

Town of Concord

APP #40
Implementation of "Right-to-Know" Law
(M.G.L. Ch. 111F)

Purpose

The purpose of this Administrative Policy/Procedure is to define responsibility for implementing Massachusetts General Law Ch. 111F, known as the "Right-to-Know" Law, clarify the process to set the regulations in place for continued compliance, and assure that these procedures are documented.

Scope

The Right-to-Know Law applies to the Town of Concord as an employer and an agent of the Commonwealth of Massachusetts. As an employer, it is the responsibility of the Town to inform and train each employee concerning toxic substances present in the workplace or handled by the employee in the normal course of duties.

As it is the right for each employee of the Town to be educated about toxic substances in the workplace, citizens of the community also have access to information concerning toxic substances stored or used where they work or live. Each business or organization is required to document the toxic substances used or stored for disclosure to employees or concerned citizens.

General Implementation Procedures

As an employer, the Town acts as an information center on toxic substances and is responsible for training employees to protect their health and safety. More specifically,

1. The Town must conduct a complete inventory of worksites and identify all toxic chemicals stored or used which appear on the Massachusetts Substance List. There are some substances which are exempt from the inventory.
2. Request in writing from the manufacturer or supplier a copy of the Material Safety Data Sheet (MSDS) for each identified substance. Keep a copy of the request letter.
3. Centralize all the MSDS's as a permanent record to be kept for 30 years.

4. Label all containers of toxic material greater than 5 lbs or 1 gallon (if not lawfully labeled).
5. Post in a central location at each worksite information on employee rights under the "Right-to-Know" Law. Respond to employee requests for information.
6. Train employees who work with toxic substances annually and train new employees within 30 days of hire.

As a municipality, the Town is the initial contact for community residents seeking information about toxic substances present in Concord. More specifically,

1. The Town Manager appoints a Municipal Coordinator (Fire Chief).
2. Residents file petitions with Municipal Coordinator identifying the employers suspected of using/storing potentially harmful toxic substances.
3. The Municipal Coordinator contacts the employer and conducts an investigation as appropriate.
4. The Municipal Coordinator reports results and recommendations to the MEMA (Massachusetts Emergency Management Agency) concerning release of information to the citizen.

Reimbursement for Right-to-Know Expenditures

Under the terms of Proposition 2 1/2 MGL Chapter 29, Section 27C, the Commonwealth must reimburse cities and towns for all additional direct costs they incur implementing new mandates imposed after December 31, 1981. The new Right-to-Know Law, MGL Chapter 111F, is the first major mandate.

The Town of Concord will apply for reimbursement of eligible costs incurred to implement Chapter 111F. As of January 1, 1985, requests for reimbursement will be made to the Commonwealth on a quarterly basis.

Action Steps

| <u>Step</u> | <u>Due Date</u> | <u>Responsibility</u> |
|--------------------|------------------------|------------------------------|
|--------------------|------------------------|------------------------------|

| <u>Town as Employer:</u> | | | |
|--|---|---------------------------|---|
| 1. | Designate individual responsibility for overall implementation | 12/31/84 | Town Manager |
| 2. | Conduct Inventory | 12/31/84 | Department Heads |
| 3. | Identify Materials on Mass. Substance List and designate exempt chemicals | 12/31/84 | Fire Department |
| 4. | Post Notice in Central worksite location | 12/31/84 | Department Heads |
| 5. | Request and Collect MSDS's on each identified substance | 4/30/85 | Department Heads |
| 6. | Centralize all MSDS | 4/30/85 | Municipal Coordinator |
| 7. | Label Containers | 4/30/85 | Department Heads/ Municipal Coordinator |
| 8. | General training for employees | 5/31/85 | Personnel Administrator/ Municipal Coordinator |
| 9. | Specific training for employees working with identified toxic substances | 8/30/85 | Department Heads |
| 10. | Follow-up training for new employees (each month) | last working day of month | Personnel Administrator |
| <u>Town as Initial Citizen Contact:</u> | | | |
| 11. | Identify Municipal Coordinator | 3/30/85 | Town Manager |
| 12. | Municipal Coordinator responds to citizen inquiries | (as required) | Municipal Coordinator |
| <u>Reimbursement for Right-to-Know Expenditures</u> | | | |

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|-----|---|-----------|--|
| 13. | Complete and tabulate reimbursement forms | quarterly | Department Heads |
| 14. | Consolidate department information | quarterly | Personnel Administrator/ Finance Director |
| 15. | Submit requests to Commonwealth | quarterly | Asst. Town Manager |

Discussion of Action Steps - Town as an Employer

1. **Overall Responsibilities**

The Personnel Administrator is responsible for the implementation and continuation of the Right-to-Know law for Town employees. The Fire Chief is designated as Municipal Coordinator and will bear the overall responsibility of responding to inquiries from the public about the contents of this law and for keeping the centralized materials inventory.

Step 2 Conduct Inventory

The purpose of this inventory is to identify chemicals present in the workplace and document them. The attached Chemical Inventory Form (Attachment A) was developed to organize the information and group chemicals in a consistent manner.

The task can be accomplished by reviewing purchase orders for the past several years and conducting a walk-through of the plant. Record the product name, ingredients, application, manufacturer, size, amount and location.

Step 3 Identify Materials on Mass. Substance List

The Town is required to collect MSDS's only on substances listed in the Mass Substance List. Cross-match the inventory with the Mass Substance List (see Appendix I) and identify specified chemicals. The following items are exempt from Right-to-Know requirements, as long as employee exposure is similar to consumer exposure:

1. Alcoholic beverages,
2. Food stuffs
3. Items sold or used in retail trade establishments transported in interstate commerce (unless used in processing and repair areas),
4. Items transported in interstate commerce,
5. Consumer goods -- goods packaged and sold to the general public in the same way they are packaged for you. (Note: if the substance is chemically reactive and carcinogenic, it is not exempt.)
6. Office Supplies -- goods found in an office environment, including toner for copying machines.
7. Gasoline, oils, and other additives used in passenger vehicles or light-duty trucks.
8. Fuel oils numbers 1, 2, 3, 4, 5, and 6, natural gas, kerosene, petroleum, and propane, when used for space heating or power generation.

Note the exempt chemicals on the inventory record. For items 5, 6, 7, and 8, if employee exposure exceeds consumer exposure, then the items are subject to Right-to-Know requirements.

For the purposes of documenting the location of each substance, note that a work area is considered to be a room or defined space where hazardous substances are produced or used and where employees are present in the normal course of their employment.

Steps 2 and 3 produce an inventory of all chemicals in the workplace, noting the manufacturer/supplier, whether they are exempt from Right-to-Know, the volume and location. To ensure future compliance, update the Right-to-Know inventory when/if substances enter the workplace.

Step 4 Post Notice

Attachment B is the Right-to-Know Workplace Notice. It should be posted in a central, visible location at each workplace. This notice informs employees of their rights under Chapter 111F.

Step 5 Collect Material Safety Date Sheets (MSDS)

The MSDS is the key repository of Right-to-Know information. The manufacturer prepares MSDS. The Town obtains and files required MSDS's for workplace substances. Attachment C is a blank MSDS.

To obtain MSDS's write to sellers of all nonexempt substances found in the workplace to request copies of the applicable MSDS. (see attachment D for sample letter). Insert a requirement that an MSDS be supplied by the seller on future purchases and check that a completed MSDS arrives with incoming shipments of substances.

To follow-up after MSDS are requested,

1. check responses to MSDS request letters sent to sellers to see that current, complete MSDS's are supplied;
2. check incoming shipments of supplies to see that any required MSDS's are provided; and
3. promptly mail a form inquiry to the seller (attachment E) as to any required MSDS's not provided.

If the seller fails to provide MSDS after written inquiries described above, the Town may request assistance from the Department of Public Health and the Department of Labor and Industries. Any request of this nature will be made through the Municipal Coordinator. All requests, follow-up and other related correspondence should be documented and kept on file for proof of diligent effort.

Step 6 Centralize All MSDS

Upon receipt of the MSDS's one copy should be retained and a copy sent to the Municipal Coordinator (MC). The MC will keep all MSDS in a single location and will be responsible for organizing the information by workplace location in an easily accessible format. The MSDS should be updated by Departments as necessary and revised copies of MSDS should be sent to the MC for updating of central records. The MSDS central record must be kept for 30 years.

Step 7 Labeling Containers

The labeling requirements are intended to make sure workers understand the health and safety risks, proper safety precautions and proper emergency responses for the chemicals they handle.

Attachment F provides a quick checklist for determining labeling requirements for chemicals on your employer's right-to-know list.

Containers are broadly defined. Both pipes and stationary vessels are considered containers as are bags, boxes, bottles, and every other type of portable container. Labels are to be prominent and legible when the container is in its usual position for use.

There are four exceptions to labeling requirements. A container is exempt from labeling requirements if it:

- Is very small: less than or equal to 5 lbs (when full) or 1 gallon.
- Is already labeled according to the federal labeling requirements of
 - US Department of Transportation (DOT)
 - Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (61 Stat. 163, 7 U.S.C. Sec. 121 et seq.)
 - Atomic Energy Act (AEA)
 - Food, Drug and Cosmetics Act (FDCA)
- Is a transfer vessel: Holds ten gallons or less and is used only for transferring a substance, under the following conditions:
 - for immediate use within the same work shift
 - by the same employee doing the transferring
 - from a container that is labeled
- Holds different substances on a regular basis (such as pipes, storage tanks, reaction vessels).

For these containers, you may substitute signs, placards, or instruction for the labels. For pipes, make sure this substituted information is located where the workers are likely to be exposed to the substance (such as at the valves or outfalls).

Determine if the National Fire Protection (NFPA) Code 704 applies (see Attachment G). If so, add that code to the label if the container holds more than 5 gallons or more than 30 pounds.

Make sure labels meet the following standards:

- Location: prominent, easily read in its usual position
- Typeface: Bold
- Legibility: In English, on a contrasting background
- Weather Exposure: If labels may be exposed to weather, labels must be able to withstand any adverse weather conditions.
- Type size: See attachment H

Label secondary containers as well. Secondary containers include any covering that remains in place while workers are handling the substance.

There are a variety of options for acquiring labels for your containers:

- Make them yourself -- write on the containers with any substance that cannot be removed with any substance the container might contact.
- Buy from your chemical distributor or producer.
- Buy from label manufacturers.

Step 8 General Training

The Town must provide annual training to all employees as to their rights under Chapter 111F and the general procedures established to make inquiries. New employees must receive training within 30 days of hire. Records are to be kept of all employee training, including a description of the training, the dates of presentation and the names of those receiving or imparting instruction. Employees should sign an acknowledgment that they received and understood the training.

Training will take place on two levels. The first level will be general training for all employees. Actual sessions will be held during normal working hours and may be combined with other types of training. At a minimum it will include.

- A detailed explanation of employee rights including:

- workplace notice
 - container labeling
 - request for an MSDS
 - other rights
- Introduction to sample MSDS:
 - name, address, emergency telephone number
 - preparer's name, address, and date of preparation
 - first aid procedures
 - employee protection
 - other regulatory controls

Step 9 Specific Training (level 2)

The remainder of the training will be conducted on the Department level and will be tailored to the specific MSL substances present in the workplace. The specific training should include

- Explanation of workplace MSDS's with reference to specific substances used, handled or stored.
- Explanation of designated substances and labeling.
- Orientation and explanation of protective clothing and equipment as it relates to the proper handling and use of toxic or hazardous substances in the workplace.

An adequate training program should be designed based on information contained in the MSDS's.

Training can be both written and verbal. If only written material is distributed, employees must be allowed time during working hours to read the materials and a competent individual must be available to answer their questions.

Town as Initial Citizen Contact

Step 11 and 12 Municipal Coordinator

The Municipal Coordinator (MC) is the initial point of contact for community residents seeking information about toxic or hazardous substances used in the community. Residents will file petitions with the MC identifying the relevant employer and the basis for their belief that public health or safety may be endangered by the substances. The MC must: notify the employer by certified mail, return receipt requested; give the employer an opportunity to respond; and prepare a report recommending to MEMA whether or not to release information (MEMA will provide sample forms to simplify these tasks). The MC may investigate the situation, to the extent that other existing statutes, ordinances, or by-laws authorize investigative acts.

In addition, the MC may require employers in the community to file material safety data sheets (MSDS's) for toxic or hazardous substances with the MC. While the MC may not release MSDS's to citizens, they may be provided to certain other municipal officers in emergency situations.

The following is a timetable for action/response by the Municipal Coordinator to citizen requests. The entire response should be complete in 25 working days.

- Petition arrives. Within 5 working days, review it for completeness and either return it to the petitioner if incomplete or notify the employer.
- Within 15 working days, review the petition, the employer's response and, if appropriate, make a preliminary investigation (optional). If further investigation is not necessary, write a report, send it to the petitioner, employer and MEMA.
- If further investigation is necessary, within 10 additional working days, complete the investigation, write a report and send it to the petitioner, employer and MEMA.

Reimbursement for Implementation Costs

Step 13 Complete Reimbursement Form

In order to request reimbursement, forms must be filed with the State each quarter. Requests by Departments for reimbursement must be submitted within 5 days of the end of the quarter for which reimbursement is requested, according to the following chart.

Quarter

Request Deadline

July 1 - September 30

October 15

October 1 - December 31
January 1 - March 31
April 1 - June 30

January 15
April 15
July 15

Departments should assess appropriate costs associated with implementing the Right-to-Know law according to guidelines appearing in Appendix II. Then each Department should complete Forms 1 and 2 (Appendix II) and submit them to the Personnel Administrator.

Steps 14 and 15 Consolidation of Reimbursement Requests

The Personnel Administrator will complete forms 1 through 4 for the Town and review them with the Finance Director. Quarterly requests to the Commonwealth will be submitted within one month of the end of the quarter for which reimbursement is requested. Sample forms and instructions appear in Appendix II.