

CALEPA UPDATE ON ASSEMBLY BILL 2059

CalEPA is providing notice to the regulated community subject to regulation under the Hazardous Materials Business Plan (HMBP) program regarding [Assembly Bill \(AB\) 2059](#).

AB 2059 was approved on September 13, 2022 and is effective on January 1, 2023. This bill amends the California Health and Safety Code (HSC), Chapter 6.95 Hazardous Materials Release Response Plans and Inventory, sections 25500, 25501, and 25507 and adds sections 25507.5 and 25508.3.

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 2059.*

In summary, the bill expands the scope of hazardous materials subject to regulation by narrowing the definition of “consumer product”. The bill requires a “supplier”, as defined, that sells or provides a certain amount of hazardous materials meeting certain requirements to a business in the state in certain quantities to maintain records containing specified information regarding the sale or provision of the hazardous materials for a minimum of one year and requires suppliers to make those records available to a Unified Program Agency (UPA) within 5 days when requested. The bill, except as provided, requires a handler subject to the business plan requirement, if directed by a UPA during an investigation or inspection, to notify the UPA if hazardous materials in certain quantities are to be removed from the storage or handling location and transferred to another location, and to disclose to the UPA certain information regarding the transfer.

AMENDMENTS TO HSC CHAPTER 6.95

Consumer Products, Retail Establishments, Exemptions:

1. The definition of “consumer product” has been amended to mean a commodity that is used for personal, family, or household purposes, or that is present in the same form, concentration, and quantity as a product prepackaged for distribution to a consumer for personal, family, or household purposes. A product that is not sold for personal, family, or household use is not a “consumer product.”
2. The definition of “retail establishment” has been amended to mean a business that sells consumer products prepackaged for direct distribution to, and intended for use by, the end user. A retail establishment may include storage areas or storerooms in establishments that are separated from shelves for display areas but maintained

within the physical confines of the retail establishment. A retail establishment does not include a pest control dealer, as defined in Section 11407 of the Food and Agricultural Code.

3. A hazardous material is exempt from inclusion in a Business Plan if that hazardous material meets the definition of a consumer product and is handled at, and found in, a retail establishment and intended for direct sale to the end user.

This exemption for a hazardous material from the Business Plan does not apply to either of the following:

- A consumer product handled at a facility that manufactures that product, or a separate warehouse or distribution center where there are no direct sales to consumers, or where a product is dispensed on the retail premises.
- A consumer product sold at a retail establishment that has a National Fire Protection Association or Hazardous Materials Identification System rating of 3 or 4 and is stored, at any time, in quantities equal to, or greater than, 165 gallons for a liquid, 600 cubic feet for a gas, and 1,500 pounds for a solid. If a UPA determines that a consumer product stored at a retail establishment is stored at or above a reportable threshold as specified in HSC section 25507(a), and poses a significant potential hazard, the UPA may require the product to be reported in accordance with HSC Chapter 6.95.

Suppliers

1. The definition of “supplier” has been added and is defined as a manufacturer, distributor, wholesaler, or retailer in the state that sells or provides hazardous materials to a business in the state.
2. A supplier of hazardous materials that are listed by the United States Department of Transportation and that are classified in two or more federal hazard categories in the California Environmental Reporting System, not including the “Hazard Not Otherwise Classified” category, is required to maintain specified records for the sale or provision of those hazardous materials to a business in the state when the quantities of hazardous materials are equivalent to, or greater than, within any 30-day period, 165 gallons of a liquid, 600 cubic feet of a gas at standard temperature and pressure, or 1,500 pounds of a solid.
3. A supplier is required to maintain records containing specified information about the sale or provision of hazardous materials for a minimum of one year and make them available to a UPA within five days as requested.



Gavin Newsom
Governor

Yana Garcia
Secretary for Environmental Protection

Handlers

1. A handler of hazardous materials is required to notify the UPA if hazardous materials in quantities equal to, or greater than, 165 gallons of a liquid, 600 cubic feet of a gas at standard temperature and pressure, or 1,500 pounds of a solid, are to be removed from the storage or handling location and transferred to another location, and include specified information about the transfer, if directed by the UPA during an investigation or inspection, including a complaint inspection. Household hazardous waste collection facilities are excluded from this requirement.

CONTACT INFORMATION

If you have any general questions regarding AB 2059, please contact CalEPA at HMBP@calepa.ca.gov.

If you have any questions or need further clarification on how AB 2059 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](#).