

# **Recommendations For Reporting Mobile Refueling Vehicles & Portable Trailer-Mounted Generators At Fixed Facilities**

## **Discussion**

**AT&T requested additional clarification on two issues:**

1. **Mobile refueling vehicles which dispense to fixed or mobile equipment** – Apart from Aboveground Petroleum Storage Act (APSA) and Spill Prevention Countermeasures & Control (SPCC) requirements, is reporting of fuel contained in mobile refueling vehicles which dispense to fixed or mobile equipment required under Article 1 of California Health and Safety Code Chapter 6.95? The following statutes and regulations are applicable to this situation:
  - a. Mobile refueling vehicles which dispense to fixed or mobile equipment are included in the definition of handling contained in HSC §25501.3. This section states: "Handle" also means the use or potential for use of a quantity of hazardous material by the connection of any marine vessel, tank vehicle, tank car, or container to a system or process for any purpose other than the immediate transfer to or from an approved atmospheric tank or approved portable tank.
  - b. In a Notice published in the Federal Register <sup>1</sup> the Research and Special Programs Administration (RSPA) ruled that “Based on the above, Federal hazmat law does not preempt § 25501.3 to the extent that it makes handlers of hazardous materials subject to emergency response planning and accident prevention requirements that are within the scope of SARA Title III and § 112(r) of the CAA Amendments.”

Although the cases before the RSPA did not directly involve mobile refueling vehicles, the Notice does not appear to contain any federal preemption that would apply to this situation.
  - c. An MOU between the Secretary of Transportation and the EPA Administrator, dated November 24, 1971 (36 FR 24080), established the definitions of non-transportation-related and transportation-related facilities. EPA was delegated responsibility for non-transportation-related facilities. The definitions from the 1971 MOU are included as Appendix A to 40 CFR part 112:
    - (1) *Non-transportation-related onshore and offshore facilities* means:
      - (J) Highway vehicles and railroad cars which are used for the transport of oil exclusively within the confines of a nontransportation-related facility and which are not intended to transport oil in interstate or intrastate commerce.

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<sup>1</sup> “Preemption Determination Nos. PD–8(R), PD–9(R), PD–10(R) and PD–11(R); Docket Nos. PDA–9(R), PDA–7(R), PDA–10(R), and PDA–11(R), respectively”, 49 Federal Register 60, No. 31 (February 15, 1995), pp 8774 – 8797 From the Federal Register Online via GPO Access [wais.access.gpo.gov]

EPA issued has several interpretations regarding nontransportation-related facilities<sup>2,3</sup> It would appear from these interpretations that mobile refueling vehicles which are used for the transport of oil exclusively within the confines of a nontransportation-related facility are also subject to APSA and SPCC requirements.

- d. Accurate completion of the inventory and facility map for mobile refueling vehicles which dispense to fixed or mobile equipment may be difficult due to the inherent mobility of these vehicles. The Hazardous Material Business Plan and Aboveground Petroleum Storage Act Technical Advisory Groups may have a role in establishing guidance to facilitate business to Unified Program Agency (UPA) reporting. This guidance would have a secondary goal of allowing the UPA to determine whether mobile refueling vehicles at a facility are subject to APSA and SPCC requirements.
2. **Inventory reporting and update requirements for fuel contained in portable trailer-mounted generators stored at a fixed facility** - AT&T reported that some jurisdictions required the inventory be updated to reflect changes in the quantity of fuel stored as portable trailer-mounted generators are staged from or return to a fixed facility. The following statutes and regulations are applicable to this situation:
- a. HSC §25509 requires the handler to report the maximum amount of each hazardous material or mixture containing a hazardous material which is handled at any one time by the business over the course of the year.
  - b. HSC §25510 and 19CCR §2729.4 specify that an amendment to the inventory shall be submitted within 30 days of a 100 percent or more increase in the quantity of a previously disclosed material. A net increase or decrease of less than 100% of the quantity of fuel reported on the previous inventory submission is not required under these sections.
  - c. The instructions for the *HAZARDOUS MATERIALS INVENTORY – CHEMICAL DESCRIPTION* form state that “The “completed inventory should reflect all reportable quantities of hazardous materials at your facility, reported separately for each building or outside adjacent area”. These instructions contain specific procedures for describing the CHEMICAL LOCATION, LARGEST CONTAINER, AVERAGE DAILY AMOUNT, MAXIMUM DAILY AMOUNT, and DAYS ON SITE for each reportable quantity of hazardous material.
  - d. The instructions for the California Annotated Site Map require that at a minimum, the map should show the location of each storage area and the location of each hazardous material handling area.

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<sup>2</sup> [July 14, 2000 Letter from David Lopez, Director, Oil Program Center, to Mr. Chris Early, Safety-Kleen Corporation \(PDF\)](#)

<sup>3</sup> [Industry Questions on the Oil Spill Prevention, Control, and Countermeasure Rule -- September 30, 2002 Memorandum from Marianne Lamont Horinko, Assistant Administrator, Office of Solid Waste and Emergency Response to Karen V. Brown, Director, Small Business Division, Small Business Ombudsman \(PDF\)](#)

**Recommendations:**

**The following recommendations for inventory reporting of mobile refueling vehicles & portable trailer-mounted generators at fixed facilities are made based on the above discussion:**

- a. The annual inventory should reflect the MAXIMUM DAILY AMOUNT of fuel contained at each CHEMICAL LOCATION in aggregate quantities equal to or greater than 55 gallons. Inventory fluctuations that do not constitute a 100% or more increase in the MAXIMUM DAILY AMOUNT should be reflected in the AVERAGE DAILY AMOUNT and/or DAYS ON SITE fields.
- b. An amendment to the inventory within 30 days is required only if there is a 100% or more increase in the MAXIMUM DAILY AMOUNT of fuel contained at a CHEMICAL LOCATION reported in the previous inventory.
- c. The Facility Map should indicate each CHEMICAL LOCATION where aggregate quantities of fuel equal to or greater than 55 gallons are handled at any one time by the business over the course of the year.

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**Supporting Statutes & Regulations**

**California Health and Safety Code, Division 20, Chapter 6.95, Article 1**

§25501 Unless the context indicates otherwise, the following definitions govern the construction of this chapter:

(m) "Handle" means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.

§25501.2 For purposes of the inventory requirements of this chapter, "store," as used in subdivision (i) of Section 25501, does not include the storage of hazardous materials which are in transit or which are temporarily maintained in a fixed facility for a period of less than 30 days during the course of transportation.

§25501.3 "Handle" also means the use or potential for use of a quantity of hazardous material by the connection of any marine vessel, tank vehicle, tank car, or container to a system or process for any purpose other than the immediate transfer to or from an approved atmospheric tank or approved portable tank.

§25503.7 (a) When any hazardous material contained in any rail car, rail tank car, rail freight container, marine vessel, or marine freight container remains within the same railroad facility, marine facility, or business facility for more than 30 days, . . . the hazardous material is deemed stored at that location for purposes of this chapter and subject to the requirements of this chapter.

§25509 (a) The annual inventory form shall include, but shall not be limited to, information on all of the following which are handled in quantities equal to or greater than the quantities specified in subdivision (a) of Section 25503.5:

(4) The maximum amount of each hazardous material or mixture containing a hazardous material disclosed in paragraphs (1), (2), and (3) which is handled at any one time by the business over the course of the year.

(5) Sufficient information on how and where the hazardous materials disclosed in paragraphs (1), (2), and (3) are handled by the business to allow fire, safety, health, and other appropriate personnel to prepare adequate emergency responses to potential releases of the hazardous materials.

(c) The administering agency may permit the reporting of the amount of hazardous material under this section by ranges, rather than a specific amount, as long as those ranges provide the information necessary to meet the needs of emergency rescue personnel, to determine the potential hazard from a release of the materials, and meets the purposes of this chapter.

§25510 Within 30 days of any one of the following events, any business subject to Section 25505 shall submit an amendment to the inventory form detailing the handling, and the following appropriate information:

(1) A 100 percent or more increase in the quantity of a previously disclosed material.

## **California Code of Regulations**

### **Title 19. Public Safety**

#### **Division 2. California Emergency Management Agency**

#### **Chapter 4. Hazardous Material Release Reporting, Inventory, and Response Plans**

#### **Article 4. Minimum Standards for Business Plans**

##### § 2729.4. Hazardous Materials Inventory Submittal

(d) Businesses shall submit an amendment to the inventory within 30 days of the following events:

(1) A 100 percent or more increase in the quantity of a previously disclosed material.

#### Article 4 - Minimum Standards for Business Plans Hazardous Materials Inventory - Instructions

##### IV. California Annotated Site Map - Instructions

Attach a map of the facility using the standard grid. As a minimum, the map should show the following:

##### 2. Facility

- Location of each storage area
- Location of each hazardous material handling area

UNIFIED PROGRAM CONSOLIDATED FORM
HAZARDOUS MATERIALS
<b>HAZARDOUS MATERIALS INVENTORY – CHEMICAL DESCRIPTION</b>
<small>(one page per material per building or area)</small>

**Hazardous Materials Inventory - Chemical Description**

You must complete a separate Hazardous Materials Inventory - Chemical Description page for each hazardous material (hazardous substances and hazardous waste) that you handle at your facility in aggregate quantities equal to or greater than 500 pounds, 55 gallons, 200 cubic feet of gas ... The completed inventory should reflect all reportable quantities of hazardous materials at your facility, reported **separately** for each building or outside adjacent area, with **separate** pages for unique occurrences of physical state, storage temperature and storage pressure...

201. CHEMICAL LOCATION - Enter the building or outside/ adjacent area where the hazardous material is handled. A chemical that is stored at the same pressure and temperature, in multiple locations within a building, can be reported on a single page. NOTE: This information is not subject to public disclosure pursuant to HSC Section 25506.
215. LARGEST CONTAINER - Enter the total capacity of the largest container in which the material is stored.
217. AVERAGE DAILY AMOUNT - Calculate the average daily amount of the hazardous material or mixture containing a hazardous material, in each building or adjacent/ outside area. Calculations shall be based on the previous year's inventory of material reported on this page. Total all daily amounts and divide by the number of days the chemical will be on site. If this is a material that has not previously been present at this location, the amount shall be the average daily amount you project to be on hand during the course of the year. This amount should be consistent with the units reported in box 221 and should not exceed that of maximum daily amount.
218. MAXIMUM DAILY AMOUNT - Enter the maximum amount of each hazardous material or mixture containing a hazardous material, which is handled in a building or adjacent/outside area at any one time over the course of the year. This amount must contain at a minimum last year's inventory of the material reported on this page, with the reflection of additions, deletions, or revisions projected for the current year. This amount should be consistent with the units reported in box 221.
222. DAYS ON SITE - List the total number of days during the year that the material is on site.

**California Code of Regulations  
Title 24, Part 9 (California Fire Code)**

**2701.5.1 Hazardous Materials Management Plan.**

Where required by the fire code official, each application for a permit shall include a Hazardous Materials Management Plan (HMMP). The HMMP shall include a facility site plan designating the following:

1. Storage and use areas.
2. Maximum amount of each material stored or used in each area.
3. Range of container sizes.
4. Locations of emergency isolation and mitigation valves and devices.
5. Product conveying piping containing liquids or gases, other than utility-owned fuel gas lines and low-pressure fuel gas lines.
6. On and off positions of valves for valves that are of the self-indicating type.
7. Storage plan showing the intended storage arrangement, including the location and dimensions of aisles.
8. The location and type of emergency equipment. The plans shall be legible and drawn approximately to scale. Separate distribution systems are allowed to be shown on separate pages.

The HMMP shall comply with Health and Safety Code, Chapter 6.95, Sections 25500 through 25545, and Title 19, Division 2, Chapter 3.

**2701.5.2 Hazardous Materials Inventory Statement (HMIS).**

Where required by the fire code official, an application for a permit shall include an HMIS, such as SARA (Superfund Amendments and Reauthorization Act of 1986) Title III, Tier II Report, or other approved statement. The HMIS shall include the following information:

1. Manufacturer's name.
2. Chemical name, trade names, hazardous ingredients.
3. Hazard classification.
4. MSDS or equivalent.
5. United Nations (UN), North America (NA) or the Chemical Abstract Service (CAS) identification number.
6. Maximum quantity stored or used on-site at one time.
7. Storage conditions related to the storage type, temperature and pressure.

The HMIS shall comply with Health and Safety Code, Chapter 6.95, Sections 25500 through 25545, and Title 19, Division 2, Chapter 4.

## **Appendix H - Hazardous Materials Management Plans and Hazardous Materials Inventory Statements (see Sections 2701.5.1 and 2701.5.2)**

### **SECTION H2 HAZARDOUS MATERIALS INVENTORY STATEMENTS (HMIS)**

#### **H2.1 When required.**

A separate HMIS shall be provided for each building, including its appurtenant structures, and each exterior facility in which hazardous materials are stored.

The hazardous materials inventory statement shall list by hazard class all hazardous materials stored. The hazardous materials inventory statement shall include the following information for each hazardous material listed:

1. Hazard class.
2. Common or trade name.
3. Chemical name, major constituents and concentrations if a mixture. If a waste, the waste category.
4. Chemical Abstract Service number (CAS number) found in 29 Code of Federal Regulations (C.F.R.).
5. Whether the material is pure or a mixture, and whether the material is a solid, liquid or gas.
6. Maximum aggregate quantity stored at any one time.
7. Storage conditions related to the storage type, temperature and pressure.

#### **H2.2 Changes to HMIS.**

An amended HMIS shall be provided within 30 days of the storage of any hazardous materials which changes or adds a hazard class or which is sufficient in quantity to cause an increase in the quantity which exceeds 5 percent for any hazard class.

### **SECTION H3 HAZARDOUS MATERIALS MANAGEMENT PLANS (HMMP)**

#### **H3.2.2 General site plan.**

A general site plan drawn at a legible scale which shall include, but not be limited to, the location of buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment and adjacent property uses. The exterior storage areas shall be identified with the hazard class and the maximum quantities per hazard class of hazardous materials stored. When required by the chief, information regarding the location of wells, flood plains, earthquake faults, surface water bodies and general land uses within 1 mile (1,609 km) of the facility boundaries shall be included.