DATE: 8/19/2011

TO: Division Vice Presidents, College Deans, Department Chairs and Department Directors

FROM: Tom Manoli, Coordinator
Environmental Health & Safety (EH&S)

SUBJECT: Hazardous Materials Regulatory Compliance

BACKGROUND

Recent legislation in California, AB-2774, has significantly changed the way CalOSHA will be enforcing its regulations and assessing penalties for Hazardous Materials compliance violations. The bill substantially increases CalOSHA’s authority to designate violations as “serious”, by allowing the use of inspections from other enforcement agencies as evidence of repeat, willful violations, therefore, increasing the likelihood of repeat findings. Penalties can include $25,000 per serious violation and $2,500 per day per waste container identified with a non-compliant label.

CSU Chancellor’s executive order 1039 directs all CSU campuses to comply with CalOSHA’s Injury and Illness Prevention (IIP) standard, which includes communication of hazards to employees. In support of this order, HSU President’s Executive Order P04-01 states in part: It is the responsibility of all deans and department chairpersons and managers to ensure that their respective IIP Plans are implemented in a timely manner following the initial orientation by EH&S.

CAMPUS PROCEDURES

Requirements:
In order to comply with all Federal, State and Local regulations regarding the labeling of hazardous materials, all faculty, staff and students who acquire, use, store and dispose of hazardous materials must follow the procedures outlined in the California Code of Regulations. Hazardous substances are those materials that will be, or are being used and are regulated under CCR Title 8 (CalOSHA). Materials that are no longer needed are considered to be hazardous wastes and come under CCR Title 22 (CalEPA).

Hazardous Substances:
All containers of hazardous substances must be labeled, tagged, or marked with the following information:

(1) Identity of the hazardous substance(s) contained therein
   (The term “Identity” means the name of the substance spelled out completely and not the use of symbols and/or formulae)
(2) Appropriate hazard warnings
   (Hazard warnings may take the form of words, symbols, pictograms or other graphics that convey the hazards associated with the substance.)

Hazardous Waste:
All containers of hazardous waste must be labeled, tagged, or marked with the following information:
   (1) The words: “HAZARDOUS WASTE”
   (2) ACCUMULATION START DATE
   (3) Identification of the contents of the waste
   (4) Physical state of the waste. i.e., gas, liquid or solid
   (5) Statements that draw attention to the hazardous characteristics of the waste
   (6) Identification of the waste generator
In addition, Title 22 requires that all hazardous waste containers must remain closed with sealing lids at all times except to add waste or remove waste materials.

COMPLIANCE

As stated in Executive order P04-01 above, it is the responsibility of each department to comply with the requirements for hazardous materials management. EH&S will facilitate departmental compliance by providing labeling materials as needed. EH&S will also provide consultation services to assist hazmat users with the labeling process, and will conduct at least quarterly inspections of laboratories and other campus areas where hazardous materials are received, stored, used, and/or disposed of.

Any hazardous substance will be considered waste if it meets either, or both, of the following:
   (A) It is mislabeled or not adequately labeled
   (B) It is packaged in deteriorated or damaged containers

If a hazardous substance is identified by EH&S to meet either (A) or (B) above, a photo of the substance will be taken and a notice of correction will be issued to the responsible entity. The responsible entity will then have two working days to correctly/adequately label or containerize the substance.

Follow up inspections will be done based on the timeframe allowed to correct noncompliance issues. Containers that remain out of compliance will be tagged as hazardous waste and collected by EH&S for final disposal. Interested parties wishing to retrieve their materials will need to contact EH&S.

Please note: Fines and administrative fees assessed by enforcement agencies for violations of any regulations cited in this memorandum will be charged to the department in which the violation occurs. If a department wishes to contest a citation, EH&S will attend any administrative hearing to provide guidance and counseling.
TRAINING

In order to facilitate compliance at the department level, EH&S will provide hazardous materials management training to any department upon request. Training will cover all pertinent aspects of onsite management of hazardous materials and emergency response procedures.

Questions or comments regarding procedures should be directed to Tom Manoli, Coordinator - EH&S, at tfm7001@humboldt.edu.

APPLICABLE AUTHORITATIVE PRONOUNCEMENTS

The CCR Title 8 section cited above states, in part: the employer shall ensure that each container of hazardous substances in the workplace is labeled, tagged, or marked with the following information: (A) Identity of the hazardous substance(s) [symbols, abbreviations and chemical formulae are not acceptable] contained therein; and (B) Appropriate hazard warnings. Hazard warnings are defined in this regulation as: Any words, pictures, symbols, or combination thereof appearing on a label or other appropriate form of warning which convey the health hazards and physical hazards of the substance(s) in the container(s).

CCR Title 8, §336 states in part: Any employer who violates any occupational safety and health standard, order, or special order, and such violation is determined to be a Serious violation (as provided in section 334(c)(1) of this article) shall be assessed a civil penalty of up to $25,000 for each such violation. Because of the extreme gravity of a Serious violation an initial base penalty of $18,000 shall be assessed. If a Regulatory, General, or Serious violation is determined to be willful (as provided under section 334(e) of this article) the Proposed Penalty is adjusted upward as follows: ...the Proposed Penalty is multiplied by five. However, the penalty for any willful violation shall not be less than $5,000 and shall not exceed $70,000.

CCR Title 22 citation reads, in part, (f) Generators who accumulate hazardous waste on site... shall comply with the following requirements: (1) the date upon which each period of accumulation begins shall be clearly marked and visible for inspection on each container...; and (3) each container ... used for onsite accumulation of hazardous waste shall be labeled or marked clearly with the words, "Hazardous Waste." Additionally, all containers...shall be labeled with the following information: (A) composition and physical state of the wastes; (B) statement or statements which call attention to the particular hazardous properties of the waste (e.g., flammable, reactive, etc.); (C) name and address of the person producing the waste.

CCR Title 22 Citation reads, in part: (a) A container holding hazardous waste shall always be closed during transfer and storage, except when it is necessary to add or remove waste.

The Title 22 regulations allow for a penalty of $2,500.00 per day per container that a waste container’s label is out of compliance. Penalties for Title 22 violations are assessed by both the California Environmental Protection Agency (CalEPA) and the Federal EPA separately.