

HARRIS COUNTY HAZARD COMMUNICATION PROGRAM

INTRODUCTION

On January 1, 1986, the Texas Hazard Communication Act (Texas Civil Statutes, Article 5182b) became law. The Act covers all manufacturing employers plus the State of Texas and its political subdivisions and all volunteer emergency service organizations. The Texas Department of Health governs implementation and enforcement of the Act.

The Law was revised in 1993. The revision separated the worker Right-To-Know requirements from the Community Right-To-Know requirements. The Texas Hazard Communication Act is now found in Chapter 502 of the Health and Safety Code. The Public Employer Community Right-To-Know is in Chapter 506 of the Health and Safety Code.

The Acts are intended to improve the safety and health of persons living and working in the State of Texas by providing easy access to current information regarding hazardous chemicals. Exposure to such chemicals may result from normal employment activities, emergencies, or because of being in proximity to manufacture's use or storage of chemicals. The Acts require that information regarding hazardous chemicals under the County's control be provided to employees, emergency situations, and to the Director of Health to make the information available to the general public.

A "Hazardous Chemical" can be a physical hazard or a health hazard. The Federal Occupational Safety and Health Administration Hazard Communication Standard definition is: A chemical is a physical hazard if it is a combustible liquid, a compressed gas, if it is explosive or flammable, is an organic peroxide, oxidizer, pyrophoric, unstable or water reactive. A chemical is a health hazard if it is carcinogenic, toxic, reproductive toxin, an irritant, sensitizer, body organ toxic, caustic or corrosive. Many commonly used chemicals contain the foregoing properties.

Implementation of the Act requires five major tasks each year.

1. Compile and maintain a Workplace Chemical List.
2. Provide education and training for each employee covering the use of hazardous chemicals or any chemicals the employee might encounter during their normal scope of duties.
3. File Texas Tier Two reports for annual hazardous chemical inventories.
4. Maintain current Material Safety Data Sheets (MSDS) for all hazardous chemicals, purchased, used, or stored.
5. Maintain an MSDS notebook at each facility/workplace.

Human Resources & Risk Management will coordinate activities for implementation of the Act for all Harris County.

OVERVIEW
TEXAS HAZARD COMMUNICATION ACT
TITLE TAC 25, Section 295.1-295.12
Chapter 502

The Texas Hazard Communication Act and the Public Employer Community Right-To-Know Act are patterned after the Federal OSHA Hazard Communication Standard and the Emergency Planning and Community Right-To-Know Act. The following is an overview of the provisions that apply to political subdivisions.

NOTICE TO EMPLOYEES- A workplace notice must be posted at locations where notices normally are posted in work centers.

WORKPLACE CHEMICAL LIST- Compile and maintain a chemical list for each facility/workplace. Included in the list shall be each hazardous chemical in excess of 55 gallons or 500 lbs. normally used or stored at the location. The chemical list must be updated at least once a year.

The list must be readily available to employees. New or newly assigned employees must be made aware of the list BEFORE working with or in a work area containing hazardous chemicals. The chemical list must be maintained for thirty (30) years.

TIER TWO FORMS- Information on large quantity items (500 pounds or the Threshold Planning Quantity in pounds for the specific listed chemical, whichever amount is less) of Extremely Hazardous Substances listed and for all other “generally hazardous chemicals”, the threshold for reporting is 10,000 pounds, shall be reported to the Texas Department of Health each year, also to Local Emergency Planning Committees(LEPC).

PLANNING LETTERS- A Planning letter shall be submitted within 60 days of acquiring any of the Extremely Hazardous Substances more than the Threshold Planning Quantity (TPQ), or 500 pound level. The Planning letter is submitted to the Texas Department of Health and to Local Emergency Planning Agencies.

MATERIAL SAFETY DATA SHEETS- Maintain the most current MSDS received from manufactures or distributors for each hazardous chemical used or stored at the facility/workplace. If an MSDS is not provided, a written request to the manufacture or the distributor must be made in a timely manner. MSDS shall be readily available for review by employees and copies must be provided to the Texas Department of Health on request.

LABELS- Existing labels on containers shall not be removed or defaced. Employees are not required to work with a hazardous chemical from an unlabeled container. Labels must include the name of the product and appropriate hazard warning.

EDUCATION AND TRAINING- Employees shall be provided an education and training program to all those employees that handle or work with hazardous chemicals on an as need basis. The program shall cover the use and handling of hazardous chemicals in the work area (including the addition of new chemicals). New or newly assigned employees shall be provided training BEFORE working with or in a work area containing hazardous chemicals.

The Act requires you to keep a record of training. After each training class each employee will sign a form to verify that they attended the training, the written Hazard Communication Program was made available for review, and that the employee understands the program. Training logs for the training must be maintained by the department and made available to a representative of the Texas Department of Health upon request.

PENALTIES- If the state finds one or more violations of the Act it may assess an **Administrative Penalty** and issue a Notice Of Violation. The NOV will spell out in detail the violation(s), and refer to the applicable section or subsection of the chapter. The employer has 15 days to respond to the notice. The employer may request a hearing or correct the violation(s) and certify the corrections have been made. If the violation(s) are not addressed, a penalty of \$500 for each violation(s) may be levied.

If it appears that an employer has violated, is violating, or is threatening to violate the Act, the attorney general or the district, county, or city attorney may institute a **Civil Penalty**. The penalty may be in an amount not to exceed \$2,000 a day for each violation, with a total not to exceed \$20,000 for that violation. In determining the amount of the penalty, the court shall take into account the employer's history, the seriousness of the violation, any hazard to health and safety of the public.

An employer who is required to disclose hazard information and who proximately causes an occupational disease or injury to an individual by disclosing false information or knowingly fails to inform as provided on an MSDS, commits an offense that may constitute a **Criminal Penalty** with a fine that may not exceed \$100,000 for that violation.

EMPLOYEE RIGHTS- The employer may not discharge, cause to be discharged, or otherwise discipline or discriminate against an employee because the employee has filed a complaint, assisted an inspector, instituted any proceedings related to, testified in a proceeding, or exercised any rights afforded under the Act on behalf of the employee or the behalf of others.

After attending the training class, each employee will sign a form to verify that they attended the training, and that the written Hazard Communication Program was made available for review.

RESPONSIBILITIES OF DEPARTMENT HEADS AND ELECTED OFFICIALS

I. PROGRAM IMPLEMENTATION- By virtue of their position each Department Head and Elected Official is responsible to ensure that the guidelines set forth in this Hazard Communication Program are followed. A representative(s), such as a Facility Administrator, Safety Coordinator, or Supervisor, may be delegated the authority to carry out this program for the Department. Notification of the name(s) of representative(s) must be provided to Human Resources & Risk Management.

II. WORKPLACE NOTICE- The Department shall post the "Notice to Employees" informing employees regarding their rights under the Texas Hazard Communication Act. The notice must be placed at locations where notices normally are posted.

III. MSDS NOTEBOOK- An MSDS Notebook shall be maintained for each facility/workplace. The MSDS notebook must contain an MSDS for each hazardous chemical used/stored at the facility/workplace. The notebook shall be organized with a chemical list at the beginning of book as a table of contents. MSDS shall be organized first by location then alphabetically.

Each MSDS shall be labeled with a Hazardous Materials Identification System (HMIS) label. The color and number codes label systems have been developed by the National Fire Protection Association and other organizations. These systems use colors to represent the kind of hazard and numbers to show the degree of hazard.

The MSDS Notebook for a facility/workplace must be kept in a place readily available to all employees working in that area. Employees must be made aware of the location of the Notebook. New inventory or information that should arrive, the new MSDS will be added to the appropriate MSDS notebook immediately.

Once a year (during preparation of the workplace chemical list) MSDS's for substances no longer stored or used will be removed from the notebook.

IV. WORKPLACE CHEMICAL LIST- Beginning July 1 of each year the Department shall inventory the hazardous chemicals in excess of 55 gallons or 500 lbs. stored at each facility/workplace and compare the list with the MSDS Notebook. For each chemical found not to have an MSDS on file, the appropriate manufacturer or distributor shall be contacted immediately. By January 1 each year, each facility/workplace must have completed their Workplace Chemical List. The list shall contain the chemical name and common name of each chemical used or stored, the work areas involved, and the average amount stored during the year. An employer must maintain a chemical list for at least thirty (30) years.

V. TIER TWO FORMS- Tier Two Forms shall be submitted for two types of thresholds (the list of Extremely Hazardous Substances- 500 lbs. or the TPQ in lbs., which ever is less). For all other “general hazardous chemicals”, products requiring an MSDS, the threshold is 10,000 lbs. The Tier Two Forms shall be completed for each physical location that meets the listed criteria. Chemical description sheets shall be submitted for each physical location that Tier Two Forms are submitted. Both forms shall be submitted to Human Resources & Risk Management by January 1 of each year.

VI. PLANNING LETTERS- Each facility/workplace shall submit a Planning Letter within 60 days to the Texas Department of Health and the Local Emergency Planning Agency when acquiring a TPQ in Extremely Hazardous Substance. Planning Letters need only be completed once.

VII. LABELS- It is the responsibility of the Department to ensure that existing labels on containers are not removed. All containers of hazardous chemicals entering the facility/workplace shall be properly labeled with; chemical name, hazard warning, and the name and address of the manufacturer. If a container is unlabeled, employees are not required to work with the chemical. A poster of appropriate size explaining the HMIS must be posted throughout the workplace to provide ready reference for employees.

VIII. TRAINING- Each facility/workplace is responsible for providing each employee instruction on handling chemicals. At the time of the instruction, each employee attending shall sign their name to a list indicating they participated in the Hazard Communication Instruction. Each Department is responsible for training new or newly assigned employees before working with or in an area containing hazardous chemicals container of the material stored or used in the facility/workplace.

- Purpose and applicability of the Texas Hazard Communication Act.
- Use and interpretation of Material Safety Data Sheets (MSDS).
- Use and interpretation of chemical container labels.
- Employee rights under the Texas Hazard Communication Act.
- Location of the MSDS notebook.

IX. PERSONAL PROTECTION- It is the responsibility of the Department to provide and properly maintain the personal protective equipment/clothing needed to work safely with hazardous chemicals in the workplace. The Department shall assure that all employees expected to wear personal protective equipment/clothing know how to use and have available for use. The employee shall use personal protective equipment/clothing when required.

X. RESPONSIBILITIES AND RIGHTS OF THE EMPLOYEE- The Texas Hazard Communication Act requires that access to information regarding hazardous chemicals must be provided to those employees who may be exposed to those chemicals. “Expose” or “Exposure” means that an employee may be subjected to a hazardous chemical in the course of employment through any route of entry; including inhalation, ingestion, skin contact, or absorption; and includes **potential, possible, or accidental.**

Your facility/workplace has compiled a chemical list that includes all hazardous substances that are stored or used in your work area. This list must be readily available to you and it is the **employee's responsibility** to be familiar with its contents.

Your facility/workplace has prepared an MSDS notebook that contains an MSDS for each hazardous chemical stored or used in your work area.

It is the **employee's responsibility** to listen and ask questions during your hazard communication training session. You must be sure that you fully understand the hazards and how to avoid the hazards of the substances you work with.

It is the **employee's responsibility** to check container labels and to check the MSDS of all hazardous substances that you work with during your workday. It is also the **employee's responsibility** to follow the instructions given, including wearing proper personal protection. If the proper personal protection is not immediately available, you must inform your supervisor and receive the equipment before you begin work.

It is the **employee's responsibility** to make every effort to work in a safe and responsible manner with hazardous substances.

XI. REPORTING FATALITIES AND INJURIES- Within 48 hours after the occurrence of an employee accident that directly or indirectly involves chemical exposure, or that involves asphyxiation, and that is fatal to one or more employees, or resulting in the hospitalization of five or more employees, the public employer of any of the employees so injured or killed shall report the accident either orally or in writing to the Texas Department of Health.

The report to the department shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. If it is necessary to complete the investigation of an incident, the department may require additional reports in writing as necessary.

RESPONSIBILITIES OF THE OFFICE OF HUMAN RESOURCES & RISK MANAGEMENT

I. GENERAL- The Office of Human Resources & Risk Management shall coordinate administering the program and shall provide guidance to departments as needed. The Office of Human Resources & Risk Management shall act as the single point of contact between the Texas Department of Health for all matters concerning compliance with the Hazard Communication Act.

II. WORKPLACE NOTICE- The Office of Human Resources & Risk Management shall maintain copies of the "Notice to Employees" for distribution to any facility/workplace that may need a copy.

III. MSDS NOTEBOOK- The Office of Human Resources & Risk Management shall provide instruction to departmental representative regarding preparation of MSDS Notebooks, Tier Two Forms, and Planning Letters.

IV. WORKPLACE CHEMICAL LIST- The Office of Human Resources & Risk Management shall if requested review all facility/workplace chemical lists.

V. TIER TWO FORMS- The Office of Human Resources & Risk Management shall receive Tier Two Forms and file these forms with the Texas Department of Health and the Local Emergency Planning Committee.

VI. PLANNING LETTERS- The Office of Human Resources & Risk Management shall review the Planning Letters of a facility/workplace acquiring a TPQ of Extremely Hazardous Chemicals. These letters shall be forwarded to the Texas Department of Health, and the Local Emergency Planning Committee.

VII. HMIS LABELING- The Office of Human Resources & Risk Management shall assist facilities/workplaces in assigning hazard rating for hazardous chemicals.

VIII. RECORDS- The Office of Human Resources & Risk Management shall assist Departments in maintaining records as required by the Act.

HAZARDOUS MATERIALS IDENTIFICATION SYSTEM

The system that will be used to identify and label containers of hazardous chemicals is the HAZARDOUS MATERIALS IDENTIFICATION SYSTEM or HMIS.

There are two (2) different label systems: NFPA and HMIS.

The **NFPA** system is arranged in a diamond shape, separated into four (4) color coded diamond shape categories. The NFPA system is meant primarily for fire fighters and other emergency responders. The **HMIS** system is arranged with four (4) horizontal bars that are color coded. This is the labeling system that will be used.

In the past, both label systems used the same color code to identify each category: **BLUE**- Health

RED- Flammability **YELLOW**- Reactivity **WHITE**- Special

The **HMIS** label was changed in 2002 that incorporated an addition block in the **BLUE**- Health bar for an Asterisk (*) that will signify a Chronic Health Hazard.

The **YELLOW**- Reactivity bar has been changed to **ORANGE** and the term is now **Physical Hazard**.

The **WHITE** section on the **HMIS** label uses a Letter (A-K, L-Z) in this section that corresponds to a type of PPE that will be required to be worn while using this chemical.

The numbering scale remains the same, 0-4 with 0 indicating minimal hazard and 4 indicating an extreme hazard.

The new **HMIS** label also has a border around the label for easier recognition.

The new system has posters, cards, wallet size ID cards, and an assortment of labels that make up the complete **HMIS** identification system.

APPENDIX

- I. TEXAS HAZARD COMMUNICATION ACT**
- II. PUBLIC EMPLOYER COMMUNITY RIGHT-TO-KNOW ACT**
- III. MODEL WRITTEN HAZARD COMMUNICATION PROGRAM**
- IV. HAZARD CHEMICAL LIST**
- V. MATERIAL SAFETY DATA SHEETS (MSDS)**
- VI. NOTICE TO EMPLOYEES SIGNS (ENGLISH & SPANISH)**
- VII. HAZARDOUS MATERIALS IDENTIFICATION SYSTEM (HMIS)**
- VIII. TEXAS TIER TWO**
- IX. EMERGENCY PLANNING LETTER**