

## **ARTICLE 50. CONTROL AND MANAGEMENT OF HAZARDOUS MATERIALS**

### **50.1 Purpose**

This Bylaw is hereby adopted to provide rules and guidelines for the safe management, handling, and transport of hazardous materials used in commercial, industrial, or other nonresidential settings in order to minimize, prevent, or eliminate adverse environmental effects and to protect public health.

### **50.2 Definitions**

In this Bylaw the following terms shall mean:

- 50.2.1** "Board", shall mean the Bedford Board of Health and shall include enforcement officer/s as the Board may designate as its representative for purposes of enforcing the provisions of this Bylaw.
- 50.2.2** "Responsible Party", shall include owners, occupants, and operators of new or existing premises and operations, except residential, which use, handle, or manage hazardous materials.
- 50.2.3** "Hazardous Materials", shall mean any substance, or combination of substances, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. However, it does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act of 1967 as amended, or materials which are discharged subject to permits under the Clean Air Act of 1970 as amended, or source, special nuclear, or byproduct material as defined by the Atomic Energy Acts of 1954. The definition of hazardous materials shall include substances considered to be toxic or hazardous by the Division of Hazardous Waste of the Commonwealth of Massachusetts under the provision of Massachusetts General Law, Chapter 21C as amended.
- 50.2.4** "Violation", shall include; failure to meet the provisions of this Bylaw, the required contingency plan or the required training plan.
- 50.2.5** "Certificate of Compliance", hereafter COC, is a document that certifies official recognition of compliance with respect to this Bylaw.
- 50.2.6** "Spills and Leaks", shall have the following meanings; i) An actual release to the environment of any substance listed in Public Law 99-499 ("SARA") Sections 302 and 304, or any substance listed in Massachusetts General Law Chapter 21E, in volume in excess of one-half of the Reportable Quantity (RQ) stated therein, ii) An actual release to the environment of any substance listed in Massachusetts General Law Chapter 111F (the Massachusetts Substance List) in volume exceeding one (1) pound, and which substance is not already listed above.

### **50.3 Compliance**

The Board may vary any requirement of subsections 3.1 and 3.2 upon demonstration by the applicant that the intent of said Sections 3.1 and 3.2 may be otherwise satisfied. (see also Bylaw Section 4.5)

#### **50.3.1 Contingency Plan**

- 50.3.1.1** The responsible party shall have a contingency plan for each facility. A statement of environmental policy signed by the responsible party shall be included indicating management's intent and resolve to prevent and minimize unsafe handling and accidental spillage of hazardous materials.
- 50.3.1.2** The provisions of the contingency plan shall be carried out immediately whenever there is a spill or leak as defined in Section 2.6.
- 50.3.1.3** The contingency plan shall clearly define the lines of communication and responsibilities among facility personnel and shall describe the actions they shall take to;
  - (a) comply with Sections 3.1.1 and 3.1.2; and
  - (b) complete incident notifications and reports
- 50.3.1.4** If the responsible party has, prior to the effective date of this bylaw, prepared a plan concerning Spill Prevention, Control, and Countermeasures (SPCC) or some other emergency or contingency plan, the responsible party need only add to that plan whatever is necessary to comply with the requirements of this Bylaw.
- 50.3.1.5** Each facility shall at all times have an emergency coordinator either on the premises, or, to the extent the facility's operations make this option inappropriate, on call and available to respond to an emergency by reaching the facility within one hour. The emergency coordinator shall have the responsibility for coordinating all emergency response measures. This person shall be thoroughly familiar with all aspects of the contingency plan, all operations and activities at the facility, the location and characteristics of hazardous materials, the location of all records, and the facility layout. The coordinator shall have access to all parts of the facility. In addition, this individual shall have the authority to hire emergency contractors, consultants, or other resources necessary to carry out the contingency plan in an emergency.
- 50.3.1.6** The contingency plan shall include maps and information which illustrate for the Bedford Fire Department, Department of Public Works, Police Department, area hospitals, and Board of Health, the layout of the facility and site, a complete listing of each hazardous material on-site with estimated maximum volumes of each hazardous material on-site where the estimated maximum volumes exceed the referenced volumes in Section 2.6, and other information concerning the quantities, locations and methods of storage, handling, and disposal of hazardous materials/wastes. An effort to consider and identify wetlands, in accordance with MGL CH. 131 s. 40 and the Town of Bedford Wetlands Protection Bylaw, shall be provided on a site map. As a minimum, the Town

of Bedford Wetlands Maps shall be used as a reference. Following any hazardous materials spill, the site map shall be revised to include an on site wetlands delineation.

- 50.3.1.7** The contingency plan shall show an updated list containing the names, addresses, and the office and home telephone numbers of all individuals qualified to act as emergency coordinator. If more than one individual is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates. For new facilities, this information shall be initially supplied to the Board of Health at the time of application for COC. The Board of Health shall be promptly notified of any changes in this information.
- 50.3.1.8** The contingency plan shall include a list of all emergency equipment, including emergency medical equipment, to be kept and maintained at the facility. This list shall be kept up-to-date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities.
- 50.3.1.9** The contingency plan shall include a description of procedures, or equipment used at the facility to prevent and/or respond to:
- (a) uncontrolled reaction of incompatible materials especially wastes; for example, procedures to avoid fires, explosions, or toxic gases;
  - (b) hazards in unloading operations; for example, ramps, special fork lifts, emergency containment equipment;
  - (c) run-off from hazardous material handling areas to other areas of the facility or environment; for example, floor drains and exterior surface and storm drainage systems;
  - (d) flooding;
  - (e) adverse effects of equipment failure or power outages;
  - (f) hazards to public health, safety, or welfare or the environment from fires, explosions, spills, or any other unplanned or non-sudden release of hazardous materials to air, soil, surface water, or ground water;
  - (g) undue exposure of personnel to hazardous materials (e.g., protective clothing).
- 50.3.1.10** The plan shall include a facility evacuation plan. This plan shall describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes in case the primary routes were to be blocked by potential or actual releases of hazardous waste or fires.
- 50.3.1.11** Reports of Spills and Leaks. Any person having knowledge of a spill or leak of hazardous material shall report same immediately to the Fire Department and additionally to the Board as soon as possible and within two (2) hours.
- 50.3.1.12** The Board may require a Responsible Party to implement reasonable measures to protect the environment or public health consistent with Section 1.0. Said requirements shall be reasonable in relation to the hazard involved and difficulty of compliance.

## **50.3.2 Training Plan**

### **50.3.2.1 Training Program:**

- (a) Personnel assigned to the management or handling of hazardous materials shall successfully complete an initial and annual refresher review program of instruction or on-the-job training that teaches and reminds them to perform their duties in a way that ensures environmental safeguards, adequate personal health, public health, and the conditions of the facility's contingency plan in accordance with Bylaw Section 3.1. This program shall be directed by an instructor trained in hazardous material and hazardous waste management procedures and shall include instruction concerning specific hazardous waste management procedures, including contingency plan implementation relevant to the position in which the individual is employed.
- (b) Personnel new to a facility shall not work in unsupervised positions until they have successfully completed appropriate training in accordance with Bylaw Section 3.2.1.
- (c) Within 6 months of being assigned to a new position at the facility such personnel shall be provided additional training as needed in order to perform their new duties in accordance with Bylaw Section 3.2.1.
- (d) Training records of current personnel shall be retained for the duration of their employment at the facility. Training records of former personnel shall be kept for at least three years after the person last worked at the facility.

### **50.3.2.2 Contents of Training Plan:**

- (a) All instructors shall access and utilize in each training session a brief introductory training unit prepared and/or approved by the Bedford Board of Health. Said training unit will present and comprise "The Bedford Experience", i.e. the continuing consequences with respect to hazardous waste and hazardous material releases in general.
- (b) The Responsible Party shall prepare a written personnel training plan designed to ensure compliance with Bylaw Sections 3.2.1(a) - 3.2.1(d). To ensure that personnel are able to respond effectively to emergencies the training plan shall:
  - (1) Specify the frequency and the manner in which personnel will be familiarized with the chemical properties of the hazardous materials at the facility, emergency procedures, emergency equipment, emergency systems, and personnel safety equipment. This may be provided either individually by job title or by category of job function.
  - (2) Provide procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment.
  - (3) Provide instructions for the proper use of automatic safety systems, if any;
  - (4) Provide guidelines and procedures for emergency communications and use of alarm systems, if any;

- (5) Provide guidelines and procedures to respond to fire, explosions, and threat of a spill or leak;
- (6) Provide guidelines to respond to potential ground water or surface water contamination incidents;
- (7) Provide a list, by job title, of each position related to the management or handling of hazardous materials;
- (8) Provide a written description of the continuing training (vs. introductory training) that will be given to each individual filling a position listed pursuant to Bylaw Section 3.2.1(a).
- (9) Provide for a records system that documents that the training required pursuant to Bylaw Section 3.2.1(a) has been given to, and satisfactorily completed by facility personnel; and
- (10) Provide procedures for shutdown of operations.

**50.3.3 Annual Review of Contingency Plan and Training Plan**

The contingency and training plans shall be reviewed by the Responsible Party and the Board on an annual basis utilizing a form supplied by the Board, and the plans shall be amended if necessary, whenever:

- 50.3.3.1** A plan is to be voluntarily revised by the responsible party;
- 50.3.3.2** The plan fails in an emergency;
- 50.3.3.3** The list of emergency coordinators changes;
- 50.3.3.4** The list of hazardous materials, estimated volumes of hazardous materials, or the list of emergency equipment changes;
- 50.3.3.5** There is any change in the operation or maintenance of the facility;
- 50.3.3.6** There occurs any other circumstance which indicates the need for a change;
- 50.3.3.7** Upon request of the Board.

**50.4 Compliance Procedures**

**50.4.1 Application and Renewal Requirements:** Responsible Parties shall submit a letter to the Board requesting a COC and shall adhere to the following procedures:

- 50.4.1.1** Five copies of the required initial Contingency Plan and five copies of a detailed outline of the required initial Training Plan shall be provided by the applicant. A complete Training Plan shall be provided upon request of the Board at the time of initial compliance or any renewal.
- 50.4.1.2** The site shall be identified and a brief summary of site operations shall be provided on the cover page of each plan.
- 50.4.1.3** A renewal form, as supplied by the Board, shall be completed and returned to the Board on an annual basis by all Responsible Parties who have been issued a COC.
- 50.4.1.4** A filing fee shall be submitted with each initial COC application and each renewal application. The fee submittal shall be consistent with a fee schedule developed by the Board and said fee schedule may be revised from time to time in accordance with MGL Ch.111 Sec. 31. Until notice to the contrary, the fee schedule shall be as follows:

- (a) \$200. - for each initial CC application submittal
- (b) \$25. - for each annual review and routine amendments to Contingency Plans and Training Plans. Refer to Section 3.3.
- (c) \$300. - for all requests to review and/or amend Contingency Plan and/or Training Plan submitted in response to an emergency incident in which either plan has failed as determined by the Board.

**50.4.2** Interagency Review

Upon receipt of a complete application, the Board shall immediately transmit a copy of the Contingency Plan and the detailed outline of the Training Plan to Fire Department, Public Works, Conservation Commission, and Selectmen. Each agency shall make recommendations as they may deem appropriate and forward these recommendations to the Board of Health within 30 days after receiving said documentation.

**50.4.3** Decision Process

The Board shall act upon a completed application for COC within 75 days of receipt of application. In making such determinations the Board shall give consideration to the simplicity, reliability, and feasibility of the proposed control measures, and the degree of threat to the environment and public which would result if the control measures failed. Failure of the Board to respond or act within the referenced 75 day period shall be deemed a lack of opposition thereto.

**50.4.4** Inspection

The Board may, according to law, enter upon any premises except residential, at any reasonable time to inspect for compliance with the provisions of this Bylaw. Upon demand by the owner or person in control of the premises, however, the Board shall obtain a warrant authorizing such entry and inspection. Information necessary to demonstrate compliance shall be submitted by the occupant of the premises at the request of the Board. If requested, samples of hazardous materials shall be provided to the Board for testing. All records pertaining to hazardous materials, disposal and removal shall be retained for no less than five (5) years and shall be made available for review within 48 hours of a request.

**50.4.5** Variance Process

Upon receipt of written request, a variance from the specific requirements of this Bylaw may be authorized by the Board, after notice and a public hearing, where the Board finds that, owing to circumstances relating to the type of operation, hazardous material, or anticipated volume of hazardous material, a literal enforcement of the provisions of the Bylaw would involve a substantial hardship, financial or otherwise, and that the relief sought may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this Bylaw. The Board may impose such conditions, safeguards and limitations, both of time and of use, as it deems appropriate upon the grant of any variance.

**50.4.6** Confidentiality

Any information, record, or particular document obtained by the Board shall, upon written request by the applicant, be kept confidential and not considered to be public record when it is deemed by the Board that such

record, information, or report relates to proprietary processes, methods of manufacture or production or that such record, information, or report, if made public, would divulge a trade secret. This section shall not prevent disclosure of any information necessary for an enforcement action.

**50.5 Enforcement**

**49.5.1** The provisions of this Bylaw shall be enforced by the Board of Health.

**49.5.2** Responsible Parties violating this Bylaw shall receive written notification of violation. Said notification shall include a time allowed to correct the violation and may suggest corrective action/s which would be acceptable to the Board. Penalties, in accordance with Section 7.0, will commence accruing subsequent to elapse of the allowed time to correct said violation.

**50.6 Administrative Appeal**

Whenever the Board denies or modifies a COC the Board shall inform the Responsible Party to whom such action is addressed of its right to submit, within 15 days, a written request for reconsideration of that action. The request shall set forth in detail the facts supporting the request for reconsideration. The Board shall schedule interviews with the Responsible Party submitting the request and shall rule in writing on the request within 45 days of the completion of the interview process.

**50.7 Penalties**

Violations of this Bylaw shall be punishable by the maximum fines in accordance with Massachusetts General Law Chapter 40 Section 21 and additionally as may be provided for by law, i.e. recovery of all Town expenses incurred as a result of and associated with the violation. Each day or part thereof that such violation continues shall constitute a separate punishable offense.

**50.8 Validity and Separability**

The invalidity of one or more sections, subsections, clauses or provisions of this Bylaw shall not invalidate or impair the Bylaw as a whole or any other part thereof.