

## CHAPTER 20. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW

[Authority:27A O.S., §§ 1-3-101, 2-2-101, 2-2-104, and 4-2-102]

[Source:Codified 5-26-94]

### 252:20-1-1. Purpose

The rules in this Chapter implement the Oklahoma Hazardous Materials Planning and Notification Act as it relates to the Oklahoma Department of Environmental Quality. The rules in this Chapter are to administer and enforce the reporting requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986 ("SARA Title III") for emergency planning notification, material safety data sheets, chemical lists, emergency and hazardous chemical inventory forms, and toxic chemical release forms. The rules in this Chapter are intended to be consistent with the federal SARA Title III regulations.

[Source: Added at 11 Ok Reg 2029, eff 5-26-94]

### 252:20-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"**Claim of confidentiality**" means a submittal under SARA Title III of information to the EPA according to 40 CFR Part 350.

"**Department**" means the Oklahoma Department of Environmental Quality.

"**EPA**" means the United States Environmental Protection Agency.

"**SARA Title III**" means Title III of the Superfund Amendments and Reauthorization Act of 1986.

[Source: Added at 11 Ok Reg 2029, eff 5-26-94]

### 252:20-1-3. Incorporations by reference

(a) **Reference to CFR.** Reference to Title 40 of the Code of Federal Regulations (40 CFR) shall mean (unless otherwise specifically provided) the Superfund, Emergency Planning, and Community Right-to-Know Regulations, July, 2009.

(b) **Incorporation.** The following Parts of 40 CFR are, unless otherwise specified, incorporated by reference in their entirety:

(1) Part 355 (Emergency Planning and Notification);

(2) Part 370 (Hazardous Chemical Reporting: Community Right -to-Know);

(3) Part 372 (Toxic Chemical Release Reporting: Community Right-to-Know).

(c) **Interface with CFR.** In the Parts of 40 CFR incorporated by reference, the term "Commission" shall mean the Department.

(d) **References incorporated.** Incorporation by reference of a provision of the Code of Federal Regulations also incorporates all citations and definitions contained therein.

(e) **Penalties.** Penalties cited in 40 CFR are subject to limitations under Oklahoma law.

[Source: Added at 11 Ok Reg 2029, eff 5-26-94; Amended at 13 Ok Reg 1789, eff 5-3-96 (emergency); Amended at 13 Ok Reg 4077, eff 10-25-96; Amended at 22 Ok Reg 1106, eff 6-15-05; Amended at 23 Ok Reg 1698, eff 6-15-06; Amended at 27 Ok Reg 1166, eff 7-1-10]

### 252:20-1-4. Submission of plans and reports

(a) **Emergency planning and notification, Part 355.** The owner or operator of a facility subject to emergency planning or emergency release notification as described in 40 CFR Part 355 shall comply with the requirements of such Part.

(b) **Hazardous Chemical Reporting: Community Right-to-Know, Part 370.** The owner or operator of a facility subject to Material Safety Data Sheets (MSDS) or chemical lists, and inventory reporting (Tier I or Tier II), as described in 40 CFR Part 370 shall comply with the requirements of such Part. Tier II forms shall be submitted to the Department (DEQ) electronically via the DEQ internet website utilizing DEQ approved software. Only submissions via the website shall be accepted. A two-year grace period from the

requirement to submit via the website for facilities with less than 5 full time employees and companies operating under SIC code 1311 with fewer than 20 locations will be granted from the time of the effective date of these rules. The owner or operator of a facility subject to Tier II reporting also shall report the latitude/longitude for each location reported.

(c) **Toxic Chemical Release Reporting: Community Right-to-Know, Part 372.** The owner or operator of a facility subject to toxic chemical release record-keeping and reporting as described in 40 CFR Part 372 shall comply with the requirements of such Part.

(d) **Requests for information.** Any person who owns or operates any facility that may be subject to regulation under 40 CFR shall accurately respond to requests from the Department for information on the type of facility and the nature and quantity of chemical substances present.

[Source: Added at 11 Ok Reg 2029, eff 5-26-94; Amended at 23 Ok Reg 1698, eff 6-15-06]

#### **252:20-1-5. Claims of confidentiality**

(a) All materials to be submitted under a Claim of confidentiality shall be submitted to the EPA according to the procedures described at 40 CFR Part 350 [Trade Secrecy Claims for Emergency Planning and Community Right-to-Know Information: and Trade Secret Disclosures to Health Professionals].

(b) A copy of the sanitized version of the documents, and a copy of page 1 of the accompanying EPA substantiation form, submitted to the EPA under a Claim of confidentiality shall be submitted to the Department.

(c) All materials submitted to the Department, except separate Tier Two Confidential Location Information Sheets (40 CFR 370.41), will be available to the public.

[Source: Added at 11 Ok Reg 2029, eff 5-26-94]

#### **252:20-1-6. Procedure for submitting reporting forms**

(a) **Non-confidential.** All non-confidential forms, sanitized versions of materials submitted under a Claim of confidentiality, and separate Tier Two Confidential Location Information Sheets (see 40 CFR 370.41), shall be submitted to the Department via the DEQ internet website.

(b) **Confidential.** All materials submitted under a Claim of confidentiality, except separate Tier Two Confidential Location Information Sheets, shall be submitted as described in 40 CFR 350.16 to EPCRA Substantiation Packets, P.O. Box 1515, Lanham-Seabrook, MD 20703-1515 or FedEx and courier packages to EPCRA Substantiation Packets, c/o Computer Sciences Corp., Suite 300, 8400 Corporate Dr., New Carrollton, MD 20785.

(c) **Information dissemination.** Any requirement for an owner or operator of a facility subject to Tier II reporting under 40 CFR 370 to submit a paper Tier II report to the appropriate Local Emergency Planning Committee (LEPC) and to the local Fire Department is met by reporting to DEQ via electronic on-line internet reporting as the Department will make the information available, in a timely fashion, to the LEPCs and Fire Departments.

[Source: Added at 11 Ok Reg 2029, eff 5-26-94; Amended at 22 Ok Reg 1106, eff 6-15-05; Amended at 23 Ok Reg 1698, eff 6-15-06]

#### **252:20-1-7. Fees**

Fees for environmental services to validate reports from facilities required to report (but not merely to notify) under the Oklahoma Hazardous Materials Planning and Notification Act (27A O.S.Supp. 2005, § 4-2-101 *et seq.*) are:

(1) For owner/operators of facilities other than oil and gas production facilities (SIC code 1311) and agriculture chemical dealership facilities:

(A) \$15.00 per hazardous substance per 40 CFR 370 subject to Tier II reporting;

(B) \$30.00 per extremely hazardous substance per 40 CFR 355 subject to Tier II reporting;

(C) With a \$1,000 maximum fee per company.

(2) For owner/operators of oil and natural gas production facilities (SIC code 1311):

(A) \$12.00 per reported facility

(B) With a \$1,000 maximum fee per company.

(3) For agriculture chemical dealerships:

(A) \$12.00 per facility

(B) With a \$1,000 maximum fee per company.

[Source: Added at 11 Ok Reg 2029, eff 5-26-94; Amended at 19 Ok Reg 1009, eff 6-1-02; Amended at 23 Ok Reg 1698, eff 6-15-06]