

CAL/EPA UNIFIED PROGRAM POLICY MEMORANDUM

	NUMBER: UP-13-01
SUBJECT: CAL/EPA UNIFIED PROGRAM POLICY FOR HAZARDOUS MATERIALS INVENTORY REPORTING TIMING	DATE ISSUED: 01/02/13 EXPIRES: UNTIL RESCINDED
REFERENCES: Specified sections of the California Health and Safety Code (HSC), Chapter 6.95, California Code of Regulations (CCR), Titles 19 and 27, California Fire Code (CFC), Chapter 27, and Federal Emergency Planning and Community Right to Know (EPCRA), Code of Federal Regulations (CFR) Parts 312 and 370. July 30, 2009 US EPA Office of Emergency Management memorandum re: Electronic Reporting and Signature Under EPCRA Section 312.	CATEGORY: BUSINESS PLAN PROGRAM

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 local reporting timing and to encourage reporting consistency statewide.

BACKGROUND

Hazardous materials reporting by regulated facilities is required under the Federal Emergency Planning and Community Right to Know Act (EPCRA), 40 CFR Parts 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 and Hazardous Material Inventory Statement (HMIS), CFC Chapter 27; 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 HMPB Program. In 2008, Assembly Bill 2286 amended HSC Chapter 6.11, Section 25404 and required electronic reporting of all Unified Program information effective January 1, 2013. Regulatory changes are currently in process to support this requirement. In July 2009, US EPA issued a memorandum speaking to the submission of chemical inventory information electronically.

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 CUPA or the CUPA's Participating Agency if it is responsible for the HMBP program on behalf of the CUPA. 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.

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

Reporting submission deadlines

40 CFR Part 370 Section 370.45 requires that regulated facilities submit required inventory information annually on or before March 1. HSC 25505(e)(2) requires the inventory information to be submitted annually to the CUPA and CCR Title 19 Sec 2729.2(a)(3) requires it be submitted annually on or before March 1. HSC 25503(c)(5) specifies that farms may submit inventory information to the County Agricultural Commissioner annually before January 1.

Unified Program compliance inspections are typically conducted throughout the year and are often scheduled relative to an anniversary date or permit renewal date. The billing frequency for CUPAs' Unified Program fees and permits are typically annually, but may vary from a single annual billing date for all regulated facilities to anniversary dates that may occur monthly or quarterly throughout the year.

No statute or regulation constrains a reporting requirement on businesses other than "annually", "on or before March 1", and "before January 1". In all of these 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".

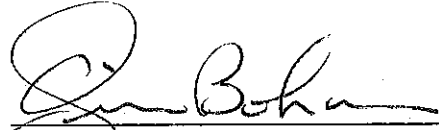
Taken together, these terms mean a CUPA may require reporting anytime during the 364 days prior to March 1 or January 1 of each year to allow inspections, billing and business reporting to ensure coordinated and effective implementation of their program.

ACTION PLAN

Cal/EPA recommends that CUPAs distribute the business regulatory reporting dates within the calendar year for the HMBP/HMIS consistent with other local cyclic processes.

Questions

Please direct questions regarding this policy to John Paine, at 916-327-5092 or email at jpaine@calepa.ca.gov.



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