

**CHAPTER 305. MAINTENANCE AND DISCLOSURE OF
SURVEY FORMS AND LISTS**

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Cross References

This chapter cited in 34 Pa. Code § 303.2 (relating to Environmental Hazard Survey Forms); and 34 Pa. Code § 311.2 (relating to workplace postings).

§ 305.1. Purpose and scope.

This chapter implements the maintenance and disclosure requirements of Hazardous Substance Survey Forms, Environmental Hazard Survey Forms and Lists under sections 3, 5 and 7 of the act (35 P. S. §§ 7303, 7305 and 7307).

§ 305.2. Maintenance and disclosure of Hazardous Substance Survey Forms.**(a) Maintenance of Hazardous Substance Survey Forms.**

(1) An employer shall maintain a current Hazardous Substance Survey Form for each workplace, prepared under § 303.1 (relating to Hazardous Substance Survey Forms).

(2) The Hazardous Substance Survey Form shall be maintained until superseded by an updated Hazardous Substance Survey Form prepared under § 303.1.

(b) Disclosure of Hazardous Substance Survey Form to employes.

(1) An employer, who is a nonmanufacturer shall furnish, upon request of an employe or employe representative, a copy of the current Hazardous Substance Survey Form for the workplace to which the employe is assigned.

(2) Employers who are manufacturers are exempt from the requirement of paragraph (1).

(c) Disclosure of Hazardous Substance Survey Form to the general public.

(1) A person living or working in this Commonwealth may submit a written request to the Department for a Hazardous Substance Survey

Form. Written requests shall be sent to the Department of Labor and Industry, 7th and Forster Streets, Harrisburg, Pennsylvania 17120. Attention: Worker and Community Right-to-Know Program.

(2) The request shall include the following information:

(i) Name and address of the person requesting the survey.

(ii) The name, address and workplace of the employer.

(iii) A description of the type of work or business engaged in by the requestor and a certification that the requestor is not a competitor of the employer from whom the Hazardous Substance Survey Form is requested. The certification, signed and dated by the requestor, shall include the following language:

“I hereby certify that, to the best of my knowledge, neither I, nor any member of my immediate family are now, or plan to be, a competitor or representative, employee, or agent of a competitor of the employer from whom I am making this request.”

(3) An employer who receives a written request from the Department for a Hazardous Substance Survey Form, shall return the form within 20 calendar days of the date of receipt of the Department’s request. Within 45 days of the receipt of the appropriate request, the Department will transmit a copy of the requested form to the original requestor, if the employer in question has responded to the Department’s request unless the Department has a current copy on file.

(4) If upon receipt of the Hazardous Substance Survey Form, the Department determines that the form is not complete, the Department may return it to the employer and provide an explanation of the portions which need to be completed. An employer may be given no more than an additional 10 days from receipt of the Department’s request to make the corrections and completions, after which the form shall again be returned to the Department.

(5) The name and address of the requestor shall be kept confidential by the Department except as provided by § 321.2(a) (relating to complaint and investigation procedure).

(d) *Disclosure of Hazardous Substance Survey Form to emergency response agencies.*

(1) Upon the written request of a local police, fire or emergency response agency within whose jurisdiction an employer falls, the employer shall provide a copy of its latest Hazardous Substance Survey Form for a workplace within the requesting agency’s jurisdiction, within 20 days of receipt of the request.

(2) Absent good cause, no employer may be required to provide more than one copy of the most current Hazardous Substance Survey Form to the same emergency response agency.

(3) Disclosure of Hazardous Substance Survey Form by an emergency response agency shall be limited to official business purpose of the requesting agency.

Source

The provisions of this § 305.2 adopted August 1, 1986, effective August 2, 1986, 16 Pa.B. 2909; amended March 25, 1988, effective in accordance with § 301.4, 18 Pa.B. 1471. Immediately preceding text appears at serial pages (109969) to (109971).

Cross References

This section cited in 34 Pa. Code § 305.6 (relating to public access); and 34 Pa. Code § 307.15 (relating to public access).

§ 305.3. Maintenance and disclosure of Environmental Hazard Survey Form.

(a) *Maintenance of Environmental Hazard Survey Form.*

(1) An employer shall complete a Environmental Hazard Survey Form under § 303.2 (relating to Environmental Hazard Survey Forms).

(2) An employer who completes an Environmental Hazard Survey Form shall keep a copy of the form on file at the workplace to which the form applies and at the employer's principal place of business in this Commonwealth. Employers are required to keep only the most current Environmental Hazard Survey Form for a workplace.

(b) *Disclosure of Environmental Hazard Survey Form to employes.* A non-manufacturing employer shall provide a copy of the Environmental Hazard Survey Form upon the request of an employe, only if such a survey has already been conducted under § 303.2.

(c) *Disclosure of Environmental Hazard Survey Form to the general public.*

(1) A person living or working in this Commonwealth may submit a written request to the Department for an Environmental Hazard Survey Form. Written requests shall be sent to: Department of Labor and Industry, 7th and Forster Streets, Harrisburg, Pennsylvania 17120. Attention: Worker and Community Right-to-Know Program.

(2) The request shall include the following information:

(i) The name and address of the person requesting the survey.

(ii) The name, address and workplace of the employer maintaining the Environmental Hazard Survey Form.

(iii) A description of the type of work or business engaged in by the requestor and a certification that the requestor is not a competitor of the employer from whom the Environmental Hazard Survey Form is requested. The certification, signed and dated by the requestor, shall include the following language:

"I hereby certify that, to the best of my knowledge, neither I nor any member of my immediate family, are now, or plan to

be a competitor or representative, agent or employee of a competitor of the employer from whom I am making this request.”

(3) An employer who receives a written request from the Department for an Environmental Hazard Survey Form, shall return the form within 30 calendar days of the date of the Department’s request. Upon receipt of a request meeting the requirements of paragraph (2), the Department will, within 45 days, transmit a copy of the form to the original requestor, if the employer in question has responded to the Department’s request, unless the Department has a current Environmental Hazard Survey Form on file.

(4) If upon receipt of the Environmental Hazard Survey Form, the Department determines that the form is not complete, the Department may return it to the employer and provide an explanation of those portions which need to be completed. An employer may be given no more than an additional 10 days from receipt of the Department’s notification to make corrections and completions, after which the form shall again be returned to the Department.

(5) The name and address of the requestor will be kept confidential by the Department, except as provided in § 321.2(a) (relating to complaint and investigation procedure).

(d) *Disclosure of Environmental Hazard Survey Form to emergency response agency.*

(1) Upon the written request of a local police, fire or emergency response agency within whose jurisdiction an employer falls, the employer shall provide a copy of the most current completed Environmental Hazard Survey Form, and relevant and available information concerning environmental hazards pertaining to the workplace in question, within 20 days of receipt of the request, if the Department had previously requested the completion of the form.

(2) Absent good cause, no employer may be required to provide more than one copy of the most current Environmental Hazard Survey Form to the same emergency response agency.

(3) Disclosure of Environmental Hazard Survey Forms by an emergency response agency is limited to the official business purpose of the requesting agency.

Cross References

This section cited in 34 Pa. Code § 301.3 (relating to jurisdiction/exemptions); 34 Pa. Code § 305.6 (relating to public access); and 34 Pa. Code § 307.15 (relating to public access).

§ 305.4. Maintenance and disclosure of work area lists.

(a) *Employer responsibilities.* A nonmanufacturing employer shall:

(1) Furnish, upon request by an employee, a list of the hazardous substances used or produced in the employee’s work area.

(2) Offer a list of the hazardous substances to a new or newly assigned employee to a particular work area.

(3) Update the lists as necessary but, at least annually.

(b) *Limitations on availability of copies of lists.* If a nonmanufacturing employer provides a particular list to an employe representative on behalf of a particular employe, the employer does not have to provide a copy of the same list to the employe represented by the representative.

Cross References

This section cited in 34 Pa. Code § 303.1 (relating to Hazardous Substance Survey Forms).

§ 305.5. Fees.

(a) The nonmanufacturing employer may not charge an employe or employe representative for materials furnished by the employer. The employer may impose a reasonable charge, not to exceed the costs of reproduction, if the requestor had requested and received the same information about the same substance within the preceding 12 months.

(b) No fee may be charged when an employe's job assignment has changed or new information is available concerning the subjects about which information is required to be provided.

(c) No fee may be charged for requests from a certified or recognized bargaining agent to the extent the person is acting in his capacity as a certified or recognized bargaining agent.

§ 305.6. Public access.

A person living or working in this Commonwealth and who is not a competitor may request, under §§ 305.2(c) and 305.3(c) (relating to maintenance and disclosure of Hazardous Substance Survey Forms and maintenance and disclosure of Environmental Hazard Survey Form), from the Department a copy of the lists or forms required in section 3 of the act (35 P. S. § 7303) which are present in a particular workplace, and the Department will transmit the requested material within 45 days of receipt of the request. A request will be treated by the Department as confidential as to the name and address of the requestor except as provided by § 321.2(a) (relating to complaint and investigation procedure). Materials will be available at a fee not to exceed the cost of reproducing them.

Cross References

This section cited in 34 Pa. Code § 301.3 (relating to jurisdiction/exemptions).

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