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Technical Bulletin 03-001

Developments of Regional Impact

Guidance on Submission and Preparation of Hazardous Materials and Waste Management Plans

■ INTRODUCTION

The intent of this Technical Bulletin is to establish guidelines for submission of plans that will address the Regional Policy Plan's Minimum Performance Standards shown below.

- 4.3.1.1 *Development and redevelopment shall make reasonable efforts to minimize their hazardous material use and/or waste generation through source reduction, reuse, material substitution, employee education, and recycling. Applicants shall submit a plan to demonstrate how their project will achieve conformance with this standard.*
- 4.3.1.2 *Development and redevelopment shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.000. Applicants shall submit a plan to demonstrate how their project will achieve conformance with this standard.*
- 4.3.1.4 *Development and redevelopment shall prepare an emergency response plan that identifies potential threats to employee safety and health and threats of environmental releases and describes ways to reduce those threats.*

This Technical Bulletin is intended to help Development of Regional Impact (DRI) applicants adopt a source reduction, planning and prevention approach to hazardous materials and waste management and emergency response for the construction/land clearing and post-construction phases of a project. Doing so not only insures that the applicants, their consultants and contractors recognize obligations that already exist under various federal and state statutes, laws and regulations, but also helps to advance a pollution prevention ethic, and to prevent workplace accidents, worker injury, property damage, financial losses and environmental releases of hazardous materials and wastes.



■ OPTIONS FOR ADDRESSING THE MINIMUM PERFORMANCE STANDARDS

As noted in the Introduction, various federal and state statutes, laws and regulations already exist that require development of plans which may address issues described in Minimum Performance Standards 4.3.1.1, 4.3.1.2 and 4.3.1.4. As such, DRI applicants have two options to address conformance with the Regional Policy Plan: they may submit copies of plans already in existence at the time their project is reviewed by the Cape Cod Commission, *or* they may elect to develop management plans as part of the DRI review.

Applicants should note, however, that development of plans as part of the Commission's DRI review does not relieve them from a duty to comply with all relevant local, state or federal requirements, laws or regulations that may deal with the same or related subjects. The plan requirements listed in this Technical Bulletin are designed to address only the requirements of the Regional Policy Plan.

■ SUBMISSION REQUIREMENTS

The following submission requirements outline the information needed as part of a Development of Regional Impact application. Submission of the information described herein will insure a prompt review of a DRI's consistency with the Hazardous Materials and Waste Management section of the Regional Policy Plan.

1.1 Using Existing Plans to Address the Regional Policy Plan's Minimum Performance Standards

As noted above, applicants may submit a copy of existing minimization plans, hazardous materials and hazardous waste management plans, and emergency response plans developed relative to other federal, state or local statutes, laws, bylaws and regulations including, but not necessarily limited to, those listed below to address Minimum Performance Standards 4.3.1.1, 4.3.1.2 and 4.3.1.4. However, these plans must be comprehensive enough to address the items listed in Sections 2.1 and 2.2.

- The Massachusetts Toxics Use Reduction Act (TURA) of 1989,
- Chapter 21-C of the Massachusetts General Laws, and Title 310, Code of Massachusetts Regulations, Section 30.000,
- The Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986,
- Title 29 of the Code of Federal Regulations, Section 1910, including but not limited to Subpart 1200, Hazard Communications and Employee Right-to-Know standard,



- Title 29 of the Code of Federal Regulations, Sections 1915, 1917, 1918 and 1926,
- Chapter 527 of the Code of Massachusetts Regulations (Fire Code),
- The Oil Spill Prevention Act of 1990 (OPA 90), and
- A National Pollutant Discharge Elimination System (NPDES) permit, including a Storm Water Pollution Prevention Plan (SWPPP).

2.1 General Plan Requirements

2.1a. Minimum Requirements for all Plans

Plans to manage hazardous materials and hazardous waste address certain items and topics in common. As such, plans to address the Minimum Performance Standards 4.3.1.1, 4.3.1.2 and 4.3.1.4 should be comprehensive, written documents and should, at a minimum:

- i. Cover all the hazardous materials and hazardous wastes that are relevant to the workplace, including the types and quantities of materials and wastes anticipated to be used, handled, stored or disposed of, and the steps or tasks anticipated to minimize material use and/or waste generation.
- ii. Address ways to safely handle, store or dispose of the hazardous materials or wastes. A list of the materials and wastes should be provided, as well as up-to-date copies of Material Safety Data sheets.
- iii. Have the formal approval of the ultimately responsible party or parties. This could be the construction supervisor (in the case of the land clearing and construction phase of the project) or the owner, tenant or store manager (once the project has been constructed).
- iv. Identify the personnel or staff responsible for each role or function listed in the plans, and also who is responsible for updating the plans.
- v. Have a set timeframe for updating the plans. In the case of employees, they should be trained (at a minimum) upon hire, when the plans change, and at regular intervals thereafter, typically annually. There should also be a written procedure for updating the plans as information contained in them changes.



- vi. Include methods to detect a release of hazardous materials or wastes that are specific to the characteristics of the materials and wastes in question.
- vii. Include methods available to protect employees and property from releases of hazardous materials or wastes. This should include engineering controls (venting or spill containment equipment) or administrative controls (evacuation of buildings).

2.2 Specific Plan Requirements

2.2a. Additional Requirements for Source Reduction Plans

Source reduction, materials substitution and recycling are concepts that are inherent in a variety of state and federal laws and regulations. In Massachusetts, in July, 1989, the Toxics Use Reduction Act (TURA) was passed. TURA applies to businesses that employ the equivalent of 10 or more full-time employees, fall within certain Standard Industrial Classification Codes and process or manufacture at least 25,000 pounds or otherwise use at least 10,000 pounds of substances regulated by Title III of the Superfund Amendments and Reauthorization Act (SARA) or under the Comprehensive Environmental Response and Compensation Liability Act (CERCLA). Even so, the concepts enshrined by TURA are applicable to any entity or business that uses, handles, stores or produces hazardous materials or hazardous wastes. It seeks to “reduce, avoid or eliminate the use of toxic or hazardous substances or generation of hazardous by-products...without shifting risks between workers, consumers, or parts of the environment.” The guiding principles of TURA are pollution prevention and waste minimization techniques that have been in wide use since the mid-1980’s. As such, plans to minimize hazardous material use and/or waste generation, should, at a minimum, address the following issues in addition to those listed in Section 2.1:

- i. Document all processes, actions and activities that involve hazardous materials or hazardous waste. Describe each activity or process and the hazardous materials or wastes involved in each step.
- ii. Develop options or strategies to reduce the use, handling and storage of hazardous materials and/or the generation of hazardous waste through re-use methods, substitution of less toxic or least toxic alternatives, and/or elimination of the activity or process.
- iii. Provide a method and timetable for implementation of these options, strategies and alternatives.



2.2b. Additional Requirements for Hazardous Waste Management Plans

Hazardous wastes are regulated in Massachusetts by Title 310, Section 30.000 of the Code of Massachusetts Regulations (310 CMR 30.000). This regulation contains a set of distinct and specific regulatory requirements. As such, plans to manage hazardous waste, should, at a minimum, address the following issues in addition to those listed in Section 2.1:

- i. Provide documentation of registration with the Department of Environmental Protection as a generator of hazardous waste, including as needed, submission of a Change of Status form or a request for a single use waste shipment identification number.
- ii. Identify any existing arrangements with a licensed hazardous waste transporter(s) or other companies for hazardous waste management, collection, transport and disposal or provide for such an arrangement.
- iii. Address segregation of hazardous materials and hazardous wastes from general materials and wastes for the construction and operation phase of the project. The segregation of hazardous wastes from each other should also be addressed, with attention given to providing an area(s) of the site, including in buildings, where the wastes will be temporarily stored.
- iv. Identify, in both narrative form and on a site plan, storage area(s) on the project site that are:
 1. posted or marked as a storage area.
 2. fenced and/or secured against unauthorized entry.
 3. bermed areas with secondary containment adequate to contain at least 125% of the total volume of waste stored there at any given time.
 4. constructed of an impervious surface free of cracks, gaps and without floor drains.
 5. constructed such that wastes are stored under cover or indoors.
- v. Insure in narrative form that all hazardous wastes are:
 1. stored in containers which are constructed of or lined with materials which are compatible with the hazardous waste stored in the container.
 2. stored in containers kept in good condition, and that will be kept tightly closed except when waste is being added.
 3. stored in containers labeled with the words "Hazardous Waste," the name of the waste, and when waste was first added to the container.



4. handled in accordance with the contractor's workplace safety, release response and emergency response plans.
 5. moved from a satellite accumulation area to the main accumulation area (if applicable) within the timeframes stipulated by 310 CMR 30.000.
- vi. Provide for inspection, on a daily basis, of all areas where containers of hazardous waste are stored, looking for deterioration of the containers and the containment system.
 - vii. Provide regular on-site orientations or meetings designed to discuss issues relevant to workplace safety, release response and emergency response.
 - viii. Provide record keeping of all shipments of hazardous waste, including the date of the shipment, what type of waste was shipped, the quantity shipped, and the company handling the shipment.

2.2c. Additional Requirements for Emergency Response Plans

Emergency situations present unique challenges that need to be addressed, but may not be dealt with by hazardous materials management protocols, by hazardous waste plans, or other documents. As such, emergency plans, should, at a minimum, contain the following items in addition to those listed in Section 2.1:

- i. Include names, addresses and contact numbers for key personnel, and for the local emergency responders and the Massachusetts Department of Environmental Protection.
- ii. Include a hierarchy of tasks to be accomplished by each of the key personnel required to respond to the emergency, and to report the emergency to local, regional, state and/or federal authorities.
- iii. Include a method or methods to address emergencies that are relevant to the DRI in question, such as injuries caused by heavy equipment during land clearing and construction, or fires or medical emergencies that may occur once the project is constructed and in operation.
- iv. Have a procedure for describing the emergency event, the steps that were taken, and reporting of any spills or other releases of hazardous material or hazardous