



# Hazardous Material Business Plan FAQ



The following information is provided to assist with understanding the Hazardous Material Business Plan program. This information is not to be relied upon as legal advice or interpretation by the California Governor's Office of Emergency Services (CalOES) or the State of California. It does not create any rights, obligations, or establish any new standards. Local governments often have requirements that are more stringent than state and should be contacted for advice about this program in their area.

## Most Frequently Asked Hazardous Material Business Plan Questions

### 1) What is a Hazardous Material?

**State:** "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the unified program agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment (Health and Safety Code section (Health & Saf. Code sec) 25501 (m)).



*State Laws & Regulations:* [Health and Saf. Code § 25501 \(m\)](#)

**Federal:** The federal government defines (Section 11022 (c) of Title 42 of the United States Code (42 USC 11022 (c))) a hazardous chemical subject to the requirements of Title 42 Section 11022 as any hazardous chemical for which a material safety data sheet or a listing is required under 42 USC 11021.

The federal government defines (40 Code of Federal Regulations (CFR) Section 370.66) hazardous chemical as any hazardous chemical as defined under 29 CFR Section 1910.1200 (c), any chemical which is a physical hazard or a health hazard. Except that it does not include the following substances:

- Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration
- Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use
- Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public
- Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual
- Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

The federal government defines (40 CFR Section 370.66) extremely hazardous substance as a substance listed in the appendices to 40 CFR part 355, Emergency Planning and Notification.



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*Federal Laws & Regulations:* [42 USC 11021](#)  
[42 USC 11022 \(c\)](#)  
[40 CFR § 370.66](#)  
[29 CFR § 1910.1200 \(c\)](#)

## 2) What is a Hazardous Materials Business Plan (HMBP)?

A Hazardous Material Business Plan (HMBP) is a document containing detailed information on the:

- Inventory of hazardous materials at a facility
- Emergency response plans and procedures in the event of a reportable release or threatened release of a hazardous material
- Training for all new employees and annual training, including refresher courses, for all employees in safety procedures in the event of a release or threatened release of a hazardous material.
- A site map that contains north orientation, loading areas, internal roads, adjacent streets, storm and sewer drains, access and exit points, emergency shutoffs, evacuation staging areas, hazardous material handling and storage areas, and emergency response equipment.



*State Laws & Regulations:* [Health and Saf. Code § 25505](#)

## 3) What is the purpose of the HMBP?

The intent of the HMBP is to:

- Provide basic information necessary for use by first responders in order to prevent or mitigate damage to the public health and safety and to the environment from a release or threatened release of a hazardous material
- Satisfy federal and state Community Right-To-Know laws.

## 4) Who must complete and submit a HMBP?

**State:** The State of California requires an owner or operator of a facility to complete and submit a HMBP if the facility handles a hazardous material or mixture containing a hazardous material that has a quantity at any one time during the reporting year equal to or greater than:

- 55 gallons (liquids), 500 pounds (solids), or 200 cubic feet for a compressed gas
- The business is required to submit chemical inventory information pursuant to Section 11022 of Title 42 of the United States Code
- The business handles at any one time during the reporting year an amount of hazardous material that is equal to, or greater than the threshold planning quantity, under both of the following conditions:




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- The hazardous material is an extremely hazardous substance, as defined in Section 355.61 of Title 40 of the Code of Federal Regulations
- The threshold planning quantity for that extremely hazardous substance listed in Appendices A and B of Part 355 (commencing with Section 355.1) of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations is less than 500 pounds.
- A total weight of 5,000 pounds for solids or a total volume of 550 gallons for liquids, if the hazardous material is a solid or liquid substance that is classified as a hazard for purposes of Section 5194 of Title 8 of the California Code of Regulations solely as an irritant or sensitizer, unless the unified program agency finds, and provides notice to the business handling the product, that the handling of lesser quantities of that hazardous material requires the submission of a business plan, or any portion of a business plan, in response to public health, safety, or environmental concerns.
- A total of 1,000 cubic feet, if the hazardous material is a compressed gas and is classified as a hazard for the purposes of Section 5194 of Title 8 of the California Code of Regulations solely as a compressed gas, unless the unified program agency finds, and provides notice to the business handling the product, that the handling of lesser quantities of that hazardous material requires the submission of a business plan, or any portion thereof, in response to public health, safety, or environmental concerns.
- Amounts of radioactive materials requiring an emergency plan pursuant to Parts 30, 40, or 70 of Chapter 1 of Title 10 of the Code of Federal Regulations.
- The business handles perchlorate material, as defined in subdivision (c) of Section 25210.5, in a quantity at any one time during the reporting year that is equal to, or greater than, the thresholds listed in paragraph (1).

Any business, not subject to the thresholds above, which is required to submit chemical inventory information pursuant to 42 USC 11022 shall establish and implement a HMBP in accordance with Health & Saf. Code sec 25507.

	<p><i>State Laws &amp; Regulations:</i> <a href="#">Health &amp; Saf. Code § 25507</a>  <a href="#">Title 19 § 2729.1</a>  <a href="#">Title 19 § 2729.2</a></p>
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**Federal:** The federal government requires owners and operators of a facility to complete and submit an emergency and hazardous chemical inventory form annually, known as the Tier II form, if the facility has at a minimum or greater:

- 500 pounds (or 227 kilograms --- approximately 55 gallons) or applicable federal threshold quantities for extremely hazardous substances listed in 40 CFR Part 355, Appendix A and B and hazardous chemicals, whichever is lower
- 10,000 pounds of a hazardous chemical that is not an extremely hazardous substance
- 75,000 gallons of gasoline
- 100,000 gallons of diesel.



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Facilities provide their hazardous materials inventories on a Tier II form. Tier II forms require basic facility identification information (including their North American Industry Classification System (NAICS) code), employee contact information for both emergencies and non-emergencies, and information about chemicals stored or used at the facility:

- The chemical name or the common name as provided on the Material Safety Data Sheet (MSDS) and its Chemical Abstract Service (CAS) registry number.
- An indication of whether the chemical is: pure or mixture; solid, liquid, or gas; and whether the chemical is or contains an EHS
- An indication of the hazard categories that apply to the chemical
- An estimate (in ranges) of the maximum amount of the chemical present at any time during the preceding calendar year and the average daily amount
- The maximum number of days that the chemical was present at your facility during the preceding calendar year
- A brief description of the manner of storage of the chemical
- The location of the chemical at the facility
- An indication of whether the owner of the facility elects to withhold location information from disclosure to the public.

	<i>Federal Laws &amp; Regulations:</i> <a href="#">42 USC 11022 (a)</a> <a href="#">42 USC 11022 (b)</a> <a href="#">42 USC 11022 (d)</a> <a href="#">40 CFR § 370.10</a> <a href="#">40 CFR § 370.42</a> <a href="#">40 CFR Part 355 Appx A &amp; B</a>
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## 5) To whom do I submit my HMBP?

**State:** The State of California requires all HMBPs to be submitted electronically to the California Environmental Reporting System (CERS - <http://cers.calepa.ca.gov> [Health & Saf. Code sec 25508]).

	<i>State Laws &amp; Regulations:</i> <a href="#">Health &amp; Saf. Code § 25508</a> <a href="#">Health &amp; Saf. Code § 25509</a> <a href="#">Title 19 § 2729.4</a>
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**Federal:** The Federal government requires all Tier II forms be submitted to the State Emergency Response Commission (SERC), the Local Emergency Planning Committee (LEPC), and the local fire department (40 CFR Section 370.32). **In California, any person who submits an inventory to CERS under Health & Saf. Code sec 25506 shall be deemed to have filed the inventory form (Tier II form) required by subsection (a) of Section 11022 of Title 42 of the United States Code with the SERC and LEPC (Health & Saf. Code sec 25506 (c)).** The



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UPA shall, upon request, transmit the inventory information to the SERC and LEPC (Health & Saf. Code sec 25509 (c)).



Federal Laws & Regulations: [42 USC 11022 \(a\)](#)  
[40 CFR § 370.32](#)

*\* The State of California thresholds are more stringent than federal thresholds. If a business must submit a Tier II form then the business must submit a complete HMBP as well (Health & Saf. Code sec. 25506(c)).*

## 6) How do I submit a HMBP?

**State:** The State of California developed the California Environmental Reporting System (CERS) for businesses to use to submit their HMBP. By submitting the HMBP through CERS, businesses will fulfill the information requirements of the HMBP.

- Business Activities of the Unified Program Consolidated (Title 27, Section 15600 (a))
- Business Owner/Operator Identification
- Hazardous Materials – Chemical Description. The CERS database will require all state and federally required inventory information and will meet state and federal reporting requirements. There will also be a section for additional information that may be requested by the UPA. Contact your local UPA to determine what additional information, if any, is required.
- An Annotated Site Map.

Contact your local UPA to determine any specific requirements for submittal of the emergency response plans and procedures, training program information, and additional information.

*\* The UPA may have requirements in addition to the State of California HMBP requirements. Check with the local jurisdiction having authority to implement and enforce the HMBP Program to determine what those additional requirements, if any, are.*



State Laws & Regulations: [Health & Saf. Code § 25506](#)  
[Title 19 § 2729.2](#)  
[Title 27 § 15600 \(a\)](#)

**Local:** A handler shall electronically submit its business plan to CERS (*Health & Saf. Code sec 25506(c)*)

**Federal:** If a business chooses to use the federal Tier II form described in 40 CFR Section 370.42 to meet its inventory reporting requirements, it must also submit a state or local form. The federal Tier II form and its instructions can now be found on the Environmental Protection Agency (EPA) website. Submittal of the business plan to CERS will also meet state and federal reporting requirements in California.



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Federal Laws & Regulations: [42 USC 11022 \(g\)](#)  
[40 CFR § 370.42](#)

*\* The State of California thresholds are more stringent than federal thresholds. If a business must submit a Tier II form then the business must submit a complete HMBP as well (Health & Saf. Code sec 25506 (c)).*

## 7) Are there exemptions for submitting a HMBP?

**Types of Hazardous Materials Exemptions:** The State of California exempts the following hazardous materials from the HMBP requirements:

- Oxygen, nitrogen, and nitrous oxide handled by a physician, dentist, podiatrist, veterinarian, or pharmacist at their place of business in quantities of not more than 1,000 cubic feet of each material at any one time (Health & Saf. Code sec 25507(b))
- Lubricating oil for a single business facility, if the total volume of each type of lubricating oil handled at that facility does not exceed 55 gallons and the total volume of all types of lubricating oil handled at the facility does not exceed 275 gallons, at any one time (Health & Saf. Code sec 25507 (c)(1))
- Hazardous Material contained solely in a consumer product for direct distribution to, and use by, the general public, unless the UPA has found, and has provided notice to the business handling the product, that the handling of certain quantities of the product requires the submission of a HMBP, or any portion thereof, in response to public health, safety, or environmental concerns (Health & Saf. Code sec 25507 (e)).
- On-premise use, storage, or both, of propane in an amount not to exceed 500 gallons that is for the sole purpose of cooking, heating the employee working areas, unless the UPA has found, and provides notice to the business handling the propane, that the handling of the on-premise propane requires the submission of a HMBP, or any portion thereof, in response to public health, safety, or environmental concerns (Health & Saf. Code sec 25507 (2)(b)).

**Types of Business Exemptions:** The State of California exempts the following businesses from filing portions of the HMBP requirements if they meet specific requirements:

- Farms operating for the purpose of cultivating the soil or raising or harvesting any agricultural or horticultural commodity from filing the emergency response plans and procedures (Health & Saf. Code sec 25507.1(a)) if:
  - a. The farm handler provides the inventory of information required by Health & Saf. Code sec 25506 to the county agricultural commissioner before January 1 of each year
  - b. Each building in which hazardous materials subject to the HMBP requirements are stored is posted with signs that provide notice of the storage of any of the following:
    - i. Pesticides
    - ii. Petroleum fuels and oil
    - iii. Types of fertilizers.



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- Unstaffed remote facilities located in an isolated sparsely populated area from filing the HMBP and inventory requirements if all of the following requirements are met (Health & Saf. Code sec25507.2(a)):
  - a. The types and quantities of materials onsite are limited to one or more of the following:
    - i. One thousand standard cubic feet of compressed inert gases (asphyxiation and pressure hazards only)
    - ii. Five hundred gallons of combustible liquid used as a fuel source
    - iii. Two hundred gallons of corrosive liquids used as electrolytes in closed containers
    - iv. Five hundred gallons of lubricating and hydraulic fluids
    - v. One thousand two hundred gallons of flammable gas used as a fuel source
    - vi. Any quantity of mineral oil contained within electrical equipment if the spill prevention control and countermeasure plan has been prepared for quantities that meet or exceed 1,320 gallons.
  - b. The facility is secured and not accessible to the public
  - c. Warning signs are posted and maintained for hazardous materials pursuant to the California Fire Code
  - d. A one-time notification and inventory is provided to the UPA along with a processing fee in lieu of the existing fee. The fee shall not exceed the actual cost of processing the notification and inventory, including a verification inspection, if necessary.
  - e. If the information contained in the initial notification or inventory changes and the time period of the change is longer than 30 days, the notification or inventory shall be submitted within 30 days to the UPA to reflect the change, along with a processing fee, in lieu of the existing fee
  - f. The UPA may require an unstaffed remote facility to submit a HMBP and inventory in accordance with the HMBP requirements if the agency finds that special circumstances exist such that development and maintenance of the HMBP and inventory is necessary to protect public health and safety and the environment.

**Types of Procedural Exemptions:** The State of California allows the UPA to exempt any hazardous material, handler or a specific hazardous material handled by a business from HMBP requirements or any portion thereof under the following circumstances:

- The UPA may, in exceptional circumstances, following notice and public hearing, may exempt from the inventory provisions of Chapter 6.95 any hazardous substance if the UPA finds that the hazardous substance would not pose a present or potential danger to the environment or to human health and safety if the hazardous substance was released into the environment (Health & Saf. Code sec 25507(f))
- The UPA, upon application by a handler, may exempt the handler, under conditions that the UPA determines to be proper, from any portion of the HMBP, upon a written finding that the exemption would not pose a significant present or potential hazard to human health or safety or to the environment or affect the ability of the UPA and emergency rescue personnel to effectively respond to the release of a hazardous material, and that there are unusual circumstances justifying the exemption (Health & Saf. Code sec 25507(g))



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- The UPA, upon application by a handler, may exempt a hazardous material from the inventory provisions of Chapter 6.95 upon proof that the material does not pose a significant present or potential hazard to human health and safety or to the environment if released into the workplace or environment (Health & Saf. Code sec 25507(h))
- The UPA may adopt or amend existing regulations specifying the inventory information required. Additionally, if pursuant to federal law or regulation, the UPA may determine that the inventory information required by subdivisions (a) and (c) is substantially equivalent to the inventory information required under the Emergency Planning and Community Right-to-Know Act of 1986, the requirements of subdivision (a) and (c) shall not apply, (Health & Saf. Code sec 25506(c) and (d)).

	<p><i>State Laws &amp; Regulations:</i> <a href="#">Health &amp; Saf. Code § 25504 (e)</a>  <a href="#">Health &amp; Saf. Code § 25505 (e)</a>  <a href="#">Health &amp; Saf. Code § 25506</a>  <a href="#">Health &amp; Saf. Code § 25507</a></p>
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*\*The State of California exemptions are only applicable to businesses not subject to the requirements of applicable federal law.*

## 8) When do I need to submit a HMBP to CERS?

**State/Federal:** A business is required to submit an initial HMBP when it begins to handle hazardous materials at the applicable state and/or federal thresholds (See question #4 – Page 2).

## 9) How often do I need to update my Hazardous Material Inventory and HMBP in CERS?

**State:** The State of California requires the hazardous materials inventory and the HMBP to be updated as follows:

A business must update and submit their hazardous materials inventory annually on or before March 1, depending on your UPA’s individual requirements (Title 19 Section 2729.4 (b)). After initial submittal, if no changes in your inventory have occurred and your business is only regulated under the state program, you may submit a certification statement (Health & Saf. Code sec 25508.2 and Title 19 Section 2729.5 (a)). If a change in your inventory has occurred you may comply with the annual inventory reporting requirements by submitting an updated Business Owner/Operator Identification Page and Hazardous Materials – Chemical Description Page (Title 19 Section 2729.5 (b)).


A business must review their HMBP at least once every three years after the initial submission of the HMBP, to determine if a revision is needed and shall certify to the UPA that the review was made and that any necessary changes were made to the plan. An electronic submittal to the statewide information management system (CERS) satisfies this requirement (Health & Saf. Code sec 25508 (b)).






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	<p><i>State Laws &amp; Regulations</i> <a href="#">Health &amp; Saf. Code § 25508</a>  <a href="#">Health &amp; Saf. Code § 25508.2</a>  <a href="#">Title 19 § 2729.4 (b)</a>  <a href="#">Title 19 § 2729.5 (a)</a>  <a href="#">Title 19 § 2729.5 (b)</a>  <a href="#">Title 19 § 2729.6</a></p>
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**Federal:** An inventory must be submitted annually on or before March 1, and annually thereafter (40 CFR Section 370.45 (a)). For those businesses that fall under the federal requirement to submit an annual inventory, a certification statement will not suffice. Submittal of the inventory shall meet the Emergency Planning & Community Right-to-Know Act (EPCRA) if the following are submitted with the inventory (Title 19 Section 2729.6):

- Business Activities page of the Unified Program Consolidated Form
- “Substantiation to Accompany Claims of Trade Secrecy” Form (40 CFR Section 350.27) if the business wishes to claim trade secrecy in accordance with 40 CFR Part 350, to USEPA.
- Chemical Description Page(s), for each extremely hazardous substance, containing an original signature, a photocopy of the original signature, or a signature stamp. This signature may be placed in the box for locally collected information.

	<p><i>Federal Laws &amp; Regulations:</i> <a href="#">42 USC 11022 (a)</a>  <a href="#">40 CFR § 370.45 (a)</a>  <a href="#">40 CFR § 350.27</a></p>
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## 10) Am I subject to inspections by the local UPA?

**State:** The State of California provides the authority to any employee or authorized representative of a UPA to inspect the premises of a handler concerning hazardous materials, in addition to hazardous waste to determine if the business is in compliance with the HMBP requirements (Health & Saf. Code sec 25511).

	<p><i>State Laws &amp; Regulations:</i> <a href="#">Health &amp; Saf. Code § 25511</a></p>
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**Federal:** The federal government requires an owner/operator of a facility that has submitted an inventory form to allow the fire department having jurisdiction over the facility to conduct an on-site inspection of your facility as well as provide the fire department with information about specific locations of hazardous chemicals at the facility (40 CFR Section 370.65). In California, the UPA have jurisdiction over the facility. The UPA is either the fire department, public health, environmental health or other local department authorized to implement or enforce the HMBP requirements.



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*Federal Laws & Regulations:* [42 USC 11022 \(f\)](#)  
[40 CFR § 370.65](#)

## 11) What happens if I do not comply with the HMBP requirements?

**State:** In California, any business that does not comply with the HMBP requirements is civilly liable to the administering county or city in an amount not more than two thousand dollars (\$2,000) for each day in which the violation occurs. If the violation results in, or significantly contributes to, an emergency, including a fire, the business shall also be assessed the full cost of the county or city emergency response, as well as the cost of cleaning up and disposing of the hazardous materials (Health & Saf. Code sec 25515 (a)).

If the business continues to be in violation after reasonable notice of violating the HMBP requirements, the business is civilly liable to the administering county or city in an amount not to exceed five thousand dollars (\$5,000) for each day in which the violation occurs (Health & Saf. Code sec 25515 (b)).



*State Laws & Regulations:* [Health & Saf. Code § 25515](#)

**Federal:** In the United States, any person other than a governmental entity who violates any requirement of 42 USC 11022 and 42 USC 11023 shall be liable for civil and administrative penalties of not more than \$37,500 for each violation. Each day a violation continues shall constitute a separate violation (42 USC 11045 (c)(1)). The adjustment to civil monetary penalties for inflation can be found at 40 CFR Section 19.4.



*Federal Laws & Regulations:* [42 USC 11045](#)  
[40 CFR § 19.4](#)

## 12) Is my HMBP that is on file with the UPA subject to public inspections?

**State:** The State of California requires the UPA to make available for public inspection the HMBP and revisions during regular working hours of the UPA, except those portions of the HMBP specifying the precise location where the hazardous materials are stored and handled onsite, including maps of the site (Health & Saf. Code sec 25509 (a)).

Upon receipt of a request for the release of information to the public which includes information which the business claimed as a trade secret, the UPA shall notify the business in writing of the request by certified mail. The UPA shall release the information to the public, but not earlier than 30 days after the date of mailing the notice of request for information, unless, prior to the expiration of the 30-day period, the business files an action in an appropriate court for a declaratory judgment that the information is subject to protection or for an injunction prohibiting disclosure of the information to the public and promptly notifies the UPA of that action (Health & Saf. Code sec 25512 (c)).



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Any information which is confidential shall not be disclosed to anyone except the following (Health & Saf. Code sec 25512 (d)):

- An officer or employee of the county, city, the state, or the United States, in connection with the official duties of that officer or employee under any law for the protection of health, or to contractors with the county or city and their employees if, in the opinion of the UPA, disclosure is necessary and required for the satisfactory performance of a contract, for the performance of work, or to protect the health and safety of the employees of the contractor
- Any physician where the physician certifies in writing to the UPA that the information is necessary to the medical treatment of the physician's patient.

	<i>State Laws &amp; Regulations:</i> <a href="#">Health &amp; Saf. Code § 25509 (a)</a> <a href="#">Health &amp; Saf. Code § 25512 (c)</a> <a href="#">Health &amp; Saf. Code § 25512 (d)</a>
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**Federal:** The federal government requires the SERC, LEPC, and/or local fire department to make available for public inspection the hazardous materials inventory. The owner/operator may request to withhold from disclosure the location of any specific chemical identified in the Tier II form. The public can petition requesting disclosure of chemical identity claimed as a trade secret (40 CFR 350.15). In California, the UPA makes available the hazardous materials inventory.

	<i>Federal Laws &amp; Regulations:</i> <a href="#">42 USC 11022 (e)</a> <a href="#">40 CFR § 350.15</a> <a href="#">40 CFR § 370.61</a> <a href="#">40 CFR § 370.63</a>
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### 13) Is my HMBP information shared with local emergency response personnel?

**State:** The UPA shall make the data elements and documents submitted pursuant to this article available to a requesting government agency that is authorized by law to access the information. (Health & Saf. Code sec 25509 (a)). In addition, emergency rescue personnel will have access to the statewide information management system (CERS) on a 24-hour basis (Health & Saf. Code sec 25509).

	<i>State Laws &amp; Regulations:</i> <a href="#">Health &amp; Saf. Code § 25509</a>
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**Federal:** The SERC, LEPC, or local fire department shall provide, upon request, Tier II information to a local official, acting in his or her official capacity. In California, the UPA makes the hazardous materials inventory available.

	<i>Federal Laws &amp; Regulations:</i> <a href="#">42 USC 11022 (e)</a> <a href="#">40 CFR 370.61</a>
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Who do I contact if I have further questions?



Contact your local [UPA](#).



If you have any questions regarding HMBP Submittals, please call the Cal OES Hazardous Materials Section @ (916) 845-8798



Additional Resources can be found on the Internet at the following locations:

<a href="http://www.caloes.ca.gov">www.caloes.ca.gov</a>	(California Governor's Office of Emergency Services)
<a href="http://www.calcupa.net">www.calcupa.net</a>	(California Certified Unified Program Agencies)
<a href="http://www.epa.gov">www.epa.gov</a>	(Environmental Protection Agency)
<a href="http://www.leginfo.ca.gov">www.leginfo.ca.gov</a>	(Official California Legislative Information)
<a href="http://cers.calepa.ca.gov">http://cers.calepa.ca.gov</a>	(California Environmental Reporting System)