

AMENDED IN SENATE AUGUST 20, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 833**

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**Introduced by Assembly Member Ruskin**

February 22, 2007

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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~~ *the Department of Toxic Substances Control (department)* to ~~establish~~ *develop and implement*, by January 1, 2009, the California Toxic Release Inventory Program ~~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 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 require a facility to submit a toxic chemical release form to Cal-EPA *the department*, if the facility is not required to submit a toxic chemical release form containing that same information pursuant to the revised existing federal regulations, *as defined*.

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 to require that information. The bill would require the adopted regulations to apply information to be reported under the program to be reported 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 department to determine whether existing California-specific California-specific reporting requirements can substitute, in whole or in part, for the information that would be required under the adopted regulations program. The bill would require the adopted regulations program to use utilize the same reporting forms required by the existing regulations, unless the agency department determines that an alternative form is necessary to substitute chemical release data reported under existing California-specific California-specific programs.

*The department would be authorized to adopt regulations to implement the program as emergency regulations and would require the Office of Administrative Law to deem these regulations to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.*

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:

1 Article 4. California Toxic Release Inventory Program Act of  
2 2007  
3

4 25546. The Legislature finds and declares all of the following:

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

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

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

22 25546.1. This article shall be known, and may be cited, as the  
23 “California Toxic Release Inventory Program Act of 2007.”

24 25546.2. For purposes of this article, the following definitions  
25 shall apply:

26 (a) ~~“Agency” means the California Environmental Protection~~  
27 ~~Agency.~~

28 (a) *“Department” means the Department of Toxic Substances*  
29 *Control.*

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

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

39 (d) “Federal act” means the federal Emergency Planning and  
40 Community ~~Right to Know~~ *Right-to-Know* Act of 1986 (EPCRA;

1 Chapter 116 (commencing with Section 11001) of Title 42 of the  
2 United States Code).

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

7 (f) “Program” means the California Toxic Release Inventory  
8 Program established pursuant to this article.

9 ~~(g) “Secretary” means the Secretary for Environmental  
10 Protection.~~

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

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

24 (j)  
25 (i) “Threshold quantity” means the amount of a toxic chemical  
26 specified in Sections 372.25, 372.27, and 372.28 of Title 40 of the  
27 Code of Federal Regulations as those regulations read on January  
28 1, 2006, and not as those regulations may be subsequently  
29 amended, revised, or repealed after that date, except as provided  
30 in subdivision ~~(e)~~ (b) of Section 25546.3.

31 ~~25546.3. (a) The agency shall establish the California Toxic  
32 Release Inventory Program if the secretary makes, after a public  
33 hearing and receipt and review of public comment, either of the  
34 following determinations:~~

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

39 ~~(2) The existing federal regulations are repealed, amended, or  
40 otherwise revised so as to increase the threshold quantity for a~~

1 ~~toxic chemical or to eliminate a toxic chemical subject to the~~  
2 ~~existing federal regulations.~~

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

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

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

20 *25546.3. (a) On or before January 1, 2009, the department*  
21 *shall develop and implement the California Toxic Release Inventory*  
22 *Program pursuant to this article.*

23 ~~(e)~~

24 ~~(b) Notwithstanding any other provision of this article, the~~  
25 ~~agency department shall, when implementing the program, comply~~  
26 ~~with the requirements of the federal act with regard to ensuring~~  
27 ~~that any requirement imposed pursuant to this article is no less~~  
28 ~~stringent than, or is not otherwise preempted by, any requirement~~  
29 ~~imposed pursuant to the federal act, including any changes to the~~  
30 ~~existing federal regulations that decrease the threshold quantity or~~  
31 ~~include additional toxic chemicals subject to the federal act.~~

32 ~~25546.4. (a) No later than one calendar year after the date~~  
33 ~~when the secretary makes the determination specified in~~  
34 ~~subdivision (a) of Section 25546.3, the agency shall adopt~~  
35 ~~regulations to require a facility to submit a toxic chemical release~~  
36 ~~form to the agency, in accordance with the existing federal~~

37 *25546.4. (a) The program established pursuant to this article*  
38 *shall require a facility to submit a toxic chemical release form to*  
39 *the department, in accordance with the existing federal regulations,*

1 if the facility is not required by the federal regulations to submit  
2 a toxic chemical release form containing that same information.

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

7 ~~(e) The agency shall evaluate existing California-specific~~

8 (c) *The department shall evaluate California-specific reporting*  
9 requirements and determine if this information can substitute, in  
10 whole or in part, for the information that would be required under  
11 the ~~adopted regulations program~~. This review shall include, but  
12 not be limited to, reporting required pursuant to the Air Toxic “Hot  
13 Spot” Information and Assessment Act (Part 6 (commencing with  
14 Section 44300) of Division 26), the Hazardous Waste Source  
15 Reduction and Management Review Act of 1989 (Article 11.9  
16 (commencing with Section 25244.12) of Chapter 6.5), and  
17 reporting required by the regional water quality control boards  
18 pursuant to the National Pollution Discharge Elimination System  
19 permits and waste discharge requirements.

20 (d) ~~The regulations shall prescribe~~ *department shall require the*  
21 *program to utilize* the same reporting forms in use, pursuant to the  
22 existing federal regulations, unless the ~~agency department~~  
23 determines that an alternative form is necessary to substitute  
24 chemical release data reported under existing ~~California-specific~~  
25 *California-specific* programs, to ensure that the information is  
26 consolidated. ~~The information shall be made publicly available in~~  
27 ~~a manner similar to, and provide for convenient access, as the~~  
28 ~~federal Toxic Release Inventory as it existed on January 1, 2006.~~  
29 *department shall also prescribe the manner in which the*  
30 *information in the forms shall be transmitted.*

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

1 (e) The department shall post a copy of each form received from  
2 each facility that is subject to the program on the department's  
3 publicly available Internet Web site.

4 25546.5. (a) The department may adopt regulations to  
5 implement the program as emergency regulations. The emergency  
6 regulations adopted pursuant to this section shall be adopted by  
7 the department in accordance with Chapter 3.5 (commencing with  
8 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
9 Code, and for the purposes of that chapter, including Section  
10 11349.6 of the Government Code, the adoption of these regulations  
11 is hereby deemed an emergency and shall be considered by the  
12 Office of Administrative Law as necessary for the immediate  
13 preservation of the public peace, health, safety, and general  
14 welfare.

15 (b) Notwithstanding Chapter 3.5 (commencing with Section  
16 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
17 any emergency regulations adopted by the department pursuant  
18 to this section shall be filed with, but not be repealed by, the Office  
19 of Administrative Law and shall remain in effect for a period of  
20 two years or until revised by the department, whichever occurs  
21 sooner.

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