

## CHAPTER 116—EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW

### SUBCHAPTER I—EMERGENCY PLANNING AND NOTIFICATION

Sec.

- 11001. Establishment of State commissions, planning districts, and local committees.
- 11002. Substances and facilities covered and notification.
- 11003. Comprehensive emergency response plans.
- 11004. Emergency notification.
- 11005. Emergency training and review of emergency systems.

### SUBCHAPTER II—REPORTING REQUIREMENTS

- 11021. Material safety data sheets.
- 11022. Emergency and hazardous chemical inventory forms.
- 11023. Toxic chemical release forms.

### SUBCHAPTER III—GENERAL PROVISIONS

- 11041. Relationship to other law.
- 11042. Trade secrets.
- 11043. Provision of information to health professionals, doctors, and nurses.
- 11044. Public availability of plans, data sheets, forms, and followup notices.
- 11045. Enforcement.
- 11046. Civil actions.
- 11047. Exemption.
- 11048. Regulations.
- 11049. Definitions.
- 11050. Authorization of appropriations.

### SUBCHAPTER I—EMERGENCY PLANNING AND NOTIFICATION

#### **§ 11001. Establishment of State commissions, planning districts, and local committees**

##### **(a) Establishment of State emergency response commissions**

Not later than six months after October 17, 1986, the Governor of each State shall appoint a State emergency response commission. The Governor may designate as the State emergency response commission one or more existing emergency response organizations that are State-sponsored or appointed. The Governor shall, to the extent practicable, appoint persons to the State emergency response commission who have technical expertise in the emergency response field. The State emergency response commission shall appoint local emergency planning committees under subsection (c) and shall supervise and coordinate the activities of such committees. The State emergency response commission shall establish procedures for receiving and processing requests from the public for information under section 11044 of this title, including tier II information under section 11022 of this title. Such procedures shall include the designation of an official to serve as coordinator for information. If the Governor of any State does not designate a State emergency response commission within such period, the Governor shall operate as the State emergency response commission until the Governor makes such designation.

##### **(b) Establishment of emergency planning districts**

Not later than nine months after October 17, 1986, the State emergency response commission shall designate emergency planning districts in

order to facilitate preparation and implementation of emergency plans. Where appropriate, the State emergency response commission may designate existing political subdivisions or multi-jurisdictional planning organizations as such districts. In emergency planning areas that involve more than one State, the State emergency response commissions of all potentially affected States may designate emergency planning districts and local emergency planning committees by agreement. In making such designation, the State emergency response commission shall indicate which facilities subject to the requirements of this subchapter are within such emergency planning district.

##### **(c) Establishment of local emergency planning committees**

Not later than 30 days after designation of emergency planning districts or 10 months after October 17, 1986, whichever is earlier, the State emergency response commission shall appoint members of a local emergency planning committee for each emergency planning district. Each committee shall include, at a minimum, representatives from each of the following groups or organizations: elected State and local officials; law enforcement, civil defense, firefighting, first aid, health, local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to the requirements of this subchapter. Such committee shall appoint a chairperson and shall establish rules by which the committee shall function. Such rules shall include provisions for public notification of committee activities, public meetings to discuss the emergency plan, public comments, response to such comments by the committee, and distribution of the emergency plan. The local emergency planning committee shall establish procedures for receiving and processing requests from the public for information under section 11044 of this title, including tier II information under section 11022 of this title. Such procedures shall include the designation of an official to serve as coordinator for information.

##### **(d) Revisions**

A State emergency response commission may revise its designations and appointments under subsections (b) and (c) as it deems appropriate. Interested persons may petition the State emergency response commission to modify the membership of a local emergency planning committee.

(Pub. L. 99-499, title III, §301, Oct. 17, 1986, 100 Stat. 1729.)

#### **Statutory Notes and Related Subsidiaries**

##### **EFFECTIVE DATE**

Chapter effective Oct. 17, 1986, see section 4 of Pub. L. 99-499, set out as an Effective Date of 1986 Amendment note under section 9601 of this title.

##### **SHORT TITLE**

Pub. L. 99-499, title III, §300(a), Oct. 17, 1986, 100 Stat. 1728, provided that: "This title [enacting this chapter] may be cited as the 'Emergency Planning and Community Right-To-Know Act of 1986'."

**Executive Documents**

## EXECUTIVE ORDER No. 12856

Ex. Ord. No. 12856, Aug. 3, 1993, 58 F.R. 41981, which provided for Federal compliance with right-to-know laws and pollution prevention requirements, was revoked by Ex. Ord. No. 13148, §901, Apr. 21, 2000, 65 F.R. 24604, formerly set out as a note under section 4321 of this title.

**§ 11002. Substances and facilities covered and notification****(a) Substances covered****(1) In general**

A substance is subject to the requirements of this subchapter if the substance is on the list published under paragraph (2).

**(2) List of extremely hazardous substances**

Within 30 days after October 17, 1986, the Administrator shall publish a list of extremely hazardous substances. The list shall be the same as the list of substances published in November 1985 by the Administrator in Appendix A of the "Chemical Emergency Preparedness Program Interim Guidance".

**(3) Thresholds**

(A) At the time the list referred to in paragraph (2) is published the Administrator shall—

(i) publish an interim final regulation establishing a threshold planning quantity for each substance on the list, taking into account the criteria described in paragraph (4), and

(ii) initiate a rulemaking in order to publish final regulations establishing a threshold planning quantity for each substance on the list.

(B) The threshold planning quantities may, at the Administrator's discretion, be based on classes of chemicals or categories of facilities.

(C) If the Administrator fails to publish an interim final regulation establishing a threshold planning quantity for a substance within 30 days after October 17, 1986, the threshold planning quantity for the substance shall be 2 pounds until such time as the Administrator publishes regulations establishing a threshold for the substance.

**(4) Revisions**

The Administrator may revise the list and thresholds under paragraphs (2) and (3) from time to time. Any revisions to the list shall take into account the toxicity, reactivity, volatility, dispersability, combustability, or flammability of a substance. For purposes of the preceding sentence, the term "toxicity" shall include any short- or long-term health effect which may result from a short-term exposure to the substance.

**(b) Facilities covered**

(1) Except as provided in section 11004 of this title, a facility is subject to the requirements of this subchapter if a substance on the list referred to in subsection (a) is present at the facility in an amount in excess of the threshold planning quantity established for such substance.

(2) For purposes of emergency planning, a Governor or a State emergency response commis-

sion may designate additional facilities which shall be subject to the requirements of this subchapter, if such designation is made after public notice and opportunity for comment. The Governor or State emergency response commission shall notify the facility concerned of any facility designation under this paragraph.

**(c) Emergency planning notification**

Not later than seven months after October 17, 1986, the owner or operator of each facility subject to the requirements of this subchapter by reason of subsection (b)(1) shall notify the State emergency response commission for the State in which such facility is located that such facility is subject to the requirements of this subchapter. Thereafter, if a substance on the list of extremely hazardous substances referred to in subsection (a) first becomes present at such facility in excess of the threshold planning quantity established for such substance, or if there is a revision of such list and the facility has present a substance on the revised list in excess of the threshold planning quantity established for such substance, the owner or operator of the facility shall notify the State emergency response commission and the local emergency planning committee within 60 days after such acquisition or revision that such facility is subject to the requirements of this subchapter.

**(d) Notification of Administrator**

The State emergency response commission shall notify the Administrator of facilities subject to the requirements of this subchapter by notifying the Administrator of—

(1) each notification received from a facility under subsection (c), and

(2) each facility designated by the Governor or State emergency response commission under subsection (b)(2).

(Pub. L. 99-499, title III, §302, Oct. 17, 1986, 100 Stat. 1730.)

**§ 11003. Comprehensive emergency response plans****(a) Plan required**

Each local emergency planning committee shall complete preparation of an emergency plan in accordance with this section not later than two years after October 17, 1986. The committee shall review such plan once a year, or more frequently as changed circumstances in the community or at any facility may require.

**(b) Resources**

Each local emergency planning committee shall evaluate the need for resources necessary to develop, implement, and exercise the emergency plan, and shall make recommendations with respect to additional resources that may be required and the means for providing such additional resources.

**(c) Plan provisions**

Each emergency plan shall include (but is not limited to) each of the following:

(1) Identification of facilities subject to the requirements of this subchapter that are within the emergency planning district, identification of routes likely to be used for the trans-