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"An Association of Certified Unified Program Agencies"

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MEMORANDUM

Date: July 31, 2020

To: CUPA Managers and Staff

From: Frederick Chun, Chairperson 

Subject: Hazardous Materials Business Plan Exemption Application for Temporary Emergency Generator Deployment

BOTTOM LINE: A new application form for a business to request an exemption from Hazardous Materials Business Plan (HMBP) requirements to be specifically used for deployment of an emergency power system (i.e. generator) on a temporary/emergency basis. With use, CUPAs/PAs must have ability to have public input when approving these applications.

Greetings my fellow CUPAs/PAs. I hope that you are all doing well and that you and your families are healthy and safe.

On behalf of the CUPA Forum, I wanted to let you all know about a new form that you might be seeing submitted to your agencies. It is attached for your reference.

The Industry workgroup reached out to the Hazardous Materials Business Plan (HMBP) Steering Committee about Public Safety Power Shutoff (PSPS) events and their deployment of emergency generators throughout the State. The majority of these generators contain volumes of fuel that would be over threshold amounts and would be required to be disclosed on a HMBP. Based on our discussions, temporary generator deployments can be short term (less than a week) or more typically fall within the range of 30 to 60 days.

Due to the circumstances of an emergency event and potential for relocation of these generators in real-time, it was discussed that submittal of a HMBP into the California Environmental Reporting System (CERS) poses some challenges for industry and the CUPAs/PAs (both for submittals and reviews).

The California Health & Safety Code (HSC), Chapter 6.95, Section 25507(d) provides CUPAs/PAs the ability to exempt a handler from HMBP requirements. This form was developed for state-wide consistency and to assist with the exemption process.

This form was submitted for review by the HMBP Technical Advisory Group (TAG), Industry workgroup, Office of Emergency Services (OES), Office of the State Fire Marshal (OSFM), CUPA Forum Board, and California Environmental Protection Agency (CalEPA). It was formally adopted by the Unified Program Administration and Advisory Group (UPAAG) on July 22, 2020.

Finally, I wanted to share some notes that may clarify the use of the attached form:

We purposefully didn't define temporary. We believe the timeframes for the exemption should be discussed with the local CUPA/PA and the party requesting it.

Coordination at the local level – we included questions about notifications to local air districts, building departments, and fire departments as reminders since each CUPA/PA has different relationships with their local partners. Few of these fellow agencies have their own specific permitting requirements for generators and we felt that CUPA/PAs can determine the level of coordination that best fits their local framework.

Coordination with Aboveground Petroleum Storage Act (APSA) – In some circumstances, there are temporary emergency generators that have fuel capacity over APSA thresholds or the bringing of a generator onsite would cause the site to become APSA regulated. This HMBP exemption form does not relieve any requirements for APSA. CUPA/PAs would need to evaluate the situation, if the site does become APSA regulated, and work with the applicant. Note that there are discussions about spill prevention, control, and countermeasure (SPCC) plans that are tied to the generator (example - mobile SPCC plan specific to the generator), which may assist with APSA compliance. The Office of the State Fire Marshal would be the lead on this topic.

Public Input – In HSC Section 25507(f), there is a requirement for CUPA/PAs to have procedures in place to provide public input when approving applications submitted in accordance with HSC 25507(d) or 25507(e). This will be up to each individual agency to determine the best way to comply with this requirement. An example of what could be in a procedure includes – Notices of applications that are posted on an agency's website, with appropriate contact person, and timeframe for review, prior to approval.

If you have any questions or comments about the form, please feel free and reach out to:

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Thank you for your time and keep up the good work in your agencies.

Enclosure:

Hazardous Materials Business Plan Exemption Application for Temporary Emergency Generator Deployment (July 31, 2020)