

## **68400.11 Applicability**

### **(a)**

The provisions of this chapter establish criteria and procedures for determining whether or not a unified program agency is qualified to implement environmental assessment and corrective action pursuant to Health and Safety Code sections 25187, 25187.1, and 25404.1. Except as otherwise specified in this chapter, the provisions of this chapter are not intended to, and shall not be construed to, preclude any other state or local agency from exercising its enforcement or regulatory authority.

### **(b)**

The corrective action authority granted to a unified program agency (UPA) pursuant to this chapter is limited to a release or threatened release of a hazardous waste or hazardous constituent occurring at a facility within the jurisdiction of a qualified UPA.

### **(c)**

A qualified UPA shall comply with all applicable state laws and regulations and local ordinances pertaining to environmental assessment and corrective action.

### **(d)**

The authority granted pursuant to this chapter does not limit an UPA's authority to take enforcement action authorized by or in accordance with local ordinances or resolutions, to the extent that local ordinances or resolutions are not inconsistent

with the provisions of this chapter.

**(e)**

Upon discovering a release or threatened release at a hazardous waste facility that is, or was, required to obtain a hazardous waste facility permit, standardized permit or interim status, a qualified UPA shall immediately notify the Department. If a release occurs at such a facility and the facility also contains units that are or were subject to generator requirements, or Permit By Rule or Conditional Authorization or Conditionally Exempt requirements, a qualified UPA shall notify and coordinate with the Department.

**(f)**

The Department and a qualified UPA are the only agencies authorized to implement and enforce the environmental assessment and corrective action requirements of Health and Safety Code section 25404.1. (1) If the Department determines that a qualified UPA has not adequately implemented or enforced environmental assessment or corrective action requirements in accordance with this chapter, the Department may issue an order pursuant to Health and Safety Code section 25187 or section 25187.1. (2) A qualified UPA may refer sites for corrective action to the Department.

**(1)**

If the Department determines that a qualified UPA has not adequately implemented or enforced environmental assessment or corrective action requirements in accordance with this chapter, the Department may issue an order pursuant to Health and Safety Code section 25187 or section 25187.1.

**(2)**

A qualified UPA may refer sites for corrective action to the Department.

**(g)**

If at any time, an UPA determines that a site requires corrective action that is beyond the activities delegated to the agency or the expertise of the agency, the UPA shall refer the site to the Department.

**(h)**

A qualified UPA shall comply with the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq, whenever any activity or action required by this chapter is a project subject to CEQA.

**(i)**

A qualified UPA shall not implement and enforce environmental assessment or corrective action requirements when any of the following applies: (1)

Environmental assessment or corrective action is required at any hazardous waste facility that is or was required to obtain a permit or other forms of authorization pursuant to the Resource Conservation and Recovery Act (RCRA). (2) The

Department has issued an order or agreement for corrective action at the site pursuant to Health and Safety Code section 25187 or section 25187.1. (3) The

site has been determined to be the responsibility of the Department pursuant to an agreement entered into between the Department and the UPA. (4) The source

of the release or threatened release is a facility or hazardous waste management unit or an activity that is, or was, regulated by the Department pursuant to Health and Safety Code, Division 20, Chapter 6.5 (commencing with section 25100),

unless the source meets the conditions of paragraph (b) of this section. (5) The

Department is conducting, or has conducted, oversight of the corrective action at the site at the request of the responsible party. (6) A site is subject to a Cease

and Desist Order issued pursuant to Water Code section 13301 or a Cleanup and Abatement Order issued pursuant to Water Code section 13304. (7) The Site

Designation Committee has determined the administering agency for a site to be

either the Department, a Regional Water Quality Control Board, or the Department of Fish and Game, pursuant to Health and Safety Code section 25262.

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**(2)**

The Department has issued an order or agreement for corrective action at the site pursuant to Health and Safety Code section 25187 or section 25187.1.

**(3)**

The site has been determined to be the responsibility of the Department pursuant to an agreement entered into between the Department and the UPA.

**(4)**

The source of the release or threatened release is a facility or hazardous waste management unit or an activity that is, or was, regulated by the Department pursuant to Health and Safety Code, Division 20, Chapter 6.5 (commencing with section 25100), unless the source meets the conditions of paragraph (b) of this section.

**(5)**

The Department is conducting, or has conducted, oversight of the corrective action at the site at the request of the responsible party.

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A site is subject to a Cease and Desist Order issued pursuant to Water Code section 13301 or a Cleanup and Abatement Order issued pursuant to Water Code section 13304.

**(7)**

The Site Designation Committee has determined the administering agency for a site to

be either the Department, a Regional Water Quality Control Board, or the Department of Fish and Game, pursuant to Health and Safety Code section 25262.

**(j)**

The Department, qualified UPA, or responsible party conducting or requiring corrective action shall ensure that all engineering and geological interpretations, conclusions and recommendations are developed in accordance with applicable state law, including, but not limited to, Business and Professions Code sections 6735 and 7835. The Department, qualified UPA, or responsible party shall ensure that all risk assessment and toxicological interpretations, conclusions and recommendations are conducted by a professional with one of the following: (1) Certification as a Diplomate of the American Board of Toxicology, or (2) Possession of a Master's Degree in Toxicology, Biochemistry, Pharmacology or a closely related specialty from an accredited college or university and three years of experience following the receipt of the Master's Degree in designing and managing toxicological studies, interpreting results, and conducting hazard and safety evaluations; or (3) Possession of a Doctoral Degree in Toxicology, Biochemistry or Pharmacology, or a closely related specialty, and one year of experience following the receipt of the Doctoral Degree in designing and managing toxicological studies, interpreting results, and conducting hazard and safety evaluations.

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Possession of a Master's Degree in Toxicology, Biochemistry, Pharmacology or a closely related specialty from an accredited college or university and three years of experience following the receipt of the Master's Degree in designing and managing toxicological

studies, interpreting results, and conducting hazard and safety evaluations; or

**(3)**

Possession of a Doctoral Degree in Toxicology, Biochemistry or Pharmacology, or a closely related specialty, and one year of experience following the receipt of the Doctoral Degree in designing and managing toxicological studies, interpreting results, and conducting hazard and safety evaluations.