An act to amend Sections 25117, 25141, 25270.2, 25270.4.1, 25270.4.5, 25270.5, 25270.6, 25281, 25404, 25500, 25503, 25505, 25507, 25507.2, 25508.1, and 25531.2 of, and to add Sections 25110.8.2 and 25143.15 to, 25531.2, and 118330 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL’S DIGEST

SB 612, as amended, Jackson. Hazardous materials.

(1) Existing law requires the Department of Toxic Substances Control to establish programs for and regulate hazardous waste source reduction. Existing law requires the department to prepare, adopt, and revise, when appropriate, a listing of the wastes that are determined to be hazardous, and a listing of the wastes that are determined to be extremely hazardous. Existing law requires the department to develop, and adopt by regulation, criteria and guidelines for the identification of hazardous wastes and extremely hazardous wastes.

This bill would require the department to adopt regulations establishing criteria and guidelines by December 31, 2016, for determining onsite generation quantities to determine the California generator status, as defined, of a person who generates hazardous waste at an individual site. The bill would require a generator to determine the quantities of all hazardous waste generated onsite each calendar month and to use this quantity to determine his or her California generator status for proper management of those wastes, as specified.

(2)
Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program. Existing law requires every county to apply to the secretary to be certified to implement the unified program and allows a city or local agency to implement the unified program as a unified program agency, or UPA. Existing law requires the Office of Emergency Services to adopt, after public hearing and consultation with the Office of the State Fire Marshal and other appropriate public entities, regulations for minimum standards for business plans and area plans, and requires all business plans and area plans to meet the standards adopted by the Office of Emergency Services. Existing law requires a UPA, in consultation with local emergency response agencies, to establish an area plan for emergency response to a release or threatened release of a hazardous material within its jurisdiction. A UPA is required to submit a proposed area plan to the Office of Emergency Services, and the office is required to notify the UPA whether the area plan is adequate and meets the standards adopted by the office in regulations. Existing law requires a UPA to certify to the office every 3 years that it has conducted a complete review of its area plan and has made any necessary revisions and, if a substantial change is made to its area plan, to forward the changes to the office within 14 days after the changes have been made.

This bill would require the UPA to certify to the Office of Emergency Services every 3 years that it has conducted a review of its area plan and has made any necessary revisions or that no substantial changes have been made.

Existing law requires a business handling hazardous materials, as specified, to establish and implement a business plan for emergency response to a release or threatened release of a hazardous material in accordance with the standards prescribed in the regulations adopted by the Office of Emergency Services. The business plan is required to contain specified information, including a site map that contains north orientation, loading areas, internal roads, adjacent streets, storm and sewer drains, access and exit points, emergency shutoffs, evacuation staging areas, hazardous material handling and storage areas, and emergency response equipment.

This bill would additionally require the site map to include additional map requirements required by the UPA pursuant to an ordinance.

Existing law makes the knowing violation of the business plan requirements a crime.
This bill, by expanding the requirements for a business plan, would impose a state-mandated local program by expanding the application of a crime.

This bill would make additional legislative findings and declarations relative to the unified program.

(3) The Aboveground Petroleum Storage Act defines, for purposes of the act, an “aboveground storage tank” as a tank that has the capacity to store 55 gallons or more of petroleum and that is substantially or totally above the surface of the ground and a tank in an underground area, as defined, except as specified.

This bill would revise the definition of “aboveground storage tank” to include a tank or container that has the capacity to store 55 gallons or more of petroleum, including drums, intermediate bulk containers, totes, mobile refuelers, oil-filled operational equipment, and oil-filled manufacturing equipment, and that is substantially or totally above the surface of the ground and a tank in an underground area.

Existing law requires the unified program agencies (UPAs) to implement the Aboveground Petroleum Storage Act in accordance with regulations adopted by the Office of the State Fire Marshal and authorizes the Office of the State Fire Marshal to adopt these regulations.

This bill would require the Office of the State Fire Marshal to adopt these regulations.

Except for certain tank facility facilities located on a farm, nursery, logging site, or construction site, farms, nurseries, logging sites, or construction sites, the Aboveground Petroleum Storage Act requires each owner or operator of a storage tank at a tank facility to prepare a spill prevention control and countermeasure plan and to conduct periodic inspections of the storage tank.

This bill would revise the above-described exception to the plan and inspection requirements to instead require that the tank facility be operated by, instead of located on, the farm, nursery, logging site, or construction site. The bill would require that the plan address best management practices to prevent petroleum releases, as specified.

(4) Existing law generally regulates the storage of hazardous substances in underground storage tanks and requires underground storage tanks that are used to store hazardous substances and that are installed after January 1, 1984, to meet certain requirements and obtain a permit from the UPA.
This bill would revise the definition of “storage” and “store” for purposes of the regulation of the storage of hazardous substances in underground storage tanks, to exempt storage that is in compliance with specified alternative laws for the regulation of hazardous materials.

This bill would make other changes to the hazardous materials laws.

(4) The existing Medical Waste Management Act regulates the disposal of medical waste. Existing law authorizes a local agency to adopt a medical waste management program to, among other things, issue medical waste registrations and permits and inspect medical waste generators and treatment facilities, and requires the local agency, if it elects to do so, to notify the department. Under existing law, if the local agency chooses not to adopt a medical waste management program or if the department withdraws its designation, the department is the enforcement agency. Under existing law, whenever the enforcement agency determines that a violation or threatened violation of the act has resulted, or is likely to result, in a release of medical waste into the environment, the agency is authorized to issue an order to the responsible person specifying a schedule for compliance or imposing an administrative penalty of not more than $1,000 per violation.

This bill would authorize the imposition of an administrative penalty of up to $5,000. The bill would also establish a process for the enforcement agency to set the amount of the administrative penalty and would establish a process for a person who is assessed the administrative penalty to challenge the facts of the order and the amount of the penalty, including a hearing and appeal. The bill would require that a provision of an order, except the imposition of an administrative penalty, take effect upon issuance by the enforcement agency if the enforcement agency finds that the violation or violations of law associated with that provision may pose an imminent and substantial danger to the public health or safety or the environment.

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

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

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

SECTION 1. Section 25110.8.2 is added to the Health and Safety Code, to read:

25110.8.2. (a) “California generator status” means the designation as a “large quantity generator” or a “small quantity generator” according to the quantity of hazardous waste generated in a calendar month for purposes of hazardous waste management pursuant to requirements in this chapter and Chapter 12 (commencing with Section 66262.10) of Division 4.5 of Title 22 of the California Code of Regulations. A generator will be designated as a “large quantity generator” or a “small quantity generator” according to the following:

(1) “Large quantity generator” or “LQG” means a generator of more than one kilogram of acutely or extremely hazardous waste, or 1,000 kilograms or greater of nonacute hazardous waste in a month as described in Chapter 12 (commencing with Section 66262.10) of Division 4.5 of Title 22 of the California Code of Regulations.

(2) “Small quantity generator” or “SQG” means a generator of more than 100 kilograms of nonacute hazardous waste in a calendar month, but less than 1,000 kilograms of nonacute hazardous waste in a calendar month, as described in Chapter 12 (commencing with Section 66262.10) of Division 4.5 of Title 22 of the California Code of Regulations.

(b) “Generator” has the same meaning as defined in Section 25205.1.

SEC. 2. Section 25117 of the Health and Safety Code is amended to read:

25117. (a) Except as provided in subdivision (d), “hazardous waste” means a waste that meets any of the criteria for the identification of a hazardous waste adopted by the department pursuant to Section 25141.

(b) “Hazardous waste” includes, but is not limited to, RCRA hazardous waste:

(c) Unless expressly provided otherwise, “hazardous waste” also includes extremely hazardous waste and acutely hazardous waste.

(d) Notwithstanding subdivision (a), in any criminal or civil prosecution brought by a city or district attorney or the Attorney
General for violation of this chapter, when it is an element of proof
that the person knew or reasonably should have known of the
violation, or violated the chapter willfully or with reckless disregard
for the risk, or acted intentionally or negligently, the element of
proof that the waste is hazardous waste may be satisfied by
demonstrating that the waste exhibited the characteristics set forth
in subdivision (c) of Section 25141.

SEC. 3. Section 25141 of the Health and Safety Code is
amended to read:

25141. (a) The department shall develop and adopt by
regulation criteria and guidelines for the identification of hazardous
wastes and extremely hazardous wastes.
(b) By December 31, 2016, the department shall adopt
regulations establishing criteria and guidelines for determining
onsite generation quantities for purposes of determining a
generator’s California generator status.
(c) The criteria and guidelines adopted by the department
pursuant to subdivision (a) shall identify waste or combinations
of waste, that may be either of the following, as hazardous waste
because of its quantity, concentration, or physical, chemical, or
infectious characteristics:
(1) Cause, or significantly contribute to an increase in mortality
or an increase in serious irreversible, or incapacitating reversible,
illness.
(2) Pose a substantial present or potential hazard to human
health or the environment, due to factors including, but not limited
to, carcinogenicity, acute toxicity, chronic toxicity, bioaccumulative
properties, or persistence in the environment, when improperly
treated, stored, transported, or disposed of, or otherwise managed.
(d) Except as provided in Section 25141.5, any regulations
adopted pursuant to this section for the identification of hazardous
waste as it read on January 1, 1995, which are in effect on January
1, 1995, shall be deemed to comply with the intent of this section
as amended by this act during the 1995 portion of the 1995–96
Regular Session of the Legislature.

SEC. 4. Section 25143.15 is added to the Health and Safety
Code, to read:

25143.15. (a) Generators shall determine the quantities of all
hazardous waste generated onsite each calendar month. The
quantities of waste calculated within any calendar month shall be
used to determine the California generator status for proper management of those wastes pursuant to Chapter 12 (commencing with Section 66262.10) of Division 4.5 of Title 22 of the California Code of Regulations.

(b) Quantities of the following wastes are not to be included in the determination required of generators by subdivision (a), if they are managed as specified:

1. Universal wastes and electronic wastes managed in compliance with Chapter 23 (commencing with Section 66273.1) of Division 4.5 of Title 22 of the California Code of Regulations.

2. Treated wood wastes managed in compliance with the alternate management standards of Chapter 34 (commencing with Section 67386.1) of Division 4.5 of Title 22 of the California Code of Regulations.

3. Spent lead-acid storage batteries sent for recycling and managed in compliance with Article 10.5 (commencing with Section 25215) of this code and Article 7 (commencing with Section 66266.80) of Chapter 16 of Division 4.5 of Title 22 of the California Code of Regulations.

4. Recyclable oil filters and fuel filters managed in compliance with Article 13 (commencing with Section 25250) of this chapter and Article 6 (commencing with Section 66266.50) of Chapter 16 of Division 4.5 of Title 22 of the California Code of Regulations.

5. Appliances managed in compliance with Article 10.1 (commencing with Section 25211). Hazardous wastes or other materials that require special handling removed from an appliance are subject to counting upon removal.

6. Substances that are exempted from the definition of waste by this article or by regulations adopted by the department.

7. Hazardous waste that is produced from onsite treatment of hazardous waste, provided the hazardous waste treated was already counted.

SEC. 5.

SECTION 1. Section 25270.2 of the Health and Safety Code is amended to read:

25270.2. For purposes of this chapter, the following definitions apply:

(a) “Aboveground storage tank” or “storage tank” means a tank or container that has the capacity to store 55 gallons or more of petroleum, including, but not limited to, drums, intermediate bulk
containers, totes, mobile refuelers, oil-filled operational equipment, and oil-filled manufacturing equipment as defined in Section 112.2 of Title 40 of the Code of Federal Regulations and that is substantially or totally above the surface of the ground, except that, for purposes of this chapter, “aboveground storage tank” or “storage tank” includes a tank in an underground area. “Aboveground storage tank” does not include any of the following:

(1) A pressure vessel or boiler that is subject to Part 6 (commencing with Section 7620) of Division 5 of the Labor Code.

(2) A tank containing hazardous waste or extremely hazardous waste, as respectively defined in Sections 25117 and 25115, if the Department of Toxic Substances Control has issued the person owning or operating the tank a hazardous waste facilities permit for the storage tank.

(3) An aboveground oil production tank that is subject to Section 3106 of the Public Resources Code.

(4) Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if the oil-filled electrical equipment meets either of the following conditions:

(A) The equipment contains less than 10,000 gallons of dielectric fluid.

(B) The equipment contains 10,000 gallons or more of dielectric fluid with PCB levels less than 50 parts per million, appropriate containment or diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course, and the electrical equipment is visually inspected in accordance with the usual routine maintenance procedures of the owner or operator.

(5) A tank regulated as an underground storage tank under Chapter 6.7 (commencing with Section 25280) of this division and Chapter 16 (commencing with Section 2610) of Division 3 of Title 23 of the California Code of Regulations and that does not meet the definition of a tank in an underground area.

(6) A transportation-related tank facility, subject to the authority and control of the United States Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the United States Environmental Protection Agency, as set forth in Appendix A to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.
(7) A tank or tank facility operated by a farm that is exempt from the federal spill prevention, control, and countermeasure rule requirements pursuant to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(b) “Board” means the State Water Resources Control Board.

(c) (1) “Certified Unified Program Agency” or “CUPA” means the agency certified by the Secretary for Environmental Protection to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.

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

(3) (A) “Unified Program Agency” or “UPA” means the CUPA, or its participating agencies to the extent that each PA has been designated by the CUPA, pursuant to a written agreement, to implement and enforce the unified program element specified in paragraph (2) of subdivision (c) of Section 25404. The UPAs have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 to 25404.2, inclusive, to implement and enforce the requirements of this chapter.

(B) After a CUPA has been certified by the secretary, the unified program agency shall be the only agency authorized to enforce the requirements of this chapter.

(C) This paragraph does not limit the authority or responsibility granted to the office, the board, and the regional boards by this chapter.

(d) “Office” means the Office of the State Fire Marshal.

(e) “Operator” means the person responsible for the overall operation of a tank facility.

(f) “Owner” means the person who owns the tank facility or part of the tank facility.

(g) “Person” means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, limited liability company, or association. “Person” also includes any city, county, district, the University of California, the California State University, the state, any department or agency
thereof, and the United States, to the extent authorized by federal
law.
(h) “Petroleum” means crude oil, or a fraction thereof, that is
liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per
square inch absolute pressure.
(i) “Regional board” means a California regional water quality
control board.
(j) “Release” means any spilling, leaking, pumping, pouring,
emitting, emptying, discharging, escaping, leaching, or disposing
into the environment.
(k) “Secretary” means the Secretary for Environmental
Protection.
(l) “Storage” or “store” means the containment, handling, or
treatment of petroleum, for a period of time, including on a
temporary basis.
(m) “Storage capacity” means the aggregate capacity of all
aboveground storage tanks at a tank facility. The “storage capacity”
of a storage tank includes the shell capacity of the storage tank. If
a certain portion of the storage tank is incapable of storing
petroleum due to integral design, such as mechanical equipment
or other interior components, then the storage capacity is reduced
to the volume the storage tank can hold.
(n) “Tank facility” means one or more aboveground storage
tanks, including any piping that is integral to the tanks, that contain
petroleum and that are used by an owner or operator at a single
location or site. For purposes of this chapter, a pipe is integrally
related to an aboveground storage tank if the pipe is connected to
the tank and meets any of the following:
(1) The pipe is within the dike or containment area.
(2) The pipe is between the containment area and the first flange
or valve outside the containment area.
(3) The pipe is connected to the first flange or valve on the
exterior of the tank, if state or federal law does not require a
containment area.
(4) The pipe is connected to a tank in an underground area.
(o) “Tank in an underground area” means a storage tank to
which all of the following apply:
(1) The storage tank is located in a structure that is at least 10
percent below the ground surface, including, but not limited to, a
basement, cellar, shaft, pit, or vault.
(2) The structure in which the storage tank is located, at a minimum, provides for secondary containment of the contents of the tank, piping, and ancillary equipment, until cleanup occurs.

(3) A storage tank in an underground area is not subject to Chapter 6.7 (commencing with Section 25280) if the storage tank is in compliance with the provisions of this chapter, the tank facility owner or operator is implementing a plan to prevent and control releases, and the regulations, specific to tanks in underground areas and buried piping connected to tanks in underground areas, have been adopted by the office pursuant to Section 25270.4.1.

(4) The storage tank meets one or more of the following conditions:

(A) The storage tank contains petroleum to be used or previously used as a lubricant or coolant in a motor engine or transmission, oil-filled operational equipment, or oil-filled manufacturing equipment, is situated on or above the surface of the floor, and the structure in which the tank is located provides enough space for direct viewing of the exterior of the tank except for the part of the tank in contact with the surface of the floor.

(B) The storage tank does not meet the conditions in subparagraph (A), (C), or (D), contains petroleum, is situated on or above the surface of the floor, and the structure in which the tank is located provides enough space for direct viewing of the exterior of the tank, except for the part of the tank in contact with the surface of the floor, and all piping connected to the tank, including any portion of a vent line, vapor recovery line, or fill pipe that is beneath the surface of the ground, and all ancillary equipment, can either be visually inspected by direct viewing or has both secondary containment and leak detection that meets the requirements of the regulations adopted by the office pursuant to Section 25270.4.1.

(C) The storage tank contains petroleum that is considered a hazardous waste and complies with the hazardous waste tank standards pursuant to Article 10 (commencing with Section 66265.190) of Chapter 15 of Title 22 of the California Code of Regulations and the tank facility has been issued a unified program facility permit pursuant to Section 25404.2 for generation, treatment, accumulation, or storage of hazardous waste.

(D) The storage tank contains petroleum and is used for emergency systems, is situated on or above the surface of the floor,
and the structure in which the tank is located provides enough space for direct viewing of the exterior of the tank except for the part of the tank in contact with the surface of the floor.

(E) The storage tank meets one of the conditions described in subparagraphs (A) through (D), inclusive and meets all of the following:

(i) Is located at a facility with a storage capacity of less than 1,320 gallons of petroleum.

(ii) The tank facility owner or operator is monitoring the tank in compliance with recognized industry standards.

(iii) The tank facility owner or operator is implementing a plan to prevent and control releases to the environment.

(iv) The tank facility owner or operator is complying with the provisions of this chapter and the regulations adopted by the office.

(p) “Viewing” means visual inspection, and “direct viewing” means, in regard to a storage tank, direct visual inspection of the exterior of the tank, except for the part of the tank in contact with the surface of the floor, and the entire length of all piping and ancillary equipment by a person or through the use of visual aids, including, but not limited to, mirrors, cameras, or video equipment.

(q) “Waters of the state” means any surface water or groundwater, including saline waters, within the boundaries of the state.

SEC. 6.

SEC. 2. Section 25270.4.1 of the Health and Safety Code is amended to read:

25270.4.1. (a) The office shall adopt regulations implementing this chapter. The office shall also provide interpretation of this chapter to the UPAs, and oversee the implementation of this chapter by the UPAs.

(b) The office shall establish an advisory committee that includes representatives from regulated entities, appropriate trade associations, fire service organizations, federal, state, and local organizations, including UPAs, and other interested parties. The advisory committee shall act in an advisory capacity to the office in conducting its responsibilities.

(c) The office shall, in addition to any other requirements imposed pursuant to this chapter, train UPAs, ensure consistency with state law, to the maximum extent feasible, ensure consistency with federal enforcement guidance issued by federal agencies
pursuant to subdivision (d), and support the UPAs in providing
outreach to regulated persons regarding compliance with current
local, state, and federal regulations relevant to the office’s
obligations under this chapter.

(d) Any regulation adopted by the office pursuant to this section
shall ensure consistency with the requirements for spill prevention,
control, and countermeasure plans under Part 112 (commencing
with Section 112.1) of Subchapter D of Chapter I of Title 40 of
the Code of Federal Regulations, and shall include any more
stringent requirements necessary to implement this chapter.

SEC. 7.
SEC. 3. Section 25270.4.5 of the Health and Safety Code is
amended to read:

25270.4.5. (a) Except as provided in subdivision (b), each
owner or operator of a storage tank at a tank facility subject to this
chapter shall prepare a spill prevention control and countermeasure
plan prepared in accordance with Part 112 (commencing with
Section 112.1) of Subchapter D of Chapter I of Title 40 of the
Code of Federal Regulations. Each owner or operator specified in
this subdivision shall conduct periodic inspections of the storage
tank to ensure compliance with Part 112 (commencing with
Section 112.1) of Subchapter D of Chapter I of Title 40 of the
Code of Federal Regulations. In implementing the spill prevention
control and countermeasure plan, each owner or operator specified
in this subdivision shall fully comply with the latest version of the
regulations contained in Part 112 (commencing with Section 112.1)
of Subchapter D of Chapter I of Title 40 of the Code of Federal
Regulations. Tank facilities that are subject to this chapter shall
prepare a spill prevention control and countermeasure plan
addressing best management practices to prevent petroleum releases
using the same format required by Part 112 (commencing with
Section 112.1) of Subchapter D of Chapter I of Title 40 of the
Code of Federal Regulations, including tank facilities not subject
to the requirements of that part pursuant to that part’s general
applicability provisions in Section 112.1 of Title 40 of the
Code of Federal Regulations.

(b) A tank facility operated by a farm, nursery, logging site, or
construction site is not subject to subdivision (a) if no storage tank
at the location exceeds 20,000 gallons and the cumulative storage
capacity of the tank facility does not exceed 100,000 gallons.
However, notwithstanding paragraph (7) of subdivision (a) of Section 25270.2, the owner or operator of a tank facility exempt pursuant to this subdivision shall take the following actions:

1. Conduct a daily visual inspection of any storage tank storing petroleum. For purposes of this section, “daily” means every day that contents are added to or withdrawn from the tank, but no less than five days per week. The number of days may be reduced by the number of state or federal holidays that occur during the week if there is no addition to, or withdrawal from, the tank on the holiday. The unified program agency may reduce the frequency of inspections to not less than once every three days at a tank facility that is exempt pursuant to this section if the tank facility is not staffed on a regular basis, provided that the inspection is performed every day the facility is staffed.

2. Allow the UPA to conduct a periodic inspection of the tank facility.

3. If the UPA determines installation of secondary containment is necessary for the protection of the waters of the state, install a secondary means of containment for each tank or group of tanks where the secondary containment will, at a minimum, contain the entire contents of the largest tank protected by the secondary containment plus precipitation.

SEC. 4. Section 25270.5 of the Health and Safety Code is amended to read:

25270.5. (a) Except as provided in subdivision (b), at least once every three years, the UPA shall inspect each storage tank or a representative sampling of the storage tanks at each tank facility that has a storage capacity of 10,000 gallons or more of petroleum. The purpose of the inspection shall be to determine whether the owner or operator is in compliance with the spill prevention control and countermeasure plan requirements of this chapter.

(b) The UPA may develop an alternative inspection and compliance plan, subject to approval by the secretary and the office.

(c) An inspection conducted pursuant to this section does not require the oversight of a professional engineer. The person conducting the inspection shall complete and pass the initial aboveground storage tank inspector training program. The curriculum of the aboveground storage tank inspector training
program shall focus on the spill prevention control and countermeasure plan provisions and safety requirements for aboveground storage tank inspections.

SEC. 9. 
SEC. 5. Section 25270.6 of the Health and Safety Code is amended to read:

25270.6. (a) (1) On or before January 1, 2009, and on or before January 1 annually thereafter, each owner or operator of a tank facility subject to this chapter shall file with the statewide information management system, a tank facility statement that shall identify the name and address of the tank facility, a contact person for the tank facility, the total storage capacity of the tank facility, and the location and contents of each petroleum storage tank that exceeds 10,000 gallons in capacity. A copy of a statement submitted previously pursuant to this section may be submitted in lieu of a new tank facility statement if no new or used storage tanks have been added to the facility or if no significant modifications have been made. For purposes of this section, a significant modification includes, but is not limited to, altering existing storage tanks or changing spill prevention or containment methods.

(2) Notwithstanding paragraph (1), an owner or operator of a tank facility that submits a business plan, as defined in subdivision (d) of Section 25501, to the statewide information management system and that complies with Sections 25503, 25505, 25505.1, 25507, 25507.2, 25508, and 25508.1, satisfies the requirement in paragraph (1) to file a tank facility statement.

(b) Each year, commencing in calendar year 2010, each owner or operator of a tank facility who is subject to the requirements of subdivision (a) shall pay a fee to the UPA, on or before a date specified by the UPA. The governing body of the UPA shall establish a fee, as part of the single fee system implemented pursuant to Section 25404.5, at a level sufficient to pay the necessary and reasonable costs incurred by the UPA in administering this chapter, including, but not limited to, inspections, enforcement, and administrative costs. The UPA shall also implement the fee accountability program established pursuant to subdivision (c) of Section 25404.5 and the regulations adopted to implement that program.
SEC. 10.

SEC. 6. Section 25281 of the Health and Safety Code is amended to read:

25281. For purposes of this chapter and unless otherwise expressly provided, the following definitions apply:

(a) “Automatic line leak detector” means any method of leak detection, as determined in regulations adopted by the board, that alerts the owner or operator of an underground storage tank to the presence of a leak. “Automatic line leak detector” includes, but is not limited to, any device or mechanism that alerts the owner or operator of an underground storage tank to the presence of a leak by restricting or shutting off the flow of a hazardous substance through piping, or by triggering an audible or visual alarm, and that detects leaks of three gallons or more per hour at 10 pounds per square inch line pressure within one hour.

(b) “Board” means the State Water Resources Control Board. “Regional board” means a California regional water quality control board.

(c) “Compatible” means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the tank system.

(d) (1) “Certified Unified Program Agency” or “CUPA” means the agency certified by the Secretary for Environmental Protection to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.

(2) “Participating Agency” or “PA” means an agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary to implement or enforce the unified program element specified in paragraph (3) of subdivision (c) of Section 25404, in accordance with Sections 25404.1 and 25404.2.

(3) “Unified Program Agency” or “UPA” means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce the unified program element specified in paragraph (3) of subdivision (c) of Section 25404. For purposes of this chapter, a UPA has the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 to 25404.2, inclusive, to implement and enforce only those requirements of this chapter
listed in paragraph (3) of subdivision (c) of Section 25404 and the
regulations adopted to implement those requirements. Except as
provided in Section 25296.09, after a CUPA has been certified by
the secretary, the UPA shall be the only local agency authorized
to enforce the requirements of this chapter listed in paragraph (3)
of subdivision (c) of Section 25404 within the jurisdiction of the
CUPA. This paragraph shall not be construed to limit the authority
or responsibility granted to the board and the regional boards by
this chapter to implement and enforce this chapter and the
regulations adopted pursuant to this chapter.
(e) “Department” means the Department of Toxic Substances
Control.
(f) “Facility” means any one, or combination of, underground
storage tanks used by a single business entity at a single location
or site.
(g) “Federal act” means Subchapter IX (commencing with
Section 6991) of Chapter 82 of Title 42 of the United States Code,
as added by the Hazardous and Solid Waste Amendments of 1984
(Public Law 98-616), or as it may subsequently be amended or
supplemented.
(h) “Hazardous substance” means either of the following:
(1) All of the following liquid and solid substances, unless the
department, in consultation with the board, determines that the
substance could not adversely affect the quality of the waters of
the state:
(A) Substances on the list prepared by the Director of Industrial
Relations pursuant to Section 6382 of the Labor Code.
(B) Hazardous substances, as defined in Section 25316.
(C) Any substance or material that is classified by the National
Fire Protection Association (NFPA) as a flammable liquid, a class
II combustible liquid, or a class III-A combustible liquid.
(2) Any regulated substance, as defined in subsection (7) of
Section 6991 of Title 42 of the United States Code, as that section
reads on January 1, 2012, or as it may subsequently be amended
or supplemented.
(i) “Local agency” means one of the following, as specified in
subdivision (b) of Section 25283:
(1) The unified program agency.
(2) Before July 1, 2013, a city or county.
On and after July 1, 2013, a city or county certified by the
board to implement the local oversight program pursuant to Section
25297.01.

(3) “Operator” means any person in control of, or having daily
responsibility for, the daily operation of an underground storage
tank system.

(k) “Owner” means the owner of an underground storage tank.

(l) “Person” means an individual, trust, firm, joint stock
company, corporation, including a government corporation,
partnership, limited liability company, or association. “Person”
also includes any city, county, district, the state, another state of
the United States, any department or agency of this state or another
state, or the United States to the extent authorized by federal law.

(m) “Pipe” means any pipeline or system of pipelines that is
used in connection with the storage of hazardous substances and
that is not intended to transport hazardous substances in interstate
or intrastate commerce or to transfer hazardous materials in bulk
to or from a marine vessel.

(n) “Primary containment” means the first level of containment,
such as the portion of a tank that comes into immediate contact on
its inner surface with the hazardous substance being contained.

(o) “Product tight” means impervious to the substance that is
contained, or is to be contained, so as to prevent the seepage of
the substance from the containment.

(p) “Release” means any spilling, leaking, emitting, discharging,
escaping, leaching, or disposing from an underground storage tank
into or on the waters of the state, the land, or the subsurface soils.

(q) “Secondary containment” means the level of containment
external to, and separate from, the primary containment.

(r) “Single walled” means construction with walls made of only
one thickness of material. For the purposes of this chapter,
laminated, coated, or clad materials are considered single walled.

(s) “Special inspector” means a professional engineer, registered
pursuant to Chapter 7 (commencing with Section 6700) of Division
3 of the Business and Professions Code, who is qualified to attest,
at a minimum, to structural soundness, seismic safety, the
compatibility of construction materials with contents, cathodic
protection, and the mechanical compatibility of the structural
elements of underground storage tanks.
(t) (1) “Storage” or “store” means the containment, handling, or treatment of hazardous substances, either on a temporary basis or for a period of years.

(2) “Storage” or “store” does not include the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the department pursuant to Section 25200 or 25201.6 or granted interim status under Section 25200.5.

(3) “Storage” or “store” does not include the storage of hazardous wastes in an underground storage tank if the facility has been issued a unified program facility permit pursuant to Section 25404.2 for generation, treatment, accumulation, or storage of hazardous waste in an underground area, as defined in Section 280.12 of Title 40 of the Code of Federal Regulations, that is subject to Chapter 6.67 (commencing with Section 25270) and complies with the hazardous waste tank standards pursuant to Article 10 (commencing with Section 66265.190) of Chapter 15 of Title 22 of the California Code of Regulations.

(4) “Storage” or “store” does not include the storage of hazardous wastes in an underground storage tank if all of the following apply:

(A) The facility has been issued a unified program facility permit pursuant to Section 25404.2 for generation, treatment, accumulation, or storage of hazardous waste in a tank.

(B) The tank is located in a structure that is at least 10 percent below the ground surface, including, but not limited to, a basement, cellar, shaft, pit, or vault.

(C) The structure in which the tank is located, at a minimum, provides for secondary containment of the contents of the tank, piping, and ancillary equipment, until cleanup occurs.

(D) The tank complies with the hazardous waste tank standards pursuant to Article 10 (commencing with Section 66265.190) of Chapter 15 of Title 22 of the California Code of Regulations.

(u) “Tank” means a stationary device designed to contain an accumulation of hazardous substances which is constructed primarily of nonearthem materials, including, but not limited to, wood, concrete, steel, or plastic that provides structural support.

(v) “Tank integrity test” means a test method capable of detecting an unauthorized release from an underground storage tank consistent with the minimum standards adopted by the board.
(w) “Tank tester” means an individual who performs tank integrity tests on underground storage tanks.

(x) “Unauthorized release” means any release of any hazardous substance that does not conform to this chapter, including an unauthorized release specified in Section 25295.5.

(y) (1) “Underground storage tank” means any one or combination of tanks, including pipes connected thereto, that is used for the storage of hazardous substances and that is substantially or totally beneath the surface of the ground. “Underground storage tank” does not include any of the following:

(A) A tank with a capacity of 1,100 gallons or less that is located on a farm and that stores motor vehicle fuel used primarily for agricultural purposes and not for resale.

(B) A tank that is located on a farm or at the residence of a person, that has a capacity of 1,100 gallons or less, and that stores home heating oil for consumptive use on the premises where stored.

(C) Structures, such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, and lined and unlined pits, sumps, and lagoons. A sump that is a part of a monitoring system required under Section 25290.1, 25290.2, 25291, or 25292 and sumps or other structures defined as underground storage tanks under the federal act are not exempted by this subparagraph.

(D) A tank holding hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

(E) A tank in an underground area, as defined in Section 25270.2, and associated piping, that is subject to Chapter 6.67 (commencing with Section 25270).

(2) Structures identified in subparagraphs (C) and (D) of paragraph (1) may be regulated by the board and any regional board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality.

(z) “Underground tank system” or “tank system” means an underground storage tank, connected piping, ancillary equipment, and containment system, if any.

(aa) (1) “Unified program facility” means all contiguous land and structures, other appurtenances, and improvements on the land
that are subject to the requirements of paragraph (3) of subdivision (c) of Section 25404.

(2) “Unified program facility permit” means a permit issued pursuant to Chapter 6.11 (commencing with Section 25404), and that encompasses the permitting requirements of Section 25284.

(3) “Permit” means a permit issued pursuant to Section 25284 or a unified program facility permit as defined in paragraph (2).

SEC. 11.

SEC. 7. Section 25404 of the Health and Safety Code is amended to read:

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

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

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

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

(2) “Department” means the Department of Toxic Substances Control.
“Minor violation” means the failure of a person to comply with a requirement or condition of an applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, of the unified program that the UPA is authorized to implement or enforce pursuant to this chapter, and that does not otherwise include any of the following:

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

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

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

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

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

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

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

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

“Secretary” means the Secretary for Environmental Protection.

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

“Unified program facility permit” means a permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and permit or authorization requirements under a local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but does not encompass the permitting requirements of a local ordinance that
incorporates provisions of the California Fire Code or the
California Building Code.
(b) The secretary shall adopt implementing regulations and
implement a unified hazardous waste and hazardous materials
management regulatory program, which shall be known as the
unified program, after holding an appropriate number of public
hearings throughout the state. The unified program shall be
developed in close consultation with the director, the Secretary of
California Emergency Management, the State Fire Marshal, the
executive officers and chairpersons of the State Water Resources
Control Board and the California regional water quality control
boards, the local health officers, local fire services, and other
appropriate officers of interested local agencies, and affected
businesses and interested members of the public, including
environmental organizations.
(c) The unified program shall consolidate the administration of
the following requirements and, to the maximum extent feasible
within statutory constraints, shall ensure the coordination and
consistency of any regulations adopted pursuant to those
requirements:
(1) (A) Except as provided in subparagraphs (B) and (C), the
requirements of Chapter 6.5 (commencing with Section 25100),
and the regulations adopted by the department pursuant thereto,
that are applicable to all of the following:
(i) Hazardous waste generators, persons operating pursuant to
a permit-by-rule, conditional authorization, or conditional
exemption, pursuant to Chapter 6.5 (commencing with Section
25100) or the regulations adopted by the department.
(ii) Persons managing perchlorate materials.
(iii) Persons subject to Article 10.1 (commencing with Section
25211) of Chapter 6.5.
(iv) Persons operating a collection location that has been
established under an architectural paint stewardship plan approved
by the Department of Resources Recycling and Recovery pursuant
to the architectural paint recovery program established pursuant
to Chapter 5 (commencing with Section 48700) of Part 7 of
Division 30 of the Public Resources Code.
(v) On and before December 31, 2019, a transfer facility, as
defined in paragraph (3) of subdivision (a) of Section 25123.3,
that is operated by a door-to-door household hazardous waste
collection program or household hazardous waste residential pickup service, as defined in subdivision (c) of Section 25218.1. On and after January 1, 2020, the unified program shall not include a transfer facility operated by a door-to-door household hazardous waste collection program.

(vi) Persons who receive used oil from consumers pursuant to Section 25250.11.

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

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

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

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

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

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

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

(C) The unified program shall not include the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to persons operating transportable treatment units, except that any required notice regarding transportable treatment units shall also be provided to the CUPAs.
(2) The requirements of Chapter 6.67 (commencing with Section 25270) concerning aboveground storage tanks.

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

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

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

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

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

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

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

(e) (1) The secretary shall establish standards applicable to CUPAs, participating agencies, state agencies, and businesses specifying the data to be collected and submitted by unified program agencies in administering the programs listed in subdivision (c).

(2) (A) The secretary shall establish a statewide information management system capable of receiving all data collected by the unified program agencies and reported by regulated businesses pursuant to this subdivision, in a manner that is most cost efficient and effective for both the regulated businesses and state and local agencies. The secretary shall prescribe an XML or other compatible Web-based format for the transfer of data from CUPAs and regulated businesses and make all nonconfidential data available on the Internet.
(B) The secretary shall establish milestones to measure the implementation of the statewide information management system and shall provide periodic status updates to interested parties.

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

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

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

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

(4) No later than three years after the statewide information management system is established, each CUPA, PA, and regulated business shall report program data electronically. The secretary shall work with the CUPAs to develop a phased in schedule for the electronic collection and submittal of information to be included in the statewide information management system, giving first priority to information relating to those chemicals determined by the secretary to be of greatest concern. The secretary, in making this determination shall consult with the CUPAs, the California Emergency Management Agency, the State Fire Marshal, and the boards, departments, and offices within the California Environmental Protection Agency.
(5) The secretary, in collaboration with the CUPAs, shall provide technical assistance to regulated businesses to comply with the electronic reporting requirements and may expend funds identified in clause (i) of subparagraph (A) of paragraph (3) for that purpose.

SEC. 12.

SEC. 8. Section 25500 of the Health and Safety Code is amended to read:

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

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

(c) The Legislature further finds and declares that the owners and operators of stationary sources producing, processing, handling, or storing hazardous materials have a general duty, in the same manner and to the same extent as is required by Section 654 of Title 29 of the United States Code, to identify hazards that may result from releases using appropriate hazard assessment
techniques, to design and maintain a safe facility taking those steps as are necessary to prevent releases, and to minimize the consequences of accidental releases that do occur.

SEC. 13. Section 25503 of the Health and Safety Code is amended to read:

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

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

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

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

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

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

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

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

(2) Preemergency planning;

(3) Notification and coordination of onsite activities with state, local, and federal agencies, responsible parties, and special districts.
(4) Training of appropriate employees.
(5) Onsite public safety and information.
(6) Required supplies and equipment.
(7) Access to emergency response contractors and hazardous waste disposal sites.
(8) Incident critique and followup.
(9) Requirements for notification to the office of reports made pursuant to Section 25510.

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

(2) The unified program agency shall certify to the office every three years that it has conducted a review of its area plan and has made any necessary revisions or that no substantial changes have been made. If a unified program agency makes a substantial change to its area plan, it shall forward the changes to the office within 14 days after the changes have been made.

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

SEC. 14.

SEC. 9. Section 25505 of the Health and Safety Code is amended to read:

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

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

(2) A site map that contains north orientation, loading areas,
internal roads, adjacent streets, storm and sewer drains, access and
exit points, emergency shutoffs, evacuation staging areas,
hazardous material handling and storage areas, emergency response
equipment, and additional map requirements the governing body
of the unified program agency finds necessary. Any locally required
additional map requirements shall be adopted by local ordinance
and the unified program agency shall notify the secretary within
30 days after those requirements are adopted. A site map shall be
updated to include the additional information required pursuant to
the local ordinance no later than one year after adoption of the
local ordinance.

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

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

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

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

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

(b) A business required to file a pipeline operations contingency
plan in accordance with the Elder California Pipeline Safety Act
of 1981 (Chapter 5.5 (commencing with Section 51010) of Part 1
of Division 1 of Title 5 of the Government Code) and the
regulations of the Department of Transportation, found in Part 195
(commencing with Section 195.0) of Subchapter D of Chapter I of Subtitle B of Title 49 of the Code of Federal Regulations, may file a copy of those plans with the unified program agency instead of filing an emergency response plan specified in paragraph (3) of subdivision (a).

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

SEC. 15. Section 25507 of the Health and Safety Code is amended to read:

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

(1) (A) The facility handles a hazardous material or a mixture containing a hazardous material that has a quantity at any one time during the reporting year that is equal to, or greater than, 55 gallons for materials that are liquids, 500 pounds for solids, or 200 cubic feet for compressed gas, as defined in subdivision (i) of Section 25501. The physical state and quantity present of mixtures shall be determined by the physical state of the mixture as a whole, not individual components, at standard temperature and pressure.

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

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

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

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

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

(4) (A) Except as provided in subparagraph (B), the business handles at any one time during the reporting year a total weight of 5,000 pounds for solids or a total volume of 550 gallons for liquids, if the hazardous material is a solid or liquid substance that is classified as a hazard for purposes of Section 5194 of Title 8 of the California Code of Regulations solely as an irritant or sensitizer.

(B) If the hazardous material handled by the facility is a paint that will be recycled or otherwise managed under an architectural paint recovery program approved by the Department of Resources Recycling and Recovery pursuant to Chapter 5 (commencing with Section 48700) of Part 7 of Division 30 of the Public Resources Code, the business is required to establish and implement a business plan only if the business handles at any one time during the reporting year a total weight of 10,000 pounds of solid hazardous materials or a total volume of 1,000 gallons of liquid hazardous materials.

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

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

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

(C) Carbon dioxide.

(D) Nonflammable refrigerant gases, as defined in the California Fire Code, that are used in refrigeration systems.

(E) Gases used in closed fire suppression systems.
(6) The facility handles a radioactive material at any one time during the reporting year in quantities for which an emergency plan is required to be considered pursuant to Schedule C (Section 30.72) of Part 30 (commencing with Section 30.1), Part 40 (commencing with Section 40.1), or Part 70 (commencing with Section 70.1), of Chapter 1 of Title 10 of the Code of Federal Regulations, or pursuant to any regulations adopted by the state in accordance with those regulations.

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

(b) The following hazardous materials are exempt from the requirements of this section:

(1) Refrigerant gases, other than ammonia or flammable gas in a closed cooling system, that are used for comfort or space cooling for computer rooms.

(2) Compressed air in cylinders, bottles, and tanks used by fire departments and other emergency response organizations for the purpose of emergency response and safety.

(3) (A) Lubricating oil, if the total volume of each type of lubricating oil handled at a facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at that facility does not exceed 275 gallons, at any one time.

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

(4) Both of the following, if the aggregate storage capacity of oil at the facility is less than 1,320 gallons:

(A) Fluid in a hydraulic system.

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

(5) Hazardous material contained solely in a consumer product, handled at, and found in, a retail establishment and intended for sale to, and for the use by, the public. The exemption provided for in this paragraph shall not apply to a consumer product handled
at the facility which manufactures that product, or a separate
warehouse or distribution center of that facility, or where a product
is dispensed on the retail premises.

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

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

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

(e) The unified program agency, upon application by a handler,
may exempt a hazardous material from the inventory provisions
of this article upon proof that the material does not pose a
significant present or potential hazard to human health and safety
or to the environment if released into the workplace or
environm. The unified program agency shall specify in writing
the basis for any exemption under this subdivision.
(f) The unified program agency shall adopt procedures to
provide for public input when approving applications submitted
pursuant to subdivisions (d) and (e).

SEC. 16.
SEC. 11. Section 25507.2 of the Health and Safety Code is
amended to read:
25507.2. Unless required by a local ordinance, the unified
program agency shall exempt an unstaffed facility located at least
one-half mile from the nearest occupied structure from Sections
25508.2 and 25511, and shall subject the business to Sections
25505, 25506, and 25507 only as specified in this section, if the
facility is not otherwise subject to the requirements of applicable
federal law, and all of the following requirements are met:
(a) The types and quantities of materials onsite are limited to
one or more of the following:
(1) One thousand standard cubic feet of compressed inert gases
(asphyxiati...
and the unified program agency may assess a fee not to exceed the actual costs of processing and for inspection, if an inspection is conducted.

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

SEC. 17. SEC. 12. Section 25508.1 of the Health and Safety Code is amended to read:

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

(a) A 100 percent or more increase in the quantity of a previously disclosed material.
(b) Any handling of a previously undisclosed hazardous material subject to the inventory requirements of this article.
(c) Change of business address.
(d) Change of business ownership.
(e) Change of business name.
(f) (1) A substantial change in the handler’s operations occurs that requires modification to any portion of the business plan.
(2) For the purpose of this subdivision, “substantial change” means any change in a facility that would inhibit immediate response during an emergency by either site personnel or emergency response personnel, or that could inhibit the handler’s ability to comply with Section 25507, change the operational knowledge of the facility, or impede implementation of the business plan.

SEC. 18. SEC. 13. Section 25531.2 of the Health and Safety Code is amended to read:

25531.2. (a) The Legislature finds and declares that as the state implements the federal accidental release prevention program pursuant to this article, the Office of Emergency Services will play a vital and increased role in preventing accidental releases of
extremely hazardous substances. The Legislature further finds and declares that as an element of the unified program established pursuant to Chapter 6.11 (commencing with Section 25404), a single fee system surcharge mechanism is established by Section 25404.5 to cover the costs incurred by the office pursuant to this article. It is the intent of the Legislature that this existing authority, together with any federal assistance that may become available to implement the accidental release program, be used to fully fund the activities of the office necessary to implement this article.

(b) The Legislature further finds and declares that the owners and operators of stationary sources producing, processing, handling, or storing hazardous materials have a general duty, in the same manner and to the same extent as is required by Section 654 of Title 29 of the United States Code, to identify hazards that may result from releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking those steps as are necessary to prevent releases, and to minimize the consequences of accidental releases that do occur.

(c) The office shall use any federal assistance received to implement Chapter 6.11 (commencing with Section 25404) to offset any fees or charges levied to cover the costs incurred by the office pursuant to this article.

SEC. 14. Section 118330 of the Health and Safety Code is amended to read:

118330. (a) Whenever the enforcement agency determines that a violation or threatened violation of this part or the regulations adopted pursuant to this part has resulted, or is likely to result, in a release of medical waste into the environment, the agency may issue an order to the responsible person specifying a schedule for compliance or imposing an administrative penalty of not more than five thousand dollars ($5,000) per violation. Any person who, after notice and an opportunity for hearing, violates an order issued pursuant to this section is guilty of a misdemeanor. The department shall adopt regulations that specify the requirements for providing notice to persons to whom orders are issued and for administrative hearings and fines concerning these orders.

(b) (1) In establishing the amount of the administrative penalty and ordering that the violation be corrected pursuant to this section, the enforcement agency shall take into consideration the
nature, circumstances, extent, and gravity of the violation, the violator’s past and present efforts to prevent, abate, or clean up conditions posing a threat to the public health or safety or the environment, the violator’s ability to pay the penalty, and the deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.

(2) If the amount of the administrative penalty is set after the person is served with the order pursuant to subdivision (c) or after the order becomes final, the person may request a hearing to dispute the amount of the administrative penalty and is entitled to the same process as provided in subdivision (c), whether or not the person disputed the facts of the violation through that process.

(3) An administrative penalty assessed pursuant to this section shall be in addition to any other penalties or sanctions imposed by law.

(c) (1) An order issued pursuant to this section shall be served by personal service or certified mail and shall inform the person served of the right to a hearing.

(2) A person served with an order pursuant to paragraph (1) and who has been unable to resolve the violation with the enforcement agency may, within 15 days after service of the order, request a hearing by filing with the enforcement agency a notice of defense. The notice shall be filed with the agency that issued the order. A notice of defense shall be deemed filed within the 15-day period if it is postmarked within that 15-day period. If no notice of defense is filed within the 15-day time period, the order shall become final.

(3) Except as otherwise provided in paragraph (4), a person requesting a hearing on an order issued pursuant to this section may select the hearing officer specified in either subparagraph (A) or (B) of paragraph (4) in the notice of defense filed with the enforcement agency pursuant to paragraph (2). If a notice of defense is filed, but no hearing officer is selected, the enforcement agency may select the hearing officer.

(4) Within 90 days of receipt of the notice of defense by the enforcement agency, the hearing shall be scheduled using one of the following:

(A) An administrative law judge of the Office of Administrative Hearings of the Department of General Services, who shall conduct the hearing in accordance with Chapter 4.5 (commencing with
Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and the enforcement agency shall have all the authority granted to an agency by those provisions.

(B) (i) A hearing officer designated by the enforcement agency, who shall conduct the hearing in accordance with Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, and the enforcement agency shall have all the authority granted to an agency by those provisions. When a hearing is conducted by an enforcement agency hearing officer pursuant to this clause, the enforcement agency shall issue a decision within 60 days after the hearing is conducted. Each hearing officer designated by an enforcement agency shall meet the requirements of Section 11425.30 of the Government Code and any other applicable restriction.

(ii) An enforcement agency, or a person requesting a hearing on an order issued by an enforcement agency, may select the hearing process specified in this subparagraph in a notice of defense filed pursuant to paragraph (2) only if the enforcement agency has selected a designated hearing officer and established a program for conducting a hearing in accordance with this paragraph.

(5) The hearing decision issued pursuant to this subdivision shall be effective and final upon issuance by the enforcement agency. A copy of the decision shall be served by personal service or by certified mail upon the party served with the order, or their representative, if any.

(6) The person has a right to appeal the hearing decision if, within 30 days of the date of receipt of the final decision pursuant to paragraph (5), the person files a written notice of appeal with the enforcement agency. The appeal shall be in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(7) A decision issued pursuant to paragraph (6) may be reviewed by a court pursuant to Section 11523 of the Government Code. In all proceedings pursuant to this section, the court shall uphold the decision of the enforcement agency if the decision is based upon substantial evidence in the record as a whole. The filing of a petition for writ of mandate shall not stay an action required pursuant to this chapter or the accrual of any penalties assessed.
pursuant to this chapter. This subdivision does not prohibit the
court from granting any appropriate relief within its jurisdiction.
(d) A provision of an order issued under this section, except the
imposition of an administrative penalty, shall take effect upon
issuance of the order by the enforcement agency if the enforcement
agency finds that the violation or violations of law associated with
that provision may pose an imminent and substantial danger to
the public health or safety or the environment. A request for a
hearing or appeal, as provided in subdivision (c), shall not stay
the effect of that provision of the order pending a hearing decision.
If the enforcement agency determines that any or all provisions of
the order are so related that the public health or safety or the
environment can be protected only by immediate compliance with
the order as a whole, the order as a whole, except the imposition
of an administrative penalty, shall take effect upon issuance by
the enforcement agency. A request for a hearing shall not stay the
effect of the order as a whole pending a hearing decision.
(e) The enforcement agency shall consult with the district
attorney, county counsel, or city attorney on the development of
policies to be followed in exercising the authority delegated
pursuant to this section as it relates to the authority of the
enforcement agency to issue orders.

SEC. 19.
SEC. 15. No reimbursement is required by this act pursuant to
Section 6 of Article XIIIB of the California Constitution because
the only costs that may be incurred by a local agency or school
district will be incurred because this act creates a new crime or
infraction, eliminates a crime or infraction, or changes the penalty
for a crime or infraction, within the meaning of Section 17556 of
the Government Code, or changes the definition of a crime within
the meaning of Section 6 of Article XIIIB of the California
Constitution.