

Chapter 226

HAZARDOUS MATERIALS

ARTICLE I

Inventory and Emergency Management of Accidental Discharges

§ 226-1. Applicability.

§ 226-2. Technical standards.

§ 226-3. Definitions.

§ 226-4. Duties of Local Emergency
Planning Committee.

§ 226-5. Initial response to
chemical/EHS emergencies.

§ 226-6. Training required.

§ 226-7. Disclosure requirements.

§ 226-8. Identification placards
required.

§ 226-9. Inspection of facilities for
compliance.

§ 226-10. Penalties for violations.

Chemical Facility Inventory
Form Flowchart

Appendix 1, List of Extremely
Hazardous Substances

Appendix 2, List of Lists

Appendix 3, Storage of
Hazardous

Materials/Chemicals Facility
Inventory Form

[HISTORY: Adopted by the Board of County Commissioners of Doña Ana County as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Inventory and Emergency Management of Accidental Discharges

[Adopted 3-30-1999 by Ord. No. 178-99]

§ 226-1. Applicability.

This article applies to all persons, business entities or facilities located within the unincorporated areas of Doña Ana County which use, store, manufacture, dispose or dispense of the chemical/hazardous materials identified herein.

§ 226-2. Technical standards. ¹

The Supervisor of Emergency Management or his/her designee shall have the primary responsibility in developing the standards and procedures for the purpose of chemical hazardous material emergency management within Doña Ana County. All such policies and procedures developed by the Office of Emergency Management shall be incorporated into the County's Emergency Operation Plan (EOP). The Chairperson of the Board of County Commissioners is hereby designated to approve proposed amendments to the EOP and to sign same.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 226-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CFR — The Code of Federal Regulations.²

CLEAN AIR ACT, REGULATION CAA 112(R) (CAA) — A federal mandate which requires all owners or operators of a stationary facility to develop and implement safety guidelines for all activities involving certain amounts of extremely hazardous substances (EHS) stored or handled at their site in quantities as defined by SARA Title III.

EMERGENCY OPERATION PLAN (EOP) — A master plan previously referred to as the "All Hazard Emergency Plan," developed to ensure readiness in the event of a technological or natural disaster, including chemical or hazardous material spills, and to coordinate the various resources available within the community in order to manage the scene and protect life and property.

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA) — Title III of the Superfund Amendment and Reauthorization Act (SARA), which requires communities to identify use or storage of hazardous chemicals by local facilities and which requires communities to develop emergency plans in case of a significant release.

ENVIRONMENTAL PROTECTION AGENCY (EPA) — The federal agency which defines, mandates, and enforces EPCRA and the Clean Air Act 112(R) (CAA).

EMERGENCY RESPONSE PERSONNEL — Those personnel required to mitigate a hazardous materials incident.

EXTREMELY HAZARDOUS SUBSTANCE (EHS) — Any one of 356 hazardous chemicals on a list compiled by EPA to provide a focus for state and local emergency planning activities.³

HAZARDOUS MATERIALS EMERGENCY RESPONSE (HMER) — The emergency response plan that dictates the amount of resources necessary to mitigate a variety of chemical releases dependent on certain factors such as type of chemical released, amount released, estimated public population which could be affected, etc.

LOCAL EMERGENCY PLANNING COMMITTEE (LEPC) — A local committee required by SARA Title III and appointed by the State Emergency Response Commission (SERC), responsible for developing and implementing response plans to chemical/hazardous materials emergencies. The emergency response personnel appointed to the LEPC represent fire, law enforcement, medical, public health, emergency management, hospital, public works, environmental, facility owners and operators, private citizens and chief elected officials. The County's Office of Emergency Management serves on the Executive Board of the LEPC.

NFPA 704, IDENTIFICATION OF THE FIRE HAZARDS OF MATERIALS — A system of readily recognizable and easily understood markings, which will give at a glance a general

2. Editor's Note: Added at time of adoption of Code (see Ch. I, General Provisions, Art. I).

3. Editor's Note: See Appendix I, List of Extremely Hazardous Substances, included at the end of this chapter.

idea of the inherent hazards of any material and the order of severity of these hazards as they relate to fire response.

REPORTABLE QUANTITY (RQ) — An amount of a Superfund hazardous substance or extremely hazardous substance that, if released, must be reported under the emergency release reporting requirements of the Emergency Planning and Community Right-to-Know Act or those of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

RISK MANAGEMENT PLAN (RMP) — A facility plan which may be required by the EPA, depending upon quantities used, stored, manufactured, dispensed or disposed, evaluating the worst-case scenario risk to the public from hazardous materials located within that facility and mapping out the potentially affected areas and procedure the facility will follow to mitigate the incident.

THRESHOLD PLANNING QUANTITY (TPQ) — The amount of an extremely hazardous substance present at a facility above which the facility's owner/operator must give emergency planning notification to the SERC and LEPC through the Supervisor of Emergency Management.⁴

TIER II FORM — An annual inventory form adopted by SARA Title III and the New Mexico Hazardous Chemical Information Act, NMSA § 74-4E-1 et seq., that is used by the facility in fulfilling the reporting requirements.⁵

§ 226-4. Duties of Local Emergency Planning Committee.

The LEPC shall evaluate and establish resources necessary to prepare and respond to potential chemical accidents within Doña Ana County. The LEPC, including any subcommittees appointed thereby, shall:

- A. Identify hazardous cargo transportation routes through Doña Ana County.
- B. Review and disclose to the public, upon request, the individual facilities' risk management plans identifying their respective on-site and off-site risks, in order to update and coordinate the Emergency Operations Plan, in accordance with EPA CAA 112(R).
- C. Assist with the training of emergency response personnel through implementation of emergency responses and exercises, in conjunction with the Office of Emergency Management.

§ 226-5. Initial response to chemical/EHS emergencies. ⁶

The Doña Ana County Fire Emergency Services shall provide initial response to incidents involving hazardous materials and chemicals as mandated by the Hazardous Materials

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Emergency Response Plan (HMER) of the New Mexico All Hazard Emergency Management Act (NMSA § 12-10-1 et seq.), as amended, and by the County's Emergency Operations Plan.

§ 226-6. Training required.

Emergency response personnel and industry personnel should complete training and receive certification specified by the New Mexico Department of Public Safety, consistent with directives from the LEPC.

§ 226-7. Disclosure requirements.

- A. Facilities which use, store, manufacture, dispose or dispense possessing any EHS in an amount equal to or exceeding the threshold planning quantities identified and defined within Appendix A or Appendix B attached to EPCRA and CFR 40 Part 355, as amended from time to time, collectively referred and incorporated herein as Appendix 1,⁷ and a required minimum threshold of 10,000 pounds for chemicals listed in CFR 40 Part 302, Table 302.4, as amended from time to time, also referred to and incorporated herein as Appendix 2,⁸ must declare the inventory, on the Doña Ana County Registered Businesses Storage of Hazardous Material/Chemical Facility Inventory Form also, referred to and incorporated herein as Appendix 3,⁹ to the Supervisor of Emergency Management or his/her designee and may further be required by state and federal law to provide a facility risk management plan.¹⁰
- B. In addition to the disclosure and risk management plan referenced above, facilities may also be subject to the state requirement to file a Tier II form.
- C. An increase to a facility's EHS inventory which causes the level of the EHS to meet or exceed the TPQ's reflected in Appendix 1, as amended from time to time, may necessitate the filing of an initial disclosure, or an amendment to same. It may also necessitate a risk management plan, or an amendment to same.
- D. The federal government amends the above referenced list of Extremely Hazardous Substances and their Threshold Planning Quantities and list of Hazardous Substances from time to time. The intent of the ordinance is to require disclosures based upon the most recent list of EHSs and TPQs. See Appendices 1 and 2 attached to this chapter.¹¹
- E. All disclosures must be made within 15 days of the acquisition of the chemical or hazardous material identified in Appendices 1 and 2, as may be amended from time to time. A copy of a sample disclosure form is attached hereto at Appendix 3.¹²

7. Editor's Note: Appendix 1 is included at the end of this chapter.

8. Editor's Note: Appendix 2 is included at the end of this chapter.

9. Editor's Note: Appendix 3 is included at the end of this chapter.

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

12. Editor's Note: Appendixes 1, 2 and 3 are included at the end of this chapter.

§ 226-8. Identification placards required. ¹³

All sites containing any chemical or hazardous material identified at Appendices 1 and 2¹⁴ in an amount equal to or exceeding the TPQ shall be required to post a placard identifying the nature of the hazard or chemical present on the premises. The placard shall be metal and of a minimum size of 15 inches by 15 inches. Each site shall display the placard in a readily visible location for emergency responders. More than one placard may be required to be posted, dependent upon the size of the building or facility site, at the discretion of the Supervisor of the Office of Emergency Management or his designee at the time of the on-site inspection.

§ 226-9. Inspection of facilities for compliance. ¹⁵

Facilities using, storing or manufacturing, disposing or dispensing the EHS or chemical materials in quantities equal to or exceeding the TPQs shall permit inspection by the Supervisor of the Office of Emergency Management or his/her designee to ensure compliance with the disclosure requirements and with other federal and state mandates relating to the safe storage of such materials.

§ 226-10. Penalties for violations.

- A. Failure of any person subject to this ordinance to comply with the disclosure of chemical and/or hazardous inventory required herein, including but not limited to, the failure to cooperate with official inspections and/or the failure to provide a facility risk management plan as required by EPA and/or the failure to post the required identification placard, constitutes a threat to the health and safety of first responders, the public and the environment. Said violations shall be enforceable by prosecution in any court of competent jurisdiction of the County.
- B. In accordance with NMSA § 4-37-3, the penalty for each violation shall be as set forth in Chapter 1, General Provisions, Article III, General Penalty.¹⁶
- C. Prosecution of a violation of this article may be commenced by the issuance of a citation charging the violation. Citations may be issued by Codes Enforcement Officers of the County or by the County's Supervisor of the Office of Emergency Management or his designee.¹⁷

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

14. Editor's Note: Appendices 1 and 2 are included at the end of this chapter.

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

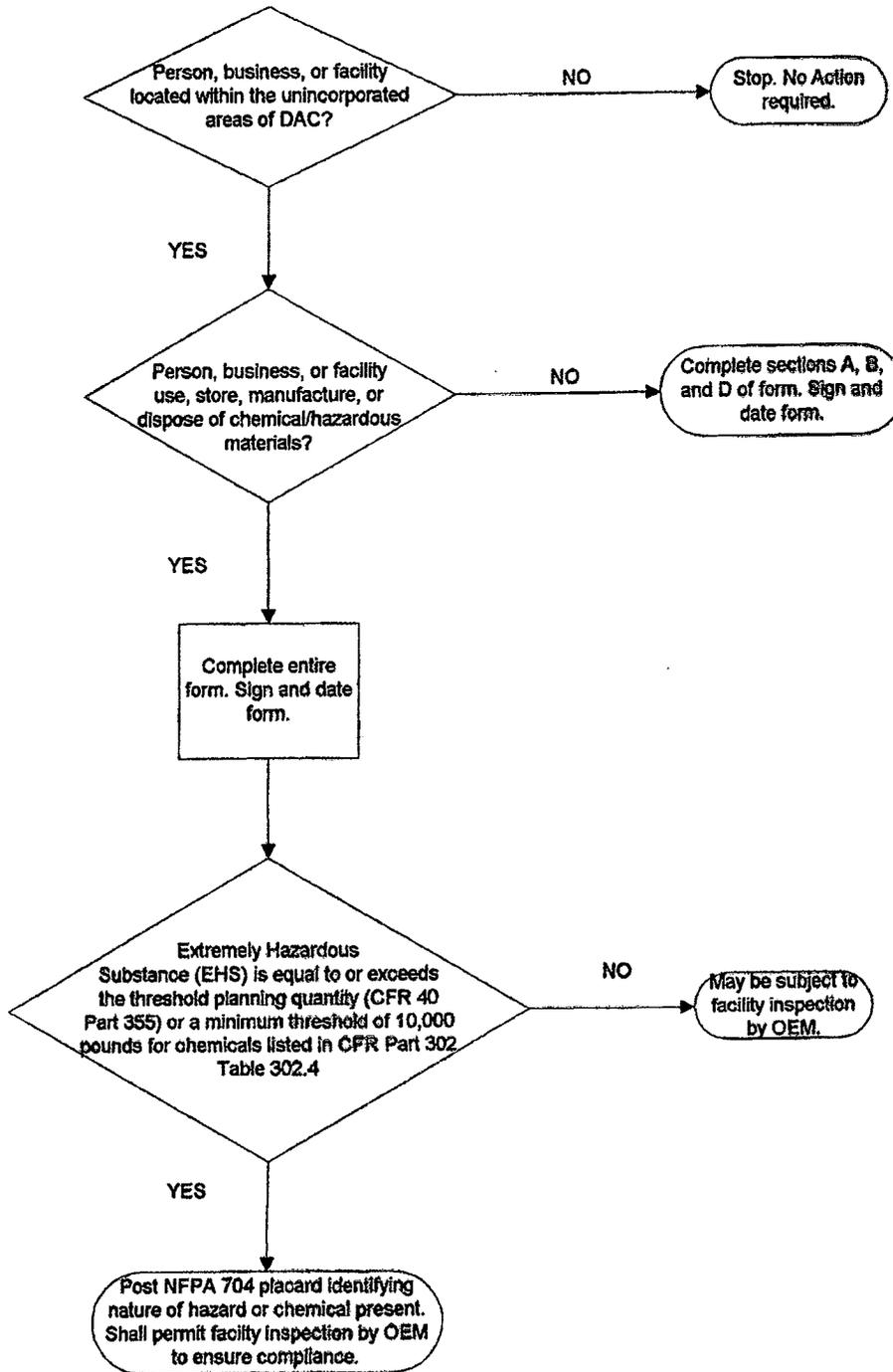
17. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

HAZARDOUS MATERIALS

226 Attachment 1

Dona Ana County

Chemical Facility Inventory Form Flowchart



HAZARDOUS MATERIALS

226 Attachment 2

Doña Ana County

Appendix No. 1

The list of extremely hazardous substances and their threshold planning quantities (also referred to as "Appendix A to Part 355") is updated periodically, and a copy of the current list can be accessed on the United States Environmental Protection Agency website at www.epa.gov/emergencies/docs/chem/list_of_lists_05_07_10.pdf or on the website of the Doña Ana County Office of Emergency Management at www.donaanacounty.org/emergency/docs/list_of_lists_05_07_10.pdf. A hard copy can be obtained at the Doña Ana County Office of Emergency Management located at 1170 North Solano, Suite O, Las Cruces, New Mexico 88001.

HAZARDOUS MATERIALS

226 Attachment 3

Doña Ana County

Appendix No. 2 List of Lists

The Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-to-Know Act (EPCRA) and Section 112(r) of the Clean Air Act is updated periodically, and a copy can be accessed on the United States Environmental Protection Agency website at www.epa.gov/emergencies/docs/chem/list_of_lists_05_07_10.pdf or on the website of the Doña Ana County Office of Emergency Management at www.donaanacounty.org/emergency/docs/list_of_lists_05_07_10.pdf. A hard copy can be obtained at the Doña Ana County Office of Emergency Management located at 1170 North Solano, Suite O, Las Cruces, New Mexico 88001.

HAZARDOUS MATERIALS

226 Attachment 4

Doña Ana County

Appendix 3

Storage of Hazardous Materials/Chemicals Facility Inventory Form

Failure to complete and submit this document will result in the denial of business registration. If you require additional information in completing the form, please call the Office of Emergency Management at 647-7900.

A. FACILITY NAME _____ OWNER/MANAGER _____
TYPE OF BUSINESS _____
ADDRESS (Physical) _____ PHONE NO. _____
ADDRESS (Mailing) _____ PHONE NO. _____
24-HOUR CONTACT NAME _____ PHONE NO. _____
ALTERNATE CONTACT _____ PHONE NO. _____
COUNTY FIRE DISTRICT NAME AND NUMBER (IF KNOWN) _____

- B. 1. Does your business have an Evacuation Plan? Yes [] No []
2. Does your business have an OSHA Hazard Communication Standard Program? Yes [] No []
3. Does your business use, store, manufacture, dispose or dispense hazardous materials/chemicals? Yes [] No []
4. Does your business dispose of hazardous materials/chemicals? Yes [] No []
5. Is your business required to submit an EPA Risk Management Plan? Yes [] No []

C. Please list all chemicals or hazardous materials which are used, sold, or stored at your business. Attach additional sheet if necessary.

Table with 2 columns: Chemical Name/CAS Number (If Possible) and Maximum Amount Stored Annually. Multiple rows for listing chemicals.

Gasoline: _____ Gallons Aboveground [] Underground []
Diesel: _____ Gallons Aboveground [] Underground []

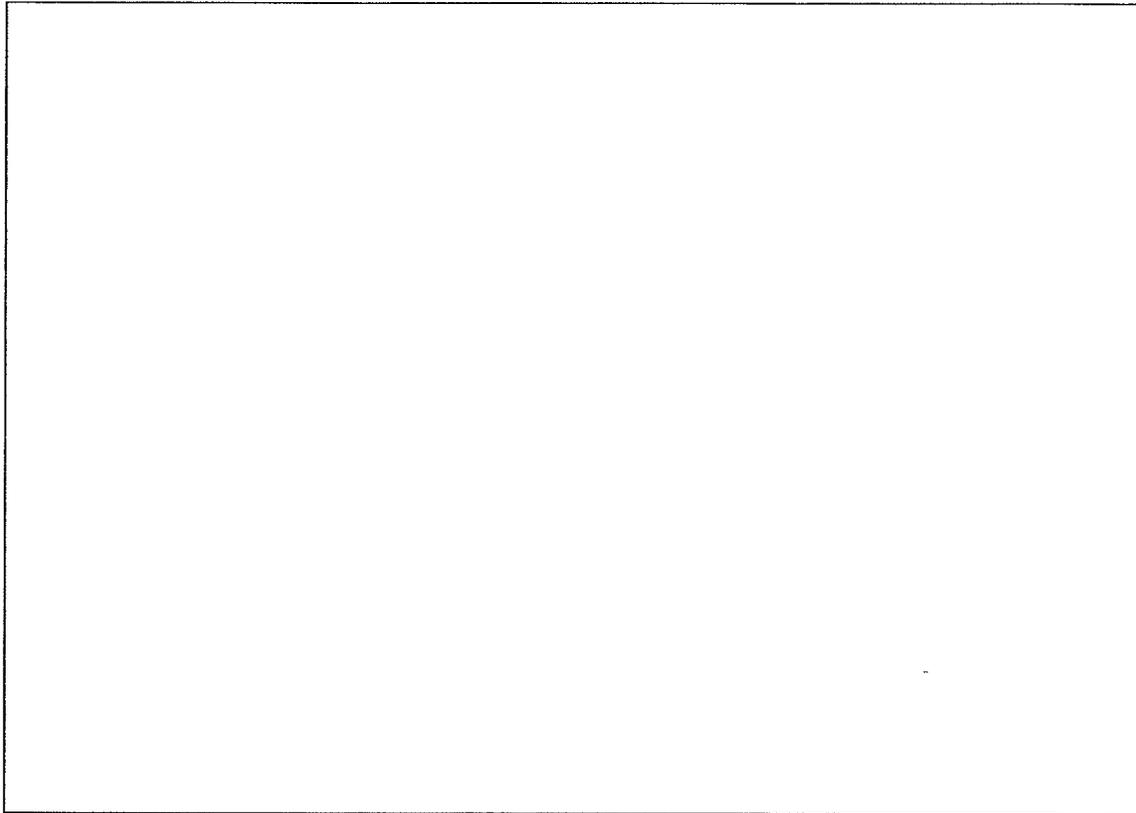
Provide the name and how close in feet your chemical storage area is to any:
School _____ Name _____ Feet _____
Restaurant _____ Name _____ Feet _____
Residence _____ Name _____ Feet _____
Hospital _____ Name _____ Feet _____
Store _____ Name _____ Feet _____
Other _____ Name _____ Feet _____

DOÑA ANA COUNTY CODE

PLEASE COMPLETE OTHER SIDE

Please draw a diagram as clearly as possible of your facility reflecting the location of any hazardous material or chemical storage area. THIS INFORMATION IS CRITICAL TO PROVIDE AWARENESS TO EMERGENCY FIRST RESPONDERS IN THE EVENT OF AN ACCIDENT OR INCIDENT WHICH MAY OCCUR AT YOUR FACILITY. Try to include any significant landmarks in your diagram (name of streets or roads, location of fire extinguishers, drainage ditches, trees, houses, ADA access, etc.)

N↑



Protective equipment available:

- Fire extinguisher Face shield/goggles
 Cartridge respirator Supplied air breathing apparatus

NFPA 704 Placard required? Yes No

If yes, where are NFPA 704 placards displayed (N, S, E, W of facility?)

D. Owner/Manager/Occupant Signature _____ Date _____

Return to: Office of Emergency Management
1170 North Solano, Ste. O
Las Cruces, NM 88001
(505) 647-7900 office
(505) 647-7996 fax

DEADLINE: MARCH 15TH