



**ORANGE COUNTY FIRE AUTHORITY**  
HAZARDOUS MATERIALS DISCLOSURE OFFICE  
180 South Water St. • Orange, CA 92666-2175 • (714) 744-0463

**Larry J. Holms, Director of Fire Services**

Mr. Roy Yeaman, Senior HSS  
Base Closure Unit, Southern California Operations, Office of Military Facilities  
Department of Toxic Substances Control  
245 W. Broadway, Suite 425  
Long Beach, CA. 90802-4444

August 26, 1996

Dear Mr. Yeaman:

In response to your August 7, 1996 letter requesting Applicable or Relevant and Appropriate Requirements (ARARs) for MCAS El Toro, attached is a copy of the Orange County Fire Authority's implementing ordinance for implementation of the EPCRA/SARA and California Health and Safety Code requirements for hazardous materials disclosure, business emergency plans, and risk management and prevention plans. The basic intent of these programs include the gathering of inventories of hazardous materials, so that this information is available for use by first responders and the public; and to plan for and mitigate potential accidental releases of hazardous materials. Should mitigation activities at the Operable Unit 2B and 2C sites involve bringing in hazardous materials of any kind (and hazardous materials are defined as any materials for which there is an MSDS--Material Safety Data Sheet), then the attached ordinance governs the kinds of information which we would require during the time the materials are on site.

The Orange County Fire Authority also administers the 1994 Uniform Fire Code (UFC), which also governs storage and use of hazardous materials. In addition, the UFC also addresses systems and processes involving building and construction site maintenance. Without more specific information about the mitigation planned for the OU 2B and OU 2C landfill sites (sites 2 and 17, and sites 3 and 5), no statements can be made regarding potential applicability of the UFC.

Should you require additional information about ARARs administered by the Orange County Fire Authority, please feel free to contact me at 744-0464. Thank you.

Respectfully,

A handwritten signature in cursive script that reads "Christine Boyd".

Christine Boyd, Manager  
Hazardous Materials Disclosure Office

Attachment

pc. Chief Jim Radley, Director, OCFA/Community Safety Department

## ARTICLE 1. HAZARDOUS MATERIALS DISCLOSURE AND RISK MANAGEMENT

### Sec. 1-1-100. Intent and purpose.

The Orange County Fire Authority Board of Directors finds and declares that:

- (a) Emergency service personnel in the County have a need to know of the use and dangers of hazardous materials in the community in order to plan for and respond to potential emergencies and exposure to such materials;
- (b) Basic information on the location, type and the health risks of hazardous materials used or stored in the County is not now available to firefighters, health officials and other emergency response personnel;
- (c) It is intended that the system of disclosure set forth in this article shall provide that information essential to firefighters, health officials, planners, elected officials and other emergency service personnel in meeting their responsibilities for the health and welfare of the community in such a fashion that trade secrecy is not abridged; and it is intended that the business emergency plan shall include emergency response procedures for the release or threatened release of hazardous materials, scaled appropriately for the size and nature of the business, the damage potential, and the proximity of the business to sensitive populations.
- (d) It is also intended that programs designed to prevent releases of extremely hazardous substances will be implemented as described in Article 2 of Chapter 6.95 of Division 20 of the California Health and Safety Code.
- (e) It is further intended that this article implement the community's right and need for basic information on the use and disposal of hazardous materials in the County and provide for an orderly system for the provision of such information.

### Sec. 1-1-110. Definitions.

For the purpose of this article the terms listed in this section shall be defined as follows; provided, however, references to statutes or regulations in existence at the time this article is adopted shall also include references to such statutes or regulations as they may be amended or changed in the future:

- (a) *Acutely hazardous material (AHM)*; see extremely hazardous substance.
- (b) *Business* means any business as defined in California Health and Safety Code, Chapter 6.95 of Division 20.
- (c) *Business Emergency Plan* means a separate plan for each facility, site, or branch of a business which meets the requirements of Section 25504 of the Health and Safety Code.
- (d) *Carcinogen* refers to a substance known to the state to cause cancer. For purposes of this article, carcinogens are those substances specified on the list published under Title 22, Division 21.5 of the California Code of Regulations.
- (e) *CAS number* means the unique identification name as assigned by the Chemical Abstracts Services to specific chemical substances.
- (f) *Chemical name* means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.
- (g) *Commercial grade pesticide or fertilizer* means any pesticide or fertilizer requiring a license to purchase (not available for retail purchase directly by the public).
- (h) *Common name* means any designation or identification, such as a code name, code number, trade name, or brand name, used to identify a substance other than by its chemical name.

- (i) *Disclosure form* means the document approved by the Orange County Fire Authority for businesses to report hazardous materials storage and use.
- (j) *DOT number* means the number assigned to the chemical by the United States Department of Transportation.
- (k) *Emergency rescue personnel* means any public employee, including, but not limited to, any firefighter, or emergency rescue personnel, as defined in Section 245.1 of the Penal Code, or personnel of a local EMS agency, as designated pursuant to Section 1797.200, or a poison control center, as defined by Section 1797.97 who responds to any condition caused, in whole or in part, by a hazardous material that jeopardizes, or could jeopardize, public health or safety or the environment.
- (l) *EPA waste code* means the United States Environmental Protection Agency identifier assigned to a particular hazardous waste.
- (m) *Explosive* means any Division 1.1, 1.2, or 1.3 explosive as defined by the Department of Transportation.
- (n) *Extremely hazardous substance (EHS)* means any chemical designated an extremely hazardous substance which is listed in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.
- (o) *Handle* means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion; it also means the use or potential for use of a 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.
- (p) *Handler* means any business which handles a hazardous material.
- (q) *Hazardous material* means any material:

- (1) 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 which a handler or the administering 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.
  - (2) For which the manufacturer or producer is required to prepare a MSDS for the substances or product pursuant to the Hazardous Substances Information and Training Act (commencing with section 6360, Chapter 2.5 Part 1 of Division 5 of the California Labor Code) or pursuant to any applicable federal law or regulation.
- (r) *Hazardous substance* means any substance or chemical product for which one of the following applies:
- (1) The manufacturer or producer is required to prepare a MSDS for the substance or product pursuant to the Hazardous Substances Information and Training Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or regulation.
  - (2) The substance is listed as a radioactive material by the Nuclear Regulatory Commission.
  - (3) The substance is listed pursuant to Title 49 of the Code of Federal Regulations.

- (4) The substance is listed in subdivision (b) of Section 6382 of the Labor Code.
- (5) The substance is a carcinogen as defined elsewhere in this article.
- (6) The substance is a commercial grade pesticide as defined elsewhere in this article.
- (s) *Hazardous waste* means hazardous waste, as defined by Sections 25115, 25117, and 25316 of the California Health and Safety Code.
- (t) *Health Official* means the Health Officer of the County of Orange or his/her deputy.
- (u) *Highly toxic material* is a material that has a median lethal concentration ( $LC_{50}$ ) in air of 200 parts per million by volume or less of gas or vapor, or 2 milligrams per liter or less of mist, fume or dust, when administered by continuous inhalation for one hour, or less if death occurs within one hour, to albino rats weighing between 200 and 300 grams each.
- (v) *Modified facility* means an addition or change to a facility or business which results in either a substantial increase in the amount of extremely hazardous substance handled by the facility or business, or a significantly increased risk in handling an extremely hazardous substance, as determined by the administering agency. "Modified facility" does not include an increase in production up to the facility's existing operating capacity or an increase in production levels up to the production levels authorized in a permit granted pursuant to Section 42300 of the California Health and Safety Code.
- (w) *MSDS* means a Material Safety Data Sheet prepared pursuant to Section 6390 of the California Labor Code or pursuant to the regulations of the Occupational Safety and Health Administration of the United States Department of Labor.
- (x) *Person* means an individual, trust, firm, joint stock company, corporation, partnership, association, or business as defined elsewhere in this article.
- (y) *Physician* means any person who holds a valid certificate from the State of California to practice the healing arts.
- (z) *Qualified person* means a person who is qualified to attest, at a minimum, to the validity of the hazard and operability studies performed pursuant to Section 25534 of the California Health and Safety Code, and the relationship between the corrective steps taken by the handler following the hazard and operability studies and those hazards which were identified in the studies.
- (aa) *Release* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency.
- (ab) *Risk management and prevention program or RMPP* means all of the administrative and operational programs of a business which are designed to prevent extremely hazardous substance accident risks, including, but not limited to, programs which include design safety of new and existing equipment, standard operating procedures, preventive maintenance programs, operator training and accident investigation procedures, risk assessment for unit operations, or operating alternatives, emergency response planning, and internal or external audit procedures to ensure that these programs are being executed as planned.
- (ac) *SIC Code* means the identification number assigned by the Standard Industrial Classification Code to specific types of businesses.
- (ad) *State waste code* means the Department of Health Services identifier assigned to a particular hazardous waste.
- (ae) *Storage or Storing* means the containment of substances or materials in such a manner as not to constitute disposal of such substances

or materials.

- (af) *Threatened release* means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment.
- (ag) *Threshold planning quantity (TPQ)* refers to a quantity of an extremely hazardous substance, as specified in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.
- (ah) *Trade secret* means trade secrets as defined in subdivision (d) of Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.
- (ai) *Use* includes the handling, processing or storage of a hazardous substance.
- (aj) *User* means any persons who uses or handles a hazardous substance or a hazardous waste.

**Sec. 1-1-120. Additional designation of hazardous materials.**

A substance may be deemed a hazardous material or hazardous waste upon a finding by the Director of Fire Services that the substance, 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 community. The Director of Fire Services may use the Uniform Fire Code published by the International Fire Code Institute to assist in requiring the types and amounts of such substances to be disclosed.

**Sec. 1-1-130. Filing of a hazardous material disclosure form.**

- (a) Any person who uses or handles a hazardous material must annually submit a completed disclosure form or disclosure form update to the Orange County Fire Authority.
- (b) Any person who for the first time becomes a user or handler of any hazardous material

must submit a completed disclosure form to the Orange County Fire Authority within thirty (30) days of becoming a user or handler, or prior to issuance of a Certificate of Occupancy for a building as regulated by the local building department. If the disclosure form submitted subsequent to the latter reveals use of materials regulated under Article 2 of Chapter 6.95 of the California Health and Safety Code, all requirements of this Article shall be met prior to occupying the building. Thereafter any such user or handler shall comply with the provisions of section 1-1-130(a).

- (c) The Orange County Fire Authority may, upon thirty (30) days written notice, require the submittal of a disclosure form of any user or handler of a hazardous material.
- (d) Any person required to submit a disclosure form pursuant to this section shall file with the Fire Authority of Orange County an updated disclosure form within fifteen (15) days of any of the following:

- (1) A change in business address.
- (2) A change in business ownership.
- (3) A change in business name.
- (4) Cessation of business operations.
- (5) The use or handling of a previously undisclosed hazardous material.
- (6) Any Significant change in the use or handling of a hazardous material for which disclosure has been previously made.

**Sec. 1-1-135. Filing of a risk management and prevention program.**

- (a) Any person who uses or handles an extremely hazardous substance (EHS) in quantities in excess of its threshold planning quantity (TPQ) must complete a risk management and prevention program (RMPP). The RMPP shall be completed according to the Orange County Fire

Authority's RMPP Guidelines. An RMPP must be completed within one year of its request by the Fire Authority.

- (b) An RMPP may be requested by the Orange County Fire Authority upon occurrence of any of the following:
- (1) A person becomes a handler or user of an EHS in quantities in excess of the material's TPQ for the first time.
  - (2) A facility that uses an EHS in quantities in excess of the material's TPQ is a modified facility as defined in Section 1-1-110 (v) of this ordinance.
  - (3) A facility uses an EHS in quantities in excess of the material's TPQ. Existing facilities will be ranked according to the hazards associated with the hazardous materials and the site. RMPPs will be requested based on the hazard ranking of the facility.
  - (4) If an inspection reveals that a hazard to the community may exist regardless of the hazard ranking of the facility.
  - (5) The Orange County Fire Authority finds, and provides notice to, a business handling an EHS in quantities less than those specified in Appendix A of Part 355 of Subchapter J of Chapter I of Title 40 of the Code of Federal Regulations.

**Sec. 1-1-136. Modification of facilities.**

- (A) A handler who intends to modify a facility resulting either in a significant increase in the amount of EHS handled by the facility or in a significantly increased risk in handling an EHS must comply with Section 25543.2 of the California Health and Safety Code and submit a revised RMPP and all related

documents within 60 days of the facility modification.

- (b) A handler must notify the Orange County Fire Authority in writing at least five calendar days before implementing any modifications pursuant to this section.
- (c) A handler must establish procedures to manage the proposed modification per Section 1910.119 of Title 29 of the Code of Federal Regulations pertaining to Process Safety Management within 60 days of the facility modification, and immediately notify the Orange County Fire Authority that the procedures have been established

**Sec. 1-1-140. Required disclosure information.**

- (a) The disclosure form shall be developed by the Orange County Fire Authority, and shall include, but not be limited to, the following:
- (1) CAS number as may be required by the Fire Authority.
  - (2) SIC code as may be required by the Fire Authority.
  - (3) DOT identification number as may be required by the Fire Authority.
  - (4) A listing of the chemical name, any trade name, and chemical names of mixture components and their percentages in the mixture of every disclosable hazardous material used by the person completing the disclosure form.
  - (5) The maximum amount of each hazardous material which is handled or used at any one time by the user, and the maximum amount of each hazardous waste material which is handled or used at any one time AND over the course of the year.
  - (6) Identification of a hazardous material as an EHS, carcinogen, or commercial grade pesticide.

- (7) Specific information on how and where the hazardous materials are handled or used by the user so as to allow fire and safety personnel to prepare adequate emergency response plans to potential releases of the hazardous materials.
  - (8) The names and phone numbers of at least two (2) persons representing the business and who would be able to assist emergency personnel in the event of an emergency involving the business during business and non-business hours, and the number of employees and their shift hours.
  - (9) The hazard characteristics of every hazardous material disclosed, including, but not limited to, toxicity, flammability, reactivity, and corrosivity as may be required by the Fire Authority.
- (b) Upon request all users must provide the following information:
- (1) To the Fire Authority, any information determined by the Fire Authority to be necessary to protect the public health, safety or the environment.
  - (2) To any physician, any information determined by the physician to be necessary for the medical treatment of his or her patient.

**Sec. 1-1-150. Exemptions from disclosure.**

- (a) The following materials or persons are exempt from the disclosure requirements of section 1-1-130 and the RMPP requirements of section 1-1-135:
  - (1) Hazardous materials or substances contained in finished food, drug, cosmetic or tobacco products. The materials utilized in the manufacture of these products are not exempt.

- (2) Any person using, storing, or handling less than five hundred (500) pounds of a solid, fifty-five gallons of a liquid, or two hundred (200) cubic feet of a gas on site, of a hazardous material shall be exempted from the requirement of disclosure of that use or handling unless the Director of Fire Services has provided notice that the weight or volume limits of this exemption for a specific hazardous material has been lowered in response to public health concerns or to meet the intent and requirements of the Uniform Fire Code. The following substances are not exempted and must be disclosed:

- (a) Any amount of a class 1.1, 1.2, or 1.3 DOT explosive.
- (b) Any amount of a highly toxic material as defined in Section 1-1-110 (u) .
- (c) Any amount of a commercial grade pesticide or fertilizer.
- (d) Any amount of an unsealed radioactive material.
- (e) Any amount of a legal carcinogen.
- (f) Any EHS in an amount equal to or greater than the TPQ, if the threshold planning quantity is less than the amounts listed in this section.

- (3) Hazardous materials contained solely in consumer products packaged for use by and distributed directly to the general public unless the product is repackaged or altered in any way, as determined by the Fire Authority; provided, however, the manufacture and distribution of

these products are not exempt.

(4) Any person, while engaged in the transportation of hazardous materials, including storage incident thereto, provided that such materials are accompanied by shipping papers prepared in accordance with the provisions of 49 Code of Federal Regulations, Subchapter C, as now in existence or as hereafter amended or changed. Contents of railroad cars are subject to all disclosure provisions as specified in California Health and Safety Code section 25503.7.

(5) Oxygen, nitrous oxide, and nitrogen, ordinarily maintained by a physician, dentist, podiatrist, veterinarian, or pharmacist, at his or her office or place of business, stored at each office or place of business in quantities of not more than 1,000 cubic feet for each material at any one time.

(6) Infectious waste generated by hospitals, medical centers, clinics and other health care facilities that are regulated under Title 22 of the California Code of Regulations.

(b) The exemptions contained in this section shall not apply to the using or handling of carcinogens, except to the extent that such carcinogens are handled or used solely for personal purposes.

**Sec. 1-1-170. Identification of areas.**

(a) When required by the Director of Fire Services, work areas in which any person uses or handles hazardous material shall be identified as such by measures as the Director of Fire Services may specify including, but not limited to, signs, color coding, posting lists of material and MSDS or other notices.

(b) When required by the Director of Fire Services, any person submitting a disclosure form may be required to install an approved key box for emergency utilization of MSDS, floor plans, site plans and access keys. The location of the required key box shall be as designated by the Director of Fire Services.

**Sec. 1-1-180. Fees.**

The Orange County Fire Authority Board of Directors may establish by resolution a schedule of fees to be paid by persons subject to this article which is sufficient to cover the costs of administration resulting from this article.

**Sec. 1-1-190. Trade secrets.**

(a) A user may designate some, or all, of the information on the disclosure form as a trade secret. Any information designated as a trade secret contained on the disclosure form shall not be disclosed to anyone except:

(1) An officer or employee of a governmental entity in connection with the official duties of such officer or employee under any law for the protection of health.

(2) Contractors or governmental entities when, in the opinion of the Director of Fire Services, disclosure is necessary and required for the protection of health and the performance of a contract.

(3) Any physician where the physician determines that such information is necessary for the medical treatment of his or her patient.

(b) Any officer or employee of the County, or former officer or employee, who by virtue of such employment or official position has obtained possession of or has access to information, the disclosure of which is prohibited by this section by this section, and who, knowing that disclosure of the information is prohibited, knowingly and willfully discloses the information in any manner to any person not entitled to receive

it, shall be in violation of this section. For purposes of determining a violation of this section, a contractor who has been furnished information pursuant to this section shall be deemed an employee of the County. Any physician who has been furnished information or who has obtained information pursuant to this section and who, knowing that disclosure of the information is prohibited, knowingly and wilfully discloses this information, shall be in violation of this section.

liability shall be enforced as per sections 25514 - 25516.2 and 25540 - 25541 of the California Health and Safety Code.

- (c) Upon receipt of a request for the release of information to the public which includes information which the user has notified the Fire Authority is a trade secret pursuant to subsection (a) of this section, the Fire Authority shall notify the user in writing of said request by certified mail. The Fire Authority shall release the information thirty (30) days after the day of mailing said notice, unless, prior to the expiration of said thirty (30) days, the user institutes an action in an appropriate court for a declaratory judgement that said information is subject to protection under subsection (a) of this section and/or an injunction prohibiting disclosure of said information to the general public.
- (d) The provisions of this section shall not permit a user to refuse to disclose information required to be disclosed pursuant to this article.

**Sec. 1-1-195. Rules and regulations.**

The Director of Fire Services shall make such rules and regulations as may be necessary to implement this article, including, but not limited to, the maintenance of a comprehensive list of substances which would be classified as hazardous materials under this article.

**Sec. 1-1-200. Violations.**

Any violation of the provisions of this article shall be an infraction or misdemeanor. Criminal and civil

March 1, 1996