

CF OPERATING PROCEDURE
NO. 70-10

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, October 1, 2008

Facilities Acquisition and Management

HAZARDOUS MATERIALS – EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW

1. Purpose. This operating procedure implements the provisions of Title III, Emergency Planning and Community Right-To-Know Act, also known as SARA (Superfund Amendments and Reauthorization Act) Title III. It is administered by the Federal Environmental Protection Agency (EPA) and implemented by the Florida Department of Community Affairs, and State Emergency Response Commission (SERC), Chapter 252, Part II Florida Statutes. The Act has four major sections: emergency Planning (section 301-303), emergency release notification (304), community right to know reporting requirements (sections 311, 312), and toxic chemical release inventory (313). The purpose of these laws is to prepare communities to respond to a hazardous materials accident and to increase the public's access to information on the presence of hazardous chemicals and their release into the environment.

2. Scope. This operating procedure is applicable to all Department organization entities that produce, use or store hazardous materials.

3. Definitions. Unless clearly required otherwise by the context of this operating procedure, the definitions for terms contained in the SARA Title III, Emergency Planning and Community Right-To-Know Act, and Emergency Management, Chapter 252, Florida Statutes, are hereby incorporated by reference for use in this operating procedure. In addition, the following clarification of terms shall apply for use in this operating procedure:

a. Department Hazardous Materials Administrator. The staff director of the Department's office of general services (ASG).

b. Circuit/Region Hazardous Materials Administrator. The circuit/region general services manager.

c. Institution Hazardous Materials Administrator. Institution administrator.

d. Headquarters Hazardous Materials Administrator. The staff director for general services (ASG).

4. References.

a. SARA Title III, Emergency Planning and Community Right-To-Know Act, Federal Environmental Protection Agency (EPA).

b. Chapter 252, Florida Statutes, Emergency Management, Florida Department of Community Affairs.

5. Responsibilities. The hazardous materials administrators are responsible for the implementation of the law within their respective areas and for coordination of associated activities between the

This operating procedure supersedes CFOP 70-10 dated June 1, 1998.

OPR: ASGDC

DISTRIBUTION: X: OSES; OSLs; ASG; ASGDC; Region Directors; Region/Circuit Mental Health Treatment Facilities.

Department and the Department of Community Affairs. Title III has six reporting requirements and chemical lists. The reporting requirements are independent of each other, but related. Each requirement should be reviewed to determine which facilities need to comply with the requirement. The requirements are defined in the publication entitled "Hazardous Materials Emergency Planning and Community Right-To-Know." Listed below is an outline of these requirements to assist with compliance responsibilities:

a. Emergency Planning and Notification.

(1) Chemical Notification, Section 302. Submission of a Tier II form is required by Title III of the Superfund Amendments and Reauthorization Act of 1986, Section 312, Public Law 99-499. All facilities that maintain or exceed the threshold planning quantity (TPQ) must submit a Tier II form. These thresholds are as follows:

(a) For Extremely Hazardous Substances (EHSs) designated under section 302 of Title III, the reporting threshold is 500 pounds (or 227 kg.) or the threshold planning quantity (TPQ), whichever is lower.

(b) For all other hazardous chemicals for which facilities are required to have or prepare, the minimum reporting threshold is 10,000 pounds (or 4,540 kg.) covered by the federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Submit Tier II reporting by March 1st of each year to the State Emergency Response Commission (SERC) and the Local Emergency Planning Committee (LEPC).

(2) Facility Representative Designation. These facilities must also notify the SERC and LEPC of a facility representative (circuit/region or institution hazardous materials administrator), who must provide information to the LEPC necessary for delivering and implementing the facility's local emergency plan.

b. Emergency Accidental Release Notification Section 304.

(1) There are two types of chemicals that require reporting under this section:

(a) Extremely Hazardous Substances (EHSs); and,

(b) Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) hazardous substances.

(2) If an amount equal to or greater than the reportable quantity (RQ) is released or spilled from a fixed facility, notification must be made immediately (within 15 minutes) to SERC and LEPC by calling the Florida State Warning Point (SWP) at 850-413-9911 or 800-320-0519. In addition, CERCLA spills must be reported to the National Response Center at 800-424-8802.

c. Community Right-To-Know Reporting Requirements Section 302 and 311. The chemicals covered are the extremely hazardous substances in excess of the TPQ or 500 pounds at any one time, whichever is less and any of the hazardous chemicals that meet or exceed 10,000 pounds at any one time for which the Occupational Safety and Health Administration (OSHA) requires a Material Safety Data Sheet (MSDS) to be maintained. This is a one time reporting requirement unless new significant information is discovered on a chemical. The list of EHSs is found in the "Consolidated List of Chemicals."

d. Hazardous Chemical Inventory Section 312. Each covered facility must submit an annual Florida Specific Annual Emergency and Hazardous Chemical Inventory Tier II form to the SERC, LEPC

and local fire department. It is also a requirement to allow the fire department to conduct an on-site inspection of the facility.

e. Exemptions from Reporting. Title III excludes the following substances:

(1) Any food, food additive, color additive, drug or cosmetic regulated by the Food and Drug Administration;

(2) Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use;

(3) Any substance to the extent it is used for personal, family or household purposes or is present in the same form and concentrations as a product packaged for distribution and use by the general 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; or,

(5) Any substance to the extent it is used in routine agricultural operations or it is a fertilizer held for sale by a retailer to the ultimate customer.

f. General Provisions. There are provisions in the law concerning trade secrets protection, enforcement, citizen suits and public availability of information.

g. Fees. The law provides a funding mechanism to support county and regional emergency planning and the extensive community right-to-know requirements.

(1) All Department entities subject to this law must have paid a one-time filing fee of \$50 per facility.

(2) Late fees can be assessed for failure to file a report that substantially complies with the requirements of Title III or for the failure to pay any fee.

6. Implementation. Department hazardous materials administrators are obligated to be knowledgeable of the specific requirements of Title III.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

MELISSA P. JAACKS
Assistant Secretary for
Administration

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This operating procedure has been updated to comply with current requirements for hazardous materials.