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The Right-to-Know, A Guide for Business

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Environmental Concerns

Did you know that a citizen has the right to bring civil actions on a business that is NOT reporting when required by the SARA Title III federal regulation?

Are you familiar with the responsibilities of the Local Emergency Planning Committee (LEPC)?

Did you know that Harford County has a Hazardous Materials Law?

Who do you notify should a hazardous substance release occur?

This booklet is being written to help you understand the specific things that you must do in order to avoid costly fines for an environmental noncompliance under the SARA Title III, Code of Maryland Regulations and Harford County Code. We will explain the laws and detail how the reporting information is maintained and utilized for emergency response personnel and public information. This booklet will also provide you with details on how to complete the required reports and where to send them. We will also provide you with telephone numbers for information as well as proper numbers to use for emergency situations.

Keep a copy of this book where it can be accessed in an emergency situation, incorporate this information into your emergency plan. Train your employees on the proper actions to take in the event of an emergency release.

Employees should know the proper procedures of reporting a release of hazardous materials into the environment. Delay in notification to the proper agencies could result in fines or other compliance actions on your facility.

SARA TITLE III AND THE RIGHT TO KNOW

On October 17, 1986, Federal legislation enacted the Superfund Amendments and Re-Authorization Act (SARA). A major part of this law was Title III, the Emergency Planning and Community Right-to-Know Act, which, unlike previous chemical laws and regulations, provides for detailed, yearly hazardous materials reports. These reports were to be used by the local authorities for emergency planning, public awareness, and training of first responders. The Act enables planning for the full range of potential disasters and requires companies to provide reports on substances:

- * Stored at each facility
- * Sent for off-site disposal
- * Disposed of on-site, and/or
- * Released into the surrounding community or environment.

The SARA Title III law requires State and Local Governments to maintain this information and to make this information available to the public.

THE STATE EMERGENCY RESPONSE COMMISSION (SERC)

Under SARA Title III the Governor of each State was required to set up and appoint a State Emergency Response Commission or SERC. The SERC then had to divide the State into Local Emergency Planning Districts and appoint a Local Emergency Planning Committee or LEPC for each division. This division and assignment of duties is to assure that emergency planning is done at its most useful level. In the State of Maryland planning districts were designated by individual counties, the City of Baltimore and Ocean City.

THE HARFORD COUNTY LOCAL EMERGENCY PLANNING COMMITTEE (LEPC)

The Harford County LEPC meets monthly at the Harford County Division of Emergency Operations. The meetings are held in the Emergency Operations Center on the third Wednesday of each month at 2:00 P.M.. The membership of the LEPC consists of representatives from emergency services, local business, schools, APG, police agencies, the city's of Havre de Grace and Aberdeen and the town of Bel Air, health care providers and transportation officials.

The LEPC is dedicated to serve Harford County citizens and business owners/operators in complying with the SARA Title III requirements and provides advice and assistance in determining reporting status. The LEPC is charged under the law to identify locations of hazardous materials, develop emergency plans and ensure proper reporting of hazardous material inventories.

HARFORD COUNTY CODE, CHAPTER 146, THE HAZARDOUS MATERIALS LAW

Harford County has a law that requires reporting of any hazardous material released into the environment. **Anytime there is a release of a hazardous material into the environment, you must dial 9-1-1 and report the release. Failure to report could result in a Notice of Violations being issued. A Notice of Violation or NOV may require the violator to appear before the LEPC and/or pay a fine of up to \$1000.00 per offence.**

Calling 9-1-1 will not always mandate a full fire department and HAZMAT Team response. The system is tiered and the response will normally be based on your initial report. If the incident is required to be reported to state and/or federal officials then you should also contact them. Their numbers are provided in the back of this booklet. **REMEMBER, DO NOT DELAY NOTIFICATION!!!**

WHAT IS A "HAZARDOUS MATERIAL" (HAZMAT)?

The definition of a hazardous material or a hazardous substance is very broad. It is not limited to man-made chemical products (few of which can be classified as non-hazardous) and includes natural materials such as petroleum, oxygen, carbon dioxide and nitrogen. There is no publication available with a full listing of every material that can be classified as hazardous and covered under the SARA Title III requirements. However, there is "The List's of Lists" which is available, and updated at least annually, from the Environmental Protection Agency (EPA); it may be obtained by contacting the Right-to-Know Hotline at 1-800-535-0202.

WHAT IS A “HAZARDOUS MATERIAL”? (Continued)

Each manufacturer must develop and distribute Material Safety Data Sheets (MSDS's), which are chemical or product specific, containing information on the material's make-up, data from studies the hazards it presents, health effects, first-aid information and emergency contact phone numbers.

To make an determination, review these sheets and look for any terms identifying materials you use as hazardous, such as the following.

- * Affects target organs (includes skin, eyes, respiratory system, heart, liver, kidneys, central nervous system and reproductive system)
- * Carcinogenic potential
- * Corrosive
- * Hazards (Immediate or Delayed)
(Look for terms such as Flammable, Combustible Liquid, Pyrophoric, Oxidizers, Explosive, Compressed Gas, Unstable, Unstable/Reactive, Organic Peroxide and Water Reactive)
- * Highly toxic or toxic
- * Irritant
- * Sensitizer

Title 29, Code of Federal Regulations, Part 1910.1200 defines “hazardous chemicals” and identifies the following exceptions:

- (1) Any food, food additive, color additive, drug or cosmetic, which is regulated by the Food and Drug Administration (FDA).
- (2) Any substance present as a solid in any manufactured item to the extent exposure to the substance dose not occur under normal conditions of use.
- (3) Any substance to the extent its use is for personal, family or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the public.
- (4) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.
- (5) Any substance to the extent it is used in routine agricultural operations or is fertilizer held for sale by a retailer to the ultimate customer.

EXTREMELY HAZARDOUS SUBSTANCES (EHS)

Some materials have been designated as “Extremely Hazardous Substances”, (EHS) as they may cause irreversible health effects if accidentally released and are subject to additional reporting requirements. A full listing of the EHS chemicals are included in “The List's of Lists” publication, which is available by calling the Right-to-Know Hotline at **1-800-535-0202**.

Although a facility may not be a major chemical producer does not mean that they do not maintain reportable amounts of an EHS. These chemicals are reportable in smaller quantities known as the Threshold Planning Quantities or TPQ. A TPQ can be as low as 10 pounds for some chemicals

Extremely Hazardous Substances (continued)

so careful research is required. If you need assistance in this determination please call (410) 638-4900.

INVENTORY REPORTING AMOUNTS

SARA Title III reporting requirements are based on the maintenance of the highest amounts of a hazardous material or Extremely Hazardous Substances in inventory at the facility at any one time during the year.

- * For substances not listed as EHS's the reporting amount is 10,000 pounds.
- * For substances listed as an EHS the reporting amounts are the listed TPQ or 500 pounds, which ever is lower.

REPORTING UNDER SARA TITLE III

Once you have established that you have the proper amounts of a hazardous substance or EHS in inventory at any one time during the reporting period at your facility, you are required to report this information to the proper authorities.

Several different types of reports are required by SARA Title III. These requirements are broken down into numbered sections and they are often referred to by the numbers of the section that requires it, for example:

Section 302: Is the reporting that requires facilities that maintain over the TPQ's of EHS's to meet specialized emergency planning requirements.

Section 311: Requires that Material Safety Data Sheets (MSDS's) and or chemical lists be submitted to state and local authorities and the fire department having first due response to the facility.

Section 312: Requires that chemical inventory reporting be submitted on certain forms to state and local authorities and the fire department having first due response to the facility.

Because state and local laws have been enacted covering some of the same circumstances as the SARA Title III law, you need to know who requires what type of information, where to send it or who to contact.

The State of Maryland has Right-to-Know provisions known as the Maryland Public Access to Information on Hazardous or Toxic Chemical Law (Article Health-Environmental, Section 6-501 through 6-504). As stated before, Harford County has a Hazardous Materials Law in the local code that covers Right-to-Know and emergency response.

Reporting under SARA Title III (continued)

If your business operates in more than one jurisdiction, check with each LEPC to assure compliance with all reporting requirements.

Always keep a record of who you spoke with and what they advised you to do. If there is some discrepancy at a later time you can always produce this document to support your actions.

The Harford County LEPC will provide on-site assistance in SARA Title III compliance, **free of charge** to facility's located in Harford County. To obtain an appointment call (410) 638-4900, Monday through Friday between 8:00 A.M. and 5:00 P.M..

SECTION 302, EMERGENCY PLANNING

If your facility handles any material listed as an EHS in quantities equal or over the listed TPQ or 500 pounds, your facility must report under the Emergency Planning Requirements of SARA Title III. The owner/operator must make notification to the SERC and the LEPC that the facility is subject to certain planning requirements.

This report is done once, when the facility identifies that it must comply under this section. Notification must be done again only when the facility changes its status, for example by discontinuing the use of that product.

A sample letter used for compliance notification is enclosed in Appendix A. The letter should be mailed to the following addresses:

Harford County Local Emergency Planning Committee
2220 Ady Road
Forest Hill, MD 21050
Phone (410) 638-4900

Maryland Department of the Environment
Community Right-to-Know
2500 Broening Highway
Baltimore MD 21224
Phone: (410) 631-3000

Mail these letters as certified with return receipt requested. When you get your receipt back, attach it to your copy in your files. If there are questions about your compliance actions later on this document could assist you in explaining your actions. Both letters must have original signatures, always sign documents using blue ink.

In this letter you will also have to designate a Facility Coordinator to work with the LEPC and provide them with information, which may be incorporated into the local plan.

Section 302, Emergency Planning (Continued)

The facility coordinator will also have to notify the LEPC when any planning information on the facility changes.

The facility coordinator is not required to attend all LEPC meetings but they are encouraged to participate in the LEPC activities.

SECTION 304, EMERGENCY RELEASE INFORMATION

This section requires covered facilities to notify the LEPC and SERC in the event of a release of any listed EHS's. Chemicals that are covered by this section are listed in the "List of List's" which is available from the EPA Right-to-Know Hotline **1-800-535-0202**.

The amount that triggers the notification requirements is known as the Reportable Quantity or the RQ. For the specific requirements of Section 304, when the RQ is met or exceeded in a 24 hour time, then the facility must notify the SERC and LEPC by phone and then follow-up with a specific detailed report.

**

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THE LEPC WILL BE CONSIDERED NOTIFIED BY DIALING 9-1-1; THIS EMERGENCY NUMBER SHOULD ALWAYS BE USED FOR THIS PURPOSE.

**

**

The SERC should be notified by calling the Maryland Department of the Environment at (410) 333-2950 (Daytime) or (410) 974-3551 (24 Hours) for initial notification and then following up this call during normal office hours at (410) 631-3000 and asking for Community Right-to-Know.

Be prepared to give the following information:

- * Name of chemical or substance
- * Is it an Extremely Hazardous Substance
- * An estimate of the quantity released
- * Time and duration of the release
- * Media and medium into which the release occurred. (Air, water, storm drain..etc)
- * Potential health risks associated with the product
- * Recommended precautions (From Material Safety Data Sheets)

DO NOT DELAY NOTIFICATION WHILE PREPARING OR SEARCHING FOR THE ABOVE INFORMATION.

After the incident the facility owner/operator is required to submit a written report to the SERC and LEPC. This report is due within 10 working days of the conclusion of the incident. The reporting form is shown in Appendix B of this booklet.

Section 304, Emergency Release Notification (continued)

After the report form for the Section 304 reportable release is completed mail copies with an original signature to the following agencies:

Harford County Local Emergency Planning Committee
Division of Emergency Operations
2220 Ady Road
Forest Hill MD 21050

and to

Maryland Department of the Environment
Attn: Community Right-to-Know (Section 304)
2500 Broening Highway
Baltimore MD 21224

(Maintain a copy in your records and mail the reports with a return receipt to prove compliance)

HARFORD COUNTY REPORTING REQUIREMENTS

Harford County's HAZMAT law requires notification of **ANY** release of a hazardous substance into the environment. A facility representative must meet this requirement by **CALLING 9-1-1** as soon as possible after the release is discovered. When talking to the Dispatcher be prepared to answer the following questions: **(Do not delay the call to search for the information)**

- * Address of the release
- * Facility name
- * Callers name and position at the facility
- * Phone number of the facility (Direct Voice, Human Contact)
- * Chemical released
- * Estimated amount of release
- * Media released into (air, water or onto land)
- * Status of the current situation (still leaking, under control, unknown...)

Based on the information provided the Dispatcher will make notification and/or dispatch of the proper tier of response equipment. Response may consist of only a HAZMAT Officer and/or the local fire department with the HAZMAT Team.

Harford County Reporting Requirements (continued)

Notification of 9-1-1 should take place immediately after discovering the release.

At the back of this publication is a copy of the Harford County Hazardous Materials Law. Take time to read this now, should you have any questions please call (410) 638-4900. Remember in an emergencyDial 9-1-1.

SECTION 311, INVENTORY INFORMATION REPORTING

Material Safety Data Sheets (MSDS's) or chemical lists are required to be submitted to the SERC, LEPC and Local Fire Department if any of the following apply to the facility reporting:

- (a) Over 10,000 pounds of an OSHA classified hazardous material.
- and/or (b) 500 pounds of a listed EHS.
- and/or (c) meets or exceeds the TPQ.

The State of Maryland (SERC) requests only chemical lists for submissions. Mail the lists to:

Maryland Department of the Environment
Attn: Community Right-to-Know (Section 311)
2500 Broening Highway
Baltimore MD 21224

These chemical lists are different than those required by MOSH and should be submitted only once. If chemicals are added or deleted from the inventory of a facility then notification must be made within 60 days. Chemical lists should include the hazardous material grouped by chemical, common name, hazard class and location. If the chemical is part of a classified trade secret process then there are special requirements. For more information call (410) 631-3000.

The emergency response personnel of Harford County may determine to request submissions of the full Material Safety Data Sheets, as they are more helpful in an emergency situation. Material Safety Data Sheets should be sent to:

Harford County LEPC
Harford County Emergency Operations
2220 Ady Road
Forest Hill MD 21050

Once the listing is reviewed by Emergency Response personnel then MSDS's may be requested for one or all of hazardous substances. The MSDS should be as recent as possible, when a new MSDS is received you should submit that within 60 days to the above address.

The LEPC may also request MSDS's under the Community Right to Know law for public requests submitted to the LEPC.

Section 311, Inventory Information Reporting (continued)

The local fire department that protects your facility will also need to study your Material Safety Data Sheets for the inventory you maintain. This will assist in any special planning considerations that may have to be done to assure proper protection for your employees and property. Contact (410) 638-4900 for your local fire departments mailing address.

MARYLAND ACCESS TO INFORMATION ABOUT HAZARDOUS AND TOXIC SUBSTANCES LAW

Under the State of Maryland Law, the Volunteer Fire Departments have the same rights to information about any chemical in your facility as an employee in that facility. This includes non-manufacturing facilities as well as manufacturing facilities. There are no minimal inventory amounts for this program, they have the right for information on any hazardous material in any amount in your facility. Call (410) 638-4900 for more information.

SECTION 312, TIER TWO INVENTORY REPORTING

Any facility that maintains over 10,000 pounds of an OSHA classified hazardous material in inventory or over the TPQ or 500 pounds of an EHS is required to submit chemical specific inventory reports to the SERC, LEPC and local fire department. These reports are required yearly and are due by March 1st each year.

The reports are required to be filed on a form called a Tier Two form. These forms are very simple and only take a few moments to complete. The Harford County LEPC will provide **FREE** assistance to companies on compliance issues including the completion of the Tier Two Forms. In the State of Maryland the Tier Two form is a requirement and no other format can be used in compliance with this law.

Copies of the Tier Two Reports, with original signatures, should be mailed to the following:

Maryland Department of the Environment
Attn: Community Right-to-Know (Section 312)
2500 Broening Highway
Baltimore MD 21224

Harford County LEPC
Harford County Division of Emergency Operations
2220 Ady Road
Forest Hill, MD 21050

Your Local Fire Department (Call 410-638-4900 for address information)

Section 312, Tier Two Inventory Reporting (continued)

If you are a Retail Gasoline Service Station with under 75,000 pounds of Gasoline and 100,000 pounds of Diesel Fuel you do not have to submit Tier Two Forms to the SERC and Local Fire Department. You do have to submit a Tier Two to the LEPC.

Always mail the documents as certified mail and request a return receipt to confirm your compliance, records do get lost in the mail. This can save you money if non-compliance charges are made against your facility. Maintain a copy of all required documents with receipts attached for proof of compliance.

If you have a chemical in inventory that is part of a trade secret process or is itself a trade secret you may still have to provide information to specified compliance points. For more information contact:

**Trade Secret Claims and Petitions
U.S. EPA
P.O. Box 70266
Washington D.C. 20024**

SECTION 313, TOXIC RELEASE INVENTORY REPORTING

This report is a very detailed report for specific chemicals used in processes in amounts over those specified in the regulation. The specific lists of hazardous materials covered are located in the "List's of List" publication. Unlike 311 and 312 this report is based on cumulative amounts of inventory and the reports are not submitted to the LEPC or the local fire department. These reports are sent to the EPA and to the Maryland Department of the Environment for the SERC. For more information please call (410) 631-3000.

CITIZEN SUIT AUTHORIZATION

Under SARA Title III's Community Right-to-Know outreach, the citizen has the right to request documents on compliance from the SERC and LEPC. If the facility is not compliant then Section 326 allows the citizen to start civil proceedings (like a civil lawsuit) against the owner/operator of a facility.

NON-COMPLIANCE FINES AND PENALTIES

The SARA Title III Law authorizes civil and criminal penalties for violations in compliance as required. Specific penalties are established for each requirement but there may be reductions based on disclosure, attitude and other factors.

Under Harford County Law any person who is non-complaint can be cited and possibly fined up to \$1000 per day.

FINES AND PENALTIES

Facilities that fail to report inventory and releases as required may face fines and/or criminal penalties from the Maryland Department of the Environment and the U.S. Environmental Protection Agency. Federal fines may be as high as \$27,500.00 per day, per compliance point and per chemical. Criminal penalties include fines and/or prison sentences. Do not hesitate to report an incident, there are no penalties for notification.

MAINTENANCE OF INFORMATION

In Harford County all reports required by SARA Title III for submission to the LEPC are received, processed and maintained at the Division of Emergency Operations. The information is entered into the computer system and hard copies are then filed into a secure area. In this way the information is available 24 hours a day for emergency response. When requested the information is also available to the public.

Emergency planning continues beyond the processing and collection of data. Facility inspections are done to insure compliance and allow emergency response personnel to become familiar with the facility. Training Exercises are conducted involving county personnel, firefighters and the HAZMAT team to test emergency response functions. Training of emergency responders in operations involving hazardous materials has taken a high priority in emergency services.

This partnership of business, government and emergency services in this program is essential. Pre-planning and training can cut down on the time needed to assess an emergency situation in the event of a release and decrease contamination to the environment. With a smaller release the cost of clean-up, for which you may be responsible, is also reduced. Most important of all, this cooperation can save the lives of your employees, emergency responders and neighbors in the community.

FEDERAL FACILITIES

Under Executive Order #12856 signed by President Clinton on August 3, 1993 all federal facilities are required to comply with Right-to-Know laws. There are certain exceptions of reportable items to preserve security, but the reporting amounts stay the same. Material Safety Data Sheets should be accessible and cooperation with the SERC and LEPC is encouraged.

COMPLIANCE ASSISTANCE

Free assistance to facility owner operators on compliance under SARA Title III is available from the Harford County Government, LEPC and Division of Emergency Operations. For more information call (410) 638-4900 during normal office hours.

Sample Company
601 Anyplace Road
Forest Hill, MD 21050

Harford County Local Emergency Planning Committee
2220 Ady Road
Forest Hill, MD 21050

February 24, 1999

Dear Sir or Madame:

This letter is being delivered to you pursuant to Sections 302 and 303 of Title III of the Superfund Amendments and Reauthorization Act. The purpose of this letter is to notify you that the facility indicated below is subject to the reporting requirements of Section 302 of Title III.

Sample Company
601 Anyplace Road
Forest Hill Maryland 21050

In addition, this letter designates a facility representative who will participate in the local emergency planning process pursuant to Section 303 (d). The name, address, and telephone of the facility representative are as follows:

Mr. John Doe
Plant Manager
601 Anyplace Road
Forest Hill, Maryland 21050
(410) 111-1234

Any questions concerning this notification should be directed to the facility representative.

Sincerely,

Jane Doe
President

Chemical Incident Report Form

Name of Facility _____

Address: _____

Phone Number: _____

Facility Contact: _____

Date/Time of Incident: _____

Location of Incident: _____

Person Notifying NRC: _____

Time of Notification: _____ NRC Incident #: _____

LEPC Notified (9-1-1) _____ Person taking the call: _____

SERC Notified: _____ Person taking the call: _____

Date of Release: _____ Date Discovered: _____

Chemical Name: _____

CAS Number: _____ EHS Yes/No Amount Released: _____

Element released to: AIR WATER SOIL GROUNDWATER

Physical state of the material while stored: _____

Physical state of material when released: _____

Who discovered the release? _____

What actions were taken on discovery? _____

Exact cause of the release: _____

What actions have been taken to prevent this from occurring again? _____

Was anyone exposed to the release? _____

Were there any injuries/illnesses/deaths associated with this release? _____

Was a contractor called? Yes/No

If yes, give the name of the contractor and contact information: _____

Attach to this report; any information of known or expected acute or chronic health risks that may be associated with the release and advise regarding medical treatment for exposed individuals.

Certification: I certify, under penalty of law, that I have personally examined and am familiar with the information submitted and believe the submitted information is true, complete and accurate.

Facility Representative: _____

Signature: _____

Date: _____

Mail this form to the required compliance points:

**Harford County Local Emergency Planning Committee, 2220 Ady Road Forest Hill,
Maryland 21050**

**Maryland Department of the Environment, Community Right to Know, Section 304
2500 Broening Highway, Baltimore Maryland 21224**

HARFORD COUNTY VOLUNTEER FIRE COMPANIES
MAILING ADDRESSES

Level Volunteer Fire Company

3633 Level Village Road
Havre de Grace MD 21078

Aberdeen Fire Company

P.O. Box 118
Aberdeen MD 21001

Bel Air Volunteer Fire Company

P.O. Box 288
Bel Air MD 21014

Abingdon Volunteer Fire Company

P.O. Box 28
Abingdon MD 21009

Susquehanna Hose Company ***

P.O. Box 58
Havre de Grace MD 21078

Havre de Grace Ambulance Corps ***

P.O. Box 465
Havre de Grace MD 21078

*** Facilities in the Havre de Grace area must send a copy of the Tier Two Form to each.

Whiteford Volunteer Fire Company
P.O. Box 202
Whiteford MD 21160

Jarrettsville Volunteer Fire Company
P.O. Box 7
Jarrettsville MD 21084

Joppa Magnolia Volunteer Fire Company
1403 Old Mountain Road
Joppa MD 21085

Darlington Volunteer Fire Company
P.O. Box 78
Darlington MD 21034

Norrisville Volunteer Fire Company
2134 Harkins Road
Pylesville MD 21132

Fallston Volunteer Fire Company
P.O. Box 141
Fallston MD 21047

HAZARDOUS MATERIALS

Chapter 146

HAZARDOUS MATERIALS

ARTICLE I

General Provision

- § 146-1. Title.**
- § 146-2. Purpose and intent.**
- § 146-3. Definitions.**
- § 146-4. (Reserved)**
- § 146-5. Recovery of response costs.**
- § 146-6. Emergency notification requirements.**
- § 146-7. Right to entry; monitoring; testing.**
- § 146-8. Control of scene.**
- § 146-9. Notice of violation (NOV).**
- § 146-10. Issuance of notice or order.**
- § 146-11. Service.**
- § 146-12. Hearings.**
- § 146-13. Final corrective order.**
- § 146-14. (Reserved).**
- § 146-15. Injunctive relief.**
- § 146-16. Civil liability.**
- § 146-17. Civil penalties.**
- § 146-18. Criminal penalties.**
- § 146-19. Miscellaneous provisions.**

**ARTICLE II
Transportation**

§ 146-20. Notification of county.

§ 146-21. Definitions.

§ 146-22. Exemptions.

§ 146-23. Maintenance of log.

§ 146-24. Violations and penalties.

[HISTORY: Adopted by the Harford County Council by Bill No. 81-15;¹ amended in its entirety by Bill No. 90-83. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Environmental control – See Ch. 109.

**ARTICLE I
General Provisions**

§ 146-1. Title.

This article shall hereafter be referred to as the “Harford County Hazardous Materials Article.”

§ 146-2. Purpose and intent.

A. The purposes of this Article are:

- (1) To establish effective programs and to provide additional and cumulative remedies to prevent, abate and control pollutants or combinations of pollutants, toxic materials or hazardous materials and waste.

¹ Editor’s Note: This legislation was included as Ch. 23, Art. VI, of the 1978 Code.

(2) To protect the citizens, property and employees of Harford County from the health hazards and other risks resulting from releases or incident to the use, storage, distribution, possession or transportation of hazardous substances.

B. This Article is enacted pursuant to the enabling powers conferred by the Annotated Code of Maryland, Article 25A, § 5(A), (B), (J) and (T); Article 16A, § 7; and the Environment Article of the code. This Article is not intended to supersede state responsibility and authority in the subject matters covered by this Article.

§ 146-3. Definitions.

For the purposes of this Article, the following definitions shall be used:

ACT – The Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 1102 et seq., all amendments thereto and all federal regulations promulgated pursuant to the act.

ACT OF GOD – An unanticipated natural disaster or other natural phenomenon of exceptional, inevitable and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care.

ARTICLE – Article I, General Provisions, of Chapter 146 of the Harford County Code.

AUTHORITY – The Chief of Division of Emergency Operations or the Chief’s duly authorized designee. In the event of a vacancy in the position of Chief of the Division of Emergency Operations, the Director of Administration or the Director’s duly appointed designee shall constitute the authority.

CODE – Maryland Annotated Code.

COUNTY – Harford County, Maryland.

DEPARTMENT – Division of Emergency Operation

FACILITY – Any buildings, structures, accessory structures, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, lagoon, impoundment, ditch, landfill, storage container and other stationary items which are located on a single site or a contiguous or adjacent site which are owned, occupied or operated by the same person or entity and which manufacture, produce, use, import, export, store, supply or distribute any hazardous material.

HAZARDOUS MATERIAL RESPONSE TEAM – A team of individuals who are organized and trained for the primary purpose of providing emergency services, including removal and remedial actions, in response to the release of a hazardous substance.

HAZARDOUS SUBSTANCE:

- A. Any substance designated pursuant to Section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) [42 U.S.C. § 9601(14)], as amended, and regulations enacted pursuant thereto; or
- B. Gas, as defined by Maryland Annotated Code, Natural Resources Article § 6-102, as amended; or
- C. Oil, as defined by the Code, Natural Resources Article, § 6-102, as amended; or
- D. Motor vehicle fuel, as defined by the Code, Article 56, § 135, as amended; or
- E. Petroleum products, as defined by the Code, Article 56, § 135, as amended;
- F. Low-level nuclear waste.
- G. “Hazardous substance” does not include fly ash, bottom ash, slag, and other by-products generated from the combustion of fossil fuels.

HCEOD – The Harford County Emergency Operations Division.

PERSON – An individual, corporation, firm, association, partnership, joint venture, commercial entity, public utility, trust, estate, public or private institute, group, agency, political subdivision and any legal successor, representative or agency of the foregoing.

RELEASE – Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of a hazardous substance, including but not limited to the abandonment or discarding of barrels, containers and other receptacles containing a hazardous substance. “Release” does not include a discharge permitted by state or federal law.

RESPONSE:

- A. The cleanup of released hazardous substances from the environment;
- B. Such actions as may be necessary to monitor, assess and evaluate the release of hazardous substances; or
- C. The disposal of removed materials.

RESPONSE ACTION – Those actions taken to prevent or minimize the release of hazardous substances, including but not limited to storage, confinement, neutralization, cleanup of hazardous substances or associated containment materials, recycling, destruction, perimeter protection, segregation of reactive wastes, repair or replacement of damaged or leaking containers, collection of leachate and runoff, on-site treatment or incineration, provision of alternate water supplies and any monitoring reasonably required to assure that such actions taken protect the public health and welfare and the environment.

RESPONSE COST – Includes the following:

- A. Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the response to the hazardous substance release.
- B. Rental or leasing of equipment used specifically for the response ; for example, protective equipment or clothing and scientific and technical equipment.

- C. Replacement costs for equipment that is contaminated beyond reuse or repair during the response, including, by way of illustration and not limitation, self-contained breathing apparatus, protective equipment or clothing and scientific and technical equipment irretrievably contaminated during the response.
- D. A surcharge related to the depletion of the useful life of any equipment, materials or supplies with a limited useful life span.
- E. Decontamination of equipment contaminated during the response.
- F. Total compensation associated with the response, including but not limited to benefits (FICA, insurance), of county employees or members of the hazardous materials response team who are not Harford County permanent employees, to include regular and overtime pay, at the rate set for members of the hazardous materials response team, for permanent full-time and other than full-time employees or members, and any contractor, subcontractor or agent.
- G. Special technical services specifically required for the response; for example, costs associated with the time, equipment and efforts of technical experts or specialists.
- H. Any tests to determine the physical, chemical or biological properties of the released items and monitoring the site and adjoining areas.
- I. Other special services, including but not limited to utilities specifically required for the response, as determined by the Authority.
- J. Costs associated with the services, including housing and cost of care, supplies and equipment used to conduct an evacuation during the response.
- K. Administrative costs, including but not limited to attorney's fees and court costs.

RESPONSIBLE PERSON:

A. Any person who:

- (1) Is the nongovernmental owner or operator of a vehicle or a site containing a hazardous substance.
- (2) At the time of the release of any controlled hazardous substance, was the nongovernmental operator or owner of any site at which the hazardous substance was released.
- (3) By contract, agreement or otherwise arranged for disposal or treatment or arranged with a transporter for transport for disposal or treatment of a hazardous substance owned or possessed by such person or by any other party or entity at any site owned or operated by another party or entity and containing such hazardous substances.
- (4) Accepts or accepted any hazardous substance for transport to a disposal or treatment facility or any sites selected by the person.

B. "Responsible person" does not include a holder of a mortgage or deed of trust who acquires title through foreclosure to a site containing a hazardous substance as the result of a release.

TRANSPORT – The movement of a hazardous substance by any mode, including pipeline, and, in the case of a hazardous substance which has been accepted for transportation by a common carrier or contract carrier, the term "transport" shall include any stoppage in transit which is temporary and incidental to the transportation movement; such stoppage shall be considered as a continuity of the movement and shall not constitute storage of the substance.

VEHICLE – Any truck, railroad car, water vessel, airplane or other transportation vehicle used to ship, carry or transport a hazardous substance.

§ 146-4. (Reserved)

§ 146-5. Recovery of response costs.

- A. **[Amended by Bill No. 92-20]** Notwithstanding any other provision or rule of law, regardless of whether intentionally or negligently allowed and subject only to the defenses set forth in Subsection B of this section, a responsible person, as defined herein, shall pay to the county all costs of response action incurred by the HCEOD, all costs of response action incurred by a volunteer fire and ambulance company, and all costs of response action incurred by a volunteer ambulance company:
- (1) In an action to recover response costs, the county may include operational, administrative, personnel, payroll and legal costs incurred from its initial response action up to the time that it recovers its costs. The amount attributable to administrative and legal costs shall be 15% of the amount paid for the response action or the actual costs, whichever is greater.
 - (2) The authority shall have the authority to promulgate rules and regulations which set forth the rates to be charged for response costs under this section.
- B. Presumptions. There shall be a presumption that any person who owns and/or has a present possessory interest in any private property on which any discharge or escape of a hazardous substance occurs has permitted or allowed the discharge or escape.
- C. Defenses. There shall be no presumption of liability under this Article for a person otherwise liable who can establish, by a preponderance of the evidence, that the release or threatened release of a hazardous substance was caused solely by:
- (1) An act of God.
 - (2) An act of war.

D. Waivers.

- (1) Upon written application, the Director of Administration, at the Director's sole discretion, may waive all or any portion of the charges assessed under this section if the release:

(Continued on next page)

- (a) Occurred because of circumstances that could not responsibly have been foreseen by the reasonable person;
 - (b) Was not similar to any release involving the same responsible person and similar circumstances that occurred during the previous one hundred eighty (180) calendar days;
 - (c) Was not the result of a failure to take an action recommended by a federal, state or county agency concerning the proper storage, containment, transportation or deposit of the type of hazardous substance involved in the release and
 - (d) Was reported immediately upon discovery to the proper federal, state and local authorities.
- (2) An application filed under this subsection shall include supporting evidence for the requested waiver.

§ 146-6. Emergency notification requirements.

- A. Facility or transportation accident or incident. Except as provided in subsection D of this section, the owner or operator of a facility that manufactures, produces, uses, imports, exports, stores, supplies or distributes any hazardous substance and the owner or operator of a vehicle that ships, transports or carries any hazardous substance or extremely hazardous substance to, within, through or across this county shall immediately report the release or discharge of the substance.
- B. Contents. Initial notification shall be made by the owner or operator of a facility by calling the twenty-four-hour response telephone number (911 or such other number as is designated by the authority) of the HCEOD. The notification shall include each of the following to the extent known at the time of the notice and so long as no delay in responding to the emergency results:
 - (1) The name and telephone number of the person making the notification.

- (2) The time, location and duration of the release.
 - (3) The medium into which the release occurred.
 - (4) The name of the person employed by the owner or operator of the facility or vehicle who has the authority or responsibility to supervise, conduct or perform any cleanup activities required at the release site or to contact for the performance of any cleanup activities at the release site.
 - (5) The chemical name or identity of any substance involved in the release.
 - (6) An indication of whether the substance is an extremely hazardous substance or other hazardous material or appears on a federal or county list of hazardous materials as periodically amended.
 - (7) An estimate of the quantity of the substance that was released into the environment.
 - (8) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.
 - (9) Proper precautions to take as a result of the release, including evacuation, unless the information is readily available to the community emergency coordinator under an emergency plan, and any other relevant information which may be requested.
 - (10) The name and telephone number of the person to be contacted for further information.
 - (11) Additional information required by federal or state or county regulations.
- C. Written report. Within fourteen (14) calendar days after a release which required notice under this section, the owner or operator of a facility and the owner or operator of a vehicle shall provide a written follow-up emergency notice or notices, if more information becomes available, to the HCEOD setting forth and updating the information required under Subsection B and including additional information with respect to:

- (1) Activities taken to respond to and contain the release.
 - (2) Any known or anticipated acute or chronic health risks associated with the release.
 - (3) Advice regarding medical attention necessary for exposed individuals, where appropriate.
 - (4) Actions to be taken to mitigate potential future incidents.
 - (5) Actions taken in accordance with the requirements of the HCEOD.
- D. Exception. The provisions of this section shall not apply to a release of a hazardous substance if the release of such substance is exempted, excluded or permitted by federal or state statute, law, rule or regulation.

§ 146-7. Right to entry; monitoring; testing.

- A. Entry. A hazardous materials response team may:
- (1) Enter onto any private or public property on which a release of a hazardous substance has occurred.
 - (2) Enter onto any adjacent property to which the release has entered.
 - (3) Enter onto any private or public property in order to:
 - (a) Respond to the release.
 - (b) Monitor and contain the release.
 - (c) Perform cleanup and response actions.
 - (d) Perform any other activities deemed necessary to respond to the release.
- B. Monitoring/inspections. In order to determine compliance with this Article and this chapter, the HCEOD may send representatives to a facility or vehicle site, during normal business hours, to inspect the facility or vehicle and to request information or reports from the facility or vehicle owner or operator concerning the chemical name, identity, amount or any other

information necessary for emergency planning and response purposes for any substance, liquid, mixture, compound, material or product manufactured, produced, used, stored, supplied, imported, exported or distributed at, to or from the facility or vehicle.

- C. Testing. Should a representative of the HCEOD determine during the course of a facility or vehicle inspection that the chemical name, identity, amount or any other requested information for any substance, liquid, mixture, compound, material or product present at the facility or vehicle cannot be identified or determined to his satisfaction due to the lack of proper labeling, placarding, recordkeeping or for any other reason, the representative shall have the authority to take a sample or specimen of the substance, liquid, mixture, compound, material or product, in those amounts deemed necessary, in order to have the sample or specimen tested and analyzed either at the time of the inspection or subsequent to the inspection at a county or private laboratory. The purpose of the test or analysis shall be to identify the chemical properties of the sample or specimen or to determine the amount of substance, liquid, mixture, compound, material or product manufactured, produced, used, stored, supplied, imported, exported or distributed at, to or from the facility or vehicle. The owner or operator of a facility or vehicle shall pay any testing and laboratory analysis costs incurred by the HCEOD if the material tested is found to be a hazardous substance.
- D. Emergency situations. Should a release of a known or unknown substance, liquid, mixture, compound, material or product occur at a facility or vehicle site, which endangers or has the potential to endanger the health, safety and welfare of the public, employees of the facility, the vehicle's owner or operator or employees of the owner or operator of the vehicle, the HCEOD may send representatives to the facility or vehicle site at any time in order to inspect the facility or vehicle and to assess the danger posed by the release and to obtain samples and specimens of the substance, liquid, mixture, compound, material or product involved and to perform any other emergency response activities deemed necessary by the HCEOD.

§ 146-8. Control of scene.

The senior fire company official on the scene will be the incident commander. The senior fire company official may transfer control of the scene to the HCEOD upon express agreement of both parties.

§ 146-9. Notice of violation (NOV).

- A. Issuance. The authority may issue a NOV if there are reasonable grounds to believe that the person to whom the NOV is directed has violated:
 - (1) This Article.
 - (2) Any rule or regulation adopted pursuant to this Article.
 - (3) Any order issued pursuant to this Article.
- B. Contents. A NOV issued under this section shall:
 - (1) Specify the provision(s) that allegedly have been violated.
 - (2) State the facts in support of the alleged violation.

§ 146-10. Issuance of notice or order.

- A. In general. After or concurrently with service of a complaint under this Article, the authority may:
 - (1) Issue an order that requires the person to whom the order is directed to take corrective action within a time set forth in the order.
 - (2) Send a written notice that requires the person to whom the notice is directed to file a written report about an alleged violation.
 - (3) Send a written notice that requires the person to whom the notice is directed:

- (a) To appear at a hearing at a time and place scheduled in order to answer the charges in the complaint; or
 - (b) To file a written report and also appear at a hearing at a time and place set to answer the charges in the complaint.
- B. Effective date of order. Any order issued under this chapter is effective immediately according to its terms upon service.

§ 146-11. Service.

- A. Manner of service. Any complaint, order, notice or other instrument issued by the authority pursuant to this Article may be served on the person to whom it is directed:
- (1) Personally.
 - (2) By publication on or at the entranceway to the premises or property from which discharges occur.
 - (3) By certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the person's last known address as shown on the Department's records.
- B. Certificate of service. If service is made by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, the person who mails the document shall file with the authority verified proof of mailing.

§ 146-12. Hearings.

- A. Hearing on order. Within ten (10) days after being served with an order, the person served may request a hearing by writing to the Director of Administration.
- B. Subpoenas; witnesses.
- (1) In connection with any hearing under this section, the administrator may:
 - (a) Subpoena any person or evidence.

(b) Order a witness to give evidence.

- (2) A subpoenaed witness shall receive the same fees and mileage reimbursement as if the hearing were part of a civil action.

§ 146-13. Final corrective order.

- A. Unless the person served with an order makes a timely request for a hearing pursuant to § 146-12, the order becomes a final order within ten (10) days after service.
- B. If a person who has been issued an order under this Article makes a timely request for a hearing, i.e., requests a hearing within ten (10) days after service in accordance with § 146-11, the order becomes a final corrective order when the administrator renders his decision following the hearing.

§ 146-14. (Reserved)

§ 146-15. Injunctive relief.

- A. In general. The county may bring an action for an injunction against any person who violates any provision of this Article or any rules, regulations, order or permit adopted or issued under this Article.
- B. Administrator's findings. In any action for an injunction under this section, any finding of the administrator after a hearing is prima facie evidence of each fact the administrator determines.
- C. Grounds. On a showing that any person is violating this section or any rule, regulation, order or permit adopted or issued by the county, the court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.
- D. Emergency. If an emergency arises due to imminent danger to the public health or welfare or imminent danger to the environment, the county may sue for an immediate injunction to stop

any pollution or other activity this is causing the danger.

§ 146-16. Civil liability.

- A. No hazardous material response team member, member of an industrial material response team, law enforcement officer, ambulance service or rescue squad member, fire fighter or other emergency response personnel engaged in any emergency service or response activities involving a hazardous material release at a facility or transportation accident site shall be liable for the death of or any injury to persons or loss or damage to property resulting from that hazardous material release, except for any acts or omissions which constitute willful misconduct.
- B. Other. No employee, representative or agent of a county agency or local agency engaged in any emergency service or response activities involving a hazardous material release at a facility or transportation accident site shall be liable for the death of or any injury to persons or loss or damage to property resulting from the hazardous material release, except for any acts or omissions which constitute willful misconduct.

§ 146-17. Civil penalties.

- A. Any person who discharges or intentionally permits or allows the discharge or escape of hazardous substances shall be subject to a civil fine of one thousand dollars (\$1,000) per day. Each day during which a discharge continued or remains uncontained or is not cleaned up or recaptured shall constitute a separate offense.
- B. Any person who fails to comply with the requirements of § 146-6, Emergency notification requirements, shall be subject to a civil fine of one thousand dollars (\$1,000) per offense.
- C. These civil penalties shall constitute separate offenses, in addition to any other civil or criminal penalties, fines or offenses provided for pursuant to this Article.

§ 146-18. Criminal penalties.

- A. Violating ordinances, rules, regulations, orders or permits.
 - (1) A person who violates any provision or fails to perform any duty imposed by this Article or who violates any provision or fails to perform any duty imposed by any rule, regulation, order or permit adopted or issued under this Article is guilty of a misdemeanor and, on conviction, is subject to a fine not to exceed one thousand dollars (\$1,000) per day per violation or imprisonment not to exceed six (6) months, or both. Each day a violation occurs is a separate violation. Each section, subsection, rule, regulation, order or permit condition which is violated constitutes a separate violation.
 - (2) In addition to any criminal penalties imposed on a person convicted under this section, the person may be enjoined from continuing the violation(s).
- B. False statements in required documents. A person is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding one thousand dollars (\$1,000) per day per violation or imprisonment not to exceed six (6) months per violation, or both, if the person:
 - (1) Knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this Article or any rule, regulation, order or permit adopted or issued under this Article.
 - (2) Falsifies, tampers with or knowingly renders inaccurate any monitoring device or procedure required to be maintained under this Article or any rule, regulation, order or permit adopted or issued under this Article.

§ 146-19. Miscellaneous provisions.

- A. Rules and regulations. Pursuant to Section 807 of the Harford County Charter, the HCEOD shall have the authority to promulgate such rules and regulations as are necessary for implementation of this Article and compliance with the act.

- B. Severability. If any provision, paragraph, word, section or subsection of this Article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and subsections shall not be affected and shall continue in full force and effect.
- C. Conflict. All other ordinances or parts of other ordinances or local laws inconsistent with any part of this Article are hereby repealed to the extent of such inconsistency or conflict.
- D. In any response action, the authority may not duplicate any response action taken under the act or the Code.

ARTICLE II
Transportation

§ 146-20. Notification of county.

Any person who transports high-level nuclear waste into, within, through or out of Harford County by any road or highway shall notify Central Alarm of Harford County of such activity. Notification shall be made in writing or by telephone to Central Alarm prior to shipment. Notification to Central Alarm shall include the following information:

- A. Manifest number.
- B. Name of shipper.
- C. Name of carrier.
- D. Type and quantity of radioactive material.
- E. Date and time of shipment.
- F. Starting point, scheduled route and destination.
- G. Tag number of tractor and trailer.
- H. The name of any individual that may be contacted on a twenty-four hour basis in case of an emergency.

§ 146-21. Definitions.

For the purpose of this Article, the following terms shall have the meaning indicated:

HIGH-LEVEL NUCLEAR WASTES:

- A. Irradiated nuclear reactor fuel.
- B. Liquid waste from operation of the first cycle solvent extraction system and the concentrated waste from subsequent extraction cycles or their equivalent in a facility for reprocessing irradiated reactor fuel.
- C. Solvents into which such wastes have been converted.

§ 146-22. Exemptions.

Exempted from the provisions of this chapter are any radioactive materials shipped by or for the United States government for military or national security purposes which are related to the national defense and any high-level nuclear waste that is transported interstate on I-95.

§ 146-23. Maintenance of log.

Central Alarm shall keep a separate and continuous log of each notification. The log shall include the information that shall be supplied by any person who transports high-level nuclear waste into, within, through or out of Harford County. The public may have access to the log during normal operating hours and may upon payment of the appropriate fee, obtain a copy of the pages of the log.

§ 146-24. Violations and penalties.

Any person who fails to notify Central Alarm of such shipment shall be subject to a traffic citation. The violator may waive his right to a court hearing by paying a fine of two hundred dollars (\$200), payable to the Treasurer of Harford County within thirty (30) days from the date of the alleged violation.