

MASS. EA20.2:073/3

COMMUNITY RIGHT TO KNOW

**A community resident's
guide to petitioning
for information on toxic
and hazardous substances
under the
Massachusetts
Right-to-Know Law.**



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What is the “Right-To-Know” Law?

The Right-to-Know Law* gives Massachusetts citizens the right to find out what toxic or hazardous substances are being used or stored by employers in their communities, if they believe that these substances may endanger public health or safety.

What is Community Right-To-Know?

“Community Right-to-Know” makes information available to community residents on toxic or hazardous substances which are on the Massachusetts Substance List and are used or stored at workplaces in the community. This is done through a petitioning process. The information on the toxic or hazardous substance is summarized on a “Material Safety Data Sheet,” or MSDS.

When to Use Community Right-to-Know

You may use Community Right-to-Know if you are concerned that an employer in your city or town is using or storing a substance that could endanger public health or safety. (The term “employer” includes private, state, and municipal employers; for example, schools, hospitals or agencies. It does not include federal agencies or workplaces.)

Who Can Use Community Right-to-Know?

In order to file a petition, you must be a resident of the city or town in which an employer’s workplace is located. A group may petition for information, but all the people in the group must live in the city or town in which the workplace is located.

Nothing prevents a concerned citizen from contacting an employer directly for information about toxic or hazardous substances; employers are not required to release such information to community residents, but may do so voluntarily.

The Community Right-to-Know petitioning process described below enables a community resident to request this information as part of a formal, state-regulated process.

HOW TO PETITION

The Community Right-to-Know petitioning process begins with a petition filed with your community’s Municipal Coordinator. A Municipal Coordinator is the official authorized by your community’s chief executive officer to handle Right-to-Know petitions (the Municipal Coordinator will usually be the fire chief or public health officer). If you don’t know who your Municipal Coordinator is, contact the Massachusetts Department of Environmental Quality Engineering (DEQE) or your city or town hall.

Where to Get a Petition

Unless your Municipal Coordinator has established procedural rules for filing petitions, including a specific form, any piece of paper containing the required information will serve as a petition.

Information Required on the Petition

A petition must include the following information:

- The signature, name, and residential address of the person or persons filing the petition;
- A statement that the petition is filed under the provisions of the Right-to-Know Law;
- A statement describing your concerns that the use or presence of toxic or hazardous substances is or may be endangering public (or personal) health or safety;
- Any other information that will assist the Municipal Coordinator in processing your petition, such as:
 - the name of the employer that you believe uses or stores the toxic or hazardous substance(s),
 - the name(s) of the substance(s) (if known),
 - information on the effects of the substance(s) (if known).

Be sure that the petition contains ALL the information listed above. If your petition is incomplete, the Municipal Coordinator will return it to you to complete.

Where to File a Petition

File your petition with your Municipal Coordinator. If your community does not have a Municipal Coordinator, you should file your petition with your community's chief executive officer. Do NOT send your petition directly to DEQE.

RESPONSE TO YOUR PETITION

On receiving your petition, the Municipal Coordinator will take several notification and review actions, and will then forward your petition to DEQE. DEQE keeps all MSDSs and has the authority to release them.

You may expect to receive the following:

- The Municipal Coordinator's response to your petition;
- A summary of the employer's response to the Municipal Coordinator, (if any);
- DEQE's determination regarding release of the relevant MSDS;
- The relevant MSDS, (if appropriate).

Actions and timeframes of the petitioning process are described below.

Action by the Municipal Coordinator

The Municipal Coordinator will take the following actions within **5** working days of receipt of the petition:

- Review the petition for completeness and return to you if incomplete;
- Notify the employer in question when a complete petition has been filed, providing the employer with a copy or a summary of the petition and identifying you as the petitioner.

The Municipal Coordinator will take the following actions after receipt of a complete petition:

- Review the petition;
- Review the employer's response to the petition (if any);
- Determine whether or not to conduct an investigation.

If an investigation is not conducted, the Municipal Coordinator will take the following actions within **15** working days of receipt of the petition:

- Prepare a response;
- Send a copy of the response to you, DEQE, and the employer (if requested by the employer).

If an investigation is conducted, the Municipal Coordinator will take the following actions within **25** working days of receipt of the petition:

- Complete the investigation;
- Prepare a response;
- Send a copy of the response to you, DEQE, and the employer (if requested by the employer).

The Municipal Coordinator's response to your petition must include:

- A summary of the information in the petition;
- A summary of the employer's response (if any);
- A recommendation to DEQE concerning release of the MSDS and the reasons for this recommendation;
- Recommendations for specific actions (if any) to be taken by the Municipal Coordinator for the protection of public health or safety;
- Recommendations for specific actions to be taken by local or state officials;
- A description of the steps to follow in requesting a DEQE review of the Municipal Coordinator's response.

Action by the DEQE

DEQE will take the following actions within **5** working days of receipt of the Municipal Coordinator's response which includes a recommendation to release a MSDS:

- Notify the relevant employer of the Municipal Coordinator's recommendation and give the employer the opportunity to respond within 4 working days. A copy of the employer's response to DEQE, if any, must be sent to you by the employer.

If the employer does not object to the release of the MSDS, DEQE will promptly:

- Release the relevant MSDS*.

If the employer objects to the release of the MSDS or does not respond, DEQE will, within **15** working days of receipt of the Municipal Coordinator's response:

- Determine whether or not to release the relevant MSDS*;
- Notify the employer and you in writing of the determination and release the relevant MSDS, if appropriate.

* DEQE will not release a MSDS if:

- the petition is frivolous or meant to harass the employer,
- the relevant employer or substance cannot be identified,
- the circumstances described in the petition are not rationally related to release of the MSDS.

The MSDS

The MSDS(s) released to you by DEQE will describe:

- The substance(s) in question;
- The safety or health hazards associated with exposure to the substance(s);
- Emergency procedures for spills, leaks, fire and disposal;
- Proper precautions to be taken when handling the substance(s).

If you need help in understanding the MSDS, contact the appropriate DEQE regional office, the Massachusetts Department of Labor and Industries (DLI), or the Massachusetts Department of Public Health (DPH).

Revealing MSDS Information

An MSDS is confidential material. The information on the MSDS may be disclosed ONLY to the person or persons who signed the petition. Officials authorized to have access to MSDS information are the Municipal Coordinator, and officials at DEQE, DPH, and DLI. The penalty for releasing MSDS information is a fine of not more than \$5,000 or imprisonment for not more than one year, or both.

Physician's Access

Your physician has the right to see a MSDS if your physician believes that you have a medical condition that could be caused or aggravated by exposure to a hazardous or toxic substance in

your community. The physician must make a written request (or oral request in medical emergencies) to the employer that processes, uses, or stores the substance, or to the manufacturer of the substance. The employer or manufacturer must allow the physician to see the MSDS immediately after the employer or manufacturer receives the written request.

If requested by the employer or manufacturer, the physician must submit a signed confidentiality agreement form within 24 hours of receipt of MSDS information. The form is supplied to employers and manufacturers by DPH.

How to Appeal Right-To-Know Decisions

Municipal Coordinator's Response

If you believe that the Municipal Coordinator's response does not adequately address the concerns raised in your petition, you have the right to request that DEQE review the response.

Your request must be filed within 15 working days of the date of the response, and should be addressed to your regional DEQE office. It should include:

- A copy of the petition and all supporting materials;
- A copy of the Municipal Coordinator's written response to the petition;
- A written statement telling why you believe the Municipal Coordinator's response is deficient;
- Your signature, name, and residential address.

DEQE will take the following actions within **15** days of receipt of your request for review of the Municipal Coordinator's response:

- Review the Municipal Coordinator's response and your request;
- Prepare a written response summarizing all the information considered, actions DEQE plans to take (if any), and the reasons for these actions.

This response will be sent to you, the employer, and the Municipal Coordinator.

DEQE's Determination

If you disagree with a petition determination made by DEQE, you have the right to appeal this determination to the Superior Court of your county.

For Further Information

...on Community Right-to-Know _____

DEQE Regional Offices:

DEQE, Metropolitan Boston/
Northeast Region
5 Commonwealth Avenue
Woburn, MA 01801
(617) 935-2160

DEQE, Southeast Region
Lakeville Hospital
Main Street
Lakeville, MA 02346
(617) 947-1231

DEQE, Central Region
75 Grove Street
Worcester, MA 01605
(617) 792-7650

DEQE, Western Region
State House West 4th Floor
436 Dwight Street
Springfield, MA 01103
(413) 785-5327

DEQE Central Office:

DEQE Division of Air Quality Control
One Winter Street
Boston, MA 02108
(617) 292-5630

...on interpreting MSDS information _____

Massachusetts Department of Labor and
Industries (DLI)
Division of Occupational Hygiene
1001 Watertown Street
West Newton, MA 02165
(617) 969-7178

...on toxic or hazardous substances
...on physician's access to MSDSs _____

Massachusetts Department of Public Health (DPH)
150 Tremont Street
Boston, MA 02111
(617) 727-2660

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