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AB-1429 Hazardous materials: business plans. (2019-2020)

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Assembly Bill No. 1429

CHAPTER 66

An act to amend Sections 25508 and 25508.2 of the Health and Safety Code, relating to hazardous materials.

[Approved by Governor July 09, 2019. Filed with Secretary of State July 09, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1429, Chen. Hazardous materials: business plans.

Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program, known as the unified program. Existing law requires every county to apply to the secretary to be certified to implement the unified program, and authorizes a city or local agency that meets specified requirements to apply to the secretary to be certified to implement the unified program, as a certified unified program agency, or CUPA. Existing law authorizes a state or local agency that has a written agreement with a CUPA, and is approved by the secretary, to implement or enforce one or more of the unified program elements as a participating agency. Existing law defines "unified program agency," to mean the CUPA or its participating agencies, as provided. Existing law requires the secretary to establish a statewide information management system capable of receiving all data collected by the CUPA or participating agency and reported by regulated businesses. Existing law requires a business that handles a hazardous material and that meets any of specified conditions, including handling a specified amount of a hazardous material, to establish and implement a business plan for a response to a release or threatened release of the hazardous material and to electronically submit the plan annually to the statewide information management system.

Federal law requires the owner or operator of a facility required to prepare or have available a material safety data sheet for a hazardous chemical under the federal Occupational Safety and Health Act of 1970 to prepare and submit an emergency and hazardous chemical inventory form to the local emergency planning committee, the state emergency response commission, and the fire department with jurisdiction over the facility. Federal law requires that inventory form to include specified information and requires additional information, referred to as "tier II" information, to be included upon request by any of those entities.

Existing law requires the owner or operator of certain aboveground storage tanks to file with the statewide information management system a tank facility statement that includes specified information. Existing law provides that an owner or operator that submits a business plan to the statewide information management system and that complies with other specified law satisfies the requirement to file a tank facility statement.

This bill would require a business with a facility that is not required to submit tier II information pursuant to the above-mentioned federal provision and is not subject to the provisions governing those aboveground storage tanks to submit its business plan once every three years, instead of annually.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 25508 of the Health and Safety Code is amended to read:

25508. (a) (1) A handler shall electronically submit its business plan to the statewide information management system in accordance with the requirements of this article and certify that the business plan meets the requirements of this article. Except as provided in Section 25508.1, a handler shall submit its business plan in accordance with the following:

(A) The handler of a facility that is required to submit tier II information pursuant to Section 11022 of Title 42 of the United States Code shall submit its business plan annually.

(B) The handler of a facility that is subject to Chapter 6.67 (commencing with Section 25270) shall submit its business plan annually.

(C) The handler of a facility that is not required to submit tier II information pursuant to Section 11022 of Title 42 of the United States Code and is not subject to Chapter 6.67 (commencing with Section 25270) shall submit its business plan once every three years.

(2) The unified program agency shall establish a date by which a handler shall electronically submit the business plan. If a unified program agency does not otherwise establish a date, the handler shall submit the business plan on or before March 1 of every year that the plan is required to be submitted pursuant to paragraph (1).

(3) If, after review, the unified program agency determines that the handler's business plan is deficient in satisfying the requirements of this article or the regulations adopted pursuant to Section 25503, the unified program agency shall notify the handler of those deficiencies. The handler shall electronically submit a corrected business plan within 30 days from the date of the notice.

(4) If a handler fails, after reasonable notice, to electronically submit a business plan in compliance with this article, the unified program agency shall take appropriate action to enforce this article, including the imposition of administrative, civil, and criminal penalties as specified in this article.

(5) For data not adopted in the manner established under the standards adopted pursuant to subdivision (e) of Section 25404, and that is reported using a document format, the use of a reporting method accepted by the statewide information management system shall be considered compliant with the requirement to submit that data. If the reporting option used does not support public records requests from the public, the handler shall provide requested documents to the unified program agency within 10 business days of a request from the unified program agency.

(b) Except as required by paragraph (1) of subdivision (a) of Section 65850.2 of the Government Code, a business required to establish, implement, and electronically submit a business plan pursuant to subdivision (a) shall not be deemed to be in violation of this article until 30 days after the business becomes subject to subdivision (a).

(c) This section shall not require the submission of information concerning the hazardous materials described in subdivision (b) of Section 25507.

SEC. 2. Section 25508.2 of the Health and Safety Code is amended to read:

25508.2. On or before the due date established pursuant to paragraph (2) of subdivision (a) of Section 25508, the business owner, business operator, or officially designated representative of the business shall annually review and certify that the information in the statewide information management system is complete, accurate, and in compliance with Section 11022 of Title 42 of the United States Code. An electronic submittal to the statewide information management system that meets the requirements of paragraph (1) of subdivision (a) of Section 25508 satisfies the certification requirement of this section.