

TECHNICAL BULLETIN NO. 94-12

SUBJECT(S): REVISIONS TO BROWARD COUNTY CODE OF ORDINANCES CHAPTER 27, ARTICLE XII - MANAGEMENT OF INDUSTRIAL WASTES AND HAZARDOUS MATERIAL

SUMMARY: BROWARD COUNTY CODE OF ORDINANCES, CHAPTER 27, ARTICLE XII - MANAGEMENT OF INDUSTRIAL WASTES AND HAZARDOUS MATERIAL WAS RENAMED AND REVISED NOVEMBER 1993 TO BE CONSISTENT WITH FEDERAL AND STATE LAWS AND TO CLARIFY THE EXISTING COUNTY CODE. THE INDUSTRIAL WASTEWATER AND WELLFIELD PROTECTION PORTIONS OF THE ARTICLE WERE REVISED AND MOVED TO NEW ARTICLES OF CHAPTER 27. THE FEE SCHEDULE SECTIONS OF ARTICLE XII WERE REVISED AND MOVED TO SECTION 41.5 OF THE BROWARD COUNTY CODE OF ORDINANCES. THE REVISED RULE TITLE, SECTION NUMBERS, REVISIONS AND RULE PROVISIONS ARE SUMMARIZED BELOW.

ARTICLE XII - HAZARDOUS MATERIAL

Background (Sec. 27-351). This section was modified by expanding the types of resources to be protected to include air, waters (ground and surface waters), soils and other natural resources of Broward County, as well as the health, safety and welfare of Broward County citizens. In addition, this section now identifies the activities involving hazardous materials that are to be regulated as follows: generation, use, storage, handling, processing, manufacturing, and disposal. Under the old code, only pollution of soil and water by hazardous substances was prohibited. The new code expands the list of prohibited acts to include the pollution of air and other natural resources of Broward County. The new code also adds a statement to the intent that recognizes the party responsible for causing the release of hazardous materials into the environment as responsible for environmental cleanup and restoration. A statement listing DPEP's authority to license, evaluate, review, and administer all activities involving hazardous materials substances, including environmental assessments and remediation actions, is also provided in the revised code.

Definitions (Sec. 27-352). Some of the changes to this section are highlighted below:

The provision that authoritative scientific and engineering documents should be referenced to determine definitions for terms not defined in the code was removed; Definitions for many new terms were added to the revised code to be consistent with current state and federal provisions regulating hazardous materials. Definitions for the following terms were added to the revised code:

- biomedical waste
- petroleum products
- combustible liquid

- primary containment
- contaminant
- release
- contamination assessment plan
- remedial action plan
- contamination assessment report
- reportable quantity
- discarded
- double-walled
- residential
- facility
- responsible party
- flammable liquid
- toxicity characteristic leaching procedure
- flashpoint
- impermeable
- transfer station
- initial remedial action
- unauthorized
- owner/operator
- used oil
- waste hauler

The definitions of several terms were revised. Most of the revisions were made for consistency with existing federal and state hazardous material provisions. An exception is the change made to the definition of hazardous material facility. Under the old code, a facility with any amount of hazardous material on site would have been considered a hazardous material facility. Under the revised code, thresholds are established. Now, only facilities handling either extremely hazardous substances in excess of the threshold planning quantity (as defined under the Emergency Planning and Community Right-to-Know Act, 42 USC sec. 11001, et seq.), or 25 gallons or more of hazardous materials in a month's time are considered hazardous material facilities. Definitions of the following terms were revised:

- hazardous material
- secondary containment
- hazardous material facility
- sludge
- hazardous waste
- toxicity
- product tight

Industrial (Sec. 27-358 to 27-366). The sections that covered industrial wastewater discharges in the old hazardous material code have been moved to Article V (Water Pollution), Section 194(c) of Chapter 27, Broward County Code of Ordinances.

Prohibitions (Sec. 27-367). This section was revised by clarifying existing prohibitions, moving some prohibitions to other sections of the revised code, and by adding activities to the list of prohibitions. Revised prohibitions are as follows:

- The old code prohibited the discharge of hazardous materials. The revised code prohibits both the discharge and the abandonment of hazardous materials. The exemptions to these provisions for pesticide or herbicide use conducted pursuant to a license or permit issued by the state or federal government has been retained in the revised code;
- The old code describes what the responsible party must do in the event of a hazardous material discharge. In the new code, the description of these requirements has been expanded and moved to Section 355; and;
- The provision in the old code prohibiting the disposal of hazardous materials in a trash or garbage receptacle is broadened and moved to a new section in the revised code. Section 356(b)(4)(c)(1) states that disposal of hazardous materials shall be conducted in accordance with federal, state, and local regulations.

Newly added prohibitions include the following:

- No construction or other intrusive activities at known contaminated properties without first demonstrating that such construction or activities will not spread contaminants and without prior approval from DPEP;
- Storing flammable liquids in manner that is not in full accordance with the most current version of the National Fire Protection Association Code;
- Storage, handling, usage or production of hazardous materials within a wellfield zone, unless licensed by DPEP, and generated, used, handled, stored, processed, or manufactured in accordance with Article XIII (wellfield provisions) of Chapter 27;
- Remedial actions initiated without a remedial action plan approved by DPEP or the Department of Environmental Protection (Not applicable when the Environmental Protection Agency is the lead agency and has issued a corrective or remedial action);
- Causing, permitting, suffering or allowing the usage, storage, abandonment or disposal of hazardous materials in a manner which violates a provision of any federal, state, or local government regulation, or in a manner that causes an unauthorized release of hazardous material; and
- Pumping of water as a remedial action or dewatering operations at or within a one-quarter-mile radius of a contaminated site without prior DPEP approval.

Exemptions (Sec. 27-354). This section is a new addition to Chapter 27 and lists several types of materials, activities and conditions which are exempt from the Hazardous Material provisions of this chapter. The exemptions listed in this new section are either new to the Hazardous Material provisions of Chapter 27, or are modifications of exemptions that may have appeared in other sections of the code.

Newly added exemptions include the following:

- Hazardous materials contained solely in consumer products packaging;
- Dielectric insulating fluids used solely for internal use in electrical equipment;
- Public used oil collection facilities;
- Residential units used for non- commercial purposes;
- No. 6 fuel oil and petroleum products with a viscosity greater than thirty centistokes;
- A petroleum product contaminated site for which assessment and remediation are funded or eligible for reimbursement through the DEP cleanup program, or sites where the U.S. Environmental Protection Agency is the lead agency and where a corrective action under RCRA has been initiated;
- Biomedical waste and discarded residential hazardous material transfer stations that provide transfer free of charge;
- Handling, storage and use of hazardous material at construction sites (exempt from the licensing provisions only); and
- Petroleum products used solely as fuel in a vehicle fuel tank.

The exemption for storage tank facilities has been retained in the revised code with some revisions. Under the revised code, above and underground storage tanks with a capacity greater than 110 gallons are required to be licensed under the storage tank provisions of the code (Article X) and are exempt from the hazardous material provisions of Chapter 27. This provision does not, however, exempt facilities which also utilize other hazardous materials from the requirements of obtaining a Hazardous Material Facility License.

Notifications (Sec. 27-355). This section is a new addition. The notification requirements are as follows:

- When a licensee is temporarily unable to comply with any of the conditions of a hazardous material license;
- When it is the intent of the licensee to cease operations, initiate a temporary shutdown, transfer the license, or permanently remove from use or operation a hazardous material facility; and;
- When it is the intent of any person to conduct dewatering operations at or within a one-quarter mile radius of a contaminated site.
- The provision requiring the responsible party (RP) to notify DPEP when there has been an unauthorized release of hazardous materials has been expanded to require the RP to notify DPEP when hazardous material contamination is discovered. Notification is required when the amount of material released or contamination discovered exceeds amounts specified in the rule. This provision also describes how and when notification is to be provided, and requires the RP to stabilize the situation.

Required licenses and approvals (Sec. 27- 356). The provisions in this section describe the conditions under which a license is necessary. Application requirements have been revised. In addition, the following three licenses/registrations are new to the code: Environmental Assessment and Remediation License, Public Used Oil Collection Facility Registration, and a Utility Electrical Equipment Special License. Other newly added

provisions include numerous operating requirements specific to each license type. A brief overview of the license/registration types included in the revised code are provided below:

Hazardous Material Facility License

The provisions for operating a hazardous material facility have been substantially revised. A hazardous material facility license is required of the owner/operator for any existing, new or proposed facility that generates, stores, processes, uses, handles, or manufactures more than 25 gallons (or equivalent dry weight) of hazardous material per month, or more than the threshold planning quantity of an extremely hazardous substance at any time. The registration requirement for facilities utilizing or storing less than 25 gallons per month of hazardous material has been removed from the revised code.

Many new provisions have been added to the operating requirements. Most of these new requirements are based on common sense, and existing state and federal requirements. The new operating provisions address the following:

- record keeping;
- handling and storage (including requirements for primary and secondary containment);
- additional measures to prevent releases;
- spill contingency planning;
- transportation & disposal;
- ceasing operations; and
- construction at contaminated sites.
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Licenses for Sludge, Discarded Hazardous Material and Biomedical Waste Transfer Stations.

The licensing requirements for waste transfer stations were expanded to cover facilities handling biomedical waste as well as hazardous waste and sludge. Two types of licenses are required for waste transfer facilities, a construction license and an operation license.

General operating conditions address the following:

- following all of the requirements for operating a hazardous material facility as summarized above;
- training facility personnel; and
- maintaining a current DPEP waste haulers license for facilities hauling hazardous material and biomedical waste.

Other new provisions include the following:

- installation of monitoring wells;

- specifying materials to be received on the license;
- precautions to be taken when railcars are used to transfer and/or store hazardous material;
- submittal of shipping and receiving records on a monthly basis to DPEP; and;
- periodic submittal of groundwater monitoring reports (when required by DPEP).

Licenses for Sludge, Discarded Hazardous Material and Biomedical Waste Haulers

A Waste Haulers License is required prior to the transportation of sludge, discarded hazardous material, or biomedical waste within Broward County in quantities greater than twenty-five gallons of liquid or an equivalent dry volume. Application for this license is to be made on the appropriate DPEP form and must include all of the information requested on the form.

Operating requirements for waste hauling operations under the revised code now include requirements to:

- implement all of the requirements for operating a hazardous material facility as summarized above;
- display the DPEP-issued hauling tag on the hauling vehicle;
- identify the hauling vehicle with the business name of the licensed hauler and twenty-four hour emergency contact number;
- haul only wastes specified on the hauling license; and
- dispose of the effluent generated by the cleaning of vehicles as a hazardous waste.

The requirement for submitting a monthly report to DPEP has been eliminated.

Environmental Assessment and Remediation Licenses

The Environmental Assessment and Remediation (EAR) License is new to Chapter 27 and may be required if DPEP determines it is necessary to assess the magnitude and extent of contaminants present at a site and, if necessary, to remediate the contamination. If DPEP determines that an EAR License is required, the responsible party must apply for one within thirty days of written notice to DPEP of the presence of contaminants, or release of hazardous material exceeding the reportable quantity threshold. The provisions for operating under an EAR License address the following:

- license renewal and expiration conditions;
- types of reports required, due dates for submittal, and request for extension;
- monitoring well construction and sampling requirements;
- proper abandonment of monitoring wells, and replacement of abandoned wells;
- required approvals for remedial actions (not including initial remedial actions);
- DPEP approval requirements for pumping of water as a remedial action or dewatering activities near a contaminated site;

- deadlines for implementing the remediation system, and excavation and removal of contaminated soil from the site;
- submittal and content requirements for site remediation progress reports;
- DPEP approval requirements for initiating construction or other intrusive activities on a site overlying or containing contaminants; and
- requirements for abandoning wells no longer necessary for site monitoring.

Public Used Oil Collection Facility Registration

The requirement for registering public used oil collection facilities is new to the hazardous material code of Chapter 27 and is required for facilities that store or transfer used oil generated by do-it-yourselfers and that serve as a public used oil collection center under Florida law. Other requirements covered in the registration provisions address application for the registration, display of the registration, and conditions for eligibility to store or transfer household-generated used oil.

Utility Electrical Equipment Special License

The Utility Electrical Equipment Special License is new to the hazardous material code and is required for public or private electric utilities regulated by the Florida Public Service Commission that utilize dielectric insulating fluids in electrical equipment. License provisions address application procedures and requirements, general license conditions and operating requirements. The Operating Requirements provisions of this special license address the following:

- inventory of all electrical equipment utilizing dielectric insulating fluids;
- preparation and submittal of a spill contingency plan;
- annual report contents;
- reportable release notification; and
- disposal of hazardous materials that have been released.

Powers of the Department of Planning & Environmental Protection (Sec. 27-357).

This section is a new addition to the Hazardous Material code, and states DPEP's authority to charge fees for licenses, access property for hazardous material inspections, take action necessary to remediate contamination in cases where the responsible party has failed to do so, and conduct enforcement proceedings.

FURTHER INFORMATION: For further information on the Hazardous Material code, contact the Broward County Department of Planning & Environmental Protection, Pollution Prevention and Remediation Programs Division at (954) 519-1260.