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AB-1646 Hazardous materials: unified program agency: integrated alerting and notification system.
(2017-2018)

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Assembly Bill No. 1646

CHAPTER 588

An act to amend Section 25532 of, and to add Section 25536.6 to, the Health and Safety Code, relating to hazardous materials.

[Approved by Governor October 08, 2017. Filed with Secretary of State October 08, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1646, Muratsuchi. Hazardous materials: unified program agency: integrated alerting and notification system.

Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program. Existing law requires every county to apply to the secretary to be certified to implement the unified program and allows a city or local agency to implement the unified program as a unified program agency, or UPA. Existing law also requires each certified UPA to institute a single fee system, which is required to include a surcharge on each person regulated by the unified program, the amount of which is determined by the secretary annually, to cover the necessary and reasonable costs of the state agencies in carrying out their responsibilities in the unified hazardous waste and hazardous materials management regulatory program.

Existing law imposes certain requirements on stationary sources handling regulated substances, as defined, including, among other things, the preparation and implementation of a risk management plan. Existing law requires the UPA to review the plan and to notify the stationary source of any defects in the plan.

This bill would require each local implementing agency, as defined, to develop an integrated alerting and notification system, in coordination with local emergency management agencies, UPAs, local first response agencies, petroleum refineries, and the public, to be used to notify the community surrounding a petroleum refinery in the event of an incident at the refinery warranting the use of the notification system. The bill would require the notification system to be configured, as specified, and used to alert and notify the communities surrounding a petroleum refinery, including schools, public facilities, hospitals, transient and special needs populations, as defined, and residential care homes. If an integrated alerting and notification system has not been developed and implemented by January 1, 2018, the bill would require the local implementing agency to determine an appropriate notification system to be developed consistent with these provisions and, on or before January 1, 2019, to develop a schedule for developing and implementing the notification system. The bill would require a UPA to ensure that the notification system developed is consistent with the UPA's area plan and specified regulations regarding the California Accidental Release Prevention Program. The bill would require a petroleum refinery to immediately call the emergency 9-1-1 telephone number and notify the UPA, in the event of an incident warranting the use of the notification system. The bill would require a UPA, in coordination with the local implementing agency, to establish a fee, separate from the single fee system described above, that a petroleum refinery would be required to pay in an amount to cover the reasonable and necessary costs for the design, building, and installation of the notification system, and a fee, as part of the single fee system levied on a petroleum refinery, in an amount

sufficient to cover the reasonable and necessary costs for the ongoing operation and maintenance of the notification system. The bill would require the Governor's Office of Emergency Services to work with the local implementing agencies and the UPAs to develop a model memorandum of understanding between adjacent jurisdictions for integration of alerting and notification systems that will operate across jurisdictional boundaries. The bill would require the local implementing agency to ensure that there are agreements with adjacent jurisdictions to coordinate alerts, notifications, and messaging when a release crosses or threatens to cross jurisdictional boundaries, and to document those agreements in the unified program agency area plan. Because the bill would add to duties of a UPA and other local agencies, the bill would impose a state-mandated local program.

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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25532 of the Health and Safety Code is amended to read:

25532. Unless the context indicates otherwise, the following definitions govern the construction of this article:

(a) "Accidental release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

(b) "Administering agency" means a unified program agency as defined in Section 25501.

(c) "Covered process" means a process that has a regulated substance present in more than a threshold quantity.

(d) "Local implementing agency" means the entity that has been designated by a local governing body to develop, implement, and maintain an integrated alerting and notification system, which may include a local law enforcement or fire agency, joint powers agency, authority, or entity, or other local agency.

(e) "Modified stationary source" means an addition or change to a stationary source that qualifies as a "major change," as defined in Subpart A (commencing with Section 68.1) of Part 68 of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations. "Modified stationary source" does not include an increase in production up to the source's existing operational capacity or an increase in production level, up to the production levels authorized in a permit granted pursuant to Section 42300.

(f) "Office" or "agency" means the Office of Emergency Services.

(g) "Person" means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, or corporation, including, but not limited to, a government corporation. "Person" also includes any city, county, city and county, district, commission, the state or any department, agency or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

(h) "Process" means any activity involving a regulated substance, including any use, storage, manufacturing, handling, or onsite movement of the regulated substance or any combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located so that a regulated substance could be involved in a potential release, shall be considered a single process.

(i) "Qualified person" means a person who is qualified to attest, at a minimum, to the completeness of an RMP.

(j) "Regulated substance" means any substance that is either of the following:

(1) A regulated substance listed in Section 68.130 of Title 40 of the Code of Federal Regulations pursuant to paragraph (3) of subsection (r) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(r)(3)).

(2) (A) An extremely hazardous substance listed in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations that is any of the following:

(i) A gas at standard temperature and pressure.

(ii) A liquid with a vapor pressure at standard temperature and pressure equal to or greater than 10 millimeters mercury.

(iii) A solid that is one of the following:

(I) In solution or in molten form.

(II) In powder form with a particle size less than 100 microns.

(III) Reactive with a National Fire Protection Association rating of 2, 3, or 4.

(iv) A substance that the office determines may pose a regulated substances accident risk pursuant to subclause (II) of clause (i) of subparagraph (B) or pursuant to Section 25543.3.

(B) (i) On or before June 30, 1997, the office shall, in consultation with the Office of Environmental Health Hazard Assessment, determine which of the extremely hazardous substances listed in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations do either of the following:

(I) Meet one or more of the criteria specified in clauses (i), (ii), or (iii) of subparagraph (A).

(II) May pose a regulated substances accident risk, in consideration of the factors specified in subdivision (g) of Section 25543.1, and, therefore, should remain on the list of regulated substances until completion of the review conducted pursuant to subdivision (a) of Section 25543.3.

(ii) The office shall adopt, by regulation, a list of the extremely hazardous substances identified pursuant to clause (i). Extremely hazardous substances placed on the list are regulated substances for the purposes of this article. Until the list is adopted, the administering agency shall determine which extremely hazardous substances should remain on the list of regulated substances pursuant to the standards specified in clause (i).

(k) "Regulated substances accident risk" means a potential for the accidental release of a regulated substance into the environment that could produce a significant likelihood that persons exposed may suffer acute health effects resulting in significant injury or death.

(l) "RMP" means the risk management plan required under Part 68 (commencing with Section 68.1) of Subchapter C of Chapter I of Title 40 of the Code of Federal Regulations and by this article.

(m) "State threshold quantity" means the quantity of a regulated substance described in subparagraph (A) of paragraph (2) of subdivision (j), as adopted by the office pursuant to Section 25543.1 or 25543.3. Until the office adopts a state threshold quantity for a regulated substance, the state threshold quantity shall be the threshold planning quantity for the regulated substance specified in Appendix A of Part 355 (commencing with Section 355.10) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.

(n) "Special needs population" means individuals who may have additional response assistance needs before, during, and after an incident in functional areas, including, but not limited to, maintaining independence, communication, transportation, supervision, or medical care. Individuals in need of additional response assistance may include those who have disabilities, live in institutionalized settings, are elderly, are children, are from diverse cultures, have limited English proficiency or are non-English speaking, or are transportation disadvantaged.

(o) "Stationary source" means any stationary source, as defined in Section 68.3 of Title 40 of the Code of Federal Regulations.

(p) "Threshold quantity" means the quantity of a regulated substance that is determined to be present at a stationary source in the manner specified in Section 68.115 of Title 40 of the Code of Federal Regulations and that is the lesser of either of the following:

(1) The threshold quantity for the regulated substance specified in Section 68.130 of Title 40 of the Code of Federal Regulations.

(2) The state threshold quantity.

(q) "Transient population" means individuals in a location in which they do not normally reside, including, but not limited to, train stations, office buildings, shopping malls, and colleges, and individuals who are homeless.

SEC. 2. Section 25536.6 is added to the Health and Safety Code, to read:

25536.6. (a) Each local implementing agency shall develop an integrated alerting and notification system, in coordination with local emergency management agencies, unified program agencies, local first response agencies, petroleum refineries, and the public, to be used to notify the community surrounding a petroleum refinery in the event of an incident at the refinery warranting the use of the automatic notification system. The integrated alerting and notification system shall include the following when determined to be appropriate and consistent with the unified program agency area plan:

(1) Text messaging.

(2) Calls to landline and cellular telephones.

(3) Activation of the Emergency Alert System.

(4) National Weather Service alerts to National Oceanic and Atmospheric Administration radios.

(5) Social media communications.

(6) New technologies when developed.

(7) An audible alarm.

(b) (1) The integrated alerting and notification system shall alert and notify the communities surrounding a petroleum refinery, including schools, public facilities, hospitals, transient and special needs populations, and residential care homes.

(2) The area of the community that is to be alerted and notified shall be determined by the local implementing agency in coordination with unified program agencies, local first response agencies, petroleum refineries, and the public.

(c) If an integrated alerting and notification system has not been developed and implemented by January 1, 2018, the local implementing agency shall, in coordination with the unified program agency, local first response agencies, petroleum refineries, and the public, determine an appropriate integrated alerting and notification system to be developed consistent with subdivisions (a) and (b) and, on or before January 1, 2019, shall develop a schedule for developing and implementing the integrated alerting and notification system.

(d) The local implementing agency, through an interagency agreement or memorandum of understanding with the unified program agency and the county's operational area coordinator, shall manage, operate, coordinate, and maintain the integrated alerting and notification system developed pursuant to subdivisions (a) and (b).

(e) A unified program agency shall ensure that the integrated alerting and notification system required pursuant to subdivisions (a) and (b) is included in, or consistent with, the unified program agency area plan and Chapter 4.5 of Division 2 of Title 19 of the California Code of Regulations.

(f) A petroleum refinery shall immediately call the emergency 9-1-1 telephone number and notify the unified program agency, pursuant to Section 25510, in the event of an incident warranting the use of the integrated alerting and notification system.

(g) A unified program agency shall make the RMP of a petroleum refinery available to the public at the unified program agency's office during normal business hours or by appointment, or both, consistent with Section 2775.5 of Title 19 of the California Code of Regulations.

(h) A unified program agency, in coordination with the local implementing agency, shall establish a fee that a petroleum refinery shall pay in an amount to cover the reasonable and necessary costs for the design, building, and installation of the integrated alerting and notification system developed pursuant to subdivisions (a) and (b). This fee shall be separate from the unified program single fee system levied pursuant to Section 25404.5 and shall be approved by the governing body of the local implementing agency. The money received from this fee shall be transferred to the local implementing agency for the design, building, and installation of the integrated alerting and notification system developed pursuant subdivisions (a) and (b).

(i) A unified program agency, in coordination with the local implementing agency, shall establish a fee, as part of the unified program single fee system levied on a petroleum refinery pursuant to Section 25404.5, in an amount sufficient to cover the reasonable and necessary costs for the ongoing operation and maintenance of the integrated alerting and notification system developed pursuant to subdivisions (a) and (b). The moneys collected from this fee shall be transferred to the local implementing agency for operating and maintaining the integrated alerting and notification system developed pursuant to subdivisions (a) and (b).

(j) The Governor's Office of Emergency Services shall work with the local implementing agencies and the unified program agencies to develop a model memorandum of understanding between adjacent jurisdictions for integration of alerting and notification systems that will operate across jurisdictional boundaries.

(k) The local implementing agency shall ensure that there are agreements with adjacent jurisdictions to coordinate alerts, notifications, and messaging when a release crosses or threatens to cross jurisdictional boundaries. The agreements shall be documented in the unified program agency area plan.

SEC. 3. 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, within the meaning of Section 17556 of the Government Code.