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Unified Program Guidance Letter 15-01

POLICY FOR HAZARDOUS MATERIALS INVENTORY REPORTING TIMING

To: Unified Program Agencies

Statement of Purpose

There have been questions regarding whether the submission of chemical inventory reports throughout the year would meet both federal and state reporting requirements. This policy confirms that electronic reporting meets both state and federal reporting requirements and clarifies the reporting timing requirements to allow local agencies reasonable flexibility in determining effective and efficient reporting timing and to encourage reporting consistency statewide. This guidance supersedes UP- 13 - 01.

Background

Hazardous materials reporting by regulated facilities is required under the following: Federal Emergency Planning and Community Right-to-Know Act (EPCRA), 40 CFR Part 370; the California Hazardous Materials Release Response Plans and Inventory (also called the 'Hazardous Materials Business Plan' (HMBP) Program), HSC Chapters 6.11 and 6.95, and CCR Titles 19 and 27; the Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS), CFC Chapter 50; and by various local city and county local ordinances. All relate to the periodic reporting of a chemical inventory.

In 2001, US EPA issued a letter of equivalency stating that regulated facilities in California met the federal reporting requirements of EPCRA by complying with the California HMBP Program. In 2008, Assembly Bill 2286 amended HSC Chapter 6.11, § 25404 and required electronic reporting of all Unified Program information effective January 1, 2013. In July 2009, US EPA issued a memorandum regarding the submission of chemical inventory information electronically. In June 2015, California Environmental Protection Agency (CalEPA) issued a letter that addressed the continuing equivalency of the California HMBP Program in meeting the EPCRA requirements

Analysis

Submission requirements to federal, state and local government agencies

The 2001 US EPA letter of equivalency confirms that the California HMBP program meets the reporting requirements under EPCRA so regulated facilities in California only need to submit HMBP information to the Unified Program Agency (UPA). The July 2009 US EPA memorandum provides that states may accept electronic submission of EPCRA required chemical inventory information, including electronic certifications in lieu of wet signatures. The June 2015 CalEPA letter confirms that businesses in California continue to meet the EPCRA reporting requirement for hazardous materials information.

Effective January 1, 2013, all Unified Program regulated facilities in California are required to report electronically using the California Environmental Reporting System (CERS) or an approved local UPA reporting portal. Regulatory changes are currently underway to remove references to forms that were previously required to be submitted.

Reporting submission deadlines

Title 40 CFR Part 370 § 370.45 requires that regulated facilities submit required inventory information annually on or before March 1. HSC Chapter 6.95, § 25508(a)(1)(A) requires the business plan (including inventory information) to be submitted annually to the UPA. In addition, HSC Chapter 6.95, § 25508(a)(1)(B) requires the UPA to establish a reporting date and if the UPA does not establish an annual date, it must be submitted annually on or before March 1.

No statute or regulation constrains a reporting requirement on businesses other than "annually" and "on or before March 1". In all cases, the prior 364 days would meet the definition. The purpose of periodic reporting of chemical inventory information is to ensure that local response and planning agencies have information not more than a year old. Nothing in federal or state law further defines or limits the terms "annually", "on or before" or "before".

Collectively, these terms mean an UPA may require reporting anytime during the 364 days prior to March 1 of each year to allow inspections, billing and business reporting to ensure coordinated and effective implementation of their program.

Action Plan

CalEPA recommends that UPAs establish the business regulatory reporting dates throughout the calendar year for the HMBP/HMIS consistent with other local cyclic processes.

Questions

Please direct all questions regarding this policy to John Paine, Program Manager, at (916) 327-5092 or email at john.paine@calepa.ca.gov.



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