

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

AMENDED IN ASSEMBLY AUGUST 31, 2015

AMENDED IN ASSEMBLY JUNE 23, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 612

Introduced by Senator Jackson

February 27, 2015

An act to amend Sections 25270.2, 25270.3, 25270.4.1, 25270.4.5, 25270.5, 25270.6, 25270.9, 25281, 25404, 25505, 25507, 25507.2, 25508.1, 25531.2, and 118330 of, and to add Section 25158.1 to, 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 and requires that any waste that conforms to the criteria be managed in accordance with permits, orders, and regulations issued by the department. Existing law requires the department to adopt, and revise when appropriate, standards and regulations for the management of hazardous wastes to protect against hazards to the public health, to domestic livestock, to wildlife, or to the environment. Pursuant to this authority, the department has adopted

regulations establishing standards for generators of hazardous wastes and establishing standards for owners and operators of hazardous waste transfer, treatment, storage, and disposal facilities.

This bill would require that a generator of hazardous waste include all hazardous waste that it has generated in any month, except for universal wastes, as defined, when computing whether it is required to comply with specified regulatory requirements. The bill would require the department to adopt regulations by December 1, 2016, incorporating instructions to hazardous waste generators implementing this requirement.

(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 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 for certain types of tanks and vessels, as specified.

This bill would exclude from the definition of “aboveground storage tank” a tank or tank facility located on and operated by a farm that is exempt from specified federal spill prevention, control, and countermeasure requirements. The bill would revise the definition of a “tank in an underground area.” This bill would provide that a tank in an underground area that is subject to aboveground tank regulation, as specified, is not subject to regulation pursuant to laws specific to underground storage tanks.

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 facilities located on 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 additionally require that the tank facility be operated by the farm, nursery, logging site, or construction site. The bill would require that the plan apply good engineering 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.

(5) 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 *and be designated by the State Department of Public Health* 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~~, *adopt such a program*, to notify ~~the~~ *that* department. Under existing law, if the local agency chooses not to adopt a medical waste management program or if the ~~department~~ *State Department of Public Health* withdraws its designation, the ~~department~~ *State Department of Public Health* 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~~ *process, not applicable to the State Department of Public Health*, 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 *apply certain other procedures regarding the issuance of an order or the imposition of an administrative penalty if the State Department of Public Health is the enforcement agency*. 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.

(6) 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.

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 25158.1 is added to the Health and Safety
2 Code, to read:

3 25158.1. (a) When making the quantity determinations for
4 purposes of Section 66262.34 of Title 22 of Division 4.5 of the
5 California Code of Regulations, as it may be amended consistent
6 with this code, a generator shall include all hazardous waste that
7 it has generated in any month, except for universal wastes managed
8 pursuant to the requirements of Chapter 23 (commencing with
9 Section 66273.1) of Division 4.5 of Title 22 of the California Code
10 of Regulations.

11 (b) By December 1, 2016, the department shall adopt regulations
12 incorporating the instructions to hazardous waste generators in
13 subdivision (a) into its implementing regulations.

14 SEC. 2. Section 25270.2 of the Health and Safety Code is
15 amended to read:

16 25270.2. For purposes of this chapter, the following definitions
17 apply:

18 (a) “Aboveground storage tank” or “storage tank” means a tank
19 that has the capacity to store 55 gallons or more of petroleum that
20 is substantially or totally above the surface of the ground, except
21 that, for purposes of this chapter, “aboveground storage tank” or
22 “storage tank” includes a tank in an underground area.
23 “Aboveground storage tank” does not include any of the following:

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

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

31 (3) An aboveground oil production tank that is subject to Section
32 3106 of the Public Resources Code.

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

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

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

8 (5) A tank regulated as an underground storage tank under
9 Chapter 6.7 (commencing with Section 25280) of this division and
10 Chapter 16 (commencing with Section 2610) of Division 3 of Title
11 23 of the California Code of Regulations and that does not meet
12 the definition of a tank in an underground area.

13 (6) A transportation-related tank facility, subject to the authority
14 and control of the United States Department of Transportation, as
15 defined in the Memorandum of Understanding between the
16 Secretary of Transportation and the Administrator of the United
17 States Environmental Protection Agency, as set forth in Appendix
18 A to Part 112 (commencing with Section 112.1) of Subchapter D
19 of Chapter I of Title 40 of the Code of Federal Regulations.

20 (7) A tank or tank facility located on and operated by a farm
21 that is exempt from the federal spill prevention, control, and
22 countermeasure rule requirements pursuant to Part 112
23 (commencing with Section 112.1) of Subchapter D of Chapter I
24 of Title 40 of the Code of Federal Regulations.

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

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

30 (2) “Participating Agency” or “PA” means an agency that has
31 a written agreement with the CUPA pursuant to subdivision (d)
32 of Section 25404.3, and is approved by the secretary, to implement
33 and enforce the unified program element specified in paragraph
34 (2) of subdivision (c) of Section 25404, in accordance with Sections
35 25404.1 and 25404.2.

36 (3) (A) “Unified Program Agency” or “UPA” means the CUPA,
37 or its participating agencies to the extent that each PA has been
38 designated by the CUPA, pursuant to a written agreement, to
39 implement and enforce the unified program element specified in
40 paragraph (2) of subdivision (c) of Section 25404. The UPAs have

1 the responsibility and authority, to the extent provided by this
2 chapter and Sections 25404.1 to 25404.2, inclusive, to implement
3 and enforce the requirements of this chapter.

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

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

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

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

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

15 (g) “Person” means an individual, trust, firm, joint stock
16 company, corporation, including a government corporation,
17 partnership, limited liability company, or association. “Person”
18 also includes any city, county, district, the University of California,
19 the California State University, the state, any department or agency
20 thereof, and the United States, to the extent authorized by federal
21 law.

22 (h) “Petroleum” means crude oil, or a fraction thereof, that is
23 liquid at 60 degrees Fahrenheit temperature and 14.7 pounds per
24 square inch absolute pressure.

25 (i) “Regional board” means a California regional water quality
26 control board.

27 (j) “Release” means any spilling, leaking, pumping, pouring,
28 emitting, emptying, discharging, escaping, leaching, or disposing
29 into the environment.

30 (k) “Secretary” means the Secretary for Environmental
31 Protection.

32 (l) “Storage” or “store” means the containment, handling, or
33 treatment of petroleum, for a period of time, including on a
34 temporary basis.

35 (m) “Storage capacity” means the aggregate capacity of all
36 aboveground storage tanks at a tank facility.

37 (n) “Tank facility” means one or more aboveground storage
38 tanks, including any piping that is integral to the tanks, that contain
39 petroleum and that are used by an owner or operator at a single
40 location or site. For purposes of this chapter, a pipe is integrally

- 1 related to an aboveground storage tank if the pipe is connected to
2 the tank and meets any of the following:
- 3 (1) The pipe is within the dike or containment area.
 - 4 (2) The pipe is between the containment area and the first flange
5 or valve outside the containment area.
 - 6 (3) The pipe is connected to the first flange or valve on the
7 exterior of the tank, if state or federal law does not require a
8 containment area.
 - 9 (4) The pipe is connected to a tank in an underground area.
- 10 (o) (1) “Tank in an underground area” means a storage tank to
11 which all of the following apply:
- 12 (A) The storage tank is located in a structure that is at least 10
13 percent below the ground surface, including, but not limited to, a
14 basement, cellar, shaft, pit, or vault.
 - 15 (B) The structure in which the storage tank is located, at a
16 minimum, provides for secondary containment of the contents of
17 the tank, piping, and ancillary equipment, until cleanup occurs. A
18 shop-fabricated double-walled storage tank with a mechanical or
19 electronic device used to detect leaks in the interstitial space meets
20 the requirement for secondary containment of the contents of the
21 tank.
 - 22 (C) The storage tank meets one or more of the following
23 conditions:
 - 24 (i) The storage tank contains petroleum to be used or previously
25 used as a lubricant or coolant in a motor engine or transmission,
26 oil-filled operational equipment, or oil-filled manufacturing
27 equipment, is situated on or above the surface of the floor, and the
28 structure in which the tank is located provides enough space for
29 direct viewing of the exterior of the tank except for the part of the
30 tank in contact with the surface of the floor.
 - 31 (ii) The storage tank only contains petroleum that is determined
32 to be a hazardous waste, complies with the hazardous waste tank
33 standards pursuant to Article 10 (commencing with Section
34 66265.190) of Chapter 15 of Title 22 of the California Code of
35 Regulations as it may be amended, and the tank facility has been
36 issued a unified program facility permit pursuant to Section
37 25404.2 for generation, treatment, accumulation, or storage of
38 hazardous waste.
 - 39 (iii) The storage tank contains petroleum and is used solely in
40 connection with a fire pump or an emergency system, legally

1 required standby system, or optional standby system as defined in
2 the most recent version of the California Electrical Code (Section
3 700.2 of Article 700, Section 701.2 of Article 701, and Section
4 702.2 of Article 702, of Chapter 7 of Part 3 of Title 24 of the
5 California Code of Regulations), is situated on or above the surface
6 of the floor, and the structure in which the tank is located provides
7 enough space for direct viewing of the exterior of the tank except
8 for the part of the tank in contact with the surface of the floor.

9 (iv) The storage tank does not meet the conditions in clauses
10 (i), (ii), or (iii), but meets all of the following conditions:

11 (I) It contains petroleum.

12 (II) It is situated on or above the surface of the floor.

13 (III) The structure in which the tank is located provides enough
14 space for direct viewing of the exterior of the tank, except for the
15 part of the tank in contact with the surface of the floor, and all
16 piping connected to the tank, including any portion of a vent line,
17 vapor recovery line, or fill pipe that is beneath the surface of the
18 ground, and all ancillary equipment, can either be visually
19 inspected by direct viewing or has both secondary containment
20 and leak detection that meet the requirements of the regulations
21 adopted by the office pursuant to Section 25270.4.1.

22 (2) For a shop-fabricated double-walled storage tank, direct
23 viewing of the exterior of the tank is not required under paragraph
24 (1) if inspections of the interstitial space are performed or if it has
25 a mechanical or electronic device that will detect leaks in the
26 interstitial space.

27 (3) (A) A storage tank in an underground area is not subject to
28 Chapter 6.7 (commencing with Section 25280) if the storage tank
29 meets the definition of a tank in an underground area, as provided
30 in paragraph (1) and, except as specified in subparagraph (B), the
31 regulations that apply to all new and existing tanks in underground
32 areas and buried piping connected to tanks in underground areas
33 have been adopted by the office pursuant to Section 25270.4.1.

34 (B) A storage tank meeting the description of clause (i) of
35 subparagraph (C) of paragraph (1) shall continue to be subject to
36 this chapter, and excluded from the definition of an underground
37 storage tank in Chapter 6.7 (commencing with Section 25280),
38 before and after the date the regulations specific to tanks in
39 underground areas have been adopted by the office.

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

8 SEC. 3. Section 25270.3 of the Health and Safety Code is
9 amended to read:

10 25270.3. A tank facility is subject to this chapter if any of the
11 following apply:

12 (a) The tank facility is subject to the oil pollution prevention
13 regulations specified in Part 112 (commencing with Section 112.1)
14 of Subchapter D of Chapter I of Title 40 of the Code of Federal
15 Regulations.

16 (b) The tank facility has a storage capacity of 1,320 gallons or
17 more of petroleum.

18 (c) The tank facility has a storage capacity of less than 1,320
19 gallons of petroleum and has one or more tanks in an underground
20 area meeting the conditions specified in paragraph (1) of
21 subdivision (o) of Section 25270.2. If this subdivision is applicable,
22 only tanks meeting the conditions specified in paragraph (1) of
23 subdivision (o) of Section 25270.2 shall be included as storage
24 tanks and subject to this chapter.

25 SEC. 4. Section 25270.4.1 of the Health and Safety Code is
26 amended to read:

27 25270.4.1. (a) The office shall adopt regulations implementing
28 this chapter. The office shall also provide interpretation of this
29 chapter to the UPAs, and oversee the implementation of this
30 chapter by the UPAs.

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

37 (c) The office shall, in addition to any other requirements
38 imposed pursuant to this chapter, train UPAs, ensure consistency
39 with state law, to the maximum extent feasible, ensure consistency
40 with federal enforcement guidance issued by federal agencies

1 pursuant to subdivision (d), and support the UPAs in providing
2 outreach to regulated persons regarding compliance with current
3 local, state, and federal regulations relevant to the office’s
4 obligations under this chapter.

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

11 SEC. 5. Section 25270.4.5 of the Health and Safety Code is
12 amended to read:

13 25270.4.5. (a) Except as provided in subdivision (b), each
14 owner or operator of a storage tank at a tank facility subject to this
15 chapter shall prepare a spill prevention control and countermeasure
16 plan applying good engineering practices to prevent petroleum
17 releases using the same format required by Part 112 (commencing
18 with Section 112.1) of Subchapter D of Chapter I of Title 40 of
19 the Code of Federal Regulations, including owners and operators
20 of tank facilities not subject to the general provisions in Section
21 112.1 of those regulations. Each owner or operator specified in
22 this subdivision shall conduct periodic inspections of the storage
23 tank to ensure compliance with Part 112 (commencing with Section
24 112.1) of Subchapter D of Chapter I of Title 40 of the Code of
25 Federal Regulations. In implementing the spill prevention control
26 and countermeasure plan, each owner or operator specified in this
27 subdivision shall fully comply with the latest version of the
28 regulations contained in Part 112 (commencing with Section 112.1)
29 of Subchapter D of Chapter I of Title 40 of the Code of Federal
30 Regulations.

31 (b) A tank facility located on and operated by a farm, nursery,
32 logging site, or construction site is not subject to subdivision (a)
33 if no storage tank at the location exceeds 20,000 gallons and the
34 cumulative storage capacity of the tank facility does not exceed
35 100,000 gallons. Unless excluded from the definition of an
36 “aboveground storage tank” in Section 25270.2, the owner or
37 operator of a tank facility exempt pursuant to this subdivision shall
38 take the following actions:

39 (1) Conduct a daily visual inspection of any storage tank storing
40 petroleum. For purposes of this section, “daily” means every day

1 that contents are added to or withdrawn from the tank, but no less
2 than five days per week. The number of days may be reduced by
3 the number of state or federal holidays that occur during the week
4 if there is no addition to, or withdrawal from, the tank on the
5 holiday. The unified program agency may reduce the frequency
6 of inspections to not less than once every three days at a tank
7 facility that is exempt pursuant to this section if the tank facility
8 is not staffed on a regular basis, provided that the inspection is
9 performed every day the facility is staffed.

10 (2) Allow the UPA to conduct a periodic inspection of the tank
11 facility.

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

18 SEC. 6. Section 25270.5 of the Health and Safety Code is
19 amended to read:

20 25270.5. (a) Except as provided in subdivision (b), at least
21 once every three years, the UPA shall inspect each storage tank
22 or a representative sampling of the storage tanks at each tank
23 facility that has a storage capacity of 10,000 gallons or more of
24 petroleum. The purpose of the inspection shall be to determine
25 whether the owner or operator is in compliance with the spill
26 prevention control and countermeasure plan requirements of this
27 chapter.

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

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

38 SEC. 7. Section 25270.6 of the Health and Safety Code is
39 amended to read:

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

16 (2) Notwithstanding paragraph (1), an owner or operator of a
17 tank facility that submits a business plan, as defined in subdivision
18 (d) of Section 25501, to the statewide information management
19 system and that complies with Sections 25503, 25505, 25505.1,
20 25507, 25507.2, 25508, 25508.1, and 25508.2, satisfies the
21 requirement in paragraph (1) to file a tank facility statement.

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

34 SEC. 8. Section 25270.9 of the Health and Safety Code is
35 amended to read:

36 25270.9. (a) The board and the regional board may oversee
37 cleanup or abatement efforts, or cause cleanup or abatement efforts,
38 of a release from a storage tank at a tank facility.

39 (b) The reasonable expenses of the board and the regional board
40 incurred in overseeing, or contracting for, cleanup or abatement

1 efforts that result from a release at a tank facility is a charge against
2 the owner or operator of the tank facility. Expenses reimbursable
3 to a public agency under this section are a debt of the tank facility
4 owner or operator, and shall be collected in the same manner as
5 in the case of an obligation under a contract, express or implied.

6 (c) Expenses recovered by the board or a regional board pursuant
7 to this section shall be deposited into the Waste Discharge Permit
8 Fund. These moneys shall be separately accounted for, and shall
9 be expended by the board, upon appropriation by the Legislature,
10 to assist regional boards and other public agencies with authority
11 to clean up waste or abate the effects of the waste, in cleaning up
12 or abating the effects of the waste on waters of the state, or for the
13 purposes authorized in Section 13443 of the Water Code.

14 SEC. 9. Section 25281 of the Health and Safety Code is
15 amended to read:

16 25281. For purposes of this chapter and unless otherwise
17 expressly provided, the following definitions apply:

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

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

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

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

39 (2) “Participating Agency” or “PA” means an agency that has
40 a written agreement with the CUPA pursuant to subdivision (d)

1 of Section 25404.3, and is approved by the secretary to implement
2 or enforce the unified program element specified in paragraph (3)
3 of subdivision (c) of Section 25404, in accordance with Sections
4 25404.1 and 25404.2.

5 (3) “Unified Program Agency” or “UPA” means the CUPA, or
6 its participating agencies to the extent each PA has been designated
7 by the CUPA, pursuant to a written agreement, to implement or
8 enforce the unified program element specified in paragraph (3) of
9 subdivision (c) of Section 25404. For purposes of this chapter, a
10 UPA has the responsibility and authority, to the extent provided
11 by this chapter and Sections 25404.1 to 25404.2, inclusive, to
12 implement and enforce only those requirements of this chapter
13 listed in paragraph (3) of subdivision (c) of Section 25404 and the
14 regulations adopted to implement those requirements. Except as
15 provided in Section 25296.09, after a CUPA has been certified by
16 the secretary, the UPA shall be the only local agency authorized
17 to enforce the requirements of this chapter listed in paragraph (3)
18 of subdivision (c) of Section 25404 within the jurisdiction of the
19 CUPA. This paragraph shall not be construed to limit the authority
20 or responsibility granted to the board and the regional boards by
21 this chapter to implement and enforce this chapter and the
22 regulations adopted pursuant to this chapter.

23 (e) “Department” means the Department of Toxic Substances
24 Control.

25 (f) “Facility” means any one, or combination of, underground
26 storage tanks used by a single business entity at a single location
27 or site.

28 (g) “Federal act” means Subchapter IX (commencing with
29 Section 6991) of Chapter 82 of Title 42 of the United States Code,
30 as added by the Hazardous and Solid Waste Amendments of 1984
31 (Public Law 98-616), or as it may subsequently be amended or
32 supplemented.

33 (h) “Hazardous substance” means either of the following:

34 (1) All of the following liquid and solid substances, unless the
35 department, in consultation with the board, determines that the
36 substance could not adversely affect the quality of the waters of
37 the state:

38 (A) Substances on the list prepared by the Director of Industrial
39 Relations pursuant to Section 6382 of the Labor Code.

40 (B) Hazardous substances, as defined in Section 25316.

1 (C) Any substance or material that is classified by the National
2 Fire Protection Association (NFPA) as a flammable liquid, a class
3 II combustible liquid, or a class III-A combustible liquid.

4 (2) Any regulated substance, as defined in subsection (7) of
5 Section 6991 of Title 42 of the United States Code, as that section
6 reads on January 1, 2012, or as it may subsequently be amended
7 or supplemented.

8 (i) “Local agency” means one of the following, as specified in
9 subdivision (b) of Section 25283:

10 (1) The unified program agency.

11 (2) Before July 1, 2013, a city or county.

12 (3) On and after July 1, 2013, a city or county certified by the
13 board to implement the local oversight program pursuant to Section
14 25297.01.

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

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

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

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

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

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

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

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

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

4 (s) “Special inspector” means a professional engineer, registered
5 pursuant to Chapter 7 (commencing with Section 6700) of Division
6 3 of the Business and Professions Code, who is qualified to attest,
7 at a minimum, to structural soundness, seismic safety, the
8 compatibility of construction materials with contents, cathodic
9 protection, and the mechanical compatibility of the structural
10 elements of underground storage tanks.

11 (t) (1) “Storage” or “store” means the containment, handling,
12 or treatment of hazardous substances, either on a temporary basis
13 or for a period of years.

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

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

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

25 (B) The tank is located in an underground area, as defined in
26 Section 280.12 of Title 40 of the Code of Federal Regulations.

27 (C) The tank is subject to Chapter 6.67 (commencing with
28 Section 25270).

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

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

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

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

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

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

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

11 (v) “Tank integrity test” means a test method capable of
12 detecting an unauthorized release from an underground storage
13 tank consistent with the minimum standards adopted by the board.

14 (w) “Tank tester” means an individual who performs tank
15 integrity tests on underground storage tanks.

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

19 (y) (1) “Underground storage tank” means any one or
20 combination of tanks, including pipes connected thereto, that is
21 used for the storage of hazardous substances and that is
22 substantially or totally beneath the surface of the ground.

23 “Underground storage tank” does not include any of the following:

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

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

30 (C) Structures, such as sumps, separators, storm drains, catch
31 basins, oil field gathering lines, refinery pipelines, lagoons,
32 evaporation ponds, well cellars, separation sumps, and lined and
33 unlined pits, sumps, and lagoons. A sump that is a part of a
34 monitoring system required under Section 25290.1, 25290.2,
35 25291, or 25292 and sumps or other structures defined as
36 underground storage tanks under the federal act are not exempted
37 by this subparagraph.

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

1 (E) A tank in an underground area, as defined in Section
2 25270.2, and associated piping, that is subject to Chapter 6.67
3 (commencing with Section 25270).

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

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

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

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

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

21 SEC. 10. Section 25404 of the Health and Safety Code is
22 amended to read:

23 25404. (a) For purposes of this chapter, the following terms
24 shall have the following meanings:

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

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

34 (C) “Unified Program Agency” or “UPA” means the CUPA, or
35 its participating agencies to the extent each PA has been designated
36 by the CUPA, pursuant to a written agreement, to implement or
37 enforce a particular unified program element specified in
38 subdivision (c). The UPAs have the responsibility and authority
39 to implement and enforce the requirements listed in subdivision
40 (c), and the regulations adopted to implement the requirements

1 listed in subdivision (c), to the extent provided by Chapter 6.5
2 (commencing with Section 25100), Chapter 6.67 (commencing
3 with Section 25270), Chapter 6.7 (commencing with Section
4 25280), Chapter 6.95 (commencing with Section 25500), and
5 Sections 25404.1 to 25404.2, inclusive. After a CUPA has been
6 certified by the secretary, the unified program agencies and the
7 state agencies carrying out responsibilities under this chapter shall
8 be the only agencies authorized to enforce the requirements listed
9 in subdivision (c) within the jurisdiction of the CUPA.

10 (2) “Department” means the Department of Toxic Substances
11 Control.

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

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

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

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

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

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

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

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

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

1 (4) “Secretary” means the Secretary for Environmental
2 Protection.

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

6 (6) “Unified program facility permit” means a permit issued
7 pursuant to this chapter. For the purposes of this chapter, a unified
8 program facility permit encompasses the permitting requirements
9 of Section 25284, and permit or authorization requirements under
10 a local ordinance or regulation relating to the generation or
11 handling of hazardous waste or hazardous materials, but does not
12 encompass the permitting requirements of a local ordinance that
13 incorporates provisions of the California Fire Code or the
14 California Building Code.

15 (b) The secretary shall adopt implementing regulations and
16 implement a unified hazardous waste and hazardous materials
17 management regulatory program, which shall be known as the
18 unified program, after holding an appropriate number of public
19 hearings throughout the state. The unified program shall be
20 developed in close consultation with the director, the Secretary of
21 California Emergency Management, the State Fire Marshal, the
22 executive officers and chairpersons of the State Water Resources
23 Control Board and the California regional water quality control
24 boards, the local health officers, local fire services, and other
25 appropriate officers of interested local agencies, and affected
26 businesses and interested members of the public, including
27 environmental organizations.

28 (c) The unified program shall consolidate the administration of
29 the following requirements and, to the maximum extent feasible
30 within statutory constraints, shall ensure the coordination and
31 consistency of any regulations adopted pursuant to those
32 requirements:

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

37 (i) Hazardous waste generators, persons operating pursuant to
38 a permit-by-rule, conditional authorization, or conditional
39 exemption, pursuant to Chapter 6.5 (commencing with Section
40 25100) or the regulations adopted by the department.

1 (ii) Persons managing perchlorate materials.

2 (iii) Persons subject to Article 10.1 (commencing with Section
3 25211) of Chapter 6.5.

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

10 (v) On and before December 31, 2019, a transfer facility, as
11 defined in paragraph (3) of subdivision (a) of Section 25123.3,
12 that is operated by a door-to-door household hazardous waste
13 collection program or household hazardous waste residential pickup
14 service, as defined in subdivision (c) of Section 25218.1. On and
15 after January 1, 2020, the unified program shall not include a
16 transfer facility operated by a door-to-door household hazardous
17 waste collection program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (6) The requirements for the hazardous materials plan and
32 hazardous materials inventory statement of the California Fire
33 Code, as adopted by the State Fire Marshal pursuant to Section
34 13143.9.

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

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

6 (2) (A) The secretary shall establish a statewide information
7 management system capable of receiving all data collected by the
8 unified program agencies and reported by regulated businesses
9 pursuant to this subdivision, in a manner that is most cost efficient
10 and effective for both the regulated businesses and state and local
11 agencies. The secretary shall prescribe an XML or other compatible
12 Web-based format for the transfer of data from CUPAs and
13 regulated businesses and make all nonconfidential data available
14 on the Internet.

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

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

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

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

39 (C) The secretary, or one or more of the boards, departments,
40 or offices within the California Environmental Protection Agency,

1 shall seek available federal funding for purposes of implementing
2 this subdivision.

3 (4) No later than three years after the statewide information
4 management system is established, each CUPA, PA, and regulated
5 business shall report program data electronically. The secretary
6 shall work with the CUPAs to develop a phased in schedule for
7 the electronic collection and submittal of information to be included
8 in the statewide information management system, giving first
9 priority to information relating to those chemicals determined by
10 the secretary to be of greatest concern. The secretary, in making
11 this determination shall consult with the CUPAs, the California
12 Emergency Management Agency, the State Fire Marshal, and the
13 boards, departments, and offices within the California
14 Environmental Protection Agency.

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

19 SEC. 11. Section 25505 of the Health and Safety Code is
20 amended to read:

21 25505. (a) A business plan shall contain all of the following
22 information:

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

31 (2) A site map that contains north orientation, loading areas,
32 internal roads, adjacent streets, storm and sewer drains, access and
33 exit points, emergency shutoffs, evacuation staging areas,
34 hazardous material handling and storage areas, emergency response
35 equipment, and additional map requirements the governing body
36 of the unified program agency finds necessary. Any locally required
37 additional map requirements shall be adopted by local ordinance.
38 This ordinance and related public processes are subject to the
39 limitations on the disclosure of hazardous material location
40 information specified in subdivision (b) of Section 25509. The

1 unified program agency shall notify the secretary both before
2 publishing a proposed ordinance to require additional map
3 requirements and within 30 days after those requirements are
4 adopted. A site map shall be updated to include the additional
5 information required pursuant to the local ordinance no later than
6 one year after adoption of the local ordinance.

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

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

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

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

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

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

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

1 SEC. 12. Section 25507 of the Health and Safety Code is
2 amended to read:

3 25507. (a) Except as provided in this article, a business shall
4 establish and implement a business plan for emergency response
5 to a release or threatened release of a hazardous material in
6 accordance with the standards prescribed in the regulations adopted
7 pursuant to Section 25503 if the business meets any of the
8 following conditions at any unified program facility:

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

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

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

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

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

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

36 (4) (A) It handles at any one time during the reporting year a
37 total weight of 5,000 pounds for solids or a total volume of 550
38 gallons for liquids, if the hazardous material is a solid or liquid
39 substance that is classified as a hazard for purposes of Section

1 5194 of Title 8 of the California Code of Regulations solely as an
2 irritant or sensitizer, except as provided in subparagraph (B).

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

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

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

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

23 (C) Carbon dioxide.

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

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

27 (6) It handles a radioactive material at any one time during the
28 reporting year in quantities for which an emergency plan is required
29 to be considered pursuant to Schedule C (Section 30.72) of Part
30 30 (commencing with Section 30.1), Part 40 (commencing with
31 Section 40.1), or Part 70 (commencing with Section 70.1), of
32 Chapter 1 of Title 10 of the Code of Federal Regulations, or
33 pursuant to any regulations adopted by the state in accordance with
34 those regulations.

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

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

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

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

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

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

18 (4) Both of the following, if the aggregate storage capacity of
19 oil at the facility is less than 1,320 gallons and a spill prevention
20 control and countermeasure plan is not required pursuant to Part
21 112 (commencing with Section 112.1) of Subchapter D of Chapter
22 I of Title 40 of the Code of Federal Regulations.

23 (A) Fluid in a hydraulic system.

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

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

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

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

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

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

31 (f) The unified program agency shall adopt procedures to
32 provide for public input when approving applications submitted
33 pursuant to subdivisions (d) and (e).

34 SEC. 13. Section 25507.2 of the Health and Safety Code is
35 amended to read:

36 25507.2. Except as specified in this section, unless required
37 by a local ordinance, the unified program agency shall exempt a
38 business from application of Sections 25506, 25507, 25508.2, and
39 25511 to an unstaffed facility located at least one-half mile from
40 the nearest occupied structure if the facility is not otherwise subject

1 to the requirements of applicable federal law, and all of the
2 following requirements are met:

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

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

7 (2) Five hundred gallons of combustible liquid used as a fuel
8 source.

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

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

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

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

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

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

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

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

38 SEC. 14. Section 25508.1 of the Health and Safety Code is
39 amended to read:

1 25508.1. Within 30 days of any one of the following events,
2 a business subject to this article shall electronically update the
3 information submitted to the statewide information management
4 system:

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

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

9 (c) Change of business or facility address.

10 (d) Change of business ownership.

11 (e) Change of business name.

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

14 (2) For the purpose of this subdivision, "substantial change"
15 means any change in a facility that would inhibit immediate
16 response during an emergency by either site personnel or
17 emergency response personnel, or that could inhibit the handler's
18 ability to comply with Section 25507, change the operational
19 knowledge of the facility, or impede implementation of the business
20 plan.

21 SEC. 15. Section 25531.2 of the Health and Safety Code is
22 amended to read:

23 25531.2. (a) The Legislature finds and declares that as the
24 state implements the federal accidental release prevention program
25 pursuant to this article, the Office of Emergency Services will play
26 a vital and increased role in preventing accidental releases of
27 extremely hazardous substances. The Legislature further finds and
28 declares that as an element of the unified program established
29 pursuant to Chapter 6.11 (commencing with Section 25404), a
30 single fee system surcharge mechanism is established by Section
31 25404.5 to cover the costs incurred by the office pursuant to this
32 article. It is the intent of the Legislature that this existing authority,
33 together with any federal assistance that may become available to
34 implement the accidental release program, be used to fully fund
35 the activities of the office necessary to implement this article.

36 (b) The Legislature further finds and declares that the owners
37 and operators of stationary sources producing, processing, handling,
38 or storing hazardous materials have a general duty, in the same
39 manner and to the same extent as is required by Section 654 of
40 Title 29 of the United States Code, to identify hazards that may

1 result from releases using appropriate hazard assessment
2 techniques, to design and maintain a safe facility taking those steps
3 as are necessary to prevent releases, and to minimize the
4 consequences of accidental releases that do occur.

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

9 SEC. 16. Section 118330 of the Health and Safety Code is
10 amended to read:

11 118330. (a) Whenever the enforcement agency determines
12 that a violation or threatened violation of this part or the regulations
13 adopted pursuant to this part has resulted, or is likely to result, in
14 a release of medical waste into the environment, the agency may
15 issue an order to the responsible person specifying a schedule for
16 compliance or imposing an administrative penalty of not more
17 than five thousand dollars (\$5,000) per violation. A person who,
18 after notice and an opportunity for hearing, violates an order issued
19 pursuant to this section is guilty of a misdemeanor.

20 *(1) If the department is the enforcement agency, the department*
21 *shall provide notice, issue the order, and conduct the*
22 *administrative hearing pursuant to subdivisions (d) and (f).*

23 *(2) If the department is not the enforcement agency, the*
24 *provisions of subdivisions (b) to (e), inclusive, shall apply.*

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

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

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

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

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

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

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

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

31 (B) (i) A hearing officer designated by the enforcement agency,
32 who shall conduct the hearing in accordance with Chapter 4.5
33 (commencing with Section 11400) of Part 1 of Division 3 of Title
34 2 of the Government Code, and the enforcement agency shall have
35 all the authority granted to an agency by those provisions. When
36 a hearing is conducted by an enforcement agency hearing officer
37 pursuant to this clause, the enforcement agency shall issue a
38 decision within 60 days after the hearing is conducted. Each
39 hearing officer designated by an enforcement agency shall meet

1 the requirements of Section 11425.30 of the Government Code
2 and any other applicable restriction.

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

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

14 (6) The person has a right to appeal the hearing decision if,
15 within 30 days of the date of receipt of the final decision pursuant
16 to paragraph (5), the person files a written notice of appeal with
17 the enforcement agency. The appeal shall be in accordance with
18 the Administrative Procedure Act ~~(Chapter 3.5~~ (*Chapters 4.5*
19 (*commencing with Section 11340*) *11400*) and 5 (*commencing*
20 *with Section 11500*) of Part 1 of Division 3 of Title 2 of the
21 Government Code).

22 (7) A decision issued pursuant to paragraph (6) may be reviewed
23 by a court pursuant to Section 11523 of the Government Code. In
24 all proceedings pursuant to this section, the court shall uphold the
25 decision of the enforcement agency if the decision is based upon
26 substantial evidence in the record as a whole. The filing of a
27 petition for writ of mandate shall not stay an action required
28 pursuant to this chapter or the accrual of any penalties assessed
29 pursuant to this chapter. This subdivision does not prohibit the
30 court from granting any appropriate relief within its jurisdiction.

31 (d) A provision of an order issued under this section, except the
32 imposition of an administrative penalty, shall take effect upon
33 issuance of the order by the enforcement agency if the enforcement
34 agency finds that the violation or violations of law associated with
35 that provision may pose an imminent and substantial danger to the
36 public health or safety or the environment. A request for a hearing
37 or appeal, as provided in subdivision ~~(e); (c) or (f)~~ shall not stay
38 the effect of that provision of the order pending a hearing decision.
39 If the enforcement agency determines that any or all provisions of
40 the order are so related that the public health or safety or the

1 environment can be protected only by immediate compliance with
2 the order as a whole, the order as a whole, except the imposition
3 of an administrative penalty, shall take effect upon issuance by
4 the enforcement agency. A request for a hearing shall not stay the
5 effect of the order as a whole pending a hearing decision.

6 (e) The enforcement agency shall consult with the district
7 attorney, county counsel, or city attorney on the development of
8 policies to be followed in exercising the authority delegated
9 pursuant to this section as it relates to the authority of the
10 enforcement agency to issue orders.

11 (f) (1) *The department shall serve an order issued pursuant to*
12 *this section by personal service or certified mail and shall inform*
13 *the person served of the right to a hearing.*

14 (2) *A person served with an order pursuant to paragraph (1)*
15 *may appeal the order by sending a written request for hearing to*
16 *the department within 20 days after service of the order. If no*
17 *request for hearing is made within the 20 day time period, the*
18 *order shall become final. Payments of any administrative penalty*
19 *shall be made within 30 days of the date the order becomes final.*

20 (3) *Any hearings conducted by the department pursuant to this*
21 *section shall be conducted pursuant to the procedures specified*
22 *in Section 131071.*

23 SEC. 17. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.