

HEALTH AND SAFETY CODE

SECTION 25500-25520

25500. The Legislature declares that, in order to protect the public health and safety and the environment, it is necessary to establish business and area plans relating to the handling and release or threatened release of hazardous materials. The establishment of minimum statewide standards for these plans is a statewide concern. Basic information on the location, type, quantity, and the health risks of hazardous materials handled, used, stored, or disposed of in the state, which could be accidentally released into the environment, is not now available to firefighters, health officials, planners, public safety officers, health care providers, regulatory agencies, and other interested persons. The information provided by business and area plans is necessary in order to prevent or mitigate the damage to the health and safety of persons and the environment from the release or threatened release of hazardous materials into the workplace and environment.

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

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

(a) "Administering agency" means the local agency authorized, pursuant to Section 25502, to implement and enforce this chapter.

(b) "Agricultural handler" means an entity identified in paragraph (5) of subdivision (c) of Section 25503.5.

(c) "Area plan" means a plan established pursuant to Section 25503 by an administering agency for emergency response to a release or threatened release of a hazardous material within a city or county.

(d) "Business" means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, or association.

For purposes of this chapter, "business" includes a business organized for profit and a nonprofit business.

(e) "Business plan" means a separate plan for each facility, site, or branch of a business that meets the requirements of Section 25504.

(f) "Certification statement" means a statement signed by the business owner, operator, or officially designated representative that attests to all of the following:

(1) The information contained in the annual inventory form most recently submitted to the administering agency is complete, accurate, and up to date.

(2) There has been no change in the quantity of any hazardous material as reported in the most recently submitted annual inventory form.

(3) No hazardous materials subject to the inventory requirements

of this chapter are being handled that are not listed on the most recently submitted annual inventory form.

(4) The most recently submitted annual inventory form contains the information required by Section 11022 of Title 42 of the United States Code.

(g) (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 the provisions of 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 chapter, the UPAs have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce only those requirements of this chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404. The UPAs also have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce the regulations adopted to implement the requirements of this chapter 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 chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404 within the jurisdiction of the CUPA.

(h) "City" includes any city and county.

(i) "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.

(j) "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.

(k) "Department" means the Department of Toxic Substances Control and "director" means the Director of Toxic Substances Control.

(l) "Emergency rescue personnel" means any public employee, including, but not limited to, any fireman, firefighter, or emergency rescue personnel, as defined in Section 245.1 of the Penal Code, or personnel of a local EMS agency, as designated pursuant to Section 1797.200, or a poison control center, as defined by Section 1797.97, who responds to any condition caused, in whole or in part, by a hazardous material that jeopardizes, or could jeopardize, public health or safety or the environment.

(m) "Handle" means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.

(n) "Handler" means any business that handles a hazardous material.

(o) "Hazardous material" means any material 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. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment.

(p) "Hazardous substance" means any substance or chemical product for which one of the following applies:

(1) The manufacturer or producer is required to prepare a MSDS for the substance or product 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.

(2) The substance is listed as a radioactive material in Appendix B of Chapter 1 of Title 10 of the Code of Federal Regulations, maintained and updated by the Nuclear Regulatory Commission.

(3) The substances listed pursuant to Title 49 of the Code of Federal Regulations.

(4) The materials listed in subdivision (b) of Section 6382 of the Labor Code.

(q) "Hazardous waste" means hazardous waste, as defined by Sections 25115, 25117, and 25316.

(r) "Office" means the Office of Emergency Services.

(s) "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.

(t) "Secretary" means the Secretary for Environmental Protection.

(u) "SIC Code" means the identification number assigned by the Standard Industrial Classification Code to specific types of businesses.

(v) "Threatened release" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment.

(w) "Trade secret" means trade secrets as defined in subdivision (d) of Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.

(x) "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.

25501.1. Notwithstanding Section 25501, for purposes of this chapter, a hazardous substance specified in paragraph (3) of subdivision (k) of Section 25501 means those hazardous materials or substances listed in Parts 172 and 173 of Title 49 of the Code of Federal Regulations.

25501.2. For purposes of the inventory requirements of this chapter, "store," as used in subdivision (i) of Section 25501, does not include the storage of hazardous materials which are in transit or which are temporarily maintained in a fixed facility for a period of less than 30 days during the course of transportation.

25501.3. "Handle" also means the use or potential for use of a quantity of hazardous material by the connection of any marine vessel, tank vehicle, tank car, or container to a system or process for any purpose other than the immediate transfer to or from an approved atmospheric tank or approved portable tank.

25501.4. Notwithstanding subdivision (d) of Section 25501, "business" also includes all of the following:

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

(b) Any 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.

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

25502. (a) (1) This chapter, as it pertains to the handling of hazardous material, shall be implemented by one of the following:

(A) If there is a CUPA, the Unified Program Agency.

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

(2) The agency responsible for implementing this chapter shall ensure full access to, and the availability of, information submitted under this chapter to emergency rescue personnel and other appropriate governmental entities within its jurisdiction.

(b) (1) If there is no CUPA, a city may, by ordinance or resolution, assume responsibility for the implementation of this chapter and, if so, shall have exclusive jurisdiction within the boundary of the city for the purposes of carrying out this chapter. The ordinance shall require that a person who violates Section 25507 shall be subject to the penalties specified in Section 25515. A city that assumes responsibility for implementation of this chapter shall provide notice of its ordinance or resolution to the office and to the administering agency of its county. It shall also consult with, and coordinate its activities with, the county in which the city is located to avoid duplicating efforts or any misunderstandings regarding the areas, duties, and responsibilities of each administering agency.

(2) A city may not assume responsibility for the implementation of this chapter unless it has enacted an implementing ordinance or adopted an implementing resolution not later than 60 days after the office adopts regulations pursuant to Section 25503, except that a city may enact an implementing ordinance or adopt an implementing resolution after this 60-day period, if it has an agreement with the county to do so. A new city has one year from the date of incorporation to enact an ordinance or adopt a resolution implementing this chapter.

(3) The agency responsible for administering and enforcing this chapter shall be the agency so authorized pursuant to subdivision (f) of Section 25404.3.

(c) If there is no CUPA, the county and any city that assume

responsibility pursuant to subdivision (b) shall designate a department, office, or other agency of the county or city, as the case may be, or the city or county may designate a fire district, as the administering agency responsible for administering and enforcing this chapter. The county and any city that assume responsibility pursuant to subdivision (b) shall notify the office immediately upon making a designation. The agency responsible for administering and enforcing this chapter shall be the agency so authorized pursuant to subdivision (f) of Section 25404.3.

25503. (a) Not later than September 1, 1986, 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 subdivisions (b) and (c) of Section 25504.

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

(4) Define what releases and threatened releases are required to be reported pursuant to Section 25507. The office shall consider the existing federal reporting requirements in determining a definition of reporting releases pursuant to Section 25507.

(c) An administering agency shall 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 rescue 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 25507.

(d) The administering agency shall submit a copy of its proposed area plan, within 180 days after adoption of regulations by the office establishing area plan standards, to the office for review. The office shall notify the administering agency as to whether the

area plan is adequate and meets the area plan standards. The administering agency shall within 45 days of this notice submit a corrected area plan.

The administering 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. Any time an administering agency makes any substantial changes to its area plan, it shall forward the changes to the office within 14 days after the changes have been made.

(e) An administering agency shall submit to the office, along with its area plan, both of the following:

(1) The basic provisions of a plan to conduct onsite inspections of businesses subject to this chapter by either the administering agency or other designated entity. These inspections shall ensure compliance with this chapter 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 paragraph do not alter or affect the immunity provided a public entity pursuant to Section 818.6 of the Government Code.

(2) A plan to institute a data management system which will assist in the efficient access to and utilization of information collected under this chapter. This data management system shall be in operation within two years after the business plans are required to be submitted to the administering agency pursuant to Section 25505.

(f) The regulations adopted by the office pursuant to subdivision (a) shall include an optional model reporting form for business and area plans.

25503.1. The office and each administering agency shall adopt reporting requirements, in cooperation with the Chemical Emergency Planning and Response Commission, established by the Governor as the state emergency response commission pursuant to subsection (a) of Section 11001 of Title 42 of the United States Code, which are consistent with the intent and provisions of this chapter and with Chapter 116 (commencing with Section 11001) of Title 42 of the United States Code, for the purpose of eliminating duplicative reporting requirements, to the extent achievable and practicable.

25503.2. (a) The Environmental Affairs Agency, with the guidance of the Chemical Emergency Planning and Response Commission, as specified in Section 25503.1, shall develop a hazardous materials compliance assistance manual, which shall include all of the following:

(1) A copy of each form required by federal and state agencies for the reporting of activities concerning hazardous materials and criteria as to who is required to file the form.

(2) The due date for each form specified in paragraph (1).

(3) The address, telephone number, and contact person of each federal and state agency which requires the reporting forms specified in paragraph (1).

(4) An insert that contains a copy of each form used for the reporting of activities concerning hazardous materials required by each local agency under whose jurisdiction the person requesting the manual conducts business, including the due date for each form, and the address, telephone number, and contact person of each local

agency.

(5) Any other information that the Environmental Affairs Agency determines to be necessary.

(b) On or before July 1, 1991, the Environmental Affairs Agency, with the guidance of the Chemical Emergency Planning and Response Commission, shall make known to businesses and other interested parties, and distribute, upon request, the hazardous materials compliance assistance manual developed pursuant to subdivision (a). The Secretary of the Environmental Affairs Agency may impose a fee for the manual to pay for all costs related to the development, maintenance, reproduction, and distribution of the manual.

25503.3. (a) The office shall, in consultation with the administering agencies, in accordance with Section 25503.1, adopt by regulation a single comprehensive hazardous material reporting form for businesses to submit to administering agencies for purposes of Section 25509. The form shall include a section for additional information that may be requested by the administering agency. The regulations shall also specify criteria for sharing data electronically. Except as provided in subdivisions (b) and (c), after January 1, 1997, each administering agency shall require businesses to use this form annually when complying with Section 25509.

(b) (1) Except as provided in paragraph (2), an administering agency may allow a business to submit a form designated by the administering agency for purposes of the inventory required by Section 25509 instead of the single comprehensive hazardous material reporting form adopted pursuant to subdivision (a). Any form designated by an administering agency pursuant to this paragraph shall ensure that all of the information required by Section 25509 is reported. The form shall be developed in consultation with the other agencies within the jurisdiction that are responsible for fire protection, emergency response, and environmental health. If the administering agency permits inventory information to be submitted by electronic means, the format and mode of submittal shall be developed in consultation with those other agencies and, following the adoption of standards for the sharing of electronic data pursuant to subdivision (e) of Section 25404, shall be consistent with those standards.

(2) If a business chooses to submit the single comprehensive hazardous material reporting form adopted pursuant to subdivision (a), the administering agency shall accept that form.

(c) Notwithstanding Section 25509, a business may comply with the annual inventory reporting requirements of this article by submitting a certification statement to the administering agency if both of the following apply:

(1) The business has previously filed the single comprehensive hazardous material reporting form required by subdivision (a) or the alternative form designated by the administering agency pursuant to subdivision (b).

(2) The business can attest to the statements set forth in paragraphs (1) to (4), inclusive, of subdivision (f) of Section 25501.

25503.4. (a) The office shall adopt a format that allows persons subject to two or more of the following requirements to meet those

requirements in one document:

- (1) The business plan required by this chapter.
- (2) The risk management plan required by Section 25534.
- (3) The contingency plan required by Division 4.5 (commencing with Section 66001) of Title 22 of the California Code of Regulations and by Part 262 (commencing with Section 262.10), Part 264 (commencing with Section 264.1), or Part 265 (commencing with Section 265.1) of Title 40 of the Code of Federal Regulations.
- (4) The spill prevention control and countermeasure plan required by Section 25270.4.5 and by Part 112 (commencing with Section 112.1) or by Part 300 (commencing with Section 300.1) of Title 40 of the Code of Federal Regulations.
- (5) Any accident or spill prevention plan or response plan required by Chapter 6.7 (commencing with Section 25280) or by regulations adopted pursuant to that chapter or required by an underground storage tank ordinance adopted by a city or county.
- (6) The interim marine facility oil spill contingency plan required by Section 8670.29 of the Government Code and the marine facility oil spill contingency plan required by Section 8670.31 of the Government Code.

(b) The format required by subdivision (a) shall be organized as follows:

- (1) A central element that will enable persons using the format to report information and data common to all of the requirements described in subdivision (a).
- (2) Appendices that will contain the additional information unique to each individual requirement described in subdivision (a).
- (c) The office shall adopt the format required by subdivision (a) in consultation with administering agencies and the Information Management Subcommittee of the Chemical Emergency Planning and Response Commission and in cooperation with the State Water Resources Control Board, the Department of Fish and Game, and the department. The adoption of the format is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall be completed by January 1, 1995. To the extent feasible, and within the limits of budgetary constraints, the office, the State Water Resources Control Board, the Department of Fish and Game, and the department shall convene workshops and other public meetings to obtain public assistance on the development of the format.

25503.5. (a) (1) A business, except as provided in subdivisions (b), (c), and (d), 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 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 any of the following:

(A) Equal to, or greater than, a total weight of 500 pounds or a total volume of 55 gallons.

(B) Equal to, or greater than, 200 cubic feet at standard temperature and pressure, if the substance is compressed gas.

(C) If the substance is a radioactive material, it is handled in quantities for which an emergency plan is required to be adopted pursuant to 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,

