code is  
31 amended to read:

32 25507.2. Unless required by a local ordinance, the unified  
33 program agency shall exempt an unstaffed facility located at least  
34 one-half mile from the nearest occupied structure from Sections  
35 25508.2 and 25511, and shall subject the facility to Sections 25505,  
36 25506, and 25507 only as specified in this section, if the facility  
37 is not otherwise subject to the requirements of applicable federal  
38 law, and all of the following requirements are met:

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

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

3 (2) Five hundred gallons of combustible liquid used as a fuel  
4 source.

5 (3) Corrosive liquids, not to exceed 500 pounds of extremely  
6 hazardous substances, used as electrolytes, and in closed containers.

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

8 (5) One thousand two hundred gallons of hydrocarbon gas used  
9 as a fuel source.

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

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

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

18 (d) (1) Notwithstanding Sections 25505 and 25507, a one-time  
19 business plan, except for the emergency response plan and training  
20 elements specified in paragraphs (3) and (4) of subdivision (a) of  
21 Section 25505, is submitted to the statewide information  
22 management system. This one-time business plan submittal is  
23 subject to a verification inspection by the unified program agency  
24 and the unified program agency may assess a fee not to exceed the  
25 actual costs of processing and for inspection, if an inspection is  
26 conducted.

27 (2) If the information contained in the one-time submittal of the  
28 business plan changes and the time period of the change is longer  
29 than 30 days, the business plan shall be resubmitted within 30 days  
30 to the statewide information management system to reflect any  
31 change in the business plan. A fee not to exceed the actual costs  
32 of processing and inspection, if conducted, may be assessed by  
33 the unified program agency.

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

37 ~~SEC. 12.~~

38 *SEC. 11.* Section 25508 of the Health and Safety Code is  
39 amended to read:

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

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

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

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

25 (b) Except as required by paragraph (1) of subdivision (a) of  
26 Section 65850.2 of the Government Code, a business required to  
27 establish, implement, and electronically submit a business plan  
28 pursuant to subdivision (a) shall not be deemed to be in violation  
29 of this article until 30 days after the business becomes subject to  
30 subdivision (a).

31 ~~SEC. 13.~~

32 *SEC. 12.* Section 25508.1 of the Health and Safety Code is  
33 amended to read:

34 25508.1. Within 30 days of any one of the following events,  
35 a business subject to this article shall electronically update the  
36 information submitted to the statewide information management  
37 system:

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

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

3 (c) Change of business address.

4 (d) Change of business ownership.

5 (e) Change of business name.

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

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

15 ~~SEC. 14.~~

16 *SEC. 13.* Section 25508.2 of the Health and Safety Code is  
17 amended to read:

18 25508.2. At least once every 12 months, the business owner,  
19 operator, or officially designated representative shall review, and  
20 verify that the information in the business plan submitted pursuant  
21 to Section 25508 in the statewide information management system  
22 is complete, accurate, up to date, and in compliance with Section  
23 11022 of Title 42 of the United States Code. The annual electronic  
24 submittal to the statewide information management system required  
25 pursuant to Section 25508 satisfies this section.

26 ~~SEC. 15.~~

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

29 25509. (a) The unified program agency shall maintain its  
30 administrative procedures with regard to maintaining records and  
31 responding to requests for information in accordance with  
32 Subdivision 4 (commencing with Section 15100) of Division 1 of,  
33 and Division 3 of, Title 27 of the California Code of Regulations,  
34 as those regulations read on January 1, 2014.

35 (b) The unified program agency shall make the information in  
36 the statewide information management system submitted pursuant  
37 to this article available for public inspection during the regular  
38 working hours of the unified program agency, except the  
39 information specifying the precise location where hazardous

1 materials are stored and handled onsite, including any maps  
2 required by paragraph (2) of subdivision (a) of Section 25505.

3 (c) The unified program agency shall make the information in  
4 the statewide information management system submitted pursuant  
5 to this article available to a requesting government agency that is  
6 authorized by law to access the information.

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

14 ~~SEC. 16.~~

15 *SEC. 15.* Section 25510 of the Health and Safety Code is  
16 amended to read:

17 25510. (a) Except as provided in subdivision (b), the handler  
18 or an employee, authorized representative, agent, or designee of  
19 a handler, shall, upon discovery, immediately report any release  
20 or threatened release of a hazardous material to the unified program  
21 agency, and to the office, in accordance with the regulations  
22 adopted pursuant to Section 25503. The handler or an employee,  
23 authorized representative, agent, or designee of the handler shall  
24 provide all state, city, or county fire or public health or safety  
25 personnel and emergency response personnel with access to the  
26 handler's facilities.

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

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

37 (d) The unified program agency shall maintain one or more  
38 nonemergency contact numbers for release reports that do not  
39 require immediate agency response. The unified program agency

1 shall promptly communicate changes to this information to  
2 regulated facilities and to the office.

3 ~~SEC. 17.~~

4 *SEC. 16.* Section 25510.3 of the Health and Safety Code is  
5 amended to read:

6 25510.3. The emergency response personnel, responding to  
7 the reported release or threatened release of a hazardous material,  
8 or of a regulated substance, as defined in Section 25532, or to any  
9 fire or explosion involving a material or substance that involves a  
10 release that would be required to be reported pursuant to Section  
11 25510, shall immediately advise the superintendent of the school  
12 district having jurisdiction, where the location of the release or  
13 threatened release is within one-half mile of a school.

14 ~~SEC. 18.~~

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

17 25511. (a) In order to carry out the purposes of this article and  
18 Article 2 (commencing with Section 25531), an employee or  
19 authorized representative of a unified program agency has the  
20 authority specified in Section 25185, with respect to the premises  
21 of a handler, and in Section 25185.5, with respect to real property  
22 that is within 2,000 feet of the premises of a handler, except that  
23 this authority shall include conducting inspections concerning  
24 hazardous material, in addition to hazardous waste.

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

38 (c) Pursuant to a written agreement, the unified program agency  
39 may designate the county agricultural commissioner to conduct  
40 the inspection of agricultural handlers for purposes of Section

1 25507.1. The agreement shall address the inspection, reporting,  
2 training, enforcement and cost recovery requirements to conduct  
3 the inspection of agricultural handlers. If designated, the  
4 agricultural commissioner shall schedule and conduct inspections  
5 in accordance with this section.

6 ~~SEC. 19. Section 25512 of the Health and Safety Code is~~  
7 ~~amended to read:~~

8 25512. (a) As used in this section, “trade secret” means a trade  
9 secret as defined in either subdivision (d) of Section 6254.7 of the  
10 Government Code or Section 1061 of the Evidence Code.

11 (b) (1) ~~If a business believes that the inventory required by this~~  
12 ~~article involves the release of a trade secret, the business shall~~  
13 ~~nevertheless provide this information to the unified program~~  
14 ~~agency, and comply with the regulations adopted by the California~~  
15 ~~Environmental Protection Agency pursuant to this section.~~

16 (2) ~~On or before January 1, 2016, the California Environmental~~  
17 ~~Protection Agency, in consultation with the office, shall adopt~~  
18 ~~regulations for a business to designate information as a trade secret.~~

19 (3) ~~Subject to subdivisions (d) and (e), the unified program~~  
20 ~~agency shall protect from disclosure any information designated~~  
21 ~~as a trade secret by the business, as provided in the regulations~~  
22 ~~adopted pursuant to paragraph (2).~~

23 (e) (1) ~~Upon the receipt of a request for the release of~~  
24 ~~information to the public that includes information that the business~~  
25 ~~has designated as a trade secret pursuant to the regulations adopted~~  
26 ~~by the California Environmental Protection Agency pursuant to~~  
27 ~~paragraph (2) of subdivision (b), the unified program agency shall~~  
28 ~~notify the business in writing of the request by certified mail, return~~  
29 ~~receipt requested.~~

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

38 (3) ~~This subdivision does not permit a business to refuse to~~  
39 ~~disclose the information required pursuant to this article to the~~  
40 ~~statewide information management system using the regulations~~

1 ~~adopted by the California Environmental Protection Agency~~  
2 ~~pursuant to subdivision (b):~~

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

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

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

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

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

35 ~~SEC. 20:~~

36 ~~SEC. 18.~~ Section 25515.5 of the Health and Safety Code is  
37 amended to read:

38 25515.5. (a) All criminal penalties collected pursuant to this  
39 article shall be apportioned in the following manner:

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

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

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

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

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

13 (c) If a reward is paid to a person pursuant to Section 25516,  
14 the amount of the reward shall be deducted from the amount of  
15 the criminal or civil penalty before the amount is apportioned  
16 pursuant to subdivisions (a) and (b).

17 ~~SEC. 21.~~

18 *SEC. 19.* No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 a local agency or school district has the authority to levy service  
21 charges, fees, or assessments sufficient to pay for the program or  
22 level of service mandated by this act or because costs that may be  
23 incurred by a local agency or school district will be incurred  
24 because this act creates a new crime or infraction, eliminates a  
25 crime or infraction, or changes the penalty for a crime or infraction,  
26 within the meaning of Section 17556 of the Government Code, or  
27 changes the definition of a crime within the meaning of Section 6  
28 of Article XIII B of the California Constitution.