

## CALEPA UPDATE ON ASSEMBLY BILL 1716

CalEPA is providing notice to the regulated community subject to regulation under the California Accidental Release Prevention (CalARP) program and the Hazardous Materials Business Plan (HMBP) program regarding [Assembly Bill \(AB\) 1716](#).

AB 1716 was approved by the Governor on September 22, 2023, and is effective on January 1, 2024. This bill amends the following California Health and Safety Code (HSC), Chapter 6.95 Hazardous Materials Release Response Plans and Inventory provisions:

- Article 1 Business and Area Plans, Sections 25505 and 25507; and
- Article 2 Hazardous Materials Management, Sections 25534 and 25536.

Click [HERE](#) to view the full text of the bill.

The following is intended to provide summary information regarding amendments to HSC Chapter 6.95. *This summary is not a rule or regulation and does not replace or supersede applicable statutes or regulations. This summary is not inclusive of all amendments, including non-substantive amendments, to HSC Chapter 6.95 under AB 1716. This summary only pertains to significant amendments relating to the HMBP and CalARP programs.*

### AMENDMENTS TO HSC CHAPTER 6.95

#### Business Plan Requirements

1. The content requirements for business plan site maps in HSC Section 25505(a)(2) have been amended to require loading areas, internal roads, storm and sewer drains, and emergency shutoffs to be included on the site map only if they are present on the site.

#### Business Plan Hazardous Materials

1. Existing law requires businesses that handle specified cryogenic, refrigerated, or compressed gas at any one time during the reporting year in a quantity of 1,000 cubic feet or more at standard temperature and pressure, to establish and implement a business plan. The specified gases include carbon dioxide, as identified in HSC Section 25507(a)(5)(C), which has been amended to include carbon dioxide mixed with simple asphyxiation gases that are classified as a hazard for purposes of [Section 5194 of Title 8 of the California Code of Regulations](#).
2. Hazardous materials that are exempt from business plan requirements include refrigerant gases (other than ammonia or flammable gas in a closed cooling



system) that are used for comfort or space cooling for computer rooms. HSC Section 25507(b)(1) has been amended to clarify that the refrigerant gases exempted are to be used for comfort *cooling for occupancies* or space cooling for computer rooms.

3. HSC Section 25507(b)(7) has been added to include liquid or gaseous fuel in fuel tanks on vehicles or motorized equipment as hazardous materials exempt from business plan requirements. For the exemption to apply, the fuel tank shall be integral to the operation of the vehicle or motorized equipment.
4. HSC Section 25507(b)(8) has been added to include treated wood and treated wood waste as hazardous materials exempt from business plan requirements, unless the facility is required to submit chemical inventory information pursuant to Section 11022 of Title 42 of the United States Code. "Treated wood" is defined in [HSC Section 25230.1\(c\)](#) and "treated wood waste" is defined in [HSC Section 25230.1\(d\)](#).

### Stationary Source Risk Determination and Program Level Classification

1. Existing law requires a unified program agency (UPA) to make a preliminary determination as to whether there is a significant likelihood that the use of a regulated substance by a stationary source may pose a regulated substances accident risk. HSC Section 25534(a) has been amended to authorize the UPA to make a determination, rather than requiring a preliminary determination, as to whether there is a significant likelihood of a regulated substances accident risk.
2. Following the determination that there is a significant likelihood of regulated substances accident risk, existing law requires UPAs to require the stationary source to prepare and submit a risk management plan (RMP), or allows the UPA to reclassify a covered process to a higher program level from program 2 to program 3. The amendment to [HSC Section 25534\(b\)\(1\)](#) requires the stationary source to comply with all requirements applicable to the higher program level within 12 months of reclassification. In addition, the amendment deleted the requirement for the UPA to require the stationary source to prepare and submit an RMP following a determination that there is a significant likelihood of a regulated substances accident risk.
3. Existing law allows an UPA, if it determines that there is not a significant likelihood of a regulated substances accident risk, to take either of the following actions: (A) require the preparation and submission of an RMP or (B) reclassify a covered process from program 3 to 2 or from program 2 to program 1. The amendment to



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[HSC Section 25534\(b\)\(2\)\(A\)](#) changed action A to authorize an UPA to exempt the stationary source and revoke that exemption and require the stationary source to comply with all applicable CalARP requirements within 12 months.

4. Existing law requires the UPA (if they determine that a pesticide used on a farm or nursery poses a regulated substances accident risk) to consult with the Department of Food and Agriculture or the county agricultural commissioner to evaluate *whether the current RMP is adequate in relation to the regulated substances accident risk*, The amendment to [HSC Section 25534\(b\)\(3\)](#) instead requires the UPA to consult with the Department of Food and Agriculture or the county agricultural commissioner to evaluate *the reasonable likelihood that the use of the pesticide by a farm or nursery may pose a regulated substances accident risk*.

#### Stationary Source Risk Management Plan Submission

1. Existing law requires a person or stationary source to prepare and submit a RMP once an UPA makes a determination that it is required because there is a significant likelihood of regulated substances accident risk. The amendment to [HSC Section 25536\(b\)](#) requires a stationary source to submit a RMP before the date on which the regulated substance is first present in a process above a listed threshold quantity.

## CONTACT INFORMATION

If you have any general questions regarding the AB 1716 changes to HSC, Chapter 6.95, Article 1, Sections 25505 and 25507, please contact CalEPA at [HMBP@calepa.ca.gov](mailto:HMBP@calepa.ca.gov).

If you have any general questions regarding the AB 1716 changes to HSC, Chapter 6.95, Article 2, Sections 25534 and 25536, please contact CalEPA at [CalARP@calepa.ca.gov](mailto:CalARP@calepa.ca.gov).

If you have any questions or need further clarification on how AB 1716 will be implemented in your jurisdiction, or have questions regarding the reporting of hazardous materials on a Business Plan, please contact your Unified Program Agency using the [Unified Program Regulator Directory](#).