

Assembly Bill No. 966

CHAPTER 506

An act to amend Sections 25123.5 and 25150.6 of, and to add Sections 25143.14 and 25200.3.1 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 15, 1998. Filed
with Secretary of State September 15, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 966, Ackerman. Laboratory hazardous waste: treatment: residues.

(1) Existing law requires hazardous waste facilities, including, but not limited to, treatment facilities, to operate under hazardous waste facilities permits issued by the Department of Toxic Substances Control or other grant of authorization from the department, except as specified. Existing law, the Wright-Polanco-Lempert Hazardous Waste Treatment Permit Reform Act of 1992, deems a generator who conducts specified treatment activities, upon notifying the department, to be conditionally authorized to operate without obtaining a hazardous waste facilities permit or other grant of authorization, and also conditionally exempts, from hazardous waste facilities permit requirements, a generator who treats not more than specified amounts of hazardous waste in any month, or generators conducting specified treatment processes, if specified requirements are met with regard to that hazardous waste. Existing law authorizes the department to adopt regulations, until January 1, 2002, that exempt a hazardous waste management activity from one or more of the requirements of the hazardous waste control laws, under specified conditions. A violation of the provisions regulating hazardous waste, including a regulation adopted pursuant to those laws, is a crime.

This bill would revise the definition of "treatment" for purposes of the hazardous waste control laws to exempt certain activities that are conducted onsite in accordance with the conditions specified in a permit issued by the department for the storage of hazardous waste. The bill would prohibit the department from adopting regulations to exclude a hazardous waste management activity from that definition of treatment.

The bill would define the terms "laboratory," "laboratory hazardous waste," and "laboratory accumulation area" and would allow the accumulation of up to a specified amount of laboratory hazardous waste in a laboratory accumulation area if the waste is accumulated in a specified manner. The bill would exempt from

hazardous waste facilities permit or authorization requirements the treatment of laboratory hazardous waste generated onsite, if certain requirements are met. The bill would authorize the department to adopt regulations imposing additional requirements for the accumulation of laboratory hazardous waste. Since a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program. The bill would require the department to submit a report to the Legislature by January 1, 2002, that evaluates the effect of this exemption on laboratory hazardous waste management activities.

The bill would provide that residues that are removed from equipment for the purpose of cleaning the equipment for continued use are subject to regulation under the hazardous waste control laws only after the residues have been removed from the equipment and that the removal of these residues from equipment for that purpose constitutes generation, and not treatment, of a hazardous waste.

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

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

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

SECTION 1. Section 25123.5 of the Health and Safety Code is amended to read:

25123.5. (a) Except as provided in subdivision (b), "treatment" means any method, technique, or process which is not otherwise excluded from the definition of treatment by this chapter and which is designed to change the physical, chemical, or biological character or composition of any hazardous waste or any material contained therein, or which removes or reduces its harmful properties or characteristics for any purpose.

(b) (1) "Treatment" does not include any of the activities listed in paragraph (2), if one of the following requirements is met:

(A) The activity is conducted onsite in accordance with the requirements of this chapter and the department's regulations adopted pursuant to this chapter governing the generation and accumulation of hazardous waste.

(B) The activity is conducted in accordance with the conditions specified in a permit issued by the department for the storage of hazardous waste.

(2) The activities subject to the exemption specified in paragraph (1) include all of the following:

(A) Sieving or filtering liquid hazardous waste to remove solid fractions, without added heat, chemicals, or pressure, as the waste is



added to or removed from a storage or accumulation tank or container. For purposes of this subparagraph, sieving or filtering does not include adsorption, reverse osmosis, or ultrafiltration.

(B) Phase separation of hazardous waste during storage or accumulation in tanks or containers, if the separation is unaided by the addition of heat or chemicals. If the phase separation occurs at a commercial offsite permitted storage facility, all phases of the hazardous waste shall be managed as hazardous waste after separation.

(C) Combining two or more waste streams that are not incompatible into a single tank or container if both of the following conditions apply:

(i) The waste streams are being combined solely for the purpose of consolidated accumulation or storage or consolidated offsite shipment, and they are not being combined to meet a fuel specification or to otherwise be chemically or physically prepared to be treated, burned for energy value, or incinerated.

(ii) The combined waste stream is managed in compliance with the most stringent of the regulatory requirements applicable to each individual waste stream.

(D) Evaporation of water from hazardous wastes in tanks or containers, such as breathing and evaporation through vents and floating roofs, without the addition of pressure, chemicals, or heat other than sunlight or ambient room lighting or heating.

(3) This subdivision does not apply to any activity for which a hazardous waste facilities permit for treatment is required under the federal act.

SEC. 2. Section 25143.14 is added to the Health and Safety Code, to read:

25143.14. (a) Except as otherwise provided in subdivisions (c) and (d), residues that are removed from equipment for the purpose of cleaning the equipment for continued use are subject to regulation under this chapter only after the residues have been removed from the equipment.

(b) Except as otherwise provided in subdivisions (c) and (d), the act of removing residues from equipment for the purpose of cleaning the equipment for continued use constitutes generation, and not treatment, of a hazardous waste.

(c) Subdivisions (a) and (b) only apply to equipment that is not being used to manage hazardous waste.

(d) Residues that are not hazardous waste, as defined in Section 25117, including residues that are not discarded materials pursuant to subdivision (c) of Section 25124, are not subject to regulation under this chapter.

SEC. 3. Section 25150.6 of the Health and Safety Code is amended to read:



25150.6. (a) Except as provided in subdivision (e), the department may, by regulation, exempt a hazardous waste management activity from one or more of the requirements of this chapter, if the department does all of the following:

(1) Prepares the analysis of the hazardous waste management activity to which the exemption will apply, as required by subdivision (b).

(2) Demonstrates that one of the conclusions required by subdivision (c) is valid.

(3) Imposes, as may be necessary, conditions and limitations on the exemption that ensure that the exempted activity will not pose a significant potential hazard to human health or safety or to the environment.

(b) Before the department adopts a regulation exempting a hazardous waste activity from one or more of the requirements of this chapter pursuant to subdivision (a), the department shall evaluate the activity and prepare an analysis that addresses all of the following aspects of the activity, to the extent that the requirement or requirements from which the activity will be exempted can affect these aspects of the activity:

(1) The types of hazardous waste streams and the estimated amounts of hazardous waste that are managed as part of the activity and the hazards to human health or safety or to the environment posed by reasonably foreseeable mismanagement of those hazardous wastes and their hazardous constituents. The estimate of the amounts of hazardous waste that are managed as part of the activity shall be based upon information reasonably available to the department.

(2) The complexity of the activity, and the amount and complexity of operator training, equipment installation and maintenance, and monitoring that are required to ensure that the activity is conducted in a manner that safely and effectively manages the particular hazardous waste stream.

(3) The chemical or physical hazards that are associated with the activity and the degree to which those hazards are similar to, or differ from, the chemical or physical hazards that are associated with the production processes that are carried out in the facilities that produce the hazardous waste that is managed as part of the activity.

(4) The types of accidents that might reasonably be foreseen to occur during the management of particular types of hazardous waste streams as part of the activity, the likely consequences of those accidents, and the actual reasonably available accident history associated with the activity.

(5) The types of locations at which the activity may be carried out, an estimate of the number of these locations, and the types of hazards that may be posed by proximity to the land uses described in subdivision (b) of Section 25232. The estimate of the number of



locations at which the activity may be carried out shall be based upon information reasonably available to the department.

(c) The department shall not adopt a regulation pursuant to subdivision (a) unless it first demonstrates, using the information developed in the analysis prepared pursuant to subdivision (b), that one of the following is valid:

(1) The requirement from which the activity is exempted is not significant or important in either of the following:

(A) Preventing or mitigating potential hazards to human health or safety or to the environment posed by the activity.

(B) Ensuring that the activity is conducted in compliance with other applicable requirements of this chapter and the regulations adopted pursuant to this chapter.

(2) A requirement is imposed and enforced by another public agency that provides protection of human health and safety and the environment that is as effective as, and equivalent to, the protection provided by the requirement, or requirements, from which the activity is being exempted.

(3) Conditions or limitations imposed on the exemption will provide protection of human health and safety and the environment equivalent to the requirement, or requirements, from which the activity is exempted.

(4) Conditions or limitations imposed on the exemption accomplish the same regulatory purpose as the requirement, or requirements, from which the activity is being exempted but at less cost or greater administrative convenience and without increasing potential risks to human health or safety or to the environment.

(d) A regulation adopted pursuant to this section shall not be deemed to meet the standard of necessity, pursuant to Section 11349.1 of the Government Code, unless the department has complied with subdivisions (b) and (c).

(e) The department shall not exempt a hazardous waste management activity from a requirement of this chapter or the regulations adopted by the department if the requirement is also a requirement for that activity under the federal act.

(f) The department shall not adopt regulations pursuant to this section to exclude a hazardous waste management activity from the definition of treatment set forth in Section 25123.5.

(g) The authority of the department to adopt regulations pursuant to this section shall remain in effect only until January 1, 2002, unless a later enacted statute, which is enacted before January 1, 2002, deletes or extends that date. This subdivision shall not be construed to invalidate any regulation adopted pursuant to this section prior to the expiration of the department's authority.

SEC. 4. Section 25200.3.1 is added to the Health and Safety Code, to read:



25200.3.1. (a) For purposes of this section, the following definitions apply:

(1) “Laboratory” means a workplace where relatively small quantities of hazardous chemicals are handled or used in a manner that meets all of the following criteria:

(A) Chemical reactions, transfers, and handling are carried out using containers that are designed to be easily and safely manipulated by one person.

(B) Protective laboratory practices and equipment are available and in common use to minimize the potential for laboratory worker exposure to hazardous chemicals.

(C) The chemical procedures conducted in the laboratory meet all of the following criteria:

(i) The chemical procedures are conducted for purposes of education, research, chemical analysis, clinical testing, or product development, testing, or quality control.

(ii) The chemical procedures are not part of the actual commercial production of chemicals or other products, and are not part of production development activities, unless the activities are conducted on the scale of a research laboratory.

(iii) The chemical procedures are not part of the treatment of hazardous waste, other than the treatment of laboratory hazardous waste pursuant to subdivision (c).

(2) “Laboratory accumulation area” means the area where laboratory hazardous wastes are accumulated pursuant to subdivision (b). The laboratory accumulation area may be located in the room in which the accumulated laboratory hazardous wastes are generated or in another onsite location.

(3) “Laboratory hazardous waste” means hazardous waste generated in a laboratory by chemical procedures meeting the criteria specified in subparagraph (C) of paragraph (1).

(b) Notwithstanding paragraph (1) of subdivision (d) of Section 25123.3, and except as otherwise required by the federal act, up to 55 gallons of laboratory hazardous waste, or one quart of laboratory hazardous waste that is acutely hazardous waste, may be accumulated onsite in a laboratory accumulation area that is located as close as is practical to the location where the laboratory hazardous waste is generated, if all of the following conditions are met:

(1) The laboratory accumulation area is managed under the control of one or more designated personnel who have received training commensurate with their responsibilities and authority for managing laboratory hazardous wastes, and unsupervised access to the laboratory accumulation area is limited to personnel who have received training commensurate with their responsibilities and authority for managing laboratory hazardous wastes.

(2) The laboratory hazardous wastes are managed so as to ensure that incompatible laboratory hazardous wastes are not mixed, and



are otherwise prevented from coming in contact with each other. However, incompatible laboratory hazardous wastes may be mixed together during treatment meeting the requirements of subdivision (c), if one laboratory hazardous waste is being used to treat another laboratory hazardous waste pursuant to procedures identified in paragraph (1) of subdivision (c).

(3) The amount of laboratory hazardous wastes accumulated in the laboratory accumulation area is appropriate for the space limitations and the need to safely manage the containers and separate incompatible laboratory hazardous wastes.

(4) All of the requirements of subdivision (d) of Section 25123.3 are met, except for the requirements of paragraph (1) of subdivision (d) of Section 25123.3.

(c) Notwithstanding any other provision of law, and except as otherwise required by the federal act, a hazardous waste facilities permit or other grant of authorization from the department is not required for treatment of laboratory hazardous waste generated onsite, if all of the following requirements are met:

(1) The laboratory hazardous waste is treated in containers using recommended procedures and quantities for treatment of laboratory wastes published by the National Research Council or procedures for treatment of laboratory wastes published in peer-reviewed scientific journals.

(2) The laboratory hazardous waste is treated at a location that is as close as is practical to the location where the laboratory hazardous waste is generated, and the treatment is conducted within 10 calendar days after the date the laboratory hazardous waste is generated.

(3) The amount of laboratory hazardous waste treated in a single batch does not exceed the quantity limitation specified in subparagraph (A) or (B), whichever is the smaller quantity:

(A) Five gallons or 18 kilograms, whichever is greater.

(B) (i) Except as otherwise provided in clause (ii), the quantity limit recommended in the procedures published by the National Research Council or in other peer-reviewed scientific journals for the treatment procedure being used.

(ii) Except as otherwise specified in subparagraph (A), the amount of laboratory hazardous waste treated in a single batch may exceed the quantity limit specified in clause (i) if a qualified chemist has demonstrated that the larger quantity can be safely treated, and documentation of the demonstration is maintained onsite. The documentation shall be made available for inspection upon request by a representative of the department or the CUPA, or if there is no CUPA, the agency authorized pursuant to subdivision (f) of Section 25404.3.



(4) The laboratory hazardous waste treated is from a single procedure, or set of procedures that are part of the same laboratory process.

(5) The person performing the treatment has knowledge of the laboratory hazardous waste being treated, including knowledge of the procedure that generated the laboratory hazardous waste, and has received hazardous waste training, including how to conduct the treatment, manage treatment residuals, and respond effectively to emergency situations.

(6) Training records for all persons performing treatment of laboratory hazardous wastes pursuant to this subdivision are maintained for a minimum of three years.

(7) The laboratory hazardous waste is managed in accordance with applicable requirements for generators accumulating laboratory hazardous waste under this chapter and the regulations adopted by the department, and all treatment residuals and effluents are managed in accordance with applicable federal, state and local requirements.

(8) All records maintained by the laboratory pertaining to treatment conducted pursuant to this subdivision are made available for inspection upon request by a representative of the department or the CUPA, or if there is no CUPA, the agency authorized pursuant to subdivision (f) of Section 25404.3.

(d) For laboratory hazardous wastes that contain radioactive material, the requirements of this section apply in addition to, but do not supercede, applicable federal and state requirements governing the management of radioactive materials.

(e) The department may adopt regulations that specify additional requirements for accumulating laboratory hazardous wastes pursuant to subdivision (b) or treating laboratory hazardous wastes pursuant to subdivision (c), if the department determines these additional requirements are necessary for protection of public health and the environment.

SEC. 5. Notwithstanding Section 7550.5 of the Government Code, on or before January 1, 2002, the Department of Toxic Substances Control shall submit a report to the Legislature that evaluates the effect of Section 25200.3.1 of the Health and Safety Code, as added by this act, on the hazardous waste management activities of laboratories and, in particular, determine if the increase in the maximum amount of extremely hazardous waste from 1 quart to 55 gallons that may be accumulated by laboratories pursuant to subdivision (b) of that section has resulted in increased risks to human health or safety or the environment.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only 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.

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

