

MANAGEMENT DIRECTIVE

Commonwealth of Pennsylvania
Governor's Office

Subject:

Worker and Community Right-to-Know Act

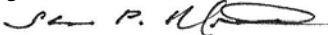
Number:

505.27 Amended

Date:

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By Direction of:


Sharon P. Minnich, Secretary of
Administration

Contact Agency:

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This directive establishes policy, responsibilities, and procedures pursuant to the *Worker and Community Right-to-Know Act*, Act of October 5, 1984, P.L. 734, No. 159, 35 P.S. §§ 7301-7320, and 34 Pa. Code § 301.1 *et seq.* which require that information about hazardous substances and environmental hazards in the workplace be posted and made available to all employees and the general public. The revision includes a change to the definition of work area. Changes are indicated by marginal dots.

- 1. PURPOSE.** To establish policy, responsibilities, and procedures for compliance with the *Worker and Community Right-to-Know Act*.
- 2. SCOPE.** This directive applies to all departments, boards, commissions, and councils (hereinafter referred to as "agencies") under the Governor's jurisdiction and to all employees of those agencies.
- 3. OBJECTIVE.** To ensure that information about hazardous substances in the workplace are made available to employees, contractors and all persons residing in the commonwealth in accordance with the *Worker and Community Right-to-Know Act*.
- 4. DEFINITIONS.** The following definitions pertain to this directive. For purposes other than this directive, these words and terms may have different meanings.

- a. **Environmental Hazard.** Any substance, emission or discharge determined by the Department of Labor and Industry to be a hazardous substance and which, because of its particular or extreme properties, poses a danger if released into the environment. The list of substances considered Environmental Hazards is published by the Department of Labor and Industry.
 - b. **Environmental Hazard Survey Form.** A form supplied by the Department of Labor and Industry which encompasses a particular workplace, which must be completed upon the written request of an emergency response organization or the Department of Labor and Industry.
 - c. **Exposure.** A situation arising from a workplace operation where an employee may ingest, inhale, absorb through the skin or eyes, or otherwise come into contact with a hazardous substance.
 - d. **Hazardous Substance.** Any chemical or mixture defined as a hazardous substance pursuant to Section 3 of the Worker and Community Right-to-Know Act, 35 P.S. § 7303 and [34 PA Code § 323.1 et seq.](#) The term does not include substances naturally existing and not created as a result of, or in connection with, a manufacturing process, such as animal manures and coal.
 - e. **Hazardous Substance Survey Form (HSSF).** A form containing specific information on the hazardous substances stored or used in the workplace.
 - f. **Label.** A sign, emblem, sticker or marker affixed to or stenciled onto a container.
 - g. **Material Safety Data Sheet (MSDS).** A written document prepared by a manufacturer, supplier or importer of chemicals which provides information concerning the properties and hazards associated with the chemical or product mixture and must be made available in the workplace. This may also be referred to as a Safety Data Sheet (SDS).
 - h. **Work Area.** Any room, section of a room or defined space within a workplace where one or more workers are based for the regular performance of their duties. The agency Worker and Community Right-to-Know Coordinator designates the boundaries of the area.
 - i. **Work Area List.** A list of hazardous substances used or stored in a specific work area in the workplace. This list shall contain the current hazardous substances and can be used to generate the HSSF.
 - j. **Workplace.** Any building or work area or contiguous group of buildings or work areas at one geographical location composing a plant site in the commonwealth used by the employer on a permanent or temporary basis to conduct business.
5. **POLICY.** The provisions of this directive shall be consistent with the *Worker and Community Right-to-Know Act*.
- a. The Worker and Community Right to Know Posting (Employee Workplace Notice) supplied by the Department of Labor and Industry must be posted prominently at a location where other employee notices are normally posted. All new employees must be offered a copy of this posting.

- b. All new or newly assigned employees shall be offered a list of hazardous substances when assigned to a new work area. This list can be the work area list or HSSF. Employees who request a list of hazardous substances should be provided with the work area list or HSSF.
- c. All new or newly assigned employees who work in areas where hazardous substances are stored or used must receive training on the provisions of the *Worker and Community Right-to-Know Act* within 120 days of employment, or prior to use (whichever comes first). In addition, annual training must be provided to employees who work in areas where hazardous substances are stored or used.
- d. Contractors who supply hazardous substances and contractors who are hired and use hazardous substances within the workplace must be required to provide MSDS/SDS. All contractors must comply with the provisions of the *Worker and Community Right-to-Know Act*.
- e. The MSDS/SDS must be obtained for all hazardous substances stored or used in the workplace and stored centrally in a binder and be readily available to employees without intervention or permission of management or supervisors in the work area where the hazardous substance and/or product is stored or used. In the event a MSDS/SDS is not readily available to employees, one must be provided within five workdays upon request.
- f. A work area list must be completed and updated as needed to include all hazardous substances stored or used in the work area. Information from this list can be used to generate the HSSF.
- g. A HSSF shall be completed by April 1 each year and posted prominently within the work area at a location where employees will see it; and must include hazardous substances which were present in the workplace at any point during the prior calendar year.
- h. Through the manager in charge at each workplace, the agency Worker and Community Right-to-Know Coordinator shall obtain all work area HSSF's and/or work area lists and compile a workplace HSSF by April 1 and maintain this within a central location. If the workplace and work area are identical, two separate HSSF's are not needed.
- i. All containers and ports of pipelines of hazardous substances are to be properly labeled.
 - (1) The content of a pipeline system shall be identified by labels applied at or near all ports.
 - (2) Effluents, water discharges or emissions through stacks, discharge conduits and fire sprinkler systems containing only water do not need to be labeled.

- (3) In cases where a pipeline is used to convey different chemicals at different times, and in cases of an environmental health and pest control system or other system designed to automatically discharge a chemical from spray-type ports, alternative methods to adequately apprise anyone who may be potentially exposed at any port of the contents of the pipeline may be developed.
- j. Environmental hazard survey forms are required to be completed and provided to the Department of Labor and Industry or an emergency response organization within 30 days upon request.
- k. Records created pursuant to this directive shall be maintained in accordance with Section 7.d. of this directive.
- l. No employee is to be disciplined or discriminated against for exercising his or her rights under the *Worker and Community Right-to-Know Act*, applicable regulations or the provisions of this directive.

6. RESPONSIBILITIES.

a. Agency Heads shall:

- (1) Designate an agency Worker and Community Right-to-Know Coordinator.
 - (a) Provide the name, address, and phone number to the Office of Administration (OA), Bureau of Employee Absences and Safety and notify OA if this person changes.
 - (b) Include duties and responsibilities of the coordinator in the position description.
- (2) Provide support to the Worker and Community Right-to-Know Coordinator to ensure compliance.
- (3) Ensure, as appropriate, that an agency Worker and Community Right-to-Know Coordinator is assigned for each of the agency's field sites as appropriate.

b. Department of General Services (DGS), Bureau of Procurement shall:

- (1) Develop standard contract language for use in all contracts to ensure that all manufacturers and suppliers doing business with the commonwealth properly label and provide MSDS/SDS for hazardous substances purchased.
- (2) Develop standard contract language for the use in all contracts to ensure that all contractors performing work in commonwealth workplaces or work areas comply with the requirements of the *Worker and Community Right-to-Know Act* and 34 Pa. Code § 301.1 *et seq.*

c. OA, Bureau of Employee Absences and Safety shall:

- (1) Develop and maintain a communication network among agency Worker and Community Right-to-Know Coordinators.

- (2) Monitor agency conformance and provide technical assistance to ensure compliance.
- (3) Make Worker and Community Right-to-Know awareness training available to agencies.

d. Department of Labor and Industry, Bureau of Workers Compensation shall:

- (1) Provide outreach, educational, technical assistance, and enforcement activities on the content and compliance requirements of the law.
- (2) Inform OA within 24 hours of valid complaints made against agencies.
- (3) Provide legal and policy direction to help ensure full compliance with the *Worker and Community Right-to-Know Act* and applicable regulations.

e. Agency Worker and Community Right-to-Know Coordinators shall:

- (1) Implement agency and/or field site-specific policy and procedures in conjunction with OA and the Department of Labor and Industry.
- (2) Ensure that information is provided to managers, supervisors, and employees regarding responsibilities and rights under the *Worker and Community Right-to-Know Act* and applicable regulations.
- (3) Ensure that vendors hired to do work in commonwealth workplaces comply with the *Worker and Community Right-to-Know Act* and applicable regulations before any work is started.
- (4) Ensure that the Employee Workplace Notice is posted in all locations where notices to employees are normally posted.
- (5) Ensure that an annual inventory is conducted for all hazardous substances stored or used in the agency/field site.
- (6) Ensure the completion and posting of the HSSF in each workplace and work area.
- (7) Develop relationships with staff who procure hazardous substances to ensure that prompt notification of the receipt of new hazardous substances are provided so that the work area list is updated and re-posted as soon as a new hazardous substance or product is stored or used in the workplace and/or work area.
- (8) Ensure that all MSDS/SDS are stored centrally in a binder for hazardous substances/products stored or used at the workplace. Ensure that the MSDS/SDS are accessible to employees without permission or intervention of management or supervision.
- (9) Ensure all containers and ports of pipelines of hazardous substances are properly labeled as described in Section 5.i. of this directive.

- (10) Ensure that assistance is provided to resolve issues regarding the *Worker and Community Right-to-Know Act*.
- (11) Provide a copy of the HSSF and MSDS/SDS to the building manager for the work area(s) the agency occupies. Once the MSDS/SDS are provided, only revised or new MSDS/SDS should be provided when received.
- (12) Ensure that, upon request, local police, fire, or emergency response agencies or the Department of Labor and Industry are supplied with a copy(s) of the latest MSDS/SDS, work area list, Hazardous Substance Survey Form or Environmental Hazard Survey Form.
- (13) Ensure implementation of provisions of the *Worker and Community Right-to-Know Act* at all field sites.

f. Agency Human Resource Officers, in collaboration with Agency Worker and Community Right-to-Know Coordinators, shall:

- (1) Ensure the Employee Workplace Notice is offered to new employees.
- (2) Provide initial and annual training to all employees who work in areas where hazardous substances are stored or used.
- (3) Ensure the *Worker and Community Right-to-Know Act* training records are maintained and contain date, material covered, and names of employees trained.
- (4) Ensure the *Worker and Community Right-to-Know Act* health and exposure records are maintained in separate folders from the Official Personnel Folder and that confidentiality is maintained at all times.

g. Procurement Services Directors, in collaboration with Agency Worker and Community Right-to-Know Coordinators, shall:

- (1) Implement the required contract language to ensure that hazardous substances covered by the *Worker and Community Right-to-Know Act* and applicable regulations are properly labeled when purchased.
- (2) Ensure that the required MSDS/SDS is supplied with the initial product shipment.
- (3) Ensure that any covered hazardous substance not properly labeled or for which an MSDS/SDS was not supplied is not purchased.
- (4) Obtain MSDS/SDS for DGS-supplied hazardous substances from the manufacturer or if it cannot be obtained from the manufacturer, from: Chief, Commodity Division, Room G46, P.O. Box 3361, 2221 Forster St., Harrisburg, PA 17105, Telephone: 717.783.6471.

h. Supervisors, in collaboration with Agency Worker and Community Right-to-Know Coordinators and the Agency Human Resources Officers, shall:

- (1) Ensure that employees receive appropriate orientation and training.
- (2) Ensure the Employee Workplace Notice is offered to new employees.
- (3) Ensure a new or newly assigned employee is offered a list of hazardous substances when assigned to a work area.
- (4) Ensure that, for hazardous substances in their work area, employees have access to MSDS/SDS without permission or intervention from management or supervisors.
- (5) Ensure that, upon request, employees are supplied with a copy of their work area MSDS/SDS.
- (6) Promptly complete a workers' compensation injury report and notify the agency Worker and Community Right-to-Know Coordinator and Human Resources Office of any exposure, including the names of employees.

7. PROCEDURES. All agencies are required to develop and implement written procedures which define the agency methods for complying with the *Worker and Community Right-to-Know Act* and applicable regulations.

a. HSSF.

- (1) The HSSF shall be completed no later than April 1 of each year and shall include hazardous substances which were present in the workplace during the prior calendar year. The completed HSSF shall be posted in all workplaces. **Note:** If there were no hazardous substances in the workplace, it is at the discretion of the agency to post a blank HSSF.
- (2) If a chemical appears on the hazardous substance list it must be listed on the HSSF.

b. Work Area List.

- (1) When a new chemical enters the work area, it shall be documented on the work area list.
- (2) When a chemical is removed from the work area, it should be noted on the list that the chemical is no longer present in that work area. **Note:** This chemical will still need to be documented on the HSSF.

c. Environmental Hazard Survey Form.

- (1) Upon request from the Department of Labor and Industry or an emergency response organization, an environmental hazard survey form is to be completed and returned within 30 days of the request. The Department of Labor and Industry will transmit a copy to the original requestor; however, if the requestor was an emergency response organization, the completed form should be sent directly to the emergency response organization.

(2) A copy of the form must be maintained at the workplace, as well as the central office of the agency.

(3) The environmental hazard survey form shall include those hazardous substances designated as environmental hazards on the Department of Labor and Industry's hazardous substance lists which are emitted, discharged or disposed of from the selected workplace.

d. Records Retention.

(1) Incident or accident exposure records and associated health/medical records are to be maintained when an exposure occurs. These records must be maintained in a confidential file separate from the Official Personnel Folder in the Human Resource Office for the duration of the employee's employment plus 30 years. Upon an employee's transfer, the files shall be transferred to the employee's new agency and a copy shall be kept within the agency where the exposure occurred. Records must include the employee names, personnel numbers and all other documents pertinent to the exposure. This retention schedule complies with Section 9 of the Act, 35 P.S. § 7309 and applicable regulations.

(2) Training records shall be kept for three fiscal years.

(3) New employee orientation records shall be maintained in accordance with the retention for all orientation records.

e. Training.

(1) The content of the training program for employees who work in areas where hazardous substances are stored or used shall include notifying them of their rights to access records of chemical exposure to the extent required by OSHA or the Mine Safety and Health Administration (MSHA).

(2) As appropriate, the following information concerning the hazardous substances or mixtures shall also be provided during training:

(a) The location.

(b) The properties.

(c) The chemical and common name.

(d) The acute and chronic effects.

(e) The symptoms arising from exposure.

(f) The potential for flammability, explosivity and reactivity.

(g) Appropriate emergency treatment.

(h) Appropriate personal protective equipment and proper conditions for safe use.

- (i) Emergency procedures for spills, leaks, fires, pipeline breakdowns or other accidents.

This directive replaces, in its entirety, *Management Directive 505.27*, dated May 5, 2014.