

Senate Bill No. 1261

CHAPTER 715

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

[Approved by Governor September 28, 2014. Filed with
Secretary of State September 28, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1261, Jackson. Hazardous materials: business plans.

(1) Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program, including a statewide information management system for purposes of receiving data collected by unified program agencies. A city or local agency that meets specified requirements is authorized to apply to the secretary to implement the unified program and be certified as a certified unified program agency (CUPA), and every county is required to apply to the secretary to be certified to implement the unified program.

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

This bill would instead require the secretary, in coordination with the Office of Emergency Services, to specify the hazardous materials inventory required to be submitted by handlers, including the data to be collected and submitted for hazardous materials. The bill would authorize the governing body of a unified program agency to adopt an ordinance that designates a material as a hazardous material, if a handler or the governing body of the unified program agency has a reasonable basis to believe that material injurious or harmful, as specified. The bill would revise the information required to be included in the business plan.

(2) Existing law requires a unified program agency to exempt a business operating an unstaffed remote facility located in an isolated sparsely populated area from specified business plan requirements. Existing law allows a unified program agency to require an unstaffed remote facility to

submit a hazardous materials business plan and inventory in accordance with requirements if the agency makes specified findings.

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

(3) Existing law requires a handler to electronically submit its business plan to the statewide information management system, to renew the plan at least once every 3 years to determine if a revision is needed, and to certify to the unified program agency that the review was made and that any necessary changes were made to the plan. A handler is also required to annually review the business plan information and resubmit or certify as correct the inventory information in the statewide environmental reporting system.

This bill would instead require the handler to submit the business plan annually to the statewide information system by a date established by the unified program agency or by March 1, would instead require a business owner, business operator, or officially designated representative of the business to review and certify on or before that date that the information in the statewide information management system meets specified requirements, and would remove the requirement that the handler annually review and resubmit or certify as correct the inventory information in the statewide environmental reporting system.

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

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

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

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

(6) This bill would revise some definitions for purposes of these provisions relating to business plans of handlers of hazardous materials and would make other conforming changes.

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

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

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

(9) The bill would incorporate changes to Section 25507 of the Health and Safety Code proposed by both this bill and AB 2748, which would only become operative if both bills are enacted and become effective on or before January 1, 2015, and this bill is enacted after AB 2748.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) “Unified program agency” or “UPA” means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular

unified program element specified in paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes of this article and Article 2 (commencing with Section 25531), the UPAs have the responsibility and authority, to the extent provided by this article and Article 2 (commencing with Section 25531) and Sections 25404.1 and 25404.2, to implement and enforce only those requirements of this article and Article 2 (commencing with Section 25531) listed in paragraphs (4) and (5) of subdivision (c) of Section 25404.

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

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

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

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

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

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

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

(j) “Consumer product” means a commodity used for personal, family, or household purposes, or is present in the same form, concentration, and quantity as a product repackaged for distribution to and use by the general public.

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

(l) “Handle” means all of the following:

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

(B) For purposes of subparagraph (A), “store” does not include the storage of hazardous materials incidental to transportation, as defined in Title 49

of the Code of Federal Regulations, with regard to the inventory requirements of Section 25506.

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

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

(m) “Handler” means a business that handles a hazardous material.

(n) (1) “Hazardous material” means a material listed in paragraph (2) that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment, or a material specified in an ordinance adopted pursuant to paragraph (3).

(2) Hazardous materials include all of the following:

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

(B) A substance listed as a radioactive material in Appendix B of Part 30 (commencing with Section 30.1) of Title 10 of the Code of Federal Regulations, as maintained and updated by the Nuclear Regulatory Commission.

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

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

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

(3) The governing body of a unified program agency may adopt an ordinance that provides that, within the jurisdiction of the unified program agency, a material not listed in paragraph (2) is a hazardous material for purposes of this article if a handler has a reasonable basis for believing that the material would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment, and requests the governing body of the unified program agency to adopt that ordinance, or if the governing body of the unified program agency has a reasonable basis for believing that the material would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. The handler or the unified program agency shall notify the secretary no later than 30 days after the date an ordinance is adopted pursuant to this paragraph.

(o) “Office” means the Office of Emergency Services.

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

(q) “Retail establishment” means a business that sells consumer products prepackaged for distribution to, and intended for use by, the general public. A retail establishment may include storage areas or storerooms in establishments that are separated from shelves for display areas but maintained within the physical confines of the retail establishments. A retail establishment does not include a pest control dealer, as defined in Section 11407 of the Food and Agricultural Code.

(r) “Secretary” means the Secretary for Environmental Protection.

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

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

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

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

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

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

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

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

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

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

25503. (a) The office shall adopt, after public hearing and consultation with the Office of the State Fire Marshal and other appropriate public entities,

regulations for minimum standards for business plans and area plans. All business plans and area plans shall meet the standards adopted by the office.

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

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

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

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

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

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

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

(2) Preemergency planning.

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

(4) Training of appropriate employees.

(5) Onsite public safety and information.

(6) Required supplies and equipment.

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

(8) Incident critique and followup.

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

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

(2) The unified program agency shall certify to the office every three years that it has conducted a complete review of its area plan and has made any necessary revisions. If a unified program agency makes a substantial

change to its area plan, it shall forward the changes to the office within 14 days after the changes have been made.

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

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

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

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

(c) The unified program agency shall provide access to the information collected in the statewide information management system to emergency response personnel on a 24-hour basis.

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

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

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

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

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

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

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

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

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

(2) A site map that contains north orientation, loading areas, internal roads, adjacent streets, storm and sewer drains, access and exit points, emergency shutoffs, evacuation staging areas, hazardous material handling and storage areas, and emergency response equipment.

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

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

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

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

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

(b) A business required to file a pipeline operations contingency plan in accordance with the Elder California Pipeline Safety Act of 1981 (Chapter 5.5 (commencing with Section 51010) of Part 1 of Division 1 of Title 5 of

the Government Code) and the regulations of the Department of Transportation, found in Part 195 (commencing with Section 195.0) of Subchapter D of Chapter I of Subtitle B of Title 49 of the Code of Federal Regulations, may file a copy of those plans with the unified program agency instead of filing an emergency response plan specified in paragraph (3) of subdivision (a).

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

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

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

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

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

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

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

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

(e) This section shall not apply to hazardous materials that are described in subdivision (b) of Section 25507.

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

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

(1) (A) The business handles a hazardous material or a mixture containing a hazardous material that has a quantity at any one time during the reporting year that is equal to, or greater than, 55 gallons for materials that are liquids, 500 pounds for solids, or 200 cubic feet for compressed gas, as defined in subdivision (i) of Section 25501. The physical state and quantity present of

mixtures shall be determined by the physical state of the mixture as a whole, not individual components, at standard temperature and pressure.

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

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

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

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

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

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

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

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

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

(C) Carbon dioxide.

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

(E) Gases used in closed fire suppression systems.

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

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

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

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

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

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

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

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

(A) Fluid in a hydraulic system.

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

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

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

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

notice to the office and the secretary within 15 days from the effective date of any exemption granted pursuant to this subdivision.

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

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

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

SEC. 8.5. Section 25507 of the Health and Safety Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(C) Carbon dioxide.

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

(E) Gases used in closed fire suppression systems.

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

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

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

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

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

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

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

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

(A) Fluid in a hydraulic system.

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

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

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

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

(d) The unified program agency, upon application by a handler, may exempt the handler, under conditions that the unified program agency determines to be proper, from any portion of the requirements to establish and maintain a business plan, upon a written finding that the exemption

would not pose a significant present or potential hazard to human health or safety or to the environment, or affect the ability of the unified program agency and emergency response personnel to effectively respond to the release of a hazardous material, and that there are unusual circumstances justifying the exemption. The unified program agency shall specify in writing the basis for any exemption under this subdivision.

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

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

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

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

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

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

(A) Pesticides.

(B) Petroleum fuels and oil.

(C) Types of fertilizers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The unified program agency shall establish an annual date by which a handler shall electronically submit the business plan. If a unified program agency does not otherwise establish an annual date, the handler shall submit the business plan on or before March 1.

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

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

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

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

(c) This section shall not require the submission of information concerning the hazardous materials described in subdivision (b) of Section 25507.

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

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

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

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

(c) Change of business address.

(d) Change of business ownership.

(e) Change of business name.

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

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

SEC. 13. Section 25508.2 of the Health and Safety Code is repealed.

SEC. 14. Section 25508.2 is added to the Health and Safety Code, to read:

25508.2. On or before the annual due date established pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 25508, the business owner, business operator, or officially designated representative of the business shall review and certify that the information in the statewide information management system is complete, accurate, and in compliance

with Section 11022 of Title 42 of the United States Code. An annual electronic submittal to the statewide information management system satisfies the certification requirement of this section.

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

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

(b) The unified program agency shall make the information in the statewide information management system submitted pursuant to this article available for public inspection during the regular working hours of the unified program agency, except the information specifying the precise location where hazardous materials are stored and handled onsite, including any maps required by paragraph (2) of subdivision (a) of Section 25505.

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 19. Section 25515.5 of the Health and Safety Code is amended to read:

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

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

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

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

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

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

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

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

SEC. 21. Section 8.5 of this bill incorporates amendments to Section 25507 of the Health and Safety Code proposed by both this bill and Assembly Bill 2748. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2015, (2) each bill amends Section 25507 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2748, in which case Section 8 of this bill shall not become operative.