AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL No. 833

Introduced by Assembly Member Ruskin

February 22, 2007

An act to add Article 4 (commencing with Section 25546) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to toxic chemicals.

LEGISLATIVE COUNSEL'S DIGEST

AB 833, as amended, Ruskin. California Toxic Release Inventory Program.

Existing law authorizes the California Environmental Protection Agency (Cal-EPA) to request any business to submit the information required to be submitted in the toxic chemical release form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). Existing law prohibits the Cal-EPA from requiring the form from certain businesses or in an amount lower than the applicable threshold amount specified in EPCRA.

This bill would enact the California Toxic Release Inventory Program Act of 2007 to require Cal-EPA to establish the California Toxic Release Inventory Program if the Secretary of Cal-EPA determines there has been a specified change made to EPCRA, or the *existing* regulations *that are in effect on January 1, 2006,* adopted pursuant to EPCRA, so as to ~~make the act or regulations less stringent or to reduce or lessen any reporting requirement imposed pursuant to the federal regulations, that reduces the timely access by the public to accurate information~~

~~about chemical releases~~ *increase the threshold quantity for a toxic chemical or eliminate a toxic chemical subject to the federal act*. The bill would prohibit the secretary from making the determination if there are legal challenges to the changes to EPCRA or the *existing* federal regulations that result in a stay or injunction of the changes. The bill would require the secretary to make the determination within 90 calendar days from the date of adoption of the changes to EPCRA or the *existing* federal regulations, or from the date on which the stay or injunction on the changes is dissolved, whichever is later. The bill would require that program to ~~impose the same requirements as EPCRA within this state, including, but not limited to, any regulations adopted pursuant to EPCRA, as in effect on January 1, 2006~~ *require a facility to submit a toxic chemical release form to Cal-EPA, if the facility is not required to submit a toxic chemical release form containing that same information pursuant to the revised federal regulations*.

The bill would require the agency, no later than one calendar year after the date when the secretary makes that determination, to adopt regulations to implement the program ~~that are identical in application to the federal regulations in effect on January 1, 2006~~ *to require that information*. The bill would require the adopted regulations to apply retroactively to the effective date of the changes made to EPCRA or the *existing* federal regulations to ensure no gap in data collection. The bill would require the agency to determine whether existing California specific reporting requirements can substitute, in whole or in part, for the information that would be required under the adopted regulations. The bill would require the adopted regulations to use the same reporting forms ~~used for the EPCRA prior to the changes in the federal reporting requirements~~ *required by the existing regulations,* unless the agency determines that an alternative form is necessary to substitute chemical release data reported under existing California specific programs.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 4 (commencing with Section 25546) is
2 added to Chapter 6.95 of Division 20 of the Health and Safety
3 Code, to read:

Article 4. California Toxic Release Inventory Program Act of 2007

25546. The Legislature finds and declares all of the following:

(a) The people of California have the right to know the hazards posed by toxic releases near their homes, schools, and workplaces. They have the right to know how much pollution is being released into the water, air, and soil.

(b) Since its inception in 1986, as part of the federal Emergency Planning and Community Right-to-Know Act of 1986, (EPCRA; Chapter 116 (commencing with Section 11001) of Title 42 of the United States Code), the Toxic Release Inventory (TRI) has supplied this essential information on toxic chemical releases to the public. The goal of the TRI is to empower citizens, through information, to hold companies and local governments accountable for how toxic chemicals are managed.

(c) It is the intent of the Legislature that California citizens do not lose access to the information necessary to understand the potential threats to public health and safety and the environment that is available through the Toxic Release Inventory as it existed on January 1, 2006, including the ease of accessibility.

25546.1. This article shall be known, and may be cited, as the "California Toxic Release Inventory Program Act of 2007."

25546.2. For purposes of this article, the following definitions shall apply:

(a) "Agency" means the California Environmental Protection Agency.

(b) "Facility" means a facility subject to the federal act, as provided by Section 11002 of Title 42 of the United States Code, as that section read on January 1, 2006, and that is subject to the existing federal regulations.

(c) "Existing federal regulations" mean the regulations found in Part 372 (commencing with Section 372.1) of Subchapter J of Chapter 1 of Title 40 of the Code of Federal Regulations, as those regulations read on January 1, 2006, except as provided in subdivision (e) of Section 25546.3.

~~(b)~~

(d) "Federal act" means the federal Emergency Planning and Community Right to Know Act of 1986 (EPCRA; Chapter 116

(commencing with Section 11001) of Title 42 of the United States Code).

~~(c)~~

(e) "Federal regulations" means the regulations found in Part 372 (commencing with Section 372.1) of Subchapter J of Chapter 1 of Title 40 of the Code of Federal Regulations, as those ~~regulations read on January 1, 2006.~~ *regulations may be revised or amended on or after January 1, 2006.*

~~(d)~~

(f) "Program" means the California Toxic Release Inventory Program established pursuant to this article.

~~(e)~~

(g) "Secretary" means the Secretary for Environmental Protection.

(h) "Toxic chemical" means a substance listed pursuant to Subpart D (commencing with Section 372.65) of Part 372 of Subchapter J of Chapter 1 of Title 40 of the Code of Federal Regulations, as those regulations read on January 1, 2006, and not as those regulations may be subsequently amended, revised, or repealed after that date, except as provided in subdivision (e) of Section 25546.3.

(i) "Toxic chemical release form" means the form required to be completed by the owner or operator of a facility pursuant to Section 11023 of Title 42 of the United States Code, as that section read on January 1, 2006.

(j) "Threshold quantity" means the amount of a toxic chemical specified in Sections 372.25, 372.27, and 372.28 of Title 40 of the Code of Federal Regulations as those regulations read on January 1, 2006, and not as those regulations may be subsequently amended, revised, or repealed after that date, except as provided in subdivision (e) of Section 25546.3.

25546.3. (a) The agency shall establish the California Toxic Release Inventory Program if the secretary makes, after a public hearing and receipt and review of public comment, either of the following determinations:

~~(1) There has been a change made to the federal act to repeal the federal act or otherwise lessen or make less stringent any requirement imposed pursuant to the federal act in effect on January 1, 2007, that reduces the timely access by the public to accurate information about chemical releases.~~

(1) There has been a change made to the federal act, as that act read on January 1, 2006, that would increase the threshold quantity for a toxic chemical or would eliminate a toxic chemical subject to the federal act.

~~(2) A federal regulation adopted pursuant to the federal act is repealed, amended, or otherwise revised so as to make the regulation less stringent or to reduce or lessen any reporting requirement imposed pursuant to the federal regulations in effect on January 1, 2006, that reduces timely access by the public to accurate information about chemical releases.~~

(2) The existing federal regulations are repealed, amended, or otherwise revised so as to increase the threshold quantity for a toxic chemical or to eliminate a toxic chemical subject to the existing federal regulations.

(b) The secretary shall not make a determination pursuant to subdivision (a) if there are legal challenges to the changes made to the federal act or *the existing* federal regulations that result in the changes being stayed or enjoined by a court.

(c) The secretary shall make a determination pursuant to subdivision (a) within 90 calendar days from the date of the adoption of the changes in the federal act or *the existing* federal regulations, or from the date on which a stay or injunction against the implementation of the changes in the federal act or *the existing* federal regulations is dissolved, whichever is later.

~~(d) The program established pursuant to this article shall impose requirements within this state that are the same as the requirements imposed pursuant to the federal act, including, but not limited to, any regulation adopted pursuant to the federal act that is in effect on January 1, 2006.~~

(d) The program established pursuant to this article shall require a facility to submit a toxic chemical release form to the agency, in accordance with the existing federal regulations, if the facility is not required, on or after the date when the secretary makes the determination pursuant to this section, to submit a toxic chemical release form containing that same information pursuant to the federal regulations.

(e) Notwithstanding any other provision of this article, the agency shall, when implementing the program, comply with the requirements of the federal act with regard to ensuring that any requirement imposed pursuant to this article is no less stringent

than, or is not otherwise preempted by, any requirement imposed pursuant to the federal act, including any changes to the existing federal regulations that decrease the threshold quantity or include additional toxic chemicals subject to the federal act.

25546.4. (a) No later than one calendar year after the date when the secretary makes the determination specified in subdivision (a) of Section 25546.3, the agency shall adopt ~~regulations to implement the program that are identical in application to the federal regulations in effect on January 1, 2006.~~ *regulations to require a facility to submit a toxic chemical release form to the agency, in accordance with the existing federal regulations, if the facility is not required by the federal regulations to submit a toxic chemical release form containing that same information.*

(b) The regulations adopted pursuant to subdivision (a) shall require that the information be reported retroactively to the effective date of the change in the federal act or *the existing* federal regulations as to ensure no gap in data collection.

(c) The agency shall evaluate existing California specific reporting requirements and determine if this information can substitute, in whole or in part, for the information that would be required under the adopted regulations. This review shall include, but not be limited to, reporting required pursuant to the Air Toxic "Hot Spot" Information and Assessment Act (Part 6 (commencing with Section 44300) of Division 26), the Hazardous Waste Source Reduction and Management Review Act of 1989 (Article 11.9 (commencing with Section 25244.12) of Chapter 6.5), and reporting required by the regional water quality control boards pursuant to the National Pollution Discharge Elimination System permits and waste discharge requirements.

(d) The regulations shall prescribe the same reporting forms in ~~use at the federal level prior to the removal, relaxation, or reduction in federal reporting requirements, unless the agency determines~~ *use, pursuant to the existing federal regulations, unless the agency determines* that an alternative form is necessary to substitute chemical release data reported under existing California specific programs, to ensure that the information is consolidated. The information shall be made publicly available in a manner similar to, and provide for convenient access, as the federal Toxic Release Inventory as it existed on January 1, 2006.

(e) The agency shall combine the information obtained from the toxic chemical release forms completed by a facility under the existing regulations and from the reports specified in subdivision (c), that are collected by the agency pursuant to this article, with any information obtained from the toxic chemical release forms completed by a facility pursuant to the federal regulations, to provide the public with accurate information regarding all information regarding the toxic chemicals released by those facilities.

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