

AMENDED IN SENATE MAY 29, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1357

Introduced by Assembly Member Baldwin

February 28, 1997

An act to amend Sections ~~25404 and 25404.5~~ of 25186.7, 25204.7, 25205.12, 25218.2, 25218.3, 25218.9, 25404, 25404.1, 25404.2, and 25404.5 of, and to add Section 25201.4.1 to, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1357, as amended, Baldwin. Unified program agencies.

(1) Existing law requires hazardous waste facilities to operate under hazardous waste facilities permits issued by the Department of Toxic Substances Control.

Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program. A city or local agency that meets specified requirements is authorized to apply to the secretary to implement the unified program and be certified as a certified unified program agency (CUPA), and every county is required to apply to the secretary to be certified to implement the unified program. A unified program agency is required to develop and implement a procedure for issuing a unified program facility permit. Existing law requires certain hazardous waste generators to submit a notice, under specified conditions, to

the department and to the CUPA or authorized agency or officer.

Existing law, the Wright-Polanco-Lempert Hazardous Waste Treatment Permit Reform Act of 1992, deems a generator who conducts specified treatment activities to be conditionally authorized to operate without obtaining a hazardous waste facilities permit or other grant of authorization, and also conditionally exempts from hazardous waste facilities permit requirements a generator who treats not more than specified amounts of hazardous waste in any month, or generators conducting specified treatment processes, if specified requirements are met with regard to that hazardous waste.

A household hazardous waste facility is required to submit certain information to the department before commencing operations and the department is authorized to allow such a facility to accept hazardous waste from certain small quantity generators.

This bill would make various changes concerning the authority of CUPAs with regard to the hazardous waste element of the unified program. Among other things, the bill would revise the provisions regarding the suspension or revocation of a permit-by-rule, conditional authorization, and conditional exemption to specifically allow the CUPA or an authorized officer or agency to suspend or revoke a permit-by-rule, conditional authorization, or conditional exemption, as specified. The bill would specify that persons subject to certain notification requirements are required only to submit a notice to the CUPA or to the authorized officer or agency and would exempt those persons from the requirement to also submit such a notice to the department. The bill would require the notification for household hazardous waste collection facilities to be submitted instead to the CUPA or a specified local officer or agency and would instead authorize a CUPA or a specified local officer or agency to allow a household hazardous waste collection facility to accept hazardous waste from certain small quantity generators. The bill would exclude from the unified program the requirements imposed upon persons operating transportable treatment units.



The bill would specify that the unified program agencies are responsible for specified activities with regard to eligibility to operate pursuant to a permit-by-rule, conditional authorization, or conditional exemption, the processing of specified notifications, and the suspension and revocation of permits-by-rule, conditional authorizations, or conditional exemptions, thereby creating a state-mandated local program by imposing new duties upon local agencies.

The bill would revise the requirements for the unified program facility permit by including certain notifications.

(2) 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: ~~no~~-yes.

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

1 SECTION 1. *Section 25186.7 of the Health and Safety*
2 *Code is amended to read:*
3 25186.7. (a) The department may suspend or revoke
4 any grant of authorization to operate pursuant to a
5 permit-by-rule ~~or~~ conditional authorization ~~to conduct~~
6 ~~treatment pursuant to subdivision (a) or (e) of Section~~
7 ~~25201.5, or conditional exemption, pursuant to this~~
8 ~~chapter or the regulations adopted by the department, in~~
9 accordance with the procedures specified in Sections
10 25186.1 and 25186.2, for any of the grounds specified in
11 Section 25186 and may suspend or revoke any grant of
12 conditional authorization granted pursuant to Section
13 25200.3 in accordance with the procedures specified in
14 Sections 25186.1 and 25186.2, for any of the grounds
15 specified in Section 25186, or as specified in subdivision
16 ~~(j)~~ (i) of Section 25200.3.
17 (b) *In addition to the authority specified in subdivision*
18 *(a), the CUPA, or, if there is no CUPA, the officer or*
19 *agency authorized pursuant to subdivision (f) of Section*



1 25404.3 to implement and enforce the requirements of
2 this chapter listed in paragraph (1) of subdivision (c) of
3 Section 25404, may also suspend or revoke any grant of
4 authorization to operate pursuant to a permit-by-rule,
5 conditional authorization, or conditional exemption,
6 which is within the scope of the hazardous waste element
7 of the unified program as specified in paragraph (1) of
8 subdivision (c) of Section 25404, in accordance with the
9 procedures specified in Sections 25186.1 and 25186.2, for
10 any of the grounds specified in Section 25186, or as
11 specified in subdivision (i) of Section 25200.3.

12 SEC. 2. Section 25201.4.1 is added to the Health and
13 Safety Code, to read:

14 25201.4.1. (a) Except as provided in subdivision (c)
15 and Section 25404.7, any person subject to the notification
16 requirements of Sections 25110.10, 25123.3, 25144.6,
17 25200.3, 25201.5, or 25201.14 shall only be required to
18 submit the required notification to the CUPA, or, in those
19 jurisdictions where there is no CUPA, to the officer or
20 agency authorized pursuant to subdivision (f) of Section
21 25404.3 to implement and enforce the requirements of
22 this chapter listed in paragraph (1) of subdivision (c) of
23 Section 25404.

24 (b) Notwithstanding Sections 25110.10, 25123.3,
25 25144.6, 25200.3, 25201.5, and 25201.14, except as provided
26 in subdivision (c) and Section 25404.7, any person
27 required to submit a notice pursuant to subdivision (a) is
28 not required to submit the required notice to the
29 department.

30 (c) Notwithstanding Sections 25110.10, 25123.3,
31 25144.6, 25200.3, 25201.5, and 25201.14, a person
32 conducting an activity that is not included within the
33 scope of the hazardous waste element of the unified
34 program, as specified in paragraph (1) of subdivision (c)
35 of Section 25404, is not required to submit a notice
36 pursuant to Sections 25110.10, 25123.3, 25144.6, 25200.3,
37 25201.5, or 25201.14, but shall submit a notice pursuant to
38 the regulations, which the department shall adopt,
39 specifying the notification requirements for those



1 *persons conducting activities which that are not within*
2 *the scope of that hazardous waste element.*

3 *SEC. 3. Section 25204.7 of the Health and Safety Code*
4 *is amended to read:*

5 25204.7. (a) Notwithstanding any other provision of
6 law, a generator conducting a treatment activity ~~which~~
7 *who* is eligible for operation under a permit-by-rule
8 pursuant to the department's regulations, *or under a*
9 *grant of conditional authorization pursuant to Section*
10 ~~25200.3, or a grant of conditional exemption pursuant to~~
11 ~~Section 25144.6 or 25201.5~~ *this chapter*, and who meets the
12 criteria in subdivision (b), is exempt from all of the
13 following requirements:

14 (1) The requirement for a generator to submit a
15 *permit by rule, conditional authorization, or conditional*
16 *exemption* notification to the department ~~under Sections~~
17 ~~25144.6, 25200.3, and 25201.5~~ *and the regulations adopted*
18 ~~by the department pertaining to a permit-by-rule.~~

19 (2) The requirement to pay a fee pursuant to Section
20 *25201.14 or 25205.14.*

21 (b) To be eligible for an exemption pursuant to this
22 section, the generator shall meet all of the following
23 requirements:

24 (1) The generator is located within the jurisdiction of
25 a certified unified program agency ~~which that~~ includes
26 the publicly owned treatment works that regulates the
27 generator's activity or unit ~~which that~~ is eligible for
28 operation under a permit-by-rule or a grant of conditional
29 authorization or conditional exemption, and ~~which that~~
30 has implemented a unified program pursuant to Chapter
31 6.11 (commencing with Section 25404) that includes the
32 following elements:

33 (A) The pretreatment program of the publicly owned
34 treatment works that regulates the generator.

35 (B) An inspection program that meets the
36 requirements of Section 25201.4 and that inspects the
37 generator for compliance with the requirements of this
38 section.

39 (2) The generator meets all other requirements of *this*
40 *chapter and* the department's regulations pertaining to



1 permit-by-rule, ~~or Section 25144.6, 25200.3, or 25201.5~~
2 conditional authorization, or conditional exemption,
3 whichever is applicable.

4 (3) The generator's activity or unit that is eligible for
5 operation under a permit-by-rule or a grant of conditional
6 authorization or conditional exemption is within the
7 scope of the hazardous waste element of the unified
8 program as specified in paragraph (1) of subdivision (c)
9 of Section 25404.

10 SEC. 4. Section 25205.12 of the Health and Safety
11 Code is amended to read:

12 25205.12. (a) The owner of a hazardous waste facility
13 authorized ~~by the department~~ to operate pursuant to a
14 permit-by-rule, authorized under a grant of conditional
15 authorization pursuant to Section 25200.3, exempted
16 pursuant to subdivision (a) or (c) of Section 25201.5, or
17 exempted pursuant to Section 25144.6 *or 25201.14* is
18 exempt from the facility fee specified in Section 25205.2
19 for any activities authorized by the permit-by-rule, under
20 a grant of conditional authorization pursuant to Section
21 25200.3, exempted pursuant to subdivision (a) or (c) of
22 Section 25201.5, or exempted pursuant to Section 25144.6
23 *or 25201.14* at that facility for any year or reporting period
24 during which the facility is operating.

25 (b) The retroactive portion of the facility fee
26 exemption provided by subdivision (a) does not apply to
27 any facility ~~which~~ *that* was authorized by the department
28 to operate on or before June 1, 1991, for any fees paid or
29 billed prior to September 1, 1992.

30 (c) The operator of a hazardous waste facility
31 authorized by the department to clean and recycle
32 excavated underground storage tanks is exempt from the
33 facility fee specified in Section 25205.2 with regard to
34 ~~these~~ *those* activities conducted before January 1, 1994,
35 and ~~these~~ *those* activities conducted after that date, until
36 the effective date of a regulation adopted by the
37 department governing the statewide requirements for
38 the issuance of a permit for tank cleaning and recycling
39 facilities.



1 (d) The operator of a hazardous waste facility
2 operating pursuant to a standardized permit or a grant of
3 interim status, as specified in Section 25201.6, is exempt
4 from the facility fee specified in Sections 25205.2 and
5 25205.4 for any year or reporting period prior to January
6 1, 1993, during which the facility operated, if the
7 hazardous waste treatment or storage activity was
8 conducted prior to January 1, 1993, and the owner or
9 operator is in compliance with the notification and
10 application requirements of Section 25201.6, as amended
11 in the 1993-94 Regular Session of the Legislature, or as
12 amended thereafter, and either of the following
13 circumstances apply:

14 (1) The owner or operator was not authorized by the
15 department before July 1, 1993, to conduct the eligible
16 treatment or storage activity.

17 (2) The owner or operator did not pay a hazardous
18 waste facility fee, as specified in Section 25205.2, for that
19 year or reporting period prior to July 1, 1993, for the
20 facility that is the subject of the standardized permit.

21 *SEC. 5. Section 25218.2 of the Health and Safety Code*
22 *is amended to read:*

23 25218.2. (a) Prior to commencing operations, a
24 public agency, or its contractor, ~~which~~ *that* intends to
25 operate a household hazardous waste collection facility
26 shall submit the following written information to the
27 ~~department~~ *CUPA, or, in those jurisdictions where there*
28 *is no CUPA, to the officer or agency authorized pursuant*
29 *to subdivision (f) of Section 25404.3 to implement and*
30 *enforce the requirements of this chapter listed in*
31 *paragraph (1) of subdivision (c) of Section 25404:*

32 ~~(a)~~

33 (1) A certification that the household hazardous waste
34 collection facility will be operated in accordance with this
35 article and with any other requirement that may be
36 imposed by the department by regulation.

37 ~~(b)~~

38 (2) All of the following information:

39 ~~(1)~~

40 (A) The facility's name.



- 1 ~~(2)~~
- 2 (B) The facility’s location.
- 3 ~~(3)~~
- 4 (C) The facility’s generator identification number.
- 5 ~~(4)~~
- 6 (D) The date that the facility will begin operation.
- 7 ~~(5)~~
- 8 (E) The facility’s operating schedule. ~~The~~

9 *(b) In addition to the information required pursuant*
 10 *to paragraph (2) of subdivision (a), the public agency, or*
 11 *its contractor, shall also subsequently notify the*
 12 ~~department~~ *CUPA, or, in those jurisdictions where there*
 13 *is no CUPA, the officer or agency authorized pursuant to*
 14 *subdivision (f) of Section 25404.3 to implement and*
 15 *enforce the requirements of this chapter listed in*
 16 *paragraph (1) of subdivision (c) of Section 25404, of any*
 17 *significant change in the facility’s operating schedule.*

18 *SEC. 6. Section 25218.3 of the Health and Safety Code*
 19 *is amended to read:*

20 25218.3. (a) ~~The department~~ *CUPA, or, in those*
 21 *jurisdictions where there is no CUPA, the officer or*
 22 *agency authorized pursuant to subdivision (f) of Section*
 23 *25404.3 to implement and enforce the requirements of*
 24 *this chapter listed in paragraph (1) of subdivision (c) of*
 25 *Section 25404, may authorize any household hazardous*
 26 *waste collection facility to accept hazardous waste from*
 27 *conditionally exempt small quantity generators*
 28 *(CESQGs).*

29 (b) A household hazardous waste collection facility
 30 ~~which~~ *that* is authorized to accept hazardous waste from
 31 CESQGs pursuant to subdivision (a) shall not accept
 32 more than 100 kilograms of hazardous waste, or 1
 33 kilogram of extremely hazardous waste, from any one
 34 CESQG in a calendar month.

35 (c) A public agency, or its contractor, that accepts
 36 hazardous waste from CESQGs pursuant to this section
 37 may charge the CESQGs a fee for the cost incurred in
 38 handling their hazardous waste.

39 (d) The department may adopt and revise regulations
 40 for household hazardous waste collection facilities,



1 including those ~~which~~ *that* are authorized to accept
2 hazardous waste from CESQGs. The regulations shall
3 provide for all of the following:

4 (1) Promoting the reduction, reclamation, and
5 recycling of hazardous waste over other hazardous waste
6 management alternatives.

7 (2) Ensuring the safe transport of household
8 hazardous waste and hazardous waste to authorized
9 collection programs.

10 (3) Ensuring the compliance of participating CESQGs
11 with the monthly quantity limitations specified in Section
12 261.5 of Title 40 of the Code of Federal Regulations *or*
13 *successor federal regulations*.

14 *SEC. 7. Section 25218.9 of the Health and Safety Code*
15 *is amended to read:*

16 25218.9. On or before October 1 of each year, a public
17 agency, or its contractor, operating a household
18 hazardous waste collection facility shall submit to the
19 ~~department—CUPA~~, *or, in those jurisdictions where there*
20 *is no CUPA, to the officer or agency authorized pursuant*
21 *to subdivision (f) of Section 25404.3 to implement and*
22 *enforce the requirements of this chapter listed in*
23 *paragraph (1) of subdivision (c) of Section 25404, a copy*
24 *of the completed California Integrated Waste*
25 *Management Board Form 303 ~~that~~, which is required to*
26 *be submitted to that board for the prior fiscal year*
27 *pursuant to regulations adopted by that board.*

28 *SEC. 8. Section 25404 of the Health and Safety Code*
29 *is amended to read:*

30 25404. (a) For purposes of this chapter, the following
31 terms shall have the following meaning:

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

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



1 unified program elements specified in subdivision (c), in
2 accordance with Sections 25404.1 and 25404.2.

3 (C) “Unified Program Agency” or “UPA” means the
4 CUPA, or its participating agencies to the extent each PA
5 has been designated by the CUPA, pursuant to a written
6 agreement, to implement or enforce a particular unified
7 program element specified in subdivision (c). The UPAs
8 have the responsibility and authority to implement and
9 enforce the requirements listed in subdivision (c), and
10 the regulations adopted to implement the requirements
11 listed in subdivision (c), to the extent provided by
12 Chapter 6.5 (commencing with Section 25100), Chapter
13 6.67 (commencing with Section 25270), Chapter 6.7
14 (commencing with Section 25280), Chapter 6.95
15 (commencing with Section 25500), and Sections 25404.1
16 and 25404.2. After a CUPA has been certified by the
17 secretary, the unified program agencies shall be the only
18 local agencies authorized to enforce the requirements
19 listed in subdivision (c) within the jurisdiction of the
20 CUPA.

21 (2) “Department” means the Department of Toxic
22 Substances Control.

23 (3) “Secretary” means the Secretary for
24 Environmental Protection.

25 (4) “Unified program facility” means all contiguous
26 land and structures, other appurtenances, and
27 improvements on the land that are subject to the
28 requirements listed in subdivision (c) of Section 25404.

29 (5) “Unified program facility permit” means a permit
30 issued pursuant to this chapter. For the purposes of this
31 chapter, a unified program facility permit encompasses
32 the permitting requirements of Section 25284, and any
33 permit or authorization requirements under any local
34 ordinance or regulation relating to the generation or
35 handling of hazardous waste or hazardous materials, but
36 does not encompass the permitting requirements of a
37 local ordinance that incorporates provisions of the
38 Uniform Fire Code or the Uniform Building Code.

39 (b) The secretary shall adopt implementing
40 regulations and implement a unified hazardous waste and



1 hazardous materials management regulatory program,
2 which shall be known as the unified program, after
3 holding an appropriate number of public hearings
4 throughout the state. The unified program shall be
5 developed in close consultation with the director, the
6 Director of the Office of Emergency Services, the State
7 Fire Marshal, the executive officers and chairpersons of
8 the State Water Resources Control Board and the
9 California regional water quality control boards, the local
10 health officers, local fire services, and other appropriate
11 officers of interested local agencies, and affected
12 businesses and interested members of the public,
13 including environmental organizations.

14 (c) The unified program shall consolidate the
15 administration of the following requirements, and shall,
16 to the maximum extent feasible within statutory
17 constraints, ensure the coordination and consistency of
18 any regulations adopted pursuant to those requirements:

19 (1) (A) Except as provided in subparagraphs (B) and
20 (C), the requirements of Chapter 6.5 (commencing with
21 Section 25100), and the regulations adopted by the
22 department pursuant thereto, applicable to hazardous
23 waste generators, and persons operating pursuant to a
24 permit-by-rule, conditional authorization, or conditional
25 exemption, pursuant to Chapter 6.5 (commencing with
26 Section 25100) or the regulations adopted by the
27 department.

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

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

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



- 1 (iii) A remedial action plan approved pursuant to
2 Chapter 6.8 (commencing with Section 25300) or
3 Chapter 6.85 (commencing with Section 25396).
- 4 (iv) A cleanup and abatement order issued by a
5 California regional water quality control board pursuant
6 to Section 13304 of the Water Code, to the extent that the
7 cleanup and abatement order addresses the
8 requirements of the applicable section or sections listed
9 in this subparagraph.
- 10 (v) Corrective action required under subsection (u)
11 of Section 6924 of Title 42 of the United States Code or
12 subsection (h) of Section 6928 of Title 42 of the United
13 States Code.
- 14 (vi) An environmental assessment pursuant to Section
15 25200.14 or a corrective action pursuant to Section
16 25200.10 or paragraph (3) of subdivision (c) of Section
17 25200.3, that is being overseen by the department.
- 18 (C) The unified program shall not include the
19 requirements of Chapter 6.5 (commencing with Section
20 25100), and the regulations adopted by the department
21 pursuant thereto, applicable to persons operating
22 transportable treatment units.
- 23 (2) The requirement of subdivision (c) of Section
24 25270.5 for owners and operators of aboveground storage
25 tanks to prepare a spill prevention control and
26 countermeasure plan.
- 27 (3) The requirements of Chapter 6.7 (commencing
28 with Section 25280) concerning underground storage
29 tanks, except for the responsibilities assigned to the State
30 Water Resources Control Board pursuant to Section
31 25297.1, and the requirements of any underground
32 storage tank ordinance adopted by a city or county.
- 33 (4) The requirements of Article 1 (commencing with
34 Section 25501) of Chapter 6.95 concerning hazardous
35 material release response plans and inventories.
- 36 (5) The requirements of Article 2 (commencing with
37 Section 25531) of Chapter 6.95, concerning the accidental
38 release prevention program.
- 39 (6) The requirements of subdivisions (b) and (c) of
40 Section 80.103 of the Uniform Fire Code, as adopted by



1 the State Fire Marshal pursuant to Section 13143.9 of the
2 Health and Safety Code, concerning hazardous material
3 management plans and inventories.

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

10 (e) The secretary shall establish standards to be used
11 by CUPAs, participating agencies, state agencies, and
12 businesses for the sharing of electronic data used within
13 the programs listed in subdivision (c) of Section 25404.
14 Those standards shall incorporate any standard
15 developed under Section 25503.3.

16 ~~SEC. 2.—~~

17 *SEC. 9. Section 25404.1 of the Health and Safety Code*
18 *is amended to read:*

19 25404.1. (a) (1) All aspects of the unified program
20 related to the adoption and interpretation of statewide
21 standards and requirements shall be the responsibility of
22 the state agency which is charged with that responsibility
23 under existing law. ~~For underground storage tanks, that~~
24 ~~agency shall be the~~ *in accordance with the following:*

25 (A) ~~The State Water Resources Control Board.—The~~
26 *shall be responsible for the regulation of underground*
27 *storage tanks and the California regional water quality*
28 *control boards shall have responsibility for the issuance of*
29 *variances pursuant to subdivision (b) of Section 25299.4.*
30 ~~The~~

31 (B) *The Department of Toxic Substances Control shall*
32 *have the sole responsibility for all of the following*
33 *activities:*

34 (i) *The issuances of variances from the requirements*
35 *of Chapter 6.5 (commencing with Section 25100) and the*
36 *regulations adopted pursuant thereto, for the.*

37 (ii) *The determination of whether or not a waste is*
38 *hazardous or nonhazardous, for the.*

39 (iii) *The determination of whether or not a person*
40 *combination of wastestreams and treatment activities is*



1 eligible to be deemed to be ~~operating~~ *operated* pursuant
2 to a permit-by-rule, conditional authorization, or
3 conditional exemption pursuant to Chapter 6.5
4 (commencing with Section 25100) or the regulations
5 adopted by the department, ~~and for the suspension and~~
6 ~~revocation of permits by rule, conditional authorizations,~~
7 ~~and conditional exemptions.~~

8 (2) (A) Except as provided in paragraphs (1) and (3),
9 *unified program agencies are responsible for* those
10 aspects of the unified program related to the application
11 of statewide standards to particular facilities, including
12 the issuance of unified program facility permits, the
13 review of reports and plans, environmental assessment,
14 compliance and correction, *the responsibilities specified*
15 *in subparagraph (C),* and the enforcement of those
16 standards and requirements against particular facilities;
17 ~~shall be the responsibility of the unified program~~
18 ~~agencies.~~

19 (B) *Subparagraph (A) does not limit any authority*
20 *granted to any state agency under other provisions of law.*

21 (C) *Unified program agencies shall also be responsible*
22 *for the following activities, to the extent these activities*
23 *are within the scope of the hazardous waste element of*
24 *the unified program, as specified in paragraph (1) of*
25 *subdivision (c) of Section 25404:*

26 (i) *The determination of whether or not a person is*
27 *eligible to be deemed to be operating pursuant to a*
28 *permit-by-rule, conditional authorization, or conditional*
29 *exemption pursuant to Chapter 6.5 (commencing with*
30 *Section 25100) or the regulations adopted by the*
31 *department.*

32 (ii) *The processing of notifications that persons*
33 *operating under a permit-by-rule, conditional*
34 *authorization, or conditional exemption are required to*
35 *submit pursuant to Chapter 6.5 (commencing with*
36 *Section 25100) or the regulations adopted by the*
37 *department, including, but not limited to, initial and*
38 *amended notifications, notification renewals, and closure*
39 *notifications. This processing of notifications includes*



1 *acknowledging or responding to those notifications, as*
2 *required by the regulations adopted by the department.*

3 (iii) *The suspension and revocation of permits-by-rule,*
4 *conditional authorizations, and conditional exemptions,*
5 *pursuant to Section 25186.7.*

6 (3) (A) Except in those jurisdictions for which the
7 UPA has been determined by the department, in
8 accordance with regulations adopted pursuant to
9 subparagraph (C), to be qualified to implement the
10 environmental assessment and removal and remediation
11 corrective action aspects of the unified program, the
12 department shall have sole responsibility and authority
13 under the unified program for all of the following:

14 (i) Implementing and enforcing the requirements of
15 paragraph (3) of subdivision (c) of Section 25200.3 and
16 Sections 25200.10 and 25200.14, and the regulations
17 adopted by the department to implement those sections.
18 As a pilot program ~~in~~ *with* up to 10 ~~counties~~ CUPAs,
19 pending the adoption and implementation of regulations
20 pursuant to subparagraph (C), the department may
21 delegate to the CUPA, through a delegation agreement,
22 responsibility and authority for implementing and
23 enforcing the requirements of Section 25200.14.

24 (ii) The issuance of orders under Section 25187
25 requiring removal or remedial action.

26 (iii) The issuance of orders under Section 25187.1.

27 (B) Notwithstanding subparagraph (A), a UPA may
28 issue an order under Section 25187 specifying a schedule
29 for compliance or correction and imposing an
30 administrative penalty for any violation of the
31 requirements of Chapter 6.5 (commencing with Section
32 25100) listed in paragraph (1) of subdivision (c) of
33 Section 25404, or the requirements of any permit, rule,
34 regulation, standard, or requirement issued or adopted
35 pursuant to the requirements of Chapter 6.5
36 (commencing with Section 25100) listed in paragraph (1)
37 of subdivision (c) of Section 25404, if one of the following
38 applies:

39 (i) The order does not require removal or remedial
40 action.



1 (ii) The only removal or remedial actions required by
2 the order are those actions determined to be necessary to
3 address an imminent and substantial endangerment
4 based upon a finding by the UPA pursuant to subdivision
5 (f) of Section 25187.

6 (C) The department shall adopt emergency
7 regulations specifying the criteria and procedures for
8 implementing paragraph (3) of subdivision (c) of Section
9 25200.3 and Sections 25200.10 and 25200.14, including
10 criteria and procedures for determining whether or not
11 a unified program agency is qualified to implement the
12 environmental assessment and removal and remediation
13 corrective action portions of the unified program under
14 paragraph (3) of subdivision (c) of Section 25200.3 and
15 Sections 25187, 25187.1, 25200.10, and 25200.14. The
16 criteria for determining whether a unified program
17 agency is qualified shall, at a minimum, include
18 consideration of *all of* the following factors:

19 (i) Adequacy of the technical expertise possessed by
20 the unified program agency.

21 (ii) Adequacy of staff resources.

22 (iii) Adequacy of budget resources and funding
23 mechanisms.

24 (iv) Training requirements.

25 (v) Past performance in implementing and enforcing
26 requirements related to environmental assessments, and
27 removal and remediation corrective actions.

28 (vi) Recordkeeping and accounting systems.

29 (D) The regulations adopted by the department
30 pursuant to subparagraph (C) shall include provisions to
31 ensure coordinated and consistent application of
32 paragraph (3) of subdivision (c) of Section 25200.3 and
33 Sections 25187, 25187.1, 25200.10, and 25200.14, when both
34 the department and the unified program agency are, or
35 will be, implementing and enforcing the requirements of
36 one or more of these sections at the same facility.

37 (E) For purposes of subparagraph (D), “facility”
38 means the entire site that is under the control of the
39 owner or operator.



1 (b) (1) On or before January 1, 1996, each county shall
2 apply to the secretary to be certified as a unified program
3 agency to implement the unified program within the
4 unincorporated area of the county and within each city
5 in the county, in which area or city, as of January 1, 1996,
6 the city or other local agency has not applied to be the
7 certified unified program agency.

8 (2) (A) Any city or other local agency ~~which~~ *that*, as
9 of December 31, 1995, has been designated as an
10 administering agency pursuant to Section 25502, or ~~which~~
11 *that* has assumed responsibility for the implementation of
12 Chapter 6.7 (commencing with Section 25280) pursuant
13 to Section 25283, may apply to the secretary to become
14 the certified unified program agency to implement the
15 unified program within the jurisdictional boundaries of
16 the city or local agency.

17 (B) A city or other local agency ~~which~~ *that*, as of
18 December 31, 1995, has not been designated as an
19 administering agency pursuant to Section 25502, or ~~which~~
20 *that* has not assumed responsibility for the
21 implementation of Chapter 6.7 (commencing with
22 Section 25280) pursuant to Section 25283, may apply to
23 the secretary to become the certified unified program
24 agency within the jurisdictional boundaries of the city or
25 local agency if it enters into an agreement with the
26 county to become the certified unified program agency
27 within those boundaries. A county shall not refuse to
28 enter into an agreement unless it specifies in writing its
29 reasons for failing to enter into the agreement. However,
30 if the city does not enter into the agreement with the
31 county, within 30 days *from the date* of receiving a
32 county's reasons for failing to enter into agreement, a city
33 may request that the secretary allow it to apply to be a
34 certified unified program agency and the secretary may,
35 in his or her discretion, approve the request.

36 (3) A city, county, or other local agency may propose,
37 in its application for certification to the secretary, to allow
38 other public agencies to implement certain elements of
39 the unified program, but the secretary shall accept that



1 proposal only if the secretary makes the findings specified
2 in subdivision (d) of Section 25404.3.

3 (4) If a city or other local agency ~~which~~ *that*, as of
4 December 31, 1995, has been designated as an
5 administering agency pursuant to Section 25502, or *that*
6 has assumed responsibility for the implementation of
7 Chapter 6.7 (commencing with Section 25280) pursuant
8 to Section 25283, requests that the county propose in its
9 application for certification to the secretary that the city
10 or local agency implement, within the jurisdictional
11 boundaries of the city or local agency, those elements of
12 the unified program ~~which~~ *that*, as of December 31, 1995,
13 the city or local agency has authority to administer, the
14 county shall grant that request. If such an agency is
15 subsequently removed or withdraws from the unified
16 program, the agency shall not act as an administering
17 agency under Section 25502 or act as a local agency
18 pursuant to Chapter 6.7 (commencing with Section
19 25280), except as provided in subdivision (c) of Section
20 25283.

21 *SEC. 10. Section 25404.2 of the Health and Safety*
22 *Code is amended to read:*

23 25404.2. (a) The unified program agencies in each
24 jurisdiction shall do all of the following:

25 (1) (A) The certified unified program agency shall
26 develop and implement a procedure for issuing *in a single*
27 *document*, to a unified program facility, ~~a~~ *both of the*
28 *following*:

29 (i) A unified program facility permit, which would
30 replace any permit required by Section 25284 and any
31 permit or authorization required under any local
32 ordinance or regulation relating to the generation or
33 handling of hazardous waste or hazardous materials, but
34 which would not replace a permit issued pursuant to a
35 local ordinance which incorporates provisions of the
36 Uniform Fire Code and Uniform Building Code.

37 (ii) *If applicable, a notice of acknowledgment or*
38 *response, as specified by the department in regulation, to*
39 *any permit-by-rule, conditional authorization, or*



1 *conditional exemption notification submitted to the*
2 *CUPA by the facility.*

3 (B) The unified program facility permit, and, if
4 applicable, an authorization to operate pursuant to a
5 permit-by-rule, conditional authorization, or conditional
6 exemption, pursuant to Chapter 6.5 (commencing with
7 Section 25100) or the regulations adopted by the
8 department, are the only grants of authorization required
9 under the unified program elements specified in
10 subdivision (c) of Section 25404.

11 (C) The unified program agencies shall enforce the
12 elements of a unified program facility permit in the same
13 manner as the permits replaced by the unified program
14 facility permit would be enforced.

15 (D) If a unified program facility is operating pursuant
16 to ~~the~~ *current* applicable grants of authorization which
17 would otherwise be included in a unified program facility
18 permit, *or in a permit-by-rule, conditional authorization,*
19 *or conditional exemption notification,* for the activities in
20 which the facility is engaged, the unified program
21 agencies shall not require that unified program facility to
22 obtain a unified program facility permit *or to submit a*
23 *permit-by-rule, conditional authorization, or conditional*
24 *exemption notification* as a condition of operating
25 pursuant to the unified program elements specified in
26 subdivision (c) of Section 25404 and any permit or
27 authorization required under any local ordinance or
28 regulation relating to the generation or handling of
29 hazardous waste or hazardous materials.

30 (E) This subparagraph applies to unified program
31 facilities ~~which~~ *that* have existing, not yet expired, grants
32 of authorization for some, but not all, of the *applicable*
33 authorization requirements encompassed in the unified
34 program facility permit *or in the permit-by-rule,*
35 *conditional authorization, or conditional exemption*
36 *notification.* When issuing a unified program facility
37 permit to such a unified program facility, *and, if*
38 *applicable, an acknowledgment or response to a*
39 *permit-by-rule, conditional authorization, or conditional*
40 *exemption notification,* the unified program agency shall

1 incorporate, by reference, ~~into the unified program~~
2 ~~facility permit~~ any of the facility's existing, not yet
3 expired, grants of authorization.

4 (2) To the maximum extent feasible within statutory
5 constraints, the certified unified program agency, in
6 conjunction with participating agencies, shall
7 consolidate, coordinate, and make consistent any local or
8 regional regulations, ordinances, requirements, or
9 guidance documents related to the implementation of
10 the provisions specified in subdivision (c) of Section
11 25404 or pursuant to any regional or local ordinance or
12 regulation pertaining to hazardous waste or hazardous
13 materials. This paragraph does not affect the authority of
14 a unified program agency with regard to the preemption
15 of the unified program agency's authority under state
16 law.

17 (3) The certified unified program agency, in
18 conjunction with participating agencies, shall develop
19 and implement a single, unified inspection and
20 enforcement program to ensure coordinated, efficient,
21 and effective enforcement of the provisions specified in
22 subdivision (c) of Section 25404, and any local ordinance
23 or regulation pertaining to the handling of hazardous
24 waste or hazardous materials.

25 (4) The certified unified program agency, in
26 conjunction with participating agencies, shall coordinate,
27 to the maximum extent feasible, the single, unified
28 inspection and enforcement program with the inspection
29 and enforcement program of other federal, state,
30 regional, and local agencies ~~which~~ *that* affect facilities
31 regulated by the unified program. This paragraph does
32 not prohibit the unified program agencies, or any other
33 agency, from conducting inspections, or from
34 undertaking any other enforcement-related activity,
35 without giving prior notice to the regulated entity, except
36 where the prior notice is otherwise required by law.

37 (b) An employee or authorized representative of a
38 unified program agency or a state agency acting pursuant
39 to this chapter has the authority specified in Section
40 25185, with respect to the premises of a handler, and in



1 Section 25185.5, with respect to real property ~~which that~~
2 is within 2,000 feet of the premises of a handler, except
3 that this authority shall include inspections concerning
4 hazardous material; in addition to hazardous waste.

5 (c) Each air quality management district or air
6 pollution control district, each publicly owned treatment
7 works, and each office, board, and department within the
8 California Environmental Protection Agency, shall
9 coordinate, to the maximum extent feasible, those aspects
10 of its inspection and enforcement program ~~which that~~
11 affect facilities regulated by the unified program with the
12 inspection and enforcement programs of each certified
13 unified program agency.

14 (d) The certified unified program agency, in
15 conjunction with participating agencies, may
16 incorporate, as part of the unified program within its
17 jurisdiction, the implementation and enforcement of
18 laws ~~which that~~ the unified program agencies are
19 authorized to implement and enforce, other than those
20 specified in subdivision (c) of Section 25404, if that
21 incorporation will not impair the ability of the unified
22 program agencies to fully implement the requirements of
23 subdivision (a).

24 (e) (1) The withdrawal of an application for a unified
25 program facility permit *or a permit-by-rule, conditional*
26 *authorization, or conditional exemption notification* after
27 it has been filed with the unified program agency shall
28 not, unless the unified program agency consents in
29 writing to the withdrawal, deprive the unified program
30 agencies of their authority to institute or continue a
31 proceeding against the applicant *or notifier* for the denial
32 of the unified program facility permit, *or a determination*
33 *that the facility is not eligible to operate under a*
34 *permit-by-rule, conditional authorization, or conditional*
35 *exemption, whichever is applicable*, upon any ground
36 provided by law, and such a withdrawal shall not affect
37 the authority of the unified program agencies to institute
38 or continue a proceeding against the applicant *or notifier*
39 pertaining to any violation of the requirements specified
40 in subdivision (c) of Section 25404 or of any local



1 ordinance or regulation relating to the generation or
2 handling of hazardous waste or hazardous materials.

3 (2) The suspension, expiration, or forfeiture by
4 operation of law of a unified program facility permit, *or*
5 *an authorization to operate under a permit-by-rule,*
6 *conditional authorization, or conditional exemption* or its
7 suspension, forfeiture, or cancellation by the unified
8 program agency or by order of a court, or its surrender or
9 attempted or actual transfer without the written consent
10 of the unified program agency shall not affect the
11 authority of the unified program agencies to institute or
12 continue a disciplinary proceeding against the holder of
13 a unified program facility permit *or an authorization to*
14 *operate under a permit-by-rule, conditional*
15 *authorization, or conditional exemption* upon any
16 ground, or otherwise taking an action against the holder
17 of a unified program facility permit *or an authorization*
18 *to operate under a permit-by-rule, conditional*
19 *authorization, or conditional exemption* on these
20 grounds.

21 *SEC. 11.* Section 25404.5 of the Health and Safety
22 Code is amended to read:

23 25404.5. (a) (1) Each certified unified program
24 agency shall institute a single fee system, which shall
25 replace the fees levied pursuant to ~~Section~~ *Sections*
26 *25201.14 and 25205.14*, except for transportable treatment
27 units permitted under Section 25200.2, and which shall
28 also replace any fees levied by a local agency pursuant to
29 Sections 25143.10, 25287, 25513, and 25535.2, or any other
30 fee levied by a local agency specifically to fund the
31 implementation of the provisions specified in subdivision
32 (c) of Section 25404. Notwithstanding Sections 25143.10,
33 *25201.14, 25205.14, 25287, 25513, and ~~25535.2~~ 25535.2*, a
34 person who complies with the certified unified program
35 agency's "single fee system" fee shall not be required to
36 pay any fee levied pursuant to those sections, except for
37 transportable treatment units permitted under Section
38 25200.2.

39 (2) The governing body of the certified unified
40 program agency shall establish the amount to be paid by



1 each person regulated by the unified program under the
2 single fee system at a level sufficient to pay the necessary
3 and reasonable costs incurred by the certified unified
4 program agency and by any participating agency
5 pursuant to the requirements of subparagraph (E) of
6 paragraph (1) of subdivision (d) of Section 25404.3.

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

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

24 (b) Except as provided in subdivision (d), the single
25 fee system instituted by each certified unified program
26 agency shall include an assessment on each person
27 regulated by the unified program of a surcharge, the
28 amount of which shall be determined by the secretary
29 annually, to cover the necessary and reasonable costs of
30 state agencies in carrying out their responsibilities under
31 this chapter. The secretary may adjust the amount of the
32 surcharge to be collected by different certified unified
33 program agencies to reflect the different costs incurred
34 by the state in supervising the implementation of the
35 unified program in different jurisdictions, and in
36 supervising the implementation of the unified program
37 in those jurisdictions for which the secretary has waived
38 the assessment of the surcharge pursuant to subdivision
39 (d). The certified unified program agency may itemize
40 the amount of the surcharge on any bill, invoice, or return



1 that the agency sends to a person regulated by the unified
2 program. Each certified unified program agency shall
3 transmit all surcharge revenues collected to the secretary
4 on a quarterly basis. The surcharge shall be deposited in
5 the Unified Program Account, which is hereby created in
6 the General Fund, and which may be expended, upon
7 appropriation by the Legislature, by any state agency for
8 the purposes of implementing this chapter.

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

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

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

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

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

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

38 (B) The application for certification, including the
39 information required by subparagraph (A), is
40 determined by the secretary to be complete, on or before



1 April 30, 1996. The secretary, for good cause, may grant
2 an extension of that deadline of up to 90 days.

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

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

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

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

25 (A) The county meets all of the criteria specified in
26 paragraph (1).

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

30 (C) The combined dollar amount of the surcharge and
31 the single fee system to be assessed by the county
32 pursuant to subdivision (a) would exceed the combined
33 dollar amount of all existing fees that are replaced by the
34 single fee system for most businesses within the county.

35 (D) The waiver of the surcharge for those counties
36 applying for and qualifying for a waiver, and the resulting
37 increase in the surcharge for other counties, would not,
38 when considered cumulatively, impose a significant
39 economic burden on businesses in any other county that



1 does not apply for, or does not meet the criteria for, a
2 waiver of the surcharge.

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

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

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

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

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

37 (C) The relative extent to which each county applying
38 and qualifying for a waiver has incorporated, or will
39 incorporate, upon certification, additional programs



1 pursuant to subdivision (d) of Section 25404.2, into the
2 unified program within the county's jurisdiction.

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

8 *SEC. 12. No reimbursement is required by this act*
9 *pursuant to Section 6 of Article XIII B of the California*
10 *Constitution because a local agency or school district has*
11 *the authority to levy service charges, fees, or assessments*
12 *sufficient to pay for the program or level of service*
13 *mandated by this act, within the meaning of Section 17556*
14 *of the Government Code.*

15 *Notwithstanding Section 17580 of the Government*
16 *Code, unless otherwise specified, the provisions of this act*
17 *shall become operative on the same date that the act*
18 *takes effect pursuant to the California Constitution.*

