

## **IS YOUR NURSERY COMPLYING WITH THE TEXAS RIGHT-TO-KNOW LAW?**

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In order to cover the basic requirements of this law in an organized way I will use the quick guide for employers that has been prepared by the Texas Department of Agriculture. This guide is presented below:

**What's it all about?** In 1987 the Texas legislature passed the Agricultural Hazard Communication Act (Right to Know). The purpose of this law is to give farm workers access to information about pesticides used on Texas crops, their health effects, and ways to reduce pesticide risks to themselves and their families.

**Who is covered by this law?** You are a covered employer by this law if you meet both of the following criteria:

1. Use, store, purchase, or cause to be used, more than the threshold amount of any one covered chemical.
2. Hire agricultural laborers and pay them more than the "payroll thresholds."

The terms "pesticide threshold" and "payroll threshold" are defined below.

### **Who meets the pesticide threshold?**

A. Persons who use, store, cause to be used, or purchase more than 55 gal. or 500 lb. in a calendar year.

To calculate the chemical threshold amount:

1. Include fungicides, insecticides, herbicides, rodenticides, fumigants, and growth regulators.
2. Include any chemicals applied by commercial applicators on your farmland. If your business is a packing shed, include all products used on your farm(s) in which your field workers are present.
3. Add any products that contain the same active ingredient.
4. Add liquid and dry products that contain the same active ingredients. If necessary, use a conversion factor of 9.09 lbs/gal to convert dry formulations to liquid equivalents or 0.11 gal/lbs to convert liquid formulations to dry equivalents.

### **Who meets the payroll threshold?**

A. Agricultural employers who:

1. Hire agricultural laborers for seasonal or migrant work and have annual payroll expenses plus labor-agent expenses of \$15,000 or more for those laborers.

2. Hire agricultural laborers for purposes of year-round employment and have annual payroll of \$50,000 or more.

**How does an employer calculate gross annual payroll?**

A. Include all wages paid to these workers:

1. Workers of covered employers, whose job performance routinely involves potential exposure to a covered pesticide chemical, for example:

- contact with treated crops or plants
- contact with covered chemicals
- application and handling of chemicals or handling chemical containers
- handling of treated seed or seed plants

2. Office workers, cooks, maintenance workers, security personnel, and non-resident management

3. Workers in packing sheds, seed-conditioning plants or canneries, if the crop production operation meets the payroll threshold and causes its workers to be present in workplace(s) that *together* exceed the threshold amount of any one covered chemical.

B. Do not include wages paid to these workers:

1. Farm and ranch laborers working *solely* with livestock.

2. Persons working *solely* in the retail sales component of a business.

3. Mechanical harvesters who do not have substantial contact with the crop and who *only* work with the crop once the relevant re-entry interval has expired.

4. Employees of licensed commercial applicators who only perform work in the application of other producer's crops.

**What are your responsibilities?** If you meet the pesticide and payroll thresholds indicated above then you have several responsibilities:

**A. Maintain the workplace chemical list.**

1. Maintain an annual log, a Workplace Chemical List (WCL), of covered pesticides applied, used, or stored in excess of threshold amount. You may seek help from the farmer(s) with whom you contract for produce.

2. Send your WCL (with attachments) to TDA each year, by January 31st, or keep it at your principal place of business for 30 years.

3. Inform workers (orally or in writing) where you keep the WCL.

4. Make the Workplace Chemical List accessible to workers, designated representatives, treating medical personnel, or members of the community, within 5 days. **In an emergency provide the information immediately.**

### **B. Attach material safety data sheets**

1. Get the most current material safety data sheet (MSDS) from pesticide dealers for each covered chemical you use, buy or store.

2. Attach MSDS's for each covered chemical to WCL. If not available, substitute a product label.

### **C. Provide crop sheets to workers**

1. Get crop sheets and other health and safety information from TDA and provide this information to your workers on the first day of the work season or the first day of their employment.

2. Read the crop sheet(s) to your workers in Spanish or English, whichever is appropriate, or you can play a recording of someone reading the crop sheet.

3. When the crop sheet is read, workers (including workers assigned to a new crop/job) must be informed of pesticides last applied or those pesticides scheduled to be applied. Let workers know the product name, and the expiration relevant re-entry intervals.

### **D. Provide emergency response information**

1. Notify your local fire chief (in writing) about pesticides stored on your property if the storage facility is within  $\frac{1}{4}$  mile of three or more residences. Include a phone number and name of person(s) to contact in case of an emergency.

### **E. Provide information to a designated representative**

Give a copy of your Workplace Chemical List to a worker's designated representative, upon request. A designated representative is an individual or organization to whom an agricultural laborer gives written authorization to exercise the workers rights under RTK.

a) You are required to recognize a requestor as a designated representative after receiving notice from TDA that (s)he has been certified by the department.

b) A collective bargaining agent who has been authorized by a government agency to represent workers in matters of wages and working conditions is not required to have written authorization from the agricultural laborers (s)he represents.

### **F. Release information to a member of the community, upon request**

If requested, provide a copy of the Workplace Chemical List to any individual who resides, is employed, attends school, or is a parent of a child attending school, or is being treated in a nursing home within a  $\frac{1}{2}$  mile radius of a nursery operation, or within a three mile radius of any other covered employer's workplace.

**CHARLES PARKERSON:** Is one inspector checking for compliance with both EPA and OSHA regulations?

**SANDRA MARTINEZ:** This person would probably check only for compliance with the Right-to-Know requirements. The pesticide inspector makes sure that pesticides are being used correctly.

**TED RICHARDSON:** Is it necessary to keep crop sheets for fertilizers?

**SANDRA MARTINEZ:** Nothing in the regulations really fits fertilizers at this time. Just make sure you comply with Right-to-Know requirements.