

AREA QUARANTINE FOR TOXIC SUBSTANCES

Prepared By: Office of General Counsel, Texas Department of State Health Services
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ISSUE: Can local health authorities and/or DSHS impose an area quarantine in response to the dispersal of toxic substances/hazardous chemicals?

ANSWER: Yes. Both local health authorities and DSHS have the authority to impose an area quarantine once a toxic substance is introduced into the environment.

DISCUSSION: Under Tx. Health and Safety Code Chapter 508.003, both the DSHS Commissioner and local health authorities (health authorities) have the authority to impose area quarantines for “toxic agents” including a *“toxic substance... or other hazardous substance capable of causing widespread human illness, death, or substantial negative economic impact”* once health authorities determine that an introduction of a toxic agent into the environment has occurred. HSC 508.001. The quarantine must be imposed in the same manner and subject to HSC 81.085 relating to area quarantine in response to an outbreak of a communicable disease. Also, the DSHS Commissioner and local health authorities may exercise any power consistent with HSC 81.085 including *“measures...necessary and most appropriate to arrest, control and eradicate the threat to the public health.”* HSC 81.085(c).

Although DSHS does not have authority to issue an emergency order to address a hazardous chemical emergency, emergency planning information is routinely and regularly collected and shared with local firefighters and other first responders. Under three Community Right-to-Know laws, DSHS requires submission of emergency planning information about chemical hazards (a defined term) from manufacturing, public employer and non-manufacturing facilities. Tx. Health and Safety Code Sections 505-507. Information must be provided on the quantity and location of “hazardous chemicals” and “extremely hazardous substances” (defined in 505.004 (9) and (13)) if present in threshold quantities. This information must also be provided to the local fire chief and the local emergency planning committee charged with emergency planning and public information. 505.006(c). The statutes provide that the fire chief may conduct on-site inspections of the chemicals to plan fire department emergency responses. 505.008(a). Legal jurisdiction for regulating hazardous chemicals while in storage or use (and hazardous wastes slated for disposal) resides with the TCEQ (Texas Commission on Environmental Quality, Austin) and EPA (Environmental Protection Agency, Region 6 in Dallas).

WAIVER OF LAW OR RULES: n/a

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